

Legal Perspectives on Health Coverage for Undocumented Migrants in Mexico



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BACKGROUND

The basic principle for Universal Health Coverage (UHC):

All people should have access to the full range of quality health services at any time and place without facing financial hardship.¹

This principle aligns with the notion of the right to health, which mandates that governments worldwide ensure health coverage for all, including undocumented migrants. This study will examine Mexico's legal framework to assess whether its laws, regulations, policies, and practices extend health services to undocumented migrants. Achieving UHC requires prioritizing the inclusion of the most vulnerable populations and safeguarding their right to health.

Principles and guidelines on Human Rights at International Borders according to OHCHR.¹

- 1. The primacy of human rights:** Human rights should be at the centre of all border governance measures
- 2. Non-discrimination:** Migrants should be protected against any form of discrimination at borders
- 3. Assistance and protection from harm:** States should consider the individual circumstances of all migrants at borders, and ensure effective protection and access to justice.

INTRODUCTION TO MEXICAN IMMIGRATION LAWS

Within recent years, Mexico has emerged as a migration destination for people from various parts of the world.⁵ As global dynamics shift and governments and international organizations focus more on policies and health legislation, Mexico finds itself in a unique position concerning the protection of both its population's rights and those of migrants within its borders.

Art. 3: XVIII. 'Migrant: an individual who leaves, transits or arrives in the territory of a State other than that of his/her residence for any type of motivation.'

People who enter the country without presenting themselves before INM (Instituto Nacional de Migración) are considered undocumented (irregular).

- LEY DE MIGRACIÓN, 2011

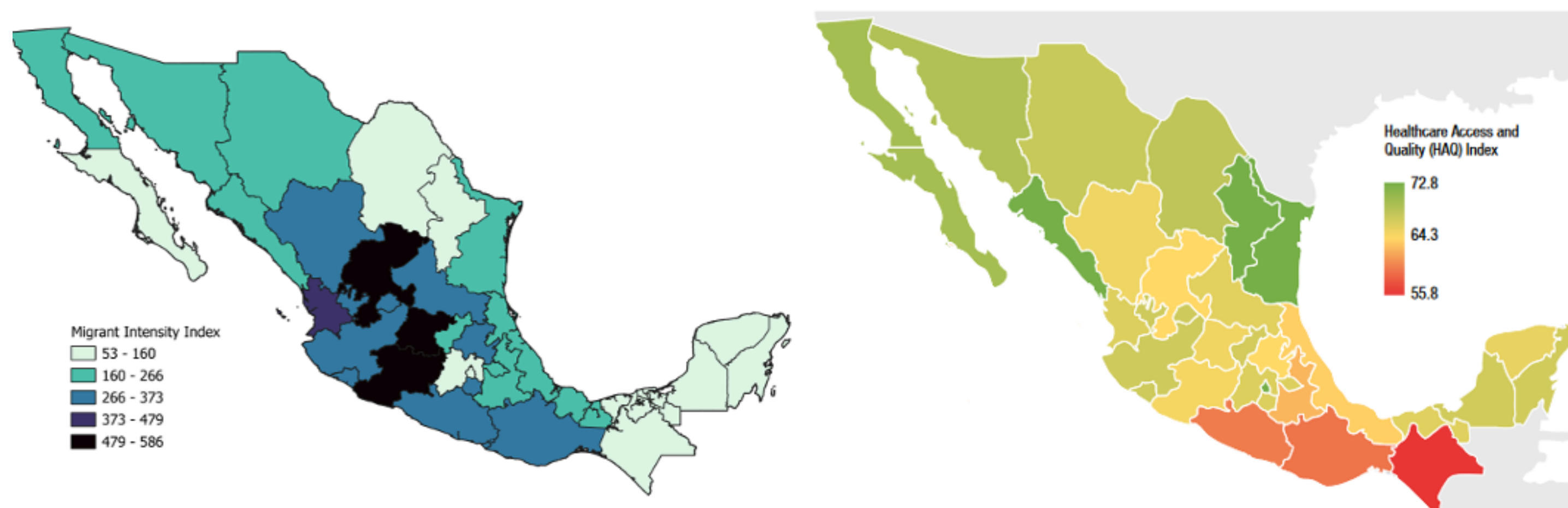
The Constitution:

