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The Right to Protection of Forcibly Displaced Persons During the Covid-19 Pandemic

Brigitte Rohwerder

August 2021

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Summary

The unprecedented shutdown of borders and restrictions on migration in response to the Covid-19 pandemic have put the core principles of refugee protection to test and resulted in the erosion of the right to asylum and violations of the principle of non-refoulement (no one should be returned to a country where they would face torture; cruel, inhuman or degrading treatment; or punishment and other irreparable harm). Covid-19 is being used by some governments as an excuse to block people from the right to seek asylum and implement their nationalist agendas of border closures and anti-immigration policies.

Keywords

Refugees; internally displaced persons (IDPs); authoritarianism; Covid-19; protection; right to asylum.

Authors

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Executive summary

Forcibly displaced persons are facing an interlocking health, socioeconomic and protection crisis due to the Covid-19 pandemic and the responses to it. Protection issues span all the phases of displacement and include issues such as a lack of access to territory and asylum due to border closures, a lack of upholding refugee rights and protection during displacement, and limited solutions due to the halting of resettlement and voluntary repatriation programmes. These crises are occurring against a backdrop of the pre-existing failures of many governments to recognise refugee rights and provide adequate protection. Under international law, states are legally obliged to allow people to seek asylum from persecution and may not return them to a country of persecution or danger, yet refugee and asylum seekers rights have increasingly been at risk in recent years, a situation exacerbated by the pandemic.

At the same time, responses to the pandemic have also led to a deterioration in democracy across the world as numerous governments engaged in abuses of power, silenced their critics, and weakened or shuttered important institutions, under the pretext of public health measures, continuing the existing trend in recent years towards authoritarianism. Abuses of power during the pandemic were found to have had a disproportionate impact on already marginalised communities, including forcibly displaced persons, with the tendency towards authoritarian governance aided by political ethnic nationalism that rejects and demonises the 'other'.

This paper focuses on exploring the available literature and evidence looking at the protection crisis and the discrimination and marginalisation faced by refugees and internally displaced persons (IDPs) during the first year of the pandemic, as well as possible links between them and increasing authoritarianism during the Covid-19 pandemic. While there are very few articles and grey literature focusing directly on these links, the following themes relating to the protection crisis emerge, with the majority of the relevant literature focusing on the first theme.

Restrictions on the right to asylum and violations of the principle of non-refoulement

The Covid-19 pandemic has challenged fundamental norms of refugee law, especially the right to claim asylum and the principle of non-refoulement (no one should be returned to a country where they would face torture; cruel, inhuman or degrading treatment; or punishment and other irreparable harm). At the height of the pandemic an estimated 168 countries limited or cut off access to asylum as they fully or partially closed their borders making no exceptions for asylum

seekers, despite this being against international law and not justified on the grounds on any health risk. Observers note that Covid-19 is being used by some governments as a pretext to block people from the right to seek asylum and experiment with their nationalist agendas of border closures and anti-immigration policies. Some countries have used the pandemic as a reason to not accept new asylum requests and/or suspend pending applications as they claimed they are unable to conduct interviews and process cases, leaving asylum seekers stuck in limbo, often in atrocious conditions. Access to services is often dependent on registering a claim to asylum, which has become much more difficult with the suspensions and closures of asylum systems, although as the pandemic progressed more countries have adapted their registration systems to be compliant with Covid-19 precautions.

During the pandemic asylum seekers have been denied entry and pushed back, sometimes violently from a number of countries, including Bangladesh, Malaysia, Italy, and Malta, for example, citing concerns about Covid-19, preventing them from seeking asylum and violating their rights and the principle of non-refoulement. Such violent pushbacks occurred both at sea and on land across the world and have put lives at risk as Covid-19 was used as an excuse for these governments to evade their responsibilities in relation to search and rescue and disembarkation. Some countries such as Greece and Croatia, escalated their previous hard-line actions or used new tactics such as collective expulsion from deep within their territories and the use of life rafts to push people back out to sea, while others such as Cyprus, engaged in such measures for the first time. In other countries, such as the United States (US) and Trinidad and Tobago, refugees and asylum seekers are being deported back to danger in their country of origin, in violation of the principle of non-refoulement, and risking the spread of Covid-19. Observers note that such tactics are part of a trend in recent years of governments trying to limit access to asylum and are not in the interests of public health.

Refugee resettlement programmes have also been suspended due to the pandemic and have been slow to restart, meaning that the numbers of refugees resettled in safe countries hit a record low in 2020.

During the Covid-19 crisis, some countries across the Americas and Europe have managed to increase border security and further militarise their borders without much public protest, making it much harder for people to seek asylum and exposing them to more violence. The narrative of the pandemic as an invasion contributes to the securitisation of borders. In a continuation of previous policies of border externalisation (the transfer of border controls to foreign countries), authoritarian countries have received funding during the pandemic from places like the European Union (EU), Australia, and the US to stop migration reaching their shores.

Some Covid-19 containment policies put in place during the pandemic specifically targeted refugees and asylum seekers, introducing discriminatory restrictions aimed only at them rather than citizens. Refugees living in camps in countries such as Greece, Lebanon, and Bangladesh, for example, have been subjected to discriminatory policies, including internet shutdowns, arbitrary curfews, movement restrictions, and discriminatory policing. General lockdowns or curfews were often lifted earlier for citizens than for refugees, citing Covid-19 concerns, despite a lack of Covid-19 cases in the camps. Some countries, such as Malaysia, Serbia, and the UK, for example, are also resorting to disproportionate use of immigration detention, often in overcrowded and unsanitary conditions, using public health concerns as a justification. Observers note that these policies which concentrate people in crowded camps or detention centres are part of a trend in recent years of governments trying to limit access to asylum and prevent mobility.

Journalists and human rights groups across Europe, for example, have also been prevented from documenting abuses faced by refugees and asylum seekers during the pandemic.

Those analysing and commenting on the protection crisis faced by refugees and asylum seekers during the Covid-19 pandemic have voiced their concerns for the challenges to the right to asylum during the pandemic, noting how various actors have used the crisis to build on previous efforts to erode the right to protection, and observed the links with right-wing and authoritarian tendencies against refugees. There are concerns that these changes and restrictions to the right to asylum and access to protection, presented as temporary health measures and even those implemented in good faith, may end up being entrenched in the long run as the pandemic subsides.

Increased discrimination, stigma, and xenophobia

Reports around the world have found that refugees and asylum seekers are experiencing increased xenophobia, stigma, discrimination, hate speech and attacks directed against them during the pandemic. The United Nations High Commissioner for Refugees (UNHCR) found 50 countries with reported or known instances of xenophobia, stigmatisation, or discrimination of refugees during the pandemic. Some responses to the pandemic have fuelled the narrative of migrants as a threat and the crisis has been used by governments, politicians, and far-right parties and racist media organisations in countries in the Americas, Europe, the Middle East, Africa, and Asia, to exploit public fears, stoke xenophobic sentiments, and introduce more hostile policies against refugees and asylum seekers.

Restrictions to humanitarian access

Humanitarian access has been limited by pandemic restrictions. This meant organisations supporting forcibly displaced persons in camps across Asia, the Middle East, Africa, and Europe, struggled to provide them with the same amount and type of support, which increased the risks displaced persons face.

Exclusion from national responses

Many host countries exclude refugees and asylum seekers from their national Covid-19 responses and relief programmes. For example, despite the public health imperative for their inclusion, refugees and asylum seekers have often been left out of national Covid-19 vaccine campaigns. Out of 90 countries developing national Covid-19 vaccination strategies in January 2021, 43 per cent did not include refugees. Those countries which have pledged to include them in their vaccine campaigns may struggle to do so as a result of many refugee hosting countries struggling to acquire vaccines in a competitive global market. Some countries, such as Poland and Lebanon, have explicitly excluded refugees or prioritised their own citizens first. This is a concern as mobility is expected to become increasingly linked to vaccination, which will have implications for the right to seek asylum.

Consequences of previous restrictions or measures on refugee safety during the pandemic

Some countries, such as Bangladesh and Myanmar, blocked mobile phone and internet access in refugee and IDP camps prior to the outbreak which prevented refugees and IDPs from accessing accurate information about the pandemic and prevention measures, making them more vulnerable to Covid-19.

The lack of firewalls between services such as health care and immigration has meant that both documented and, especially undocumented, refugees have been reluctant to access such services even when governments have said they can use them during the pandemic due to fears about being detained and deported, in countries such as the UK and Lebanon. This increases the risk for both them and the general public as it will contribute to the spread of the disease. Previous hostile environments can make asylum seekers and irregular migrants suspicious of pronouncements allowing them to access Covid-19 testing, treatment, and vaccination.

The use of contact tracing tools on refugees and asylum seekers

States have increasingly turned to technological experiments to ‘manage’ migration, a trend that has continued during the pandemic. There are concerns that the unregulated expanded uses of surveillance technologies, such as drone, mobile phone tracking, and artificial intelligence-based thermal cameras during the Covid-19 pandemic could also be targeted against refugees and asylum seekers after the end of the Covid-19 crisis.

Support for the right to protection during the Covid-19 pandemic

However, there have also been efforts to defend the right to protection during the pandemic, with critical protection safeguards and minimum legal standards being publicised and guidance on public health adaptations that can be made to the asylum system. Organisations have also highlighted behaviour they found concerning and called for inquiries into alleged violations of refugee rights.

Some countries, such as Jordan and Portugal, granted refugees and migrants temporary rights to public services during the pandemic or extended the validity of visas or resident permits. Undocumented migrants were released from detention in some countries and deportations were stopped. Such examples show how migration management can be carried out under less restrictive conditions than occurred prior to the pandemic.

Contents

| | |
|--------------------------|----------|
| Executive summary | 5 |
|--------------------------|----------|

| | |
|-------------------------|-----------|
| Acknowledgements | 12 |
|-------------------------|-----------|

| | |
|-----------------|-----------|
| Acronyms | 12 |
|-----------------|-----------|

| | |
|--|-----------|
| 1. Introduction | 13 |
| 1.1 The general situation for forcibly displaced persons during the Covid-19 pandemic | 13 |
| 1.2 Research objectives and methodology | 15 |
| 2. Context setting | 17 |
| 2.1 Rising authoritarianism and the pandemic | 17 |
| 2.1.1 Responses to the pandemic by authoritarian governments | 17 |
| 2.1.2 The crisis for democracy and increasing authoritarian tendencies | 17 |
| 2.1.3 Trends towards authoritarianism and the excuse provided by the pandemic | 18 |
| 2.1.4 The shift to the right and political ethnic nationalism | 19 |
| 2.2 Pre-existing difficulties faced by refugees and IDPs going into the Covid-19 pandemic | 20 |
| 3. The protection crisis faced by refugees and IDPs during Covid-19 | 22 |
| 3.1 Restrictions on the right to asylum and violations of the principle of non-refoulement | 22 |
| 3.1.1 Restrictions on the right to asylum | 23 |
| 3.1.2 Pushbacks and violations of the principle of non-refoulement | 25 |
| 3.1.3 Issues with return and resettlement | 28 |
| 3.1.4 Increased border security | 28 |
| 3.1.5 Discriminatory restrictions and arbitrary detention | 29 |
| 3.1.6 Preventing oversight of abuses of refugee rights | 32 |

| | | |
|------------|---|-----------|
| 3.1.7 | Observers' analysis of Covid-19 as an excuse for the continued erosion of the right to protection | 32 |
| 3.2 | Increased discrimination, stigma, and xenophobia | 35 |
| 3.3 | Restrictions to humanitarian access | 36 |
| 3.4 | Exclusion from national responses, including vaccination programmes | 37 |
| 3.5 | Consequences of previous restrictions or measures on refugee safety during the pandemic | 39 |
| 3.6 | The use of contact tracing tools on refugees and asylum seekers | 40 |
| 3.7 | Support for the right to protection during the Covid-19 pandemic | 41 |
| 3.7.1 | Examples of improved refugee rights during the pandemic | 42 |
| 4. | Discussion and conclusion | 44 |

| | |
|--|-----------|
| Annexe 1: Examples of actions affecting refugees' right to protection during Covid-19 | 46 |
|--|-----------|

| | |
|-------------------|-----------|
| References | 52 |
|-------------------|-----------|

Tables

| | |
|---|----|
| Table A1: Actions affecting refugees' right to protection during Covid-19 | 46 |
|---|----|

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Acronyms

| | |
|-------|---|
| CDC | Centers for Disease Control and Prevention |
| EIU | <i>The Economist</i> Intelligence Unit |
| EU | European Union |
| IDP | internally displaced person |
| IOM | Organization for Migration |
| NGO | non-governmental organisation |
| SACD | Syrian Association for Citizen's Dignity |
| UN | United Nations |
| UNHCR | United Nations High Commissioner for Refugees |
| US | United States |
| WHO | World Health Organization |

1. Introduction

1.1 The general situation for forcibly displaced persons during the Covid-19 pandemic

People on the move, including forcibly displaced persons, are facing three interlocking crises due to the Covid-19 pandemic: a health crisis, a socioeconomic crisis, and a protection crisis (Easton-Calabria 2020: 10–12; Hoagland 2020: 10; UN 2020: 2). These crises are occurring against a backdrop of the many ongoing difficulties also faced to varying levels in different countries as a result of existing failures of governments to recognise their rights and provide adequate protection (Akkerman 2020: 3; Hoagland 2020: 6; Parekh 2020).

