



## 'Do Not Forget the Undocumented....'

*"During this global pandemic and national emergency, access to treatment and care for immigrants, including undocumented individuals, is critical to tracking and responding to the crisis. Removing barriers to testing and treatment not only saves lives but keeps all Americans safer."<sup>1</sup>*

### 1. Introduction

The above statement issued by the US Catholic Bishops is true not only for the USA but for most countries which carry the burden of the pandemic while hosting itinerant communities. It seems to be a no-brainer that, in a pandemic situation where the virus is no respecter of persons, gender, status, citizenship or any other criterion, the only solution is universal access to the vaccine. However, this is sadly not a universal understanding. Take, for example, the comments of Nebraska (USA) Governor Pete Ricketts who did not "expect that illegal immigrants will be part of the vaccine with that program" because "you're supposed to be a legal resident of the country to be able to be working in those plants." He was referring to undocumented workers in the meat packaging plants in that State.<sup>2</sup>

This briefing paper looks at what is likely to happen with undocumented migrants in South Africa and at the positions espoused by the World Health Organisation and the Catholic Church internationally.

### 2. The Policy Debate in South Africa

South Africa took delivery of 1.5m doses of the COVID-19 vaccine on 1<sup>st</sup> February, and more is expected in coming months. The roll-out plan in its broad strokes is ambitious but lacking in some places in detail, and is unclear as to the full range of recipient categories of those who will benefit most immediately. What is clear (and worrying) is that, like most other countries, there is no

provision in even the most basic policies around beneficiaries, for the inclusion of undocumented migrants.<sup>3</sup> Since demand will outstrip supply, it is inevitable that preferences will be legislated for; and it is equally probable that those preferences will be informed by political and social biases.

One strong bias that plays itself out in the policy domain in South Africa is that of hostility to 'foreign nationals'. The regular xenophobic attacks and current policy positions making entry into South Africa harder, all suggest that exclusion will be the most likely position with regard to migrants being assured of vaccinations and thereby ensuring better health for everyone living in South Africa. It must be noted that, in many parts of the world, the acknowledged pressures resulting from the pandemic have allowed space for a narrative to develop which thinly conceals an anti-migration sentiment. Given the huge number of issues that flow from the pandemic, this sentiment slips by almost unnoticed. It is of the 'policy development by stealth' genre.

All through the pandemic in SA, the default position with regard to extending benefits to undocumented migrants has been one of exclusion. Every benefit that has eventually been extended to that group has come as a result of either sustained advocacy or court interventions. As a recent article noted,

"despite the fact that non-discriminatory inclusion is a basic public health and disease control principle, hard battles have had to be

fought over many years to ensure that access to HIV and tuberculosis services is available to all in South Africa – including both citizens and non-citizens alike – and it looks like this is going to be the case once again in 2021 with Covid-19 testing, treatment and, ultimately, vaccination.”<sup>4</sup>

### 3. Fostering a ‘Politics of Inclusion’

This discussion (or bias if you like) underlines a larger discussion on prioritising who should benefit first from the vaccine, sometimes shorthanded as a choice between the ‘essential vs vulnerable’. In the USA the Centres for Disease Control and Prevention issued some of the earliest guidelines for discerning the priority. They prioritise essential workers, adults with high risk medical conditions, and adults over 65, considering the matter through a prism of science, implementation and ethics. Under ethical considerations, they speak of the need to maximise benefits and minimise harm, promote justice, and mitigate health inequalities. Critics have noted that vulnerability is absent as a key consideration in this document.<sup>5</sup> In the UK the medical journal, *The Lancet*, has also provided some thoughts on the question of prioritising.<sup>6</sup>

The World Health Organisation has included in its guidelines for the fair distribution of the virus, the idea of a ‘humanitarian buffer’. They offer the following perspective:

“In addition to the vaccine allocations in phases one and two, some doses of vaccine are proposed to be reserved as part of a ‘humanitarian buffer’. A small buffer of up to 5% of the total number of available doses will be set aside as a backstop mechanism to serve as a provider of last resort for if/when national, government-led processes fail to reach certain populations. For example, populations living outside government-controlled areas and those who work within these settings could be served through the humanitarian buffer if necessary.

