

Sidestepping the State: Practices of Social Service Commodification among Nicaraguans in Costa Rica and Nicaragua

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Abstract. In Costa Rica, there is a widespread belief among the public and policy-makers that the country's 'exceptional' universal healthcare system represents a magnet for Nicaraguan immigrants. However, examining immigrants' actual access to social policy demonstrates the importance of legal and extra-legal mechanisms of exclusion that go hand in hand with official recognition of human rights. This paper critically assesses the relationship between migrants and the state, and public social policy in particular, in both sending and receiving country. We analyse the extent to which Nicaraguan migrant families on both sides of the Costa Rica–Nicaragua migration system incorporate public social protection in their welfare strategies. Drawing on two sets of qualitative data, we find that, on both sides of the border, migrants and their families display very similar commodified practices of welfare strategies, side-stepping the state and purchasing services in the private sector.

Keywords: migration, remittances, healthcare, legality, social services, bureaucracy

There is a widespread belief among Costa Rica's citizens that Nicaraguans migrate to the country not only to find better working conditions, but also to make use of the universal social services the country offers.¹ Further, three in every four Costa Ricans believe that Nicaraguan migrants jeopardise

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¹ Roger Bonilla-Carrión, 'Seguro social y usos de servicios de salud entre personas nicaragüenses en Costa Rica', in Carlos Sandoval (ed.), *El mito roto: Inmigración y emigración en Costa Rica* (San José: Editorial Universidad de Costa Rica, 2007), pp. 145–60.

the financial sustainability of such services and are the cause of service deterioration.² This idea that social services represent a welfare magnet for Nicaraguan migration is strong not only among the general public, but also among policy makers and executors.³

The controversy over incorporating Nicaraguans in these social services is based on several assumptions: that Nicaraguans establish a relationship with the state in their new host society, that they recognise their social rights, and more specifically, that they access social services. However, despite Costa Rica's inclusion-oriented policy rhetoric, Nicaraguan immigrants face important barriers to integration because of three key factors. First, Nicaraguans already have a weak relationship with social services in their own country;⁴ second, Costa Rica's migration policy is quite restrictive;⁵ and third, labour relations on both sides of the border can best be characterised as informal. Thus, Nicaraguan migrants and their families face many obstacles to accessing public social services.

In this article, we analyse the extent to which Nicaraguans in Costa Rica as well as their families at home in Nicaragua incorporate public social protection in their welfare strategies. We focus specifically on access to medicine and public healthcare services for several important reasons. First, unlike pensions or basic education, healthcare is required throughout a person's life, and unlike family transfers or other focalised social services, it is required across class, race and ethnicity. Second, because healthcare implies face-to-face interactions between migrants and the state, migrant presence is most visible in this sector. The recent financial crisis in the country's public healthcare institution, the Caja Costarricense del Seguro Social (CCSS, or simply 'Caja'), has made migrants' claims to healthcare even more controversial.

² *Ibid.*; Pedro J. Solís, 'El fenómeno de la xenofobia en Costa Rica desde una perspectiva histórica', *Revista de Filosofía de La Universidad de Costa Rica*, 47: 120–1 (2010), pp. 92–7.

³ Koen Voorend and Karla Venegas Bermúdez, 'Tras de cuernos, palos. Percepciones sobre Costa Rica como imán de bienestar en la crisis del seguro social', *Revista de Ciencias Sociales*, 145 (2014), pp. 13–33.

⁴ Juliana Martínez Franzoni and Koen Voorend, 'The Limits of Family and Community Care: Challenges for Public Policy in Nicaragua', in Shahra Razavi and Silke Staab (eds.), *Global Variations in the Political and Social Economy of Care: Worlds Apart*, vol. 8 (London: Routledge, 2012), pp. 122–40.

⁵ Caitlin Fouratt, "'Those Who Come to Do Harm': The Framing of Immigration Problems in Costa Rican Immigration Law', *International Migration Review*, 48: 1 (2014), pp. 144–80; Caitlin Fouratt, 'Temporary Measures: The Production of Illegality in Costa Rican Immigration Law', *PoLAR: Political and Legal Anthropology Review*, 39: 1 (2016), pp. 144–60; Koen Voorend, "'Shifting In" State Sovereignty: Social Policy and Migration Control in Costa Rica', *Transnational Social Review*, 4: 2–3 (2014), pp. 207–25; Carlos Sandoval García, 'Contestar la hostilidad antiinmigrante en Costa Rica. Un proyecto de ciencias sociales públicas en curso', in Miren Llona González (ed.), *Entreverse: Teoría y metodología práctica de las fuentes orales* (Bilbao: Universidad del País Vasco, Servicio de Publicaciones, 2012), pp. 217–40, available at <https://investiga.uned.ac.cr/cicde/images/entreverse.pdf> (last access 30 Aug. 2017).