Many of the more than 79 million refugees, asylum seekers, and IDPs worldwide live in overcrowded conditions with little access to sanitation, health care and reliable information, conditions in which an outbreak of Covid-19 could spread rapidly (Ah Poe *et al.* 2020: 7; Akkerman 2020: 3; Easton-Calabria 2020: 10; Grothe 2020; IFRC and ICRC 2020: 2; Orendain and Djalante 2020: 2). As a result, UN agencies, organisations working with displaced populations, public health specialists, and academics raised concerns about the serious negative health impact Covid-19 could have on them (Akkerman 2020: 3; Blumenthal and Murdoch 2020: 1; Godin 2020; Hazard 2020: 18; Hoagland 2020: 10; IFRC and ICRC 2020: 2; Lang 2020; Meer and Villegas 2020: 2; NRC 2020: 1; UN 2020: 8). Assistance to refugees has been scaled back further or suspended in response to the virus and their access to clean water, sanitation, food, psychological and emotional support, education, and gender-based violence protection has been further hindered by lockdowns, movement restrictions, and social distancing (Akkerman 2020: 3; Charney 2020: 1). The Covid-19 pandemic has ‘highlighted the existing failure of governments to provide adequate protection and decent dignified accommodation for refugees, leaving them to live in limbo in cramped and dirty camps’ (Akkerman 2020: 3).

During the first year of the pandemic, Covid-19 case rates among refugees were far lower than expected, although this may still change as the pandemic progresses further (Egeland 2020; Reidy 2021). This was partly as a result of low testing rates but also because of the isolation of many refugees’ camps from host communities and strict lockdown measures which curbed the spread of the virus, as well as quick shifts by aid agencies to Covid-19 prevention, and the relative youth of most refugees worldwide (Alam, Rabby and Pulla 2020: 274; Dickson *et al.* 2020: 2; Egeland 2020; Godin 2020; Reidy 2021).

While the health impact has been less than expected, the economic and social impacts of the pandemic on forcibly displaced persons have been severe. The livelihoods and ability to survive of forcibly displaced persons have been greatly affected as their status often means the only work they are able to find is in the informal sector, which has been heavily disrupted by Covid-19 (Dempster *et al.* 2020; Easton-Calabria 2020: 12; ESCWA 2020: 9; Egeland 2020; Godin 2020; Hazard 2020: 18; Hoagland 2020: 31; IFRC and ICRC 2020: 2; Lang 2020; NRC 2020: 4–6; Orendain and Djalante 2020: 2; UN 2020: 8, 10). Refugees and displaced communities have been forced further into poverty and food security is a serious concern (Easton-Calabria 2020: 12; Reidy 2021; UN 2020: 10). At the same time, humanitarian access has been restricted and humanitarian funding has been cut as donor governments focus on domestic relief packages (Godin 2020; Lang 2020; NRC 2020: 4–6; Reidy 2021; UN 2020: 10).

Responses to the pandemic have made refugees and asylum seekers even more vulnerable and led to a rapid and widespread deterioration of refugee protection standards (Easton-Calabria 2020: 11; Milner 2021; Reidy 2021; Youngs and Panchulidze 2020: 13). Their rights are at increased risk as a result of some measures taken by governments to respond to Covid-19, sometimes deliberately targeted at refugees (Hazard 2020: 20; UN 2020: 19–20). This includes the unprecedented shutdown of borders and restrictions on migration which affects refugees and IDPs' right to asylum (Akkerman 2020: 1; Blumenthal and Murdoch 2020: 2; Easton-Calabria 2020: 11; Reidy 2020a). Protection issues span all the phases of displacement and include issues such as 'a lack of access to territory and asylum, a lack of upholding refugee rights and protection during displacement, limited solutions due to the halting of resettlement and voluntary repatriation programmes, and ongoing restricted opportunities for local integration' (Easton-Calabria 2020: 25). Filippo Grandi, Commissioner of the UNHCR, states that

The core principles of refugee protection are being put to test – but people who are forced to flee conflict and persecution should not be denied safety and protection on the pretext, or even as a side effect, of responding to the virus.
(Mantoo 2020a)

In addition, refugees are experiencing increased xenophobia and stigma directed against them as part of some narratives around Covid-19 which blame them as carriers of the virus (Blumenthal and Murdoch 2020: 1; Lang 2020; UN 2020: 19). Other protection risks such as evictions, exploitation, trafficking, gender-based violence, child marriage, and family separation have also increased during the pandemic (Ah Poe *et al.* 2020: 7; Easton-Calabria 2020: 11; ESCWA 2020: 11–13; Reidy 2021).

This is occurring in a context of a deterioration of democracy around the world, mainly because of government-imposed restrictions on individual freedoms and civil liberties that occurred across the globe in response to the Covid-19 pandemic, beyond what is reasonable for protecting public health (Anderson *et al.* 2021: 5; Repucci and Slipowitz 2020: 1; EIU 2021: 4). The 'alarming regressions toward authoritarian governance' have occurred in both 'regimes already considered to be disciplinarian or tyrannical' and in well-established liberal democracies (Thomson and Ip 2020: 2, 4). Abuses of power by governments during the pandemic were found to have had a disproportionate impact on already marginalised communities, such as ethnic and religious minorities and migrants and refugees (Anderson *et al.* 2021: 29; Repucci and Slipowitz 2020: 5).

1.2 Research objectives and methodology

This literature review is focused on exploring the available literature and evidence looking at the protection crisis and the discrimination and marginalisation faced by refugees and IDPs during the first year of the pandemic, as well as possible links between them and increasing authoritarianism. As noted above, refugees and IDPs are also facing health and economic impacts of the crisis but, while important to their experiences of the pandemic, these impacts are not the focus of this paper.

In late November 2020, searches were carried out on Scopus, Web of Science, Applied Social Sciences Index and Abstracts, JSTOR, Google Scholar, and Google to look for the available English-language academic, grey literature, news articles, and blogs published in the first year of the pandemic. Search terms included: Covid-19 refugees; Covid-19 internally displaced persons; Covid-19 refugees authoritarianism; Covid-19 internally displaced persons authoritarianism; Covid-19 refugees discrimination; and Covid-19 internally displaced persons discrimination. Further papers were found through snowballing. Papers which were just concerned with the health or economic impacts relating to Covid-19 and refugees and internally displaced persons were not included. Papers which only mentioned the protection impact in passing as their main focus was elsewhere, were also excluded. Fifty-two papers of interest were identified. There was a lot more grey literature papers than academic articles (34 compared to 14) which made some reference to the impact on the protection of refugees and internally displaced persons of authoritarian responses to Covid-19, although the links were not overtly made or much detail provided. News articles and blogs provided further detail. Where relevant, additional background papers have been added to provide more context. The literature was reviewed and analysed for relevant themes relating to the research objectives. The paper was written between December 2020 and March 2021 and

reviewed and edited in May 2021, and the literature refers to the period of the pandemic leading up until March 2021.

The rest of the paper proceeds as follows: Section 2 provides the context of closing democratic space and the rise of authoritarianism during the pandemic, as well as the pre-existing difficulties faced by forcibly displaced persons going into the Covid-19 pandemic. In section 3, the main themes arising from the literature are presented, including restrictions on the right to asylum and violations of the principle of non-refoulement; increased discrimination, stigma and xenophobia; restrictions to humanitarian access; exclusion from national responses; consequences of previous restrictions or measures on refugee safety during the pandemic; the use of contact tracing tools on refugees and asylum seekers; and support for the right to protection during the Covid-19 pandemic. Section 4 concludes the paper.

2. Context setting

2.1 Rising authoritarianism and the pandemic

2.1.1 Responses to the pandemic by authoritarian governments

Cooper and Atchison (2020: 9) suggest that globally there have been two different broad approaches by authoritarian governments to the pandemic, an authoritarian security response or a response based on market egoism that asserts the primacy of a perceived economic interest over and above all public health considerations. The authoritarian security response in countries such as Hungary, India, Israel, and the Philippines involved actions such as severely curtailing political freedoms in the name of fighting the virus, sweeping surveillance without oversight, and harsh punishments for breaking prevention measures (Cooper and Atchison 2020).

The market egoism response in countries such as the United States (US) and Brazil for example, involved Trump and Bolsonaro drawing on 'highly masculinised and egoistic discourses to pour scorn on the risks to human life and prioritise restarting the economy, above all else' (Cooper and Atchison 2020: 9). Trump, for example, 'repeatedly downplayed the severity of the coronavirus, attacked state governors from the opposition Democratic Party for imposing social-distancing measures', as well as promoting unproven treatments and false health statistics, asserting that the pathogen would soon disappear, and pushing for restrictions to be lifted even as the contagion spread (Repucci and Slipowitz 2020: 10). In addition, he drew on nationalism and nativism in his repeated references to Covid-19 as the 'Chinese virus' (Katsambekis and Stavrakakis 2020: 7).

2.1.2 The crisis for democracy and increasing authoritarian tendencies

During the pandemic there was also a global 'surge in autocratic behaviour and decline in democratic freedoms' (Anderson *et al.* 2021: 5). Research by Freedom House illustrates how the Covid-19 pandemic has contributed to a crisis for democracy as governments around the world have responded to it by engaging in abuses of power, silencing their critics, and weakening or shuttering important institutions, acting beyond what is reasonably necessary to protect public health (Repucci and Slipowitz 2020: 1; see also Anderson *et al.* 2021: 5; Kelly and Patisson 2021; Thomson and Ip 2020: 5). Their research shows that checks against abuses of power, protection of vulnerable groups, transparency and anticorruption, free media and expression, and credible elections have weakened over the early months of the pandemic, with Covid-19 being used as

an excuse or opportunity to do so (Repucci and Slipowitz 2020: 2, 3). Youngs and Panchulidze (2020: 9–14), writing on behalf of a variety of democracy organisations, also note that particular areas of worry during the pandemic are excessive use of violence by security forces, interrupted elections and electoral integrity challenges, opportunistic clampdowns on political opponents, censorship and threats to independent media, increased disinformation, misuse of digital surveillance, minority rights and vulnerable groups (including refugees),¹ technocratic governance, and public sector corruption. Anderson *et al.* note how the pandemic has seen an accelerated closing of civic space that has ‘taken a range of forms, overt and covert, from formal legislation and policy to highly targeted harassment, divide-and-rule and delegitimising tactics’ (2021: 5).

EIU (2021: 5) found that almost 70 per cent of countries around the world recorded a decline in their democracy score compared with 2019. Countries which already had weak safeguards against abuses of power, such as struggling democracies and highly repressive states, are the most affected by the damage to democracy and accelerations of authoritarian agendas carried out under the cover of Covid-19 response (EIU 2021: 4, 27; Kelly and Pattison 2021; Repucci and Slipowitz 2020: 1; Youngs and Panchulidze 2020: 9).