Governments and states are encouraged to include all high-risk individuals and populations, according to the WHO SAGE recommendations, independent of their residency and legal status, including internally-displaced populations, refugees, migrants and detainees.”<sup>7</sup>

While many commentators in SA would argue that the simplest and most just process is simply to include all itinerant people in the initial calculation of the roll-out, the WHO option might be something to hold onto alongside the basic advocacy.

### 4. The Church’s Contribution to the Debate

Faith-based advocacy in this regard should, however, take cognisance of a wider field of moral discernment and bring to the policy table several additional principles for consideration.

Pope Francis helps provide a hermeneutic in approaching these issues: “The coronavirus crisis has highlighted the need to ensure the necessary protection for refugees in order to guarantee their dignity and protection.”<sup>8</sup> The Pope’s contribution to the discussion, expressed in the language of dignity and protection, thus categorises the vaccine as a public good based on dignity as the key criterion, and thus not in the first place as a consequence of legal status. By invoking the notion of protection it also leans toward an option for access for the most vulnerable, i.e. those who need more protection. In a recent document from the Vatican this position is stated clearly: ‘.....recognizing the vaccine “as a good to which everyone should have access, without discrimination.” It also says: the Vatican ‘is grateful for the scientific community’s speedy development of the vaccine, it is “now up to us to ensure that it is available to all, especially the most vulnerable.”’<sup>9</sup>

The document emphasises that the pandemic has exacerbated “a triple threat of simultaneous and interconnected health, economic and socio-ecological crises that are disproportionately impacting the poor and the vulnerable. [...]As we move toward a just recovery, we must ensure that immediate cures for the crises become stepping-stones to a more just society, with an inclusive and interdependent set of systems.” The document went on to say that the fair and equitable distribution of vaccines is a question of justice. “This is time to show we are one family.”<sup>10</sup>

Dr Tedros Ghebreyesus, the Director-General of the WHO, in supporting the Pope’s call, spoke of health “as a human right for all, not a privilege for the rich, and a chance to make the world safe.”<sup>11</sup>

One interesting point which should be developed further in the faith-based policy world, and which

certainly bears some further interrogation, lies in the concept which Pope Francis has developed around the 'throw away culture'. Some would argue that we need to look at the prioritising of vaccines through this lens. A 'throw away culture' implies the side-lining or worse of those who cannot be productive or of benefit. Accordingly, people who are expendable, not strong and not able to play a role in the crisis and beyond can be sacrificed for those who can do so. Hence the prioritising of the essential and the exclusion of the vulnerable. It is possible to understand elderly, physically or mentally challenged, refugees, migrants and displaced persons in this light.

Three points emerge. Firstly, the common sense position must be that the pandemic can only be halted if everyone has access to the vaccine since the virus is absolutely arbitrary. It is a matter of universal access. Secondly, access is based on dignity and not any status or documentation or legalities, and thus policies based on exclusivity are irrelevant. This veers towards protection of the vulnerable as a key hermeneutic. Thirdly, it is a public good and therefore a human right which should be equally accessible to all; but in the tradition of the option for the poor, those with priority should be the very vulnerable. As a public good, the first consideration is not about who financed the research and who invested in its production, with the implied conclusion that those who made such provisions are automatically entitled to priority or preferred access in terms of both time and quantities. In the tradition of public goods these are secondary considerations.

The Vatican adds another point concerning privileged access to vaccines. It speaks of 'vaccine nationalism.' The document says:

"Investments in the medical field should find their deepest meaning in human solidarity. For this to happen, we ought to identify appropriate systems that favour transparency and cooperation, rather than antagonism and competition. [...] It is therefore vital to overcome the logic of 'vaccine nationalism,' understood as an attempt by various states to own the vaccine in more rapid timeframes as a form of prestige and advantage, procuring the necessary quantity for its inhabitants."<sup>12</sup>

The document also called for the negotiation of international agreements to manage the vaccine patents "so as to facilitate universal access to the vaccine and avoid potential commercial

disruptions, particularly to keep the price steady in the future."<sup>13</sup>

## 5. Conclusion

In South Africa the past year has shown that the possession of documents is a key to accessing benefits of every sort. Yet it is not always acknowledged that the lack of documentation, in many cases, is not due to some kind of delinquency. It is due in a large number of cases to the dysfunction of the Department of Home Affairs' offices and personnel, the huge backlogs, corruption, lack of political will, and incompetence. Thus internal failures and culpability rob people of access to various benefits and possibly, in this crisis, also to the vaccine. This would be a public health disaster. The emphasis, instead of investing millions in keeping people on whom the economy depends out of the country, should be to speedily fix the multiple breakdowns in serving people timeously, honestly and civilly in the DHA system, and to make access to documents easier.