As an important contribution to the literature on the migration and social policy nexus, specifically that of social inclusion and integration in Latin America, this study emphasises the importance of focusing on real access to social services and actual welfare strategies rather than the formal recognition of rights. Our findings illuminate how, despite the stark contrast between Costa Rica's universal social service provision and Nicaragua's poor quality and coverage of services, Nicaraguans in both countries sidestep the state, turning to commodification for access to healthcare services.

By 'commodification' we mean the greater extent to which people turn to market-based and market-delivered goods and services, for which the patient pays at the moment of need, to ensure their welfare. This commodification is a result of exclusion from public social services in both countries, which points to larger concerns about the expansion of social rights in immigrant host societies and the commodification of social services among those excluded from access to public goods. We find that while public healthcare services are accessed especially for and sometimes through children, adults often turn to the private sector in seeking healthcare strategies. In Costa Rica, access to public healthcare is limited by legal and extra-legal mechanisms, while in Nicaragua the state provides very few and qualitatively insufficient services to cover the whole population. In addition, in the Nicaraguan context of poverty and informality, remittances play a key role in understanding the dynamics of social service access.

The article is structured as follows. After providing sections on methodological and theoretical frameworks, the article examines the contexts of Nicaraguan immigrants in Costa Rica and their families in Nicaragua, and the conditions for their incorporation into social services in both countries. It then turns to the main findings from focus-group discussions and interviews, showing how healthcare for migrants and their families is often commodified through the market rather than being accessed through the public sector on both sides of the border. The final section presents concluding remarks on the relationship between migration, social exclusion and the state.

Methods

Methodologically, this paper draws on two sets of data.⁶ The first is data from focus-group discussions specifically aimed at shedding light on the extent to and the ways in which migrants and their families incorporate public healthcare services in their everyday lives. The aim for these focus-group discussions was to understand how Nicaraguan migrants make use of health services, to what extent they can claim and access these services, and how important

⁶ The words of focus-group participants and interviewees are translated from Spanish into English by the authors, using pseudonyms to ensure their anonymity.

such factors as migratory status, household characteristics and labour insertion are for demanding their rights. These focus-group discussions gave important information on whether people knew their rights and which factors inhibited their actual access to these rights. In total, during 2014 and 2015, eight focus-group discussions of about four to six participants in each group were organised with 41 Nicaraguan migrants in different parts of Costa Rica. The areas were chosen based on pragmatic considerations of feasibility and the availability of contacts with migrants, or with organisations working with migrants that could facilitate contact. Participants were selected to maximise variation in order to identify general trends that cut across these differences. While the composition of the focus-group discussions was a result of snowballing contact with migrants, in practice they included participants with different migratory status, who worked in different sectors and arrived in Costa Rica in different periods.

The second data set comes from an ethnographic study, conducted between 2009 and 2012, of Nicaraguan transnational families living between Costa Rica and Nicaragua. This study included more than 100 semi-structured interviews in both Costa Rica and Nicaragua as well as participant observation with Nicaraguan migrants in Costa Rica and their family members back in Nicaragua. The aims of this study were to understand how migration affects family relationships and concepts of family and gender, and the impacts of recent immigration reform in Costa Rica. Semi-structured interviews covered family migration histories and family relationships as well as practices of remittance sending and receiving, migrants' encounters with state institutions, and their understanding of current immigration policies. Access to social services was discussed in direct interviews and informal conversations about legal status, adaptation and integration in Costa Rica, and caring for children in both countries. The study focused primarily on ten families living between Costa Rica and the Nicaraguan departments of Granada, Masaya, Managua, Chinandega and León. In Costa Rica, all study participants were Nicaraguan migrants living in the San José metropolitan area, though their families lived in different departments in Nicaragua. While the interviewees were identified through snowballing contact with migrants, they were chosen to reflect variation in migratory status, family structure and arrival period in Costa Rica.