2.1.3 Trends towards authoritarianism and the excuse provided by the pandemic

Prior to the outbreak of Covid-19 there was an existing global trend towards authoritarianism and the new far-right is coalescing into a governing force (Cooper and Atchison 2020: 9). Governments in restrictive regimes have used the pandemic as a pretext to further limit political space and deepen already existing trends (Anderson *et al.* 2021: 5; Kelly and Pattison 2021; Youngs and Panchulidze 2020: 14). The EIU (2021: 4) found that the democracy scores in ‘the “authoritarian regime”-dominated regions of sub-Saharan Africa and the Middle East and North Africa’ experienced especially large falls. However, Thomson and Ip note that ‘the multivariate inclination to authoritarian governmental and administrative overreach is not only found in more authoritarian regimes but also in liberal democracies’ (2020: 5). The EIU (2021: 4) also saw democracy scores falling in the more democratic regions of the world. The democratic backsliding in eastern Europe and Latin America was helped by the public health emergency of the pandemic providing ‘cover

¹ In Bulgaria, for example, neighbourhoods that were majority Roma were placed under harsher movement restrictions than other areas, while in India and Sri Lanka, Muslims were scapegoated and blamed for spreading the virus (Repucci and Slipowitz 2020: 5). In Nigeria stay-at-home orders and curfews were more strictly enforced for minority ethnic and Christian farmers, while in Mozambique ‘popular narratives began to stigmatise local religious and ethnic minority groups as carriers of the virus’ (Anderson *et al.* 2021: 29).

for abuses of power that have become familiar in recent years' (EIU 2021: 8). In some countries, the pandemic has served as a catalyst for authoritarianisation, in others an acceleration of an existing turn to authoritarian governance (EIU 2021: 8; Thomson and Ip 2020: 22). The Covid-19 pandemic is 'exacerbating the 14 years of consecutive decline in freedom' (Repucci and Slipowitz 2020: 1). There are concerns from academics, activists, and experts on democracy and human rights, and organisations such as Freedom House that the authoritarian laws and norms that are being put in place in the exceptional circumstances of fighting Covid-19 will be difficult to reverse once the pandemic ends (Cooper and Atchison 2020: 6; Repucci and Slipowitz 2020: 1).

However, Youngs and Panchulidze (2020: 17–21) and Anderson *et al.* (2021: 5) note that there are some encouraging democratic trends during the pandemic too, including civil society efforts for democracy, pushback against disinformation, political opposition gathering steam, new types of democratic processes, and new protest activity.

2.1.4 The shift to the right and political ethnic nationalism

Prior to the outbreak of Covid-19, the tendency towards authoritarian governance was aided by political ethnic nationalism which 'provides a vocabulary of fear and diversion, directing grievances towards "aliens" and other minorities within the polity and raising hostility towards imagined "foreign" enemies outside it' (Cooper and Atchison 2020: 1). For example, in Italy, Salvini, the leader of the far-right Lega party and previous Deputy Prime Minister, 'draws on imagery that promotes a toxic masculinity in tandem with violent opposition to immigration and humanitarian relief efforts in the Mediterranean' (Cooper and Atchison 2020: 13). He has tried to use the Covid-19 crisis, blaming migrants from Africa, to justify the 'closed ports' policy he championed when he was in government (Hume 2020). Over the last decade Hungary has been captured by a far-right, populist anti-immigration party, which has responded to Covid-19 by effectively closing down Hungarian democracy through rule by decree (Cooper and Atchison 2020: 16; Livingstone 2020; Thomson and Ip 2020: 22). Often these xenophobic narratives refer to immigrants or strangers as 'parasites or contagious agents' (Pericàs 2020: 1111). Repucci and Slipowitz warn that with international attention focused on combatting Covid-19, 'governments and other actors have been able to escalate ongoing abuses against vulnerable groups with little scrutiny' (2020: 6). Covid-19 has 'strengthened globally a pre-existing political shift to the right' as foreign migrants are portrayed as threats, and has made, for example, 'expulsions of migrants by the US easier, keeping people out of the UK easier, and countries refusing Rohingya entry easier' (Charney 2020: 4).

2.2 Pre-existing difficulties faced by refugees and IDPs going into the Covid-19 pandemic

Refugees and IDPs are amongst the marginalised groups who are disproportionately affected by the socioeconomic and protection impacts of the Covid-19 pandemic and measures taken to counter it (BVMN 2020: 27; Easton-Calabria 2020: 5; ESCWA 2020: 5; Hoagland 2020: 3; NRC 2020: 1; OECD 2020: 2; Rohwerder 2020: 28–29; WHO 2020: vi, 32). Part of the reason for this is that the pandemic situation exacerbates their pre-existing vulnerabilities and difficulties (OECD 2020: 4; WHO 2020: 6). These include weakened social support structures, bleak socioeconomic prospects, unequal access to health care and social services, precarious housing conditions, tenuous living and working conditions, and higher risks of exploitation and abuse (Mukumbang 2020: 2; Fridez 2020: 9; Parekh 2020: 159). In addition, refugees in most countries also face pre-existing barriers to protection and assistance, including ‘increasingly stringent and often abusive border and migration policies across the world’ (Akkerman 2020: 2; Easton-Calabria 2020: 5).

Under international law, states are legally obliged to allow people to seek asylum from persecution (Charney 2020: 1; Hoagland 2020: 6). However, prior to the outbreak of the pandemic, refugee and asylum seekers’ rights were already at risk (Charney 2020: 1; Ghezelbash and Tan 2020: 1; Hoagland 2020: 6). A combination of ‘visa regimes, carrier sanctions, maritime interdiction, extraterritorial asylum and safe third country rules’ have ‘rendered access to asylum difficult and dangerous’ (Ghezelbash and Tan 2020: 5). In the years before the outbreak of Covid-19

Shocking death tolls were being recorded along a number of major migratory routes, fundamental rights (including the specific rights of asylum seekers and refugees) were under increasing strain, and xenophobic attitudes and policies were gaining significant ground at the expense of humane approaches to persons in need.
(Hoagland 2020: 6)

Refugees and asylum seekers were already subject to ‘restrictions on their movement and other attacks on their civil liberties’ (Grothe 2020). Even before the pandemic, ‘scholars documented the emergence of today’s “deterrence paradigm” and predicted the end of the right to seek asylum in the traditional asylum countries in the global North’ (Ghezelbash and Tan 2020: 1). Over recent years the ‘mixed migration landscape has increasingly been characterised by the “normalisation of the extreme”: the mainstreaming of measures, from militarised border control to indefinite detentions, that would have been almost unthinkable a decade ago’ (Grant 2020: 14). In many parts of the world, migration management is marked by violence, protection failures, and human rights

violations, with the pandemic bringing ‘these underlying pathologies into a harsh new light’ (*ibid.*: 14).

Such border controls and discriminatory policies come not only from authoritarian regimes but, as Akkerman (2020: 2) describes, from governments such as the European Union (EU) and the US (see also Ghezelbash and Tan 2020: 2–5). The EU, for example, has increasingly securitised its borders over recent years, including externalising² them to third countries to prevent any migrant from ever reaching their borders, which Akkerman (2020: 2) suggests pays ‘no heed to humanitarian needs and the right to seek asylum’ (see also BVMN 2020: 3; Ghezelbash and Tan 2020: 3). The ‘majority of the 35 countries that the EU prioritises for border externalisation efforts are authoritarian’ (Molnar 2020: 35).

Parekh, in her book on ethics and the global refugee crisis, suggests that an unintended system of refugee protection has been created ‘in which the vast majority of refugees are effectively unable to get refuge in any meaningful sense; that is, they are not able to access the minimum conditions of human dignity’ (Parekh 2020: 159); a form of structural injustice. One of the norms that feeds into this, that Western states have shaped, is the idea that refugees and asylum seekers can and should be treated like security threats, despite evidence to the contrary.

Despite a small number of governments taking temporary measures to release detained migrants, postpone deportations and ensure access to health care, in general the Covid-19 pandemic has led to an even greater erosion of the rights of those on the move, including the right to seek asylum and the principle of non-refoulement, as detailed in Section 3 (Akkerman 2020: 2; Meer and Villegas 2020: 3).

² Border externalisation is the transfer of border controls to foreign countries.

3. The protection crisis faced by refugees and IDPs during Covid-19

The searches found very few academic articles and grey literature which look directly at the discrimination and marginalisation of refugees and internally displaced populations, especially relating to protection, in the context of increasing authoritarianism during Covid-19. The vast majority of the existing literature focused on refugees and asylum seekers rather than on IDPs. Given the timescale, a significant proportion of the searched literature expressed concerns relating to the impact on refugees at the beginning of the pandemic rather than presenting detailed empirical research into these impacts. There was little analysis or empirical research directly focused on the discrimination and marginalisation, especially relating to protection of refugees and IDPs and the links with increasing authoritarianism during the pandemic, and often when mentions were made in the literature, very little detail was provided.

The relevant findings from the analysis of gathered papers are presented below.³ The main focus in the literature has been the erosion of the right to asylum and violations of the principles of non-refoulement (no one should be returned to a country where they would face torture; cruel, inhuman or degrading treatment; or punishment and other irreparable harm).

3.1 Restrictions on the right to asylum and violations of the principle of non-refoulement

Asylum seekers⁴ have the 'right to seek international protection and may not be returned to a country of persecution or danger' (Hazard 2020: 20). However, the UN (2020: 2) notes that border closures and other movement restrictions aimed at containing the spread of Covid-19 have created a protection crisis as states essentially shut down asylum and refugee reception programmes (see also Meer and Villegas 2020: 2; NRC 2020: 3). In addition, reports of 'pushbacks and refoulement have grown, as well as violence along closed borders' (Easton-Calabria 2020: 11). In Europe, for example, Grant (2020: 15) notes that the

³ Please see also Annexe 1 for a table providing examples of countries who have taken actions affecting refugees right to protection during the pandemic.

⁴ Challenges to the right to asylum during the Covid-19 pandemic also exist in countries of origin. Lockdowns or other restrictions on freedom of movement in countries of origin may make it impossible for people to leave in search of asylum – and being outside one's country is essential to obtaining protection as a refugee (Jubilut 2020; Ogg 2020; IFRC and ICRC 2020: 2). However, very little interest has been paid to this aspect of asylum-seeking, both before and during the pandemic (Ogg 2020). For example, UNHCR comments on Covid-19 focus on laws and policies that restrict entry and do not directly address policies preventing citizens and residents from leaving their own country (*ibid.*).

‘already troubling protection gaps in place previously have deteriorated further in the wake of Covid-19’. Further examples of these trends are presented below.

3.1.1 Restrictions on the right to asylum

Covid-19 has ‘challenged fundamental norms of refugee law, particularly the right to claim asylum and the principle of non-refoulement’ (UNHCR 2020a: 3). At the height of the pandemic an estimated 168 countries limited or cut off access to asylum as they fully or partially closed their borders without accounting for the rights of refugees to seek protection (Lang 2020; Mantoo 2020b; Meer and Villegas 2020: 7–11; UNHCR 2020a: 3). At least 99 countries were making no exceptions for people seeking asylum at closed borders, which severely restricts their rights, and leaves them stranded in precarious situations (Lang 2020; Meer and Villegas 2020: 2; UN 2020: 19). In early October 2020, more than 70 countries still had their borders closed (Papademetriou 2020: 24). UNHCR has a **temporary platform** which details current border and asylum restrictions. As of the end of February 2021, 61 countries still denied access to their territory with no exceptions made for asylum seekers (UNHCR 2021). These border closures occurred despite UNHCR, and other organisations such as the International Organization for Migration (IOM), the Office of the High Commissioner for Human Rights, and the United Nations Children’s Fund, amongst others, noting that denial of access to territory without safeguards to protect against refoulement cannot be justified on the grounds of any health risk and is not justified under refugee law⁵ or other human rights charters such as the EU Charter of Fundamental Rights (Blumenthal and Murdoch 2020: 10; Chetail 2020: 1–4; Lang 2020; Meer and Villegas 2020: 6; Program on Forced Migration, Mailman School of Public Health, Columbia University, the Migration and Human Rights Program, Cornell Law School, and the Zolberg Institute on Migration and Mobility, The New School 2020: 552; UNHCR 2020b). Moreover, such measures were unnecessary, as the World Health Organization (WHO) and others offered clear guidance on the use of quarantines and health-screening measures at points of entry for those fleeing persecution (Meer and Villegas 2020: 3). This has meant that ‘people trying to flee persecution, war, violence and other human rights violations are prevented from accessing the protection they need’ and puts the ‘fundamental norms of international human rights and refugee law under strain’ (UN 2020: 19; see also Mantoo 2020b; Meer and Villegas 2020: 2; UNHCR 2020a: 3). The numbers of asylum seekers seeking entry to the EU, for example, was at a record low in 2020 due to the impacts of the Covid-19 pandemic (Doliwa-Klepacka and Zdanowicz 2020: 11; Ghezelbash and Tan 2020: 7).

⁵ Denying access to refugee protection through border closure is a violation of Articles 9 and 33 of the Geneva Convention (Chetail 2020: 4).