- gives all rights in the Constitution to everyone in Mexico regardless of citizenship
- establishes right to health for everyone living in the country and the Migration law further establishes the right to health for all migrants.⁴

Irregular migration has been decriminalized in Mexico but there is pressure from the US to deport people without documentation⁵

- National Programme for Equality and Non-Discrimination⁴
- Comprehensive Regional Protection and Solutions Framework (MIRPS)³

BARRIERS TO UNIVERSAL HEALTH COVERAGE



Mexico Absolute Migrant Intensity Index, 2010
Map made by authors with migration data from the Consejo Nacional de Población and administrative boundaries data from UNOCHA

Healthcare Access and Quality (HAQ) Index, Mexico, by state, 2016.
Graph from González et al. 2020.

Many of the issues for migrants seeking healthcare stems from the fact that there is a limited amount of resources for healthcare to be shared between both Mexican citizens and everyone else. As shown in the maps above, there tends to be increased reduced access in states that also have an increased intensity of migrants. Furthermore, the WHO says that migrants often aim to seek healthcare in the southern states on their way north, which may explain the increased demand on their health system.³

BEST PRACTICES TOWARDS UNIVERSAL HEALTH COVERAGE

With its continuous influx of migrants, the Mexican healthcare system is tasked with an enormous responsibility: taking care of those who are most vulnerable. The following examples highlight effective and implementable policies and standards found within the Mexican legal framework:

- Codified international human rights treaties within the law^{1, 5, 7}
- Rules and regulations on migration are transparent and well-defined⁷
- Undocumented children receive priority access to healthcare services⁵
- Access to healthcare is equal for all within the State's borders^{1, 5, 7}
- Irregular migrants are provided an identification document at INM to receive primary healthcare and other benefits⁷
- The National Programme for Equality and Non-Discrimination aims to reduce inequality among all vulnerable populations^{5, 7}
- Implementation of the Comprehensive Development Plan and MIRS focus on promoting development opportunities and addressing the root causes of migration in Central America⁷

PROTECTION MECHANISMS

The National Commission for Medical Arbitration and the Ministry of Health are responsible for investigating complaints related to healthcare services.³ Meanwhile, the National Commission for Human Rights has the authority to investigate any violations of human rights, including those linked to healthcare.³ Should national protection mechanisms prove not to be sufficient, the Inter-American Commission on Human Rights acts as an additional resource for migrants who have experienced human rights violations.

COMPARING MEXICO'S LEGAL STRUCTURE TO INTERNATIONAL STANDARDS

CONVENTION	DESCRIPTION	RATIFIED	ACHIEVED	EXPLANATION
Inter/American Principles on the Human Rights of all Migrants, Refugees, Stateless Persons and Victims of Human Trafficking (2019)	Member states are required to guarantee the right to health for all people regardless of migration status.	✓	!	Mexico does grant all migrants the right to health but due to limited resources, healthcare access cannot be ensured for all.
International Covenant on Economic, Social and Cultural Rights, ICESCR (1966)	States have an obligation to ensure conditions that allow people to get healthcare when sick.	✓	!	This is codified within Mexican law, however, there are still areas where healthcare resources do not meet the needs of the population. ³
International Convention on the Elimination of All Forms of Racial Discrimination, ICERD (1965)	People have the right to medical care and should be protected against discrimination based on national origin.	✓	!	Does grant the right to medical care, however, ID requirements and lack of knowledge of providers can cause discrimination when seeking medical care. ⁴ Access is further limited by the lack of translation of official documents into other languages. ⁵
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ICMW (1990)	Migrant workers and their families have the right to equal medical care and emergency medical care cannot be refused to them.	✓	!	This is codified within Mexican law and migrants are legally entitled to the same healthcare as Mexicans. However, a limited pool of resources can lead to denial of services. ³

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