In the analysis that follows, women represent the majority of participants quoted. This is partially a result of ethnographic sampling that relied on snowballing. It also points to the ways in which women act as mediators between state institutions and families. In both Costa Rica and Nicaragua, it is often women who care for children and the sick, who queue at clinics and take children for appointments, and who manage remittances and household budgets. For our study, this implies, on the one hand, that women feel the burden of

caretaking of children and the elderly more than men, and consequently have more contact with social service providers. In Costa Rica, uninsured migrant women in particular are therefore more likely to experience situations of discrimination than men, who generally have fewer contacts with social service providers. In Nicaragua, women are more likely than men to act as caregivers for migrants' children and therefore to have more contacts with social service providers in this context as well. On the other hand, for the same reason they might be more knowledgeable about their and their children's rights to access to social service than men. Interviewing more men might have missed the importance of discrimination in face-to-face encounters in clinics and the ways in which the discrimination experienced by adults may affect children's access to care. Therefore, the predominant focus on women's access to health services in this study allows us to gain insight into the most common dynamics of health-service provision to migrants and their families.

The current analysis builds on the authors' previous works by looking specifically at practices of accessing healthcare rather than the formal or legal channels for such access. Our previous research has looked at the extent and ways in which migrants incorporate social services in their welfare strategies, the bureaucratic labyrinths created by new immigration policies, and the role of illegality in people's everyday lives. This article turns to how migrants experience these obstacles and what kinds of strategies they employ to access services. Finally, by drawing on both sets of qualitative data, the analysis incorporates these healthcare-seeking strategies on both sides of the border.

In what follows, rather than providing statistical or legal analysis, we are interested in actual practices of healthcare-seeking behaviour, especially the dynamics of, and extent to which, Nicaraguans on both sides of the border make use of public versus private healthcare services. Specifically, we want to know how Nicaraguan migrants in Costa Rica perceive and cope with the limitations to inclusion in public welfare arrangements. Similarly, we want to examine to what extent remittances and migration factor into families' access to healthcare in Nicaragua.

Social Inclusion, Migration and Access to Social Policy

The universal and solidary character of Costa Rica's social policy regime is often considered an important explanatory factor for Nicaraguan immigration.⁷ Such arguments are backed by the general expectation in the European literature that universal social-policy regimes provide better conditions for immigrant integration than do liberal regimes.⁸ In a nutshell, this

⁷ Bonilla-Carrión, 'Seguro social y usos de servicios de salud'.

⁸ Franca Janna Van Hooren, 'Caring Migrants in European Welfare Regimes: The Policies and Practice of Migrant Labour Filling the Gaps in Social Care' (European University

literature contends that immigrants to such states enjoy more social rights, because citizens do too.

However, social policies are also the principal mechanisms of inclusion or exclusion within a society.⁹ Indeed, strong social policy can function as ‘a double-edged sword: it may facilitate immigrant incorporation, but it also can function as an efficient mechanism for immigration control’ and as an important determinant of migrant exclusion through strict eligibility criteria.¹⁰ Further, processes of discrimination and extra-legal forms of exclusion mean that formal civil citizenship may be a necessary but not a sufficient condition for immigrants’ access to social services.

Quite to the contrary, globalist authors believe states are increasingly obliged to grant migrants broad social rights.¹¹ Migration is seen as a ‘case of nation-states losing control’.¹² In their analysis these authors argue that the

Institute, Florence, 2011), available at <http://cadmus.eui.eu/handle/1814/17735> (last access 10 Aug. 2017); Diane Sainsbury, ‘Immigrants’ Social Rights in Comparative Perspective: Welfare Regimes, Forms in Immigration and Immigration Policy Regimes’, *Journal of European Social Policy*, 16: 3 (2006), pp. 229–44; Mikael Hjerm, ‘Integration into the Social Democratic Welfare State’, *Social Indicators Research*, 70: 2 (2005), pp. 117–38; Keith Banting, ‘Looking in Three Directions: Migration and the European Welfare State in Comparative Perspective’, in Michael Bommes and Andrew Geddes (eds.), *Immigration and Welfare: Challenging the Borders of the Welfare State* (London and New York: Routledge, 2003), pp. 13–33; Thomas Faist, ‘Immigration, Integration and the Welfare State’, in Rainer Bauböck, Agnes Heller and A. R. Zolber (eds.), *The Challenge of Diversity: Integration and Pluralism in Societies of Immigration* (Aldershot: Avebury, 1996), pp. 227–50, available at <http://www.popline.org/node/309440> (last access 10 Aug. 2017); Ann Morissens, ‘Migration, Welfare States and the Incorporation of Migrants in Different Welfare Regimes’, *UNRISD Flagship Report on Poverty* (Geneva: United Nations Research Institute for Social Development [UNRISD], 2008), available at [http://www.unrisd.org/80256B3C005BCCF9/\(http://AuxPages\)/8BDE3DF39F415843C1257A5D0056587F/\\$file/MorissensWeb.pdf](http://www.unrisd.org/80256B3C005BCCF9/(http://AuxPages)/8BDE3DF39F415843C1257A5D0056587F/$file/MorissensWeb.pdf) (last access 10 Aug. 2017).