The intention of these border closures is not always to prevent people from being able to seek asylum but as the director of Human Rights Watch refugee and migrant rights division suggests, Covid-19 is being used by some governments as a pretext to block people from the right to seek asylum and experiment with their nationalist agenda of border closure (Godin 2020; see also Chetail 2020: 2; Ghezelbash and Tan 2020: 1; Natta 2020). Some measures have explicitly used Covid-19 as an excuse, while 'others have been implemented quietly and informally behind the scenes under the cover of the Covid-19 pandemic' (Ghezelbash and Tan 2020: 1). Grothe (2020) notes that these border closures are a 'continuation of anti-immigrant policies that have been on the rise in recent years'.

The pandemic has made it more challenging for many countries to receive asylum seekers and to assess their claims for protection as adaptations were needed to make the process Covid-19 safe (UNHCR 2021). However, Covid-19 has also been used as a reason for some countries not to accept new asylum requests and/or suspend pending applications as they claimed they are unable to conduct interviews and process cases, leaving asylum seekers stuck in limbo, often in atrocious conditions (Akkerman 2020: 8; Fridez 2020: 7; Gilman 2020: 5; Meer and Villegas 2020: 7–11; Reidy 2020a; Ramji-Nogales and Lang 2020: 598; Stuber 2021). Building on previous anti-migrant rhetoric, the government in Hungary, for example, used the perceived threat of infected migrants as a pretext to indefinitely close the two transit zones on the Serbian border where migrants can lodge asylum claims (BVMN 2020: 26; Hume 2020). BVMN notes that 'Hungary has, for years, engaged in systematic efforts to illegally limit the rights of people on the move and saw an opening in the Covid-19 crisis to choke off its asylum system altogether' (2020: 26; see also Gardos 2020; Livingstone 2020). Since then, Hungary has passed a law requiring for a declaration of intent to be submitted at embassies outside the EU, making it even more difficult for refugees to seek asylum (Gardos 2020). A senior advocacy officer at the Hungarian Helsinki Committee, notes that the law breaches 'the UN Refugee Convention, the European Convention on Human Rights, EU asylum directives, as well as Hungary's constitution' and which the European Commission considers 'an unlawful restriction to access to the asylum procedure' (Gardos 2020). In a continuation of efforts to limit access to their asylum system, the US indefinitely suspended the Migrant Protection Protocols hearings at the beginning of the pandemic, with no date set for their resumption (Gilman 2020: 5). This has meant that asylum seekers were blocked from accessing the US for months on end (Gilman 2020: 5).

The closure of borders and suspension of asylum services during lockdowns meant a backlog of asylum seekers left in limbo even as restrictions eased (Akkerman 2020: 9; Noble 2020; Stuber 2021). For instance, there was an existing backlog of refugees waiting for an interview in Greece, and the closure

of the Greek Asylum Service (GAS) paused all asylum applications between March and May, with interviews for most refugees yet to resume (Kafkoutso and Oikonomou 2020: 9; Noble 2020; RTI 2020: 16). When the services reopened those receiving negative responses, in Moria for example, struggled to file an appeal in the designated ten days as they were still not able to leave the camp to seek legal advice (Fallon 2020a; Kafkoutso and Oikonomou 2020: 14).⁶ Lockdown made the high backlog of pending asylum applications in Spain worse (Stuber 2021). The refugee status determination processes in Uganda were suspended, affecting the ability of asylum seekers to access assistance (NRC 2020). Access to services is often dependent on registering a claim to asylum, which has become much more difficult with these suspensions and closures of asylum systems (Reidy 2020a). However, as the pandemic progressed, at least 82 countries have adapted registration of new asylum applications by mail, phone, email, or other online mechanisms, while at least 86 have adapted measures to issue new, or extend the validity, of asylum documentation (Mantoo 2020b; Papademetriou 2020: 24; UN 2020: 22). The Asylum Capacity Support Group of the Global Compact on Refugees has helped multiple countries to establish remote asylum procedures (Easton-Calabria 2020: 14).

3.1.2 Pushbacks and violations of the principle of non-refoulement

During the pandemic, asylum seekers have been denied entry and pushed back, sometimes violently, from a number of countries, preventing them from seeking asylum and violating their rights (Akkerman 2020: 6; Mantoo 2021; Mantoo 2020b; UN 2020: 19). For instance, some Rohingya refugees arriving on boats have been refused entry to Bangladesh and Malaysia by governments citing concerns about Covid-19, leaving them stranded in the open ocean and unable to seek asylum (Akkerman 2020: 6; Lang 2020; Natta 2020; Reidy 2020a; Trilling 2020).

The closure of ports in Italy and Malta at the beginning of the pandemic as authorities declared them unsafe due to the virus meant there was no assistance to refugees and asylum seekers crossing the Mediterranean (Akkerman 2020: 6; Fridez 2020: 8–9; Natta 2020; Reidy 2020b; Trilling 2020). There are reports of delays in responses to boats in distress (ESCWA 2020: 16). A member of an organisation involved in supporting rescue efforts in the Mediterranean described this as a ‘really dangerous escalation of tendencies we have seen before’, with Human Rights Watch and others suggesting that Covid-19 is being used as an excuse for these governments to evade their responsibilities in relation to search

⁶ At the same time as existing asylum seekers are left in limbo, the International Protection Act introduced in January 2020 and amended in May 2020, means accelerated procedures and increased returns for newly arriving asylum seekers (Kafkoutso and Oikonomou 2020: 2). Kafkoutso and Oikonomou (*ibid.*: 8) note that support for the law was gained by the government starting to depict refugees as fake asylum seekers and pledged their swift return to Turkey or countries of origin.

and rescue and disembarkation (Fridez 2020: 8; Reidy 2020b). This policy reflects the far-right former interior minister Matteo Salvini's 2018 declaration that Italy's ports were 'closed' to migrant rescue ships as migrants represented a threat to national security (Tondo 2020a). Malta enlisted the assistance of commercial fishing trawlers during the pandemic to push back boats to Libyan waters, where people were jailed in notorious detention centres, rather than rescuing them (Akkerman 2020: 7). In addition, it held asylum seekers in boats moored off Maltese territorial waters and refused to let them disembark (Fridez 2020: 8). Cyprus engaged in its first pushback in March 2020, using Covid-19 as a justification for the measure (Drousiotou and Mathioudakis 2020: 13). It continued to push back boats during 2020, using the pandemic to 'sidestep the right of displaced people to apply for asylum by intercepting boats just short of the coast and turning them away' (Lyritsas 2020), denying them the right to seek asylum and risking their refolement.

The Border Violence Monitoring Network (BVMN) reported a 'significant increase in violent pushbacks from Balkan countries during the Covid-19 crisis' (Akkerman 2020: 7; BVMN 2020). Croatian police, for example, have continued to use violence during the pandemic to push back refugees into Bosnia, with reports that they spray-painted red crosses onto the heads of asylum seekers they abused, saying it was a 'cure against coronavirus' (BVMN 2020: 10; Tondo 2020b). The pushbacks include the use of psychological violence, abuse, and humiliation against women and children (Tondo 2021). Pushbacks have continued to occur in Greece, with new tactics in 2020 including collective expulsion of hundreds of asylum seekers from deep inside of Greek territory rather than from the border, which began shortly after the coronavirus lockdown, and the use of life rafts for pushbacks out to sea (BVMN 2020: 21; Freier, Jara and Luzes 2020: 299; Mare Liberum 2021: 15; Panayotatos 2020; Souli 2020). In addition, in 2020, the number of documented pushbacks increased sharply, with Mare Liberum (2021: 9–11) recording 9,798 people illegally pushed back by the Hellenic Coast Guard and Frontex, using a variety of violent and dangerous illegal tactics. Reports in early 2021 note that recently arrived asylum seekers, including children, who were apparently being taken to be tested for Covid-19 by officials, were abused and forced out to sea on an inflatable life raft (Olsen 2021). Civil society organisations note that these actions are consistent with, and an escalation of, the hard-line approach to migration policy of the Greek government since 2019 (BVMN 2020: 23; Mare Liberum 2021: 14; Panayotatos 2020; Souli 2020). In Serbia, asylum seekers were told they were being transferred as a health precaution but were instead driven to the border and pushed back into North Macedonia (BVMN 2020: 18). Cross-border removals have 'persisted, adapted and have been augmented by institutional responses to the pandemic' (BVMN 2020: 3). Such experiences have contributed to asylum seekers' and refugees' psychological trauma (Tondo 2021).

Hard-line policies enacted at the EU's external borders made it harder for people seeking protection to reach the bloc and contributed to a 30 per cent drop in the number of people applying for asylum in the EU in the first nine months of 2020 (Stuber 2021). Woznocki (2020) notes that a court decision in Strasbourg in February 2020 'gave the green light to border control practices that ignore the principle of non-refoulement'. Reidy (2020a) notes that migration experts and rights groups suggest that these policies calling for people to be pushed back are part of a trend in recent years of governments trying to limit access to asylum and prevent mobility and are not in the interests of public health.

In some countries, refugees and asylum seekers are being deported back to danger in their country of origin, in violation of the principle of non-refoulement, and risking the spread of Covid-19 (Hazard 2020: 20; Hoagland 2020: 6; Lang 2020; Mantoo 2020b; Reidy 2020c). The US, for example, began dismantling their asylum processes at the southern border before the Covid-19 pandemic started (Garrett 2020; Gilman 2020: 2; Ramji-Nogales and Lang 2020: 594). However, on the 20 March 2020 the Centers for Disease Control and Prevention (CDC) went further and issued an order to 'deny entry to and encourage the immediate deportation of non-citizens arriving without valid documents, citing an obscure quarantine law to justify this on public health grounds' and fulfilling populist President Trump's wish to end immigration and denying people access to asylum (Akkerman 2020: 8; also see Freier *et al.* 2020: 298; Garrett 2020; Ghezelbash and Tan 2020: 6; Gilman 2020: 1, 4, 6; Meer and Villegas 2020: 7; Ramji-Nogales and Lang 2020: 594; Repucci and Slipowitz 2020: 11). The origin of this order was not the CDC but the Trump administration leadership which has been focused on the exclusion of asylum seekers (Gilman 2020: 7). The Trump government added another ban 'making permanent the ability of the administration to close the border to asylum seekers for overly broad "health" reasons' (Ramji-Nogales and Lang 2020: 595). Some of the policies adopted during the pandemic harden impediments to asylum already in place or implement restrictions that had been proposed but could only now be adopted, while others could not have been imagined before the pandemic (Gilman 2020: 1). The bans resulted in tens of thousands of asylum seekers being expelled at the southern border, some in 96 minutes through expedited processes (Ghezelbash and Tan 2020: 6; Ramji-Nogales and Lang 2020: 595). In addition, the US Customs and Border Protection took a broad view of the powers given to it by the public health order and targeted asylum seekers already in the country, including unaccompanied children, for summary removal (Ghezelbash and Tan 2020: 6). Gilman warned that, 'Once adopted, using an emergency rationale based on the pandemic, these policies are likely to become extremely difficult to reverse' (2020: 1).

Trinidad and Tobago are reported to have violated the principle of non-refoulement and returned at least 165 refugees to Venezuela, in an environment

where the police are contributing to a xenophobic narrative and suggesting that asylum seekers could cause a new wave of Covid-19 (AI 2020: 19). Being 'carriers of contagious diseases' has also been cited as a reason for expulsions from eastern Libya (*ibid.*: 19). Such examples suggest that the pandemic has been used by some governments as a distraction or an excuse to violate the principle of non-refoulement (Easton-Calabria 2020: 26; Natta 2020).

3.1.3 Issues with return and resettlement

Returnees to Venezuela from Colombia have been described by high-level government officials as 'biological weapons' and tens of thousands were quarantined in inadequate centres, often under military control (AI 2020: 22; Freier *et al.* 2020: 298). Amnesty International suggest that this narrative 'raises concerns that their deprivation of liberty was discriminatory and arbitrary' (AI 2020: 22).

Refugee resettlement programmes have also been suspended since 10 March 2020 due to the pandemic and have been slow to restart (Ah Poe *et al.* 2020: 23; Brickhill-Atkinson and Hauck 2020: 58; Grierson 2020; Papademetriou 2020: 17, 23; Ramji-Nogales and Lang 2020: 598). UNHCR reports that 2020 saw the numbers of refugees resettled in safe countries hit a record low, only 15,425 globally, compared with 63,726 in 2019 (Grierson 2020). This results in, or risks, prolonged persecution, delayed reunification, expiration of security and health checks, and modified resettlement assistance after arrival (Brickhill-Atkinson and Hauck 2020: 58).