This would also have the advantage of beginning to lessen the load on the health system. Already in parts of our country there are serious signs of the collapse of hospitals and health facilities.<sup>14</sup> Universal access to the vaccine would go a long way to combating the pandemic, securing the economy, and strengthening the health system. It would make complete public health sense. It would also begin to demonstrate the political will to really make South Africa, in the words of Chief Albert Luthuli, 'a home for all.' Barriers to accessing all forms of health and other vital support during this critical time should be dismantled, not erected. This contentious policy discussion should be guided less by exclusion and more by the ethics of solidarity and justice.

Pope Francis puts it this way: "The word 'solidarity' is a little worn and at times poorly understood, but it refers to something more than a few sporadic acts of generosity. It presumes the creation of a new mindset which thinks in terms of community and the priority of the life of all over the appropriation of goods by a few."<sup>15</sup>

This is what 'solidarity' means. It is not merely a question of helping others – it is good to do so, but it is more than that – it is a matter of justice.<sup>16</sup> "Interdependence, to be in solidarity and to bear fruit, needs strong roots in humanity and in

nature, created by God; it needs respect for faces and for the land.”<sup>17</sup>

This seems to be a necessary point to make in the present policy discussion.

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<sup>1</sup> <https://cruxnow.com/church-in-the-usa/2020/03/church-leaders-urge-that-migrants-not-be-forgotten-during-coronavirus-pandemic/>

<sup>2</sup> <https://www.businessinsider.com/nebraska-gov-ricketts-undocumented-people-not-included-vaccine-rollout-2021-1?IR=T>

<sup>3</sup> <https://sacoronavirus.co.za/2021/01/12/what-does-south-africas-covid-vaccine-roll-out-plan-say/>

<sup>4</sup> <https://www.dailymaverick.co.za/article/2021-01-08-drones-dinghies-and-an-army-helicopter-why-the-states-new-toys-wont-help-south-africas-response-to-covid-19/>

<sup>5</sup> <https://www.americamagazine.org/politics-society/2020/12/18/cdc-panel-covid-vaccine-distribution-elderly-essential-239556>

<sup>6</sup> [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)32224-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)32224-8/fulltext)

<sup>7</sup> <https://www.who.int/news-room/feature-stories/detail/access-and-allocation-how-will-there-be-fair-and-equitable-allocation-of-limited-supplies>

<sup>8</sup> <https://www.americamagazine.org/politics-society/2020/12/29/vatican-covid-guidelines-catholic-pope-document-239606>

<sup>9</sup> <https://www.catholicnewsagency.com/news/pope-francis-to-catholics-do-not-fear-persecution-violence-74724>

<https://www.americamagazine.org/politics-society/2020/12/29/vatican-covid-guidelines-catholic-pope-document-239606>

<https://www.americamagazine.org/2020/06/21/angelus-pope-francis-refugees-coronavirus-pandemic>

<sup>10</sup> <https://www.americamagazine.org/politics-society/2020/12/29/vatican-covid-guidelines-catholic-pope-document-239606>

<sup>11</sup> <https://www.ucanews.com/news/who-leader-supports-popes-call-for-fair-global-access-to-vaccine/89253>

<sup>12</sup> <https://www.americamagazine.org/politics-society/2020/12/29/vatican-covid-guidelines-catholic-pope-document-239606>

<sup>13</sup> <https://www.americamagazine.org/politics-society/2020/12/29/vatican-covid-guidelines-catholic-pope-document-239606>

<sup>14</sup> <https://mg.co.za/health/2020-12-16-eastern-cape-covid-health-worker/>

<sup>15</sup> *Evangelii gaudium*,” 188.

<sup>16</sup> Catechism of the Catholic Church, paras 1938-1949.

<sup>17</sup> <https://www.archstl.org/popes-message-solidarity-is-the-road-to-take-toward-a-postpandemic-world-5696>

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