⁹ Andrew M. Fischer, ‘Towards Genuine Universalism within Contemporary Development Policy’, *IDS Bulletin*, 41: 1 (1 Jan. 2010), pp. 36–44; Thandika Mkandawire and UNRISD, *Targeting and Universalism in Poverty Reduction* (Geneva: UNRISD, 2005), available at [http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/955fb8a594eeab0c12570ff00493eaa/\\$FILE/mkandatarget.pdf](http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/955fb8a594eeab0c12570ff00493eaa/$FILE/mkandatarget.pdf) (last access 10 Aug. 2017).

¹⁰ James F. Hollifield, ‘Immigration and the Politics of Rights. The French Case in Comparative Perspective’, in Bommes and Geddes (eds.), *Immigration and Welfare*, p. 109.

¹¹ David Jacobson, *Rights across Borders: Immigration and the Decline of Citizenship* (Baltimore, MD: Johns Hopkins University Press, 1996); Adrian Favell, ‘The Nation-centered Perspective’, in Marco Giugni and Florence Passy (eds.), *Dialogues on Migration Policy* (Oxford: Lexington Books, 2006), pp. 45–56; Aradhana Sharma, ‘Introduction: Rethinking Theories of the State in an Age of Globalization’, in Aradhana Sharma and Akhil Gupta (eds.), *The Anthropology of the State: A Reader* (Oxford: John Wiley and Sons, 2009), pp. 1–41; Yasemin Nuhoglu Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago, IL: University of Chicago Press, 1994).

¹² Virginie Guiraudon and Gallya Lahav, ‘A Reappraisal of the State Sovereignty Debate: The Case of Migration Control’, *Comparative Political Studies*, 33: 2 (2000), p. 164.

'denationalising' logic of economic globalisation leads to increased capital, financial and labour mobility, and thereby decreases the power and importance of the nation-state. In this scenario, globalist perspectives argue that international human rights regimes and migration challenge nation-state sovereignty, thereby inducing a devaluation of the importance of citizenship.¹³ The latter is increasingly exercised and administered transnationally, as a result of the emergence of an 'international human rights regime that prevents nation-states from deciding who can enter and leave their territory'.¹⁴ Human rights agendas would then prevail over national attempts to restrict access to social rights.

Without denying the importance of transnational forces and economic globalisation for public policymaking, and despite the prominence of transnational modes of citizenship in the literature, other authors argue that the actual level of migrants' social inclusion then depends greatly on the country-specific context, and, to be more precise, on the combination of national migration and social policies.¹⁵ Neither the state nor citizenship has lost centrality regarding the extension of rights.¹⁶ For example, Virginie Guiraudon and Gallya Lahav argue that states ensure migration control sovereignty in at least in three ways, shifting the level at which policy is elaborated and implemented 'up, down, and out'.¹⁷ Specifically, to counter or escape transnational normative constraints, states opt for more coordinated migration control at the international level (shifting up), decentralisation of immigration policy to local levels (shifting down) and outsourcing of migration control functions to the private sector, by disciplining behaviour that is not in accordance with immigration policy (shifting out).

Our paper also challenges globalist views, underscoring the importance of legal and extra-legal mechanisms of exclusion that can go hand in hand with official recognition of human rights. As a consequence, and of particular importance for this paper, the 'legality' versus 'illegality' divide becomes a critical mechanism for exclusion. We thereby question more recent contributions that downplay the importance of 'illegality', and which tend to conflate policy and political discourses around immigrant criminality and 'illegality'.¹⁸ While

¹³ Saskia Sassen, *Losing Control?: Sovereignty in the Age of Globalization* (New York: Columbia University Press, 1996), p. 95.

¹⁴ Quotation from Guiraudon and Lahav, 'A Reappraisal of the State Sovereignty Debate', p. 164; see also Sharma, 'Introduction: Rethinking Theories of the State in an Age of Globalization'; Soysal, *Limits of Citizenship*.