3.1.4 Increased border security

During the Covid-19 crisis, some countries across the Americas and Europe have managed to increase border security and further militarise their borders without much public protest, which Akkerman (2020: 10) warns makes it harder for migrants to cross borders or to seek asylum, as well as exposing them to violence. Countries in Europe, such as Greece and Croatia have significantly escalated their abuses of asylum seekers seeking to cross their borders and engaged in violent pushbacks, as the border clampdown tightened further as part of government responses to Covid-19 (BVMN 2020: 8–26; Fridez 2020: 8; Grothe 2020). Such activities are suggested to be occurring with the tacit agreement of the EU as part of a wider trend of impunity and illegal pushbacks occurring on external borders of the EU which began before the pandemic, but which have increased during it (Easton-Calabria 2020: 26; Fridez 2020: 8; Mare Liberum 2021: 22–26). BVMN (2020: 5) note that the narrative of the pandemic as an invasion contributes to the securitisation which disproportionately targeted transit populations along the Balkan Route. BVMN (2020: 24) suggest that the permanent installation of FRONTEX, the European Border and Coast Guard

Agency, has been 'achieved through the conduit of Covid-19', despite reports of its involvement in human rights violations, such as illegal pushbacks (Mare Liberum 2021: 22–23; Molnar 2020: 19).

In a continuation of previous policies of border externalisation, authoritarian countries have received funding from places like the EU, Australia, and the US to stop migration reaching their shores (Akkerman 2020: 1; Craze and Tubiana 2020). The EU, for example, has proposed significantly increasing budgets for its border security in the wake of Covid-19 and in April 2020, Libya, an authoritarian country, received millions of euros to stop migration to Europe (Akkerman 2020: 1, 10). Officially, the EU condemns the arbitrary detention of migrants in Libya, but it continues to fund those enforcing it, as it has helped dramatically reduce the numbers reaching its shores (Craze and Tubiana 2020). BVMN notes that during the pandemic 'violations of fundamental rights continue by EU Member States and third countries who have various EU agreements on migration, asylum and border security, alongside funded camp systems' (2020: 7) despite polices with safeguards exempting people in need of international protection. They suggest that 'policy and guidance has allowed reborderisation across a majority of member states to erode further the right to asylum, due procedure and humane treatment' (*ibid.*: 7).

3.1.5 Discriminatory restrictions and arbitrary detention

Quarantines and restrictions on movement are some of the measures taken during the pandemic, but such containment polices are only permissible if they do not constitute arbitrary detention, which has not always been the case (Program on Forced Migration *et al.* 2020: 552). Some Covid-19 containment policies put in place during the pandemic specifically targeted refugees, for example, introducing discriminatory restrictions aimed only at them rather than citizens⁷ (HRW 2020; Repucci and Slipowitz 2020: 6). Refugees living in camps have been subject to discriminatory policies, including internet shutdowns, arbitrary curfews, movement restrictions, and discriminatory policing (BVMN 2020: 5, 19; Grothe 2020; Youngs and Panchulidze 2020: 13).

Some governments, such as in Greece, placed tighter restrictions on refugees and asylum seekers than on the rest of the population (BVMN 2020: 5; Fallon 2020a; Godin 2020; Grothe 2020; Panayotatos 2020). While movement restrictions were lifted for the general population in May, they were extended for refugees living in all island camps and a number of isolated camps for months and justified as part of the country's Covid-19 precautions despite the lack of

⁷ Although no examples are given, the IFRC and ICRC (2020: 2) also note that 'authorities may use the Covid-19 emergency to introduce restrictions targeting internally displaced people, especially those already facing stigma on the basis of their ethnic, religious or political affiliation(s), arbitrarily limiting their rights'. These measures may also 'entail camps being turned into de facto detention centres' (*ibid.*: 2).

Covid-19 cases in the camps (Cossé 2020; Fallon 2020a; Freier *et al.* 2020: 299). During the second wave, authorities responded by intensifying camp lockdowns and creating fear and confusion. This ignited protests which led to the burning down of Moria camp in Lesbos (Panayotatos 2020). The government is using the situation of the need to rebuild the camp to 'advance its plans for closed, "controlled" centers with restricted access for lawyers, NGOs [non-governmental organisations], and journalists; regulated entry and exit for residents; surveillance; and other security measures more akin to prisons', now with additional EU support (Panayotatos 2020). Mare Liberum (2021: 18) notes that when it comes to repressive measures such as closing camps and preventing NGOs and solidarity structures from doing their work to support refugees, Covid-19 safety is used as the reason for these measures, but when it comes to the protection and safety of refugees, such as in relation to the camp conditions, 'Covid-19 never seems to be a main concern of the authorities'.

In Lebanon, certain Covid-19 restrictions, including curfews, have solely targeted Syrian refugees and do not apply to Lebanese residents (Blumenthal and Murdoch 2020: 1; Fiddian-Qasmiyeh 2020: 29; Grothe 2020; HRW 2020; Nanthini 2020; SACD 2021). The Human Rights Watch (HRW 2020) notes that this is a continuation of the coercive environment which Syrian refugees have been living in. The Norwegian Refugee Council (NRC 2020: 5) also warns that such discriminatory Covid-19 measures make life unnecessarily harder for refugees and contribute to their stigmatisation. Youngs and Panchulidze (2020: 13) note that '[g]overnments are largely disingenuous in justifying all these various measures on health grounds'.

Some countries are resorting to disproportionate use of immigration detention, often in overcrowded and unsanitary conditions, warned the Assistant High Commissioner for Protection, Gillian Triggs (Machin 2020; Mantoo 2020b). The UN also notes that some governments have used public health concerns around Covid-19 to 'justify certain types of immigration enforcement measures, including raids and arbitrary detentions of undocumented migrants and refugees' (2020: 20). In Malaysia, for example, the government promised no action on refugees taking Covid-19 tests, but ended up arresting and detaining them, especially if undocumented, justifying the raids as part of the Covid-19 containment measures (Akkerman 2020: 8; Ahmed 2020; Fishbein 2020; Repucci and Slipowitz 2020: 6). However, it promised to continue these raids after the Covid-19 pandemic restrictions lifted (Akkerman 2020: 9; Fishbein 2020). Fishbein (2020) notes that these 'immigration raids and detentions come alongside a rise in online hate speech and xenophobia, particularly against the country's large Rohingya refugee population'.

In Ireland and the Netherlands, asylum seekers were forced to stay inside their accommodation centres, including with threats of violence in the Netherlands

(Akkerman 2020: 4). In Serbia, all refugee and asylum seekers in reception centres were forbidden from leaving, which was enforced with permanent military surveillance (Šantić and Antić 2020: 2, 10). Asylum seeker centres in Bosnia and Herzegovina were quarantined and blamed for being coronavirus hotspots, despite no confirmed infections in them (Thomson and Ip 2020: 16). The government in Bangladesh locked down refugee camps and restricted entry, with barbed wire put up around the refugee camps in Cox's Bazaar to prevent Rohingya refugees from leaving (Alam *et al.* 2020: 268; Blumenthal and Murdoch 2020: 5).

The response to and protection against Covid-19 cases in detention and accommodation centres in countries such as Greece, Germany, the UK, and the US has been inadequate and conditions unsafe (Akkerman 2020: 4–5; Blumenthal and Murdoch 2020: 1; Cossé 2020; Fridez 2020: 10; Grierson 2021; Noble 2020; Panayotatos 2020; Ramji-Nogales and Lang 2020: 598; Stuber 2021). For example, there was a large outbreak of Covid-19 at a former army barracks in the UK used to house asylum seekers, despite repeated warnings about risks due to concerns about overcrowding and poor conditions (Grierson 2021). Internal Home Office documents suggest that asylum seekers were deliberately kept in these poor conditions as a result of concerns that better housing would 'undermine confidence' in asylum system and that the 'less generous' support provided to them was 'justified by the need to control immigration' (Bulman 2021).

While countries such as Belgium, Mexico, the Netherlands, Spain, Portugal, Switzerland, and the UK reduced the number of people being held in detention centres to reduce the risk of outbreaks of Covid-19, releases were often not accompanied with appropriate protection or assistance and many were forced to live on the streets, exposing them to further risks (Akkerman 2020: 4; Fridez 2020: 11; Panayotatos 2020). In France and Bosnia, policies were introduced to move asylum seekers ostensibly in the name of protecting them from Covid-19 but the accommodation they were moved into was inadequate and not Covid-19 safe (BVMN 2020: 14, 16; Reidy 2020a). Along the Balkan Route, the physical rights of displaced people have been suspended in both settlement and transit, with protections against inhumane accommodation and detention discarded and the mass confinement of tens of thousands in overcrowded and unsafe camps (BVMN 2020: 6).

In addition, NRC (2020: 4) notes reports from West and Central Africa that 'Covid-19 is being used as a pretext to close displacement sites without viable alternatives and without consulting affected populations' (see also concerns from IFRC and ICRC 2020: 2). IFRC warn that lack of oversight of emergency powers introduced during the Covid-19 pandemic may contribute to their excessive or

discriminatory use to target certain groups, including refugees (Hoagland 2020: 36).

These conditions have exposed existing shortcomings with countries' asylum systems prior to the pandemic, which have often left asylum seekers in deplorable conditions and with insufficient support (Fridez 2020: 10; Lang 2020; Stuber 2021). Reidy (2020a) notes that migration experts and rights groups suggest that these policies which concentrate people in crowded camps or detention centres are part of a trend in recent years of governments trying to limit access to asylum and prevent mobility.

3.1.6 Preventing oversight of abuses of refugee rights

Journalists and activists have also been prevented from exposing the conditions for refugees in the pandemic in some countries (Busby 2021; Grant and Fallon 2021; Repucci and Slipowitz 2020: 6). For example, a photographer in the UK was arrested after photographing a protest about conditions outside an asylum detention centre, raising concerns about press freedom (Busby 2021). The Covid-19 lockdown has prevented activists from the Hungarian Helsinki Committee from visiting Serbia to record violent pushbacks from the Hungarian border, which was how they documented pushbacks, as visiting the border in Hungary became illegal in 2018 (Grant and Fallon 2021). Staff working for Human Rights Observers in Calais were fined 30 times during the recent lockdown for breaking 'confinement' rules while they conducted human rights observations of evictions occurring during lockdown (*ibid.*). Greek authorities blocked organisations whose mission is to monitor human rights, such as Mare Liberum, from operating during the pandemic (Mare Liberum 2021: 13). The new right-wing government in Slovenia has also used spending cuts to defund NGOs working to support international protection such as those providing legal aid in asylum camps (BVMN 2020: 8). The increasing violence against those attempting to claim asylum during the pandemic comes with 'attacks on the human rights defenders, lawyers, volunteers and NGOs trying to help them' (Grant and Fallon 2021).

3.1.7 Observers' analysis of Covid-19 as an excuse for the continued erosion of the right to protection

As already reflected above in relation to specific contexts, those analysing and commenting on the protection crisis faced by refugees and asylum seekers during the Covid-19 pandemic have voiced their concerns for the challenges to the right to asylum during the pandemic, noted how it builds on previous efforts to erode the right to protection, and observed the links with right-wing and authoritarian tendencies. A selection of these concerns is brought together and outlined in this section.

Pandemic has increased risk to, and erosion of, basic refugee principles

Ghezelbash and Tan (2020: i), writing for the Migration Policy Centre, note that, the 'Covid-19 pandemic has had a devastating impact on the institution of asylum, exacerbating longer term trends limiting the ability of asylum seekers to cross-borders to seek protection'. Meer and Villegas (2020: 3), academics at the University of Edinburgh, warn that what is at risk as a result of the pandemic is 'the very basis of the international refugee conventions', including the principle of non-refoulement. Lang (2020), writing for Refugees International, also notes that the 'very concept of refuge is under assault' as a result of measures taken in response to the pandemic and building on the progressive erosion of asylum space in recent years (see also BVMN 2020: 5). Craze and Tubiana (2020), researchers working on refugees, suggest that the measures taken during the pandemic are

Not exceptional policies pursued in a time of crisis but a crisis put to good use to complete a project already 30 years in the making: an almost total blockade against refugee movement and the end of asylum as a practical possibility.
(Craze and Tubiana 2020)

Academics and activists from Latin America, Europe, and the UK, speaking at an event at the University of York, also noted that 'problems with government attitudes towards migration go far deeper than the pandemic', as 'years of anti-immigrant rhetoric have made it easier to increasingly dehumanise and criminalise people on the move, reducing their freedoms and denying their basic rights' (Machin 2020). The pandemic 'seems set to make an already broken system even worse' (*ibid.*).

Pandemic as a useful excuse for refugee rights violations

Ramji-Nogales and Lang (2020: 599), academics from the US and Croatia, note that border closures during Covid-19 'raise the question of whether public health is the actual reason for restricting entry, or whether it is merely a vehicle for disguising otherwise unlawful political choices'. Susan Fratzke, of the Migration Policy Institute, also notes that the pandemic is a useful excuse for countries to 'put in place anti-asylum policies they would have pursued anyway' (Craze and Tubiana 2020; Reidy 2020a). Looking at a specific example, BVMN (2020: 27) suggests that Covid-19 measures have been used to justify further rights suspensions of refugees and asylum seekers, with governments along the Balkan route 'capitalising on states of emergency in order to carry out more expansive rights violations against refugee and transient communities' as part of their 'opportunistic pushback and asylum regimes'. Grant notes that the way in which the pandemic has been used as an excuse to 'impose more draconian restrictions on refugees, migrants and asylum seekers, as well as to suspend even minimal rights and protections', indicates 'how easily a crisis can enable a

further slide in standards that would have been deemed unacceptable only a short while before' (2020: 14).

Right-wing populists anti refugee agendas

Woznicki (2020) notes that right-wing populists throughout Europe are creating the threat of refugees 'importing the coronavirus' into the EU and 'mobilizing the notion of border control as an immunity apparatus', while sanctioning any measures necessary to protect these borders. In addition, Lang (2020) notes that the progressive erosion of asylum space in recent years through the policies leading to the building of physical and invisible walls to keep refugees and asylum seekers away, refoulment, and resettling of fewer refugees, have often been a reflection of 'the rise of populist politics that demonize outsiders'. The pandemic has accelerated this trend, with nativist leaders for example, 'weaponizing public health concerns to justify unnecessarily harsh measures in service of anti-immigrant and anti-refugee agendas' (*ibid.*).

Entrenching of restrictions on refugee rights

Looking ahead, there are concerns from organisations and people working with refugees, such as the UN, that these changes and restrictions to the right to asylum and access to protection, justified as temporary health measures and even those implemented in good faith, may end up being entrenched in the long run as the pandemic subsides (Akkerman 2020: 1, 9; BVMN 2020: 3; Grothe 2020; Natta 2020; Reidy 2020a; UN 2020: 3). This could further 'erode legal obligations related to access to protection under international human rights and refugee law, as well as established practices and norms around mobility' (UN 2020: 23).

These concerns arise partly as a result of the example of how civil liberty restrictions remained in place long after September 11th (Akkerman 2020: 1; Natta 2020). For example, it is likely that as borders are reopened, permission to enter will come with additional health requirements, such as vaccine certification, which might disadvantage vulnerable populations who struggle to meet or afford these formal requirements (UN 2020: 23). BVMN note that 'reactive policy soon establishes itself as an enduring mechanism of control' (2020: 3). A policy analyst with Migration Policy Institute noted that it is difficult to signal that 'the risk has been reduced to such an extent that the public should feel safe in having these measures lifted' (Reidy 2020a). Gilman (2020: 9), an academic from the University of Texas, points out in relation to the border controls put in place in the US during the pandemic that 'it will require intensive efforts to have any administration view the *absence* of asylum seekers entering the US system at the southern border as a serious concern that must be addressed' (original emphasis).

Ghezelbash and Tan (2020) argue that the crisis of solidarity means that states will be reluctant to be first movers when it comes to easing Covid-19 asylum

restrictions. They suggest that ‘abandoning the right to seek asylum in the developed world runs the real risk of emulation in the global South, where 85 per cent of the world’s refugees reside’ (*ibid.*: 8). Informants interviewed by Easton-Calabria (2020: 24) also note their concern that ‘the current dearth of resettlement to Western countries and ongoing border restrictions are setting a new norm of asylum that will have a problematic ripple effect’, as countries hosting the majority of refugees observe the hypocrisy of Western borders remaining closed and may grow less tolerant of refugees.

3.2 Increased discrimination, stigma, and xenophobia

Fear of Covid-19 and the increasing human and financial toll of Covid-19 has resulted in increasing tensions between displaced populations and host communities, sometimes tapping into existing tensions (Doliwa-Klepcka and Zdanowicz 2020: 13; Fridez 2020: 3; Lang 2020; UN 2020: 3). Some responses to the pandemic have fuelled the narrative of migrants as a threat and association with disease is a historically powerful tool for othering (Akkerman 2020: 12; Charney 2020: 1; McAuliffe 2020: 3; Ivić and Petrović 2020: 421). Such rhetoric contributes to the rise in xenophobia and discrimination in different countries (Ivić and Petrović 2020: 421). Quarantine or other restriction measures imposed by governments that target specific groups, such as refugees (see above), can fuel community divisions and increase xenophobia and hate crimes targeting ‘outsiders’ perceived as bringing the virus into communities (Nanthini 2020; UNDP and UNODC 2020: 30). The ongoing economic crisis also contributes to the risks of increased xenophobia and a lessening of support for refugees (Dempster *et al.* 2020: 24; Freier *et al.* 2020: 301).

Reports around the world have found that refugees and asylum seekers are experiencing increased xenophobia, stigma, discrimination, hate speech, and attacks directed against them during the pandemic (Dickson *et al.* 2020: 4; Doliwa-Klepcka and Zdanowicz 2020: 12; Hoagland 2020: 12; Ivić and Petrović 2020: 428; Lang 2020; Mantoo 2020b; Nanthini 2020; Program on Forced Migration *et al.* 2020: 551; UN 2020: 3; WHO 2020: 6). In February 2021, UNHCR (2021) found 50 countries with reported or known instances of xenophobia, stigmatisation, or discrimination. A survey with around 30,000 refugees and migrants by the WHO (2020: 18) found that a significant proportion felt that discrimination had worsened, especially being avoided, being feared, treated differently, called names, and unfairly treated by the police. Those in more secure situations such as houses or refugee camps were less likely to feel that they experienced increased discrimination, in comparison to people living on the street, in insecure accommodation or in asylum centres (WHO 2020: 18).

The director of the Centre for Analysis of the Radical Right, Matthew Feldman, warns that the 'far-right will seek to exploit the pandemic to push xenophobic messages into mainstream political discourse, hoping that they are adopted by more established political actors' (Colborne and Hajdari 2020). Governments, politicians, and far-right parties and racist media organisations, in countries such as the US, South Africa, Israel, Brazil, Peru, Italy, Malaysia, Iran, Lebanon, Hungary, Slovenia, Serbia, France, Germany, Greece, Poland, and Spain, amongst others, have used the crisis to exploit public fears and stoke xenophobic sentiments (Ahmed 2020; Akkerman 2020: 1, 12–13; BVMN 2020: 8, 26; Charney 2020: 1, 4; Colborne and Hajdari 2020; Craze and Tubiana 2020; Dempster *et al.* 2020: 24; Doliwa-Klepcka and Zdanowicz 2020: 13; Fiddian-Qasmiyeh 2020: 28; Fishbein 2020; Gostoli 2020; Hume 2020; Livingstone 2020; McAuliffe 2020: 7; Molnar 2020: 35; Nanthini 2020; Panayotatos 2020; Repucci and Slipowitz 2020: 6; SACD 2021; Šantić and Antić 2020: 10; Trilling 2020). Populist politicians around the world have claimed asylum seekers are threats to the containment of the virus, applying their pre-existing narrative that blames illegal immigrants for everything, to reinforce their long-standing push for closing borders (Reidy 2020a; Hume 2020). In Greece, for example, despite infection rates among refugees and asylum seekers not being higher than the general population, the centre-right 'government statements have linked the spread of coronavirus to migrants, fuelling already high anti-refugee sentiment in the country'⁸ (Katsambekis and Stavrakakis 2020: 3; Panayotatos 2020). Akkerman (2020: 13) notes that anti-immigrant rhetoric has accompanied 'far-right activities and responses to Covid-19', including and in some cases 'at the forefront of (violent) anti-lockdown demonstrations, teaming up with all kinds of conspiracy thinkers, creating a virulent mix of misinformation, racism and nationalism, often fuelled by social media' (*ibid.*: 13). This contributes to an environment in which right-wing populist leaders introduce more hostile policies against refugees and asylum seekers (Katsambekis and Stavrakakis 2020: 7; Lang 2020). Charney (2020), for example, warns that existing objections by Myanmar and Bangladesh to readmitting or hosting Rohingya refugees could be fuelled by associating them with a public health risk.

3.3 Restrictions to humanitarian access

Pandemic-related restrictions limited humanitarian access in some countries and camp settings (BVMN 2020: 16; Dempster *et al.* 2020: 22; Hoagland 2020: 34, 41; Lang 2020; NRC 2020: 6; UN 2020: 10). Lockdowns affected organisations which usually provide assistance to refugees, meaning that they struggled to provide the same amount and type of support (Easton-Calabria 2020: 5). This increases the risks for people in camps, including in relation to gender-based

⁸ This stands in contrast to the solidarity with refugees expressed by SYRIZA, the left-wing populist opposition, during the pandemic (Galanopoulos 2020: 27).

violence and their mental health (Kafkoutsou and Oikonomou 2020: 6–7; RTI 2020: 13–14). Travel bans, curfews, and movement restrictions are interfering with the delivery of humanitarian activities for refugees and IDPs, most of whom are dependent on this aid (NRC 2020: 6; UN 2020: 10). For example, Bangladesh suspended all relief work in Rohingya refugee camps apart from maintaining the provision of essential services when Covid-19 was detected in the Cox’s Bazaar District, cutting the number of humanitarian workers by 80 per cent (Alam *et al.* 2020: 268; Blumenthal and Murdoch 2020: 5; Charney 2020: 2; Nanthini 2020). In Lebanon, NRC MiddleEast (2021) recently noted that the strict Covid-19 lockdown impeded their usual access to Syrian refugees living there, which made it more difficult to assess the impact of flooding in January 2021. Restricted access to camps and lockdowns in Iraq, Uganda, and Nigeria have reduced provisions of goods and services to IDP populations to ‘life-saving’ activities only (Ah Poe *et al.* 2020: 22; UN 2020: 10). Since the arrival of the pandemic, humanitarian agencies were denied access to the unofficial Rubkan camp for Syrian refugees in Jordan (Dickson *et al.* 2020: 5). Most international and local NGOs were not allowed into new camps in Bosnia that refugees and asylum seekers were moved into during the pandemic (BVMN 2020: 16).

3.4 Exclusion from national responses, including vaccination programmes

Many host countries exclude refugees and asylum seekers from their national Covid-19 responses and relief programmes (Easton-Calabria 2020: 5; Post and Hsieh 2021: 1). For example, a study looking at World Bank-funded Covid-19 response plans found that out of 13 refugee-hosting countries analysed,⁹ only two, Cameroon and Chad, had ‘World Bank-funded Covid-19 response plans that explicitly and comprehensively integrate refugees and displaced populations’ (Post and Hsieh 2021: 4). The remaining 11 countries response plans ranged from ‘partial inclusion to seemingly total exclusion’ (Post and Hsieh 2021: 1). Mukumbang (2020), an academic from the University of the Western Cape, suggests that this focus on the protection of their citizens and neglect of their obligations and commitments to protect asylum seekers and refugees and foreign-born migrants living within their countries is the result of ‘structural xenophobic tendencies’ (*ibid.*: 2).

One area where refugees and asylum seekers are being excluded from national responses and left behind relates to access to Covid-19 vaccines, despite the public health imperative for their inclusion (Lu 2021; Reidy 2021; Post and Hsieh 2021: 3; Zivkovic 2021). UNHCR notes that out of the 90 countries who were developing national Covid-19 vaccination strategies in January 2021, 43 per cent

⁹ Bangladesh, Burkina Faso, Burundi, Cameroon, Chad, Colombia, Democratic Republic of the Congo, Ethiopia, Jordan, Lebanon, Niger, Pakistan, and Uganda.

have not included refugees in their vaccination plans (Gaynor 2020). By February, this has improved slightly with now 39 per cent of 133 refugee-hosting countries not yet pledging to include forcibly displaced populations in their vaccination plans (Wallis 2021). In addition, even if refugees and asylum seekers are mentioned in vaccination plans, Lu (2021) suggests that it remains to be seen whether countries will follow through on their pledges, especially as many refugee-hosting countries are struggling to acquire vaccines in a competitive global market. Other countries have explicitly excluded this population. The Colombia president, for example, initially stated that undocumented forced migrants from Venezuela will not be vaccinated (Wallis 2021). Poland has also explicitly excluded non-resident foreigners from its vaccination programme (Zivkovic 2021). Mukumbang notes that in some countries it may be 'politically untenable to consider refugees and asylum seekers when it comes to the planning of vaccination campaigns' (2020: 3). In Lebanon, for example, which is host to around 1.5 million Syrian refugees, some politicians have argued that vaccines should be given to the Lebanese 'exclusively', leading to a trending Twitter hashtag that translates to 'the vaccine for the Lebanese first' (HRW 2021). In Greece, a government spokesperson noted that refugees and asylum seekers are not a priority (Carassava 2021). This 'Greeks first' vaccination policy has been criticised for echoing 'strong anti-immigrant sentiment and rhetoric once trumpeted by the leaders of Golden Dawn, one of Europe's most violent neo-Nazi groups' (*ibid.*). The lack of announcement of the inclusion of registered and unregistered refugees in the vaccination timeline in Turkey, host to around four million refugees and asylum seekers, 'may be to avoid any public backlash given negative public sentiment about Syrian refugees in Turkey' (Tokyay 2021).