¹⁵ Banting, 'Looking in Three Directions'; Hollifield, 'Immigration and the Politics of Rights'; Sainsbury, 'Immigrants' Social Rights in Comparative Perspective'; Guiraudon and Lahav, 'A Reappraisal of the State Sovereignty Debate'.

¹⁶ Christian Joppke, 'Transformation of Citizenship: Status, Rights, Identity', *Citizenship Studies*, 11: 1 (1 Feb. 2007), pp. 37–48.

¹⁷ Guiraudon and Lahav, 'A Reappraisal of the State Sovereignty Debate'.

¹⁸ Barak Kalir, 'Moving Subjects, Stagnant Paradigms: Can the "Mobilities Paradigm" Transcend Methodological Nationalism?', *Journal of Ethnic and Migration Studies*, 39: 2

these approaches are concerned with emphasising immigrants' agency and not reducing immigrants to 'criminals' or 'victims', they downplay the importance of state policies – both on paper and in practice – that heavily condition migrants' agency as well as their lived experiences. Although migrants may enact strategies for inclusion, these are heavily conditioned by the state.¹⁹ Further, the increasing enforcement of state policies that criminalise migrants means that migrants are more and more subject to detention and deportation as well as restrictions on their access to social policy and integration.²⁰

It is against this socio-political context that migrants' actual access to social policy plays out. That is, even when migrants have formal rights to social policy, other formal and informal factors, such as lack of information, language barriers and xenophobia, may limit real access to social services.²¹ Beyond restrictions to formal rights through policies that criminalise migrants, there is also an implementation deficit, understood as the 'discrepancy between formal rights and their praxis'.²² This deficit is especially prominent in developing countries, where there are larger informal labour markets and lower institutional capacity to provide social services to national populations. Thus, migrants' own strategies for accessing social policy must be understood in the context of state policies that seek to restrict, manage and control migrants' formal rights and real access. Such strategies often imply turning to the market for health services and medicine, as we will show below.

(2013), pp. 311–27; Laura Ma Agustín, 'Forget Victimization: Granting Agency to Migrants', *Development*, 46: 3 (2003), pp. 30–6; David Kyle and Christina A. Siracusa, 'Seeing the State like a Migrant. Why so Many Non-Criminals Break Immigration Laws', in Willem van Schendel and Itty Abraham (eds.), *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington, IN: Indiana University Press, 2005), pp. 153–76.

¹⁹ Nicholas De Genova, 'Migrant "Illegality" and Deportability in Everyday Life', *Annual Review of Anthropology*, 31 (2002), pp. 419–47; Roberto G. Gonzales and Leo R. Chavez, "'Awakening to a Nightmare": Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States', *Current Anthropology*, 53: 3 (2012), pp. 255–81; Cathy McIlwaine, 'Legal Latins: Creating Webs and Practices of Immigration Status among Latin American Migrants in London', *Journal of Ethnic and Migration Studies*, 41: 3 (2015), pp. 493–511; Sarah S. Willen, 'Toward a Critical Phenomenology of "Illegality": State, Power, Criminalization, and Abjectivity among Undocumented Migrant Workers in Tel Aviv, Israel', *International Migration*, 43 (2007), pp. 8–38.

²⁰ William Walters *et al.*, *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement* (Durham, NC: Duke University Press, 2010).

²¹ F. Thomas and Jasmine Gideon (eds.), *Migration, Health and Inequality* (London: Zed Books, 2013).

²² Soysal, *Limits of Citizenship*, p. 134.

For Costa Rica, contemporary migration law has created important barriers to integration, despite a more inclusive discourse.²³ At the same time, studies have shown that incorporation is often only partial, reproducing vulnerabilities and dynamics of exclusion.²⁴ Indeed, in Costa Rica, a regular migratory status, membership in social security systems and eligibility are no guarantee of access to services for immigrants.²⁵ Rather, public service attention in practice depends greatly on who is sitting at the counter. This echoes the argument that actual practices of social discrimination, rather than the level of formal rights, are the real problem of social integration.²⁶

Local studies on the nexus between migration and social policy in Costa Rica have focused mainly on the institutional and legal framework regulating migration.²⁷ Only Mauricio Lopez explicitly focuses on healthcare access, arguing that legal immigrants are incorporated only partially, reproducing vulnerabilities and dynamics of exclusion.²⁸ Other, mainly anthropological studies, discuss the reasons and effects of such exclusions, focusing on cultural and gender differences.²⁹ Others discuss the incidence of Nicaraguan migrants in or their economic impact on social services in Costa Rica, and seem to indicate that migrants are generally not overrepresented as users of health services, and, if they make more use of such services, they simultaneously contribute more to them.³⁰ Attempts to quantify actual access to services are plagued

²³ Fouratt, 'Those Who Come to Do Harm'; Fouratt, 'Temporary Measures'; Voorend and Venegas Bermúdez, 'Tras de cuernos, palos'; Sandoval García, 'Contestar la hostilidad antiinmigrante en Costa Rica'.