In the coming year, mobility is expected to become increasingly linked to vaccination, which will have implications for the right to seek asylum (Reidy 2021). Reidy, writing for *The New Humanitarian*, notes that there are concerns that the 'unequal distribution of vaccines will help cement policies that have restricted the mobility of vulnerable populations and access to protection during the pandemic as part of a "new normal"', at the same time as 'economic hardship and dwindling humanitarian aid budgets increase the need for many people to migrate' (*ibid.*). An academic from the University of Cape Town suggested that 'we might see the systematic exclusion of these populations from accessing vaccines... And then, of course, using that as a pretext to limit people's movement' (*ibid.*). An academic from Coventry University notes that it is 'another layer of documentation and paperwork, and things that people don't have access to in order to seek protection' (*ibid.*).

3.5 Consequences of previous restrictions or measures on refugee safety during the pandemic

Authorities in countries such as Bangladesh and Myanmar had blocked mobile phone and internet access in refugee and IDP camps prior to the outbreak (Blumenthal and Murdoch 2020: 5; Grothe 2020; Lang 2020). This policy has continued during the pandemic, preventing refugees and IDPs from accessing accurate information about the pandemic and prevention measures, making them more vulnerable to Covid-19 (Blumenthal and Murdoch 2020: 5; Grothe 2020; Lang 2020).

The lack of 'firewalls' between services such as for health care, gender-based violence, and immigration means that vulnerable or undocumented asylum seekers and refugees, especially women and girls, may decide not to access these services, the need for which has increased greatly during the pandemic, due to fear of detention and possible deportation (ESCWA 2020: 8; Hoagland 2020: 15; Meer and Villegas 2020: 18; UN 2020: 9, 14). WHO (2020: 10) conducted a survey with refugees which found that 22 per cent not seeking health care did so because of fear of deportation. This increases the risk for both them and the general public as it will contribute to the spread of the disease (Hazard 2020: 18; Hoagland 2020: 15). Some countries, such as the UK, have recognised this concern and announced that no immigration checks will be made when seeking Covid-19 testing, treatment, or vaccination (Hoagland 2020: 16; Walker 2021). However, the previous hostile environment can make asylum seekers and irregular migrants suspicious of such pronouncements (Walker 2021; Zivkovic 2021). A coalition of 140 organisations in the UK have warned that the hostile environment for migrants means many people living in the UK with unofficial or uncertain status will be unlikely to take up Covid-19 vaccinations, despite a government push for this to happen (Stone and Bulman 2021; Walker 2021). Research by the Joint Council for the Welfare of Immigrants found that 56 per cent with refugee status would be wary of accessing health care because of fears about data-sharing between the NHS and Home Office, rising to 81 per cent for those with no official status, after a decade of being told to be scared as part of a conscious public campaign by the government (Walker 2021). In Lebanon, most refugees, especially those without legal status, fear accessing health services for fear of detention or deportation despite the government declaring that deportations of people with health conditions would stop, especially because some families were expelled as the result of going to pharmacies to buy pain killers during the pandemic (SACD 2021).

As well as being reluctant to access health care and vaccines due to hostile environments and concerns over deportation, refugees and asylum seekers may be reluctant to get vaccinated due to misinformation and fears that they may become test subjects for possible experimentation or sterilization (Lu 2021).

3.6 The use of contact tracing tools on refugees and asylum seekers

States have increasingly turned to technological experiments to ‘manage’ migration, a trend that has continued during the pandemic (Fallon 2020b; Molnar 2020: 1, 16). There is no unified global regulatory regime governing the use of new technologies in migration management which creates ‘laboratories for high risk experiments with profound impacts on people’s lives’¹⁰ (Molnar 2020: 3).

Akkerman (2020: 12) warns that there are concerns that the unregulated expanded uses of surveillance technologies during the Covid-19 pandemic could also be targeted against refugees and asylum seekers, including after the end of the Covid-19 crisis (see also Molnar 2020: 1, 22). Molnar (*ibid.*: 1, 22), for example, writing for European Digital Rights (EDRi) and the Refugee Law Laboratory, notes that based on previous use of technology to manage migration, refugees and people crossing borders will be disproportionately targeted and negatively affected by the increased use of bio-surveillance (such as virus-targeting robots, drone, mobile phone tracking, and artificial intelligence-based thermal cameras) in response to the Covid-19 pandemic as these tools can be used against people crossing borders. She notes that technological tools can ‘become tools of oppression and surveillance, denying people agency and dignity and contributing to a global climate that is increasingly more hostile to people on the move’ (*ibid.*: 22). The UN’s special rapporteur on racism, racial discrimination, xenophobia and related intolerance, Tendayi Achiume, noted, for example, that the ‘Covi-Pass’, a health passport that is reportedly due to be rolled out across west Africa, has implications for freedom of movement, especially for refugees (Fallon 2020b). Sanja Milivojević, Associate Director of Border Criminologies at Oxford University, expressed her concerns about mission creep of contract tracing technology once the need is gone and its impact on the most vulnerable, like refugees and asylum seekers, in light of existing attempts to police them (Oxford Law Faculty 2020).¹¹ Molnar warns that ‘[m]igration data has long been politicised by states to justify greater interventions in support of threatened national sovereignty and to bolster xenophobic and antimigrant narratives’ (2020: 2).

In addition, another concern is that ‘ties have been discovered between far-right extremists and companies like Clearview AI and Palantir, which are responsible for the development and deployment of facial recognition technologies and algorithmic decision-making tools used for the detention and deportation of migrants’ (Molnar 2020: 35).

¹⁰ For example, ‘in the UK, 7,000 students were wrongfully deported because a faulty algorithm accused them of cheating on a language acquisition text’ (Molner 2020: 17).

¹¹ See minute 35.56.

3.7 Support for the right to protection during the Covid-19 pandemic

Despite the continued erosion of the right to protection during the pandemic detailed above, various efforts have been made to defend the right to protection during the pandemic. UN agencies, experts, and NGOs have highlighted critical protection safeguards and minimum legal standards through publications and press releases (OECD 2020: 6). Early in the pandemic, the Office of the High Commissioner of Human Rights, for example, reminded states that ‘any emergency responses to the coronavirus must be proportionate, necessary and non-discriminatory’ (OHCHR 2020). United Nations High Commissioner for Refugees and other organisations have reiterated that ‘measures to contain threats to public health should not close avenues to asylum or force people to return to situations of danger, contrary to non-refoulement obligations’ (UNHCR 2020a: 6). They have outlined public health measures that can be taken to protect the right to asylum, including ‘screening, testing and quarantine measures, release from detention and non-discriminatory inclusion in national health care systems and other services’ (OECD 2020: 6). A committee of established experts and practitioners developed the *Human Mobility and Human Rights in the Covid-19 Pandemic: Principles of Protection for Migrants, Refugees, and Other Displaced Persons*, which was endorsed by 1,000 international experts (Cicek 2020). The Civil Society Action Committee issued a statement urgently calling on states and government authorities at all levels to protect migrants and refugees in this crisis and suggesting potential solutions (CSAC 2020). The International Red Cross and Red Crescent Movement developed recommendations aimed at authorities and other relevant stakeholders in relation to IDPs during the pandemic, including relating to the right to seek asylum (IFRC and ICRC 2020: 4). The Parliamentary Assembly of the Council of Europe recommended that member states take into account and promote UNHCR’s *Practical Recommendations and Good Practice to Address Protection Concerns in the Context of the Covid-19 Pandemic*, to continue to implement the Global Compact on Refugees, and stop pushbacks (Fridez 2020: 4).

As well as developing principles and recommendations, organisations have also highlighted behaviour they found concerning. For example, in January 2021, UNHCR’s Assistant High Commissioner for Protection, Gillian Triggs, objected to the actions of European states, noting that ‘The right to seek asylum is a fundamental human right. The Covid-19 pandemic provides no exception; it is possible to protect against the pandemic and to ensure access to fair and speedy asylum processes’ (Mantoo 2021). UNHCR has called for urgent inquiries into alleged violations and mistreatment at the EU’s borders (*ibid.*). Human rights organisations monitoring the treatment of refugees and asylum seekers in Europe and at its borders, such as the BVMN, Aegean Boat Report,

Hungarian Helsinki Committee, and Mare Liberum have continued to document and advocate against pushbacks and other human rights violations during the pandemic despite increased difficulties in operating (BVMN 2020; Grant and Fallon 2021; Mare Liberum 2021; Olsen 2021). In June 2020, a coalition of 39 international, national, and refugee-led organisations in the Horn, East and Central Africa ‘called on governments in the region to put appropriate health measures in place and to reopen borders for asylum seekers in compliance with the right to seek asylum as well as the principle of non-refoulement’ (Easton-Calabria 2020: 23). Easton-Calabria notes that widespread affirmation of the Global Compact on Refugees opens up ‘important opportunities for protection-focused responses and advocacy channels for a variety of issues related to refugee protection’ (*ibid.*: 16) resulting during the pandemic, including the right to seek asylum, although it has not yet really been used in this way.

3.7.1 Examples of improved refugee rights during the pandemic

There are also some positive examples of countries around the world which granted refugees and migrants temporary rights to public services during the pandemic (CASC 2020: 6–8; ESCWA 2020: 16; Freier *et al.* 2020: 301–2; Fridez 2020: 3; Mukumbang 2002: 2; OECD 2020: 6–7; Repucci and Slipowitz 2020: 6; UN 2020: 22). For example, asylum seekers in Portugal were temporarily treated as permanent residents, which entitled them to access to the public social security systems (CSAC 2020: 7; UN 2020: 22). Belgium, the Netherlands, the UK, and Spain have released detained undocumented migrants during the pandemic (CSAC 2020: 6–7). Various countries in Europe, Central America, South America, and elsewhere have ‘extended the validity of visas and residency permits to ensure people do not end up becoming undocumented while government offices are closed due to lockdowns’ (Reidy 2020c). Some EU countries stopped or significantly reduced deportations of undocumented migrants (Reidy 2020c). Italy passed an amnesty law which paved the way for potentially 200,000 people to gain six-month work permits and legal residency, although there are concerns this was more about economic benefits than human rights (D’Ignoti 2020). From the beginning of the pandemic, refugees in Jordan have been included in the national response plan and have been able to access health care on par with Jordanian citizens (Gaynor 2020).

Jordan has also started vaccinating refugees as part of its national Covid-19 vaccination plan (*ibid.*). Asylum seekers living in accommodation centres are among the second group to be vaccinated in Germany, while in Serbia officials have also reported that refugees and asylum seekers would be prioritised (Wallis 2021; Zivkovic 2021). Undocumented asylum seekers are also being included in the national vaccination programmes in the Netherlands, France, Spain, Italy, and the UK, although as noted above they may not feel secure enough to engage with the health system due to previous and existing discriminatory and

criminalising state policies and fear of deportation (Walker 2021; Wallis 2021; Zivkovic 2021).¹²

Freidez (2020: 3) writing for the Council of Europe's Committee on Migration, Refugees and Displaced Persons, notes that such exceptional measures show that 'migration management can be carried out under less restrictive conditions' (see also Machin 2020). Reidy, writing for *The New Humanitarian*, notes that the challenge is building on these few promising measures in the face of 'economic recession and social malaise stemming from lockdowns and border closures [that] could prove to be fertile ground for right-wing groups and political parties to push for even more anti-migrant and nativist policies' (2020c).

¹² UNHCR and IOM are 'working with governments and partner organizations across the globe to ensure that refugees and migrants are not left out of the Covid-19 vaccination programs', including through the COVAX Facility (Wallis 2021). The **facility** has a small buffer of about 5 per cent of the total number of available doses that will be kept aside to build a stockpile to help with acute outbreaks and to support humanitarian organisations, for example to vaccinate refugees who may not otherwise have access.

4. Discussion and conclusion

The first year of the Covid-19 pandemic has seen a further deterioration in refugee protection rights as border closures, movement restrictions, discriminatory policies, and rhetoric around forcibly displaced persons as contagion threats have eroded the right to asylum and the principle of non-refoulement, as well as leading to increased xenophobia and discrimination faced by refugees and asylum seekers across the world. Forcibly displaced persons have faced violence, hardship, and deplorable conditions as their search for protection has been made harder during the pandemic.

Prior to the outbreak of the pandemic, refugee and asylum seekers' rights were already at risk as a variety of different policies rendered access to asylum increasingly difficult and dangerous. The pandemic has been used as an excuse by governments to introduce or continue their restrictive asylum policies by introducing measures restricting refugee rights and engaging in pushbacks and deportations, beyond what is reasonably necessary to protect public health. There are fears that such measures, once introduced, will continue beyond the end of the pandemic.

The pandemic also accelerated the existing global trend towards authoritarianism. This has been aided by political ethnic nationalism, with checks against abuses of power, protection of vulnerable groups, transparency and anti-corruption, free media and expression, and credible elections weakened, and Covid-19 being used as an excuse or opportunity to do so.

As well as establishing the protection risks faced by refugees and IDPs during the pandemic, we were interested in seeing if there were any links between the treatment of forcibly displaced persons during the pandemic and increasing authoritarianism. Abuses against forcibly displaced persons during the pandemic occurred in countries classed as full democracies, in flawed democracies, in hybrid regimes and in countries classed as authoritarian, so an obvious link between regime type and treatment of forcibly displaced persons is not clear (see Annexe 1 for country classifications). Part of the reason for this may be the focus on the right to asylum and non-refoulement in the literature, which is mainly focused on issues in countries in Europe and the US that are generally classed as full or flawed democracies. However, many of these countries had increasing authoritarian tendencies during the pandemic, and those whose democracy scores improved, did not necessarily improve in relation to minority rights, as their scores are determined by a number of factors, some of which are unrelated to their treatment of forcibly displaced persons.

While much of the literature does not make links with increasing authoritarianism explicit, it was noted that abuses of power during the pandemic were found to

have had a disproportionate impact on already marginalised communities, such as migrants and refugees, especially in countries where right-wing populists and nativist leaders have weaponised public health concerns to justify unnecessarily harsh anti-immigrant and anti-refugee measures. Also noted was that the tendency towards authoritarian governance has been aided by political ethnic nationalism which can have an anti-refugee agenda.

A deeper investigation of any linkages between increasing authoritarianism and responses to refugees/asylum in the context of Covid-19 could be an important research agenda, especially given the longer-term consequences of the pandemic. Wider economic and political divides as a result of the pandemic will strain inclusive politics in its aftermath and may contribute to more nationally oriented practices to tackle the social and economic consequences of the pandemic, which poses further challenges to democratic governance (Youngs and Panchulidze 2020: 33). The frustrations accumulated during the pandemic risk being channelled through exclusionary discourses that scapegoat immigrants in its aftermath (Katsambekis and Stavrakakis 2020: 8). The increased securitisation in some countries also has particular implications for marginalised communities, such as refugees, that already live with harassment and persecution by state authorities (BVMN 2020: 3; Cooper and Atchison 2020: 6; Charney 2020: 4; McAuliffe 2020: 2).

However, not all measures introduced during the pandemic contributed to the erosion of refugee rights and pushback against these rights violations has occurred. Such examples show that refugee rights can be protected in the challenging circumstances of the pandemic and beyond. The challenge then is to build on these positive examples in the face of eroding refugee rights and challenging political environments, such as increasing authoritarianism, to ensure that all those who need it are protected.

Annexe 1: Examples of actions affecting refugees' right to protection during Covid-19

Table A1 presents a non-exhaustive list of examples of countries where policies/actions taken in response to Covid-19, or with Covid-19 given as the reason, have impacted on refugees' and IDPs' right to seek asylum and protection. Given our interest in the links with authoritarianism, each country's 2020 Democracy Index is given, as well as if it declined or improved since 2019. This information is drawn from *The Economist* Intelligence Unit's Democracy Index as it covers all countries mentioned and records how global democracy fared in 2020, the year the pandemic began. The Democracy Index is based on five categories: (1) electoral process and pluralism, (2) the functioning of government, (3) political participation, (4) political culture, and (5) civil liberties. Based on its scores on a range of indicators within these categories, each country is then itself classified as one of four types of regime: 'full democracy', 'flawed democracy', 'hybrid regime' or 'authoritarian regime'.

Table A1: Actions affecting refugees' right to protection during Covid-19

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|---|--|-----------------------------|
| Libya Authoritarian (EIU 2021) Decline from 2019 | Pushbacks from eastern Libya (AI 2020) Additional support for efforts to stop asylum seekers leaving for Europe and detention (Akkerman 2020) | |
| Venezuela Authoritarian (EIU 2021) Decline from 2019 | Xenophobia towards returnees and detentions (AI 2020; Freier <i>et al.</i> 2020) | Discrimination (AI 2020) |
| Jordan Authoritarian (EIU 2021) Decline from 2019 | Refugees included in national response plans, including vaccination programme (Gaynor 2020) | |

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|--|--|--|
| Lebanon Hybrid regime (EIU 2021) Decline from 2019 | Curfews just for Syrian refugees (Grothe 2020; HRW 2020; SACD 2021) Right-wing stoking xenophobia (SACD 2021) Restrictions on humanitarian access (NRC 2020) Deportations (SACD 2021) | Makes life harder for refugees and increases stigmatisation (NRC 2020) |
| Bosnia and Herzegovina Hybrid regime (EIU 2021) Decline from 2019 | All asylum seekers quarantined and blamed (Thomson and Ip 2020) Moved into inadequate conditions (BVMN 2020) | |
| Uganda Hybrid regime (EIU 2021) Decline from 2019 | Pause of refugee status determination process (NRC 2020) | Impedes ability to access assistance (NRC 2020) |
| Bangladesh Hybrid regime (EIU 2021) Improvement from 2019 | Suspension of relief work in Cox's Bazaar and confinement of refugees (Blumenthal and Murdoch 2020; Charney 2020) Pushback of boats of Rohingya refugees (Akkerman 2020) | Risks to health and arbitrary detention (Blumenthal and Murdoch 2020) Unable to seek asylum, death and malnutrition (Akkerman 2020) |
| Serbia Flawed democracy (EIU 2021) Decline from 2019 | Lockdown of reception centres and increased anti-migrant sentiment (Šantić and Antić 2020) Pushbacks (BVMN 2020) Right-wing stoking xenophobia (Repucci and Slipowitz 2020) Asylum seekers prioritised for vaccine access (Zivkovic 2021) | |
| Croatia Flawed democracy (EIU 2021) Decline from 2019 | Violent pushbacks (Tonda 2020b; Akkerman 2020) | Violence and unable to seek asylum (Akkerman 2020) |

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|--|---|---|
| <p>Hungary Flawed democracy (EIU 2021) Decline from 2019</p> | <p>Closed transit centres and barred asylum seekers entering (BVMN 2020; Grothe 2020; Hume 2020) Right-wing stoking xenophobia (Akkerman 2020)</p> | <p>Unable to seek asylum (Grothe 2020, Hume 2020)</p> |
| <p>Trinidad and Tobago Flawed democracy (EIU 2021) Same as 2019</p> | <p>Deported asylum seekers to Venezuela (AI 2020)</p> | <p>Goes against principle of non-refoulment (AI 2020)</p> |
| <p>Malaysia Flawed democracy (EIU 2021) Improved from 2019</p> | <p>Pushback of boats of Rohingya refugees (Akkerman 2020) Arrest and detention of undocumented migrants supposedly to prevent spread of Covid-19 (Akkerman 2020) Right-wing stoking xenophobia (Fishbein 2020)</p> | <p>Unable to seek asylum, death and malnutrition (Akkerman 2020) Arbitrary detention (<i>ibid.</i>)</p> |
| <p>Greece Flawed democracy (EIU 2021) Decline from 2019</p> | <p>Asylum applications paused during lockdown (Noble 2020) Government decree suspending access to asylum for 30 days for people who irregularly entered the country and immediate deportations for all new arrivals (Meer and Villegas 2020) Refugees subject to stricter movement restrictions and curfews than general population (Grothe 2020) Violent pushbacks, including from inland and at sea (BVMN 2020; Olsen 2021; Panayotatos 2020; Souli 2020)</p> | <p>Impedes ability to seek asylum and leaves people in limbo in unsuitable conditions (Noble 2020) Impedes ability to seek asylum and goes against principle of non-refoulment (Meer and Villegas 2020; Panayotatos 2020) Violates their rights (Grothe 2020) Violates right to asylum and principle of non-refoulement (BVMN 2020)</p> |

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|---|---|--|
| | Right-wing stoking xenophobia (Panayotatos 2020) | |
| Belgium Flawed democracy (EIU 2021) Decline from 2019 | Asylum process suspended (Meer and Villegas 2020) Some releases for detention centres but without adequate support (Akkerman 2020) | Impedes ability to seek asylum and access assistance (Meer and Villegas 2020) |
| Cyprus Flawed democracy (EIU 2021) Decline from 2019 | Pushbacks to Lebanon and Syria (Lyritsas 2020) | Impedes ability to seek asylum and goes against principle of non-refoulment (Lyritsas 2020) |
| Malta Flawed democracy (EIU 2021) Decline from 2019 | Closure of ports (Akkerman 2020; Reidy 2020b) Pushbacks to Libya (Akkerman 2020) | No assistance to dinghies and NGO rescue boats – unable to seek asylum and risk of drowning (Akkerman 2020; Reidy 2020b) |
| Italy Flawed democracy (EIU 2021) Improved from 2019 | Closure of ports and some parts of the asylum system suspended (Akkerman 2020; Meer and Villegas 2020; Reidy 2020b) Amnesty law introduced for some undocumented migrants (D'Ignoti 2020) Right-wing stoking xenophobia (Akkerman 2020) | No assistance to dinghies and NGO rescue boats – unable to seek asylum and risk of drowning (Akkerman 2020; Reidy 2020b) |
| Portugal Flawed democracy (EIU 2021) Decline from 2019 | Asylum temporarily treated as permanent residents (UN 2020) | Entitled them to access to the public social security systems (UN 2020) |
| US Flawed democracy (EIU 2021) Decline from 2019 | Suspended asylum hearings (Gilman 2020) Closed borders to asylum seekers and deported anyone attempting to cross (Gilman 2020; Meer and | Impedes ability to seek asylum and goes against principle of non-refoulment (Gilman 2020; Meer and Villegas 2020; |

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|--|---|--|
| | Villegas 2020; Ramji-Nogales and Lang 2020) Right-wing stoking xenophobia (Akkerman 2020) | Ramji-Nogales and Lang 2020) |
| Costa Rica Full democracy (EIU 2021) Improved from 2019 | Refugee Unit closed and no new asylum claims formalised (Meer and Villegas 2020) | Impedes ability to seek asylum (Meer and Villegas 2020) |
| UK Full democracy (EIU 2021) Improved from 2019 | Resettlement temporarily suspended (Meer and Villegas 2020) Some releases for detention centres but without adequate support (Akkerman 2020) Inadequate conditions in detention centres (Grierson 2021) Arrest of photographer outside detention centre (Busby 2021) | |
| Germany Full democracy (EIU 2021) Decline from 2019 | Suspension of humanitarian refugee admission programmes (Meer and Villegas 2020) Right-wing stoking xenophobia (Akkerman 2020) Asylum seekers prioritised for vaccine access (Wallis 2021) | Impedes ability to seek asylum (Meer and Villegas 2020) |
| The Netherlands Full democracy (EIU 2021) Decline from 2019 | Asylum process suspended (Meer and Villegas 2020) Asylum seekers in quarantine threatened with being shot if they tried to go outside (Akkerman 2020) Some releases for detention centres but without adequate support (Akkerman 2020) | Impedes ability to seek asylum (Meer and Villegas 2020) Arbitrary detention (Akkerman 2020) |

| Country – 2020 Democracy Index (listed from least democratic to most) | Policy/action introduced in response to Covid-19 | Impact on refugees and IDPs |
|--|--|--|
| Ireland Full democracy (EIU 2021) Decline from 2019 | Asylum seekers locked in accommodation centres (Akkerman 2020) | Arbitrary detention (Akkerman 2020) |

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