²⁴ Mauricio Lopez, 'The Incorporation of Nicaraguan Temporary Migrants into Costa Rica's Healthcare System: An Opportunity for Social Equity?', PhD. dissertation, University of Windsor, 2012, available at <http://scholar.uwindsor.ca/etd/502/> (last access 10 Aug. 2017).

²⁵ *Ibid.*; I. Dobles, G. Vargas and K. Amador, *Inmigración: Psicología, identidades y políticas públicas. La experiencia nicaragüense y colombiana en Costa Rica* (San José: Editorial Universidad de Costa Rica, 2014). 'Regular migratory status' means 'legal migratory status' (officially approved by the Migration Department); we prefer the terms 'regular/ise' to 'legal/ise' because of the negative connotations of 'legal/illegal' and because 'regular/ise' is used in the policy language and is thus more accurate.

²⁶ Thomas Faist, 'Immigration, Integration and the Ethnicization of Politics', *European Journal of Political Research*, 25: 4 (1994), pp. 439–59; J. Pribble, 'The Politics of Building Municipal Institutional Effectiveness in Chile', *Latin American Politics and Society*, 57: 3 (2015), pp. 100–21; Sainsbury, 'Immigrants' Social Rights in Comparative Perspective'.

²⁷ Fouratt, 'Those Who Come to Do Harm'; Stefanie Kron, 'Gestión migratoria en Norte y Centroamérica: Manifestaciones y contestaciones', *Anuario de Estudios Centroamericanos*, 37 (2011), pp. 53–85; Sandoval García, 'Contestar la hostilidad antiinmigrante en Costa Rica'.

²⁸ Lopez, 'The Incorporation of Nicaraguan Temporary Migrants into Costa Rica's Healthcare System'.

²⁹ Kathryn Goldade, "'Health Is Hard Here" or "Health for All"?'', *Medical Anthropology Quarterly*, 23: 4 (2009), pp. 483–503; Sara Leon Spesny Dos Santos, 'Undeserving Mothers? Shifting Rationalities in the Maternal Healthcare of Undocumented Nicaraguan Migrants in Costa Rica', *Anthropology and Medicine*, 22: 2 (2015), pp. 191–201.

³⁰ Bonilla-Carrión, 'Seguro social y usos de servicios de salud'; J. Castillo, 'Características de la atención de los extranjeros en los servicios de salud de la Caja Costarricense de Seguro Social

by incomplete information on irregular or temporary migrants, since official national survey data overlook most of these populations. Also, most official data from national social welfare institutions does not allow for disaggregation by nationality, at best lumping all migrants together as foreigners. This ambiguity with regard to migrants' incorporation in social services is what constitutes fuel to the fire of anti-immigrant discourse in Costa Rica.

Thus, analysing mechanisms of exclusion adds both to this local public policy debate and to better understanding general processes of social exclusion. Such mechanisms may be state-led, through more inclusionary or exclusionary eligibility criteria, market-based through the insertion of migrants in secondary, inferior and informal labour markets, or the result of the interplay between state and market mechanisms – e.g. the number of contributions necessary for access to pension benefits. Finally, mechanisms of exclusion may also be less formal, and relate to everyday practices of discrimination and xenophobia, both in public institutions in charge of social policy, and in the labour market.

Such mechanisms of exclusion may be no less important for migrants' families in the country of origin. Indeed, remittances sent by migrants serve as a strategy for overcoming social exclusion in the home country. The initial fervour of the so-called remittance mantra, the appealing idea that remittances can be channelled into economic investments that lead to development, has given way to more nuanced assessments of their potential impacts.³¹ However, remittances still represent patches 'over the gaps in public funding and bank financing that have grown ever larger thanks to neo-liberal policy'.³² Indeed, there is still high interest in the multiplier effects regarding collective remittances, that is migrant associations pooling members' resources to 'support public investment by providing capital for health clinics, lands, wells, irrigation, equipment and schools'.³³ However, when migrants or migrant associations invest in projects back home like schools, clinics or hospitals, they 'participate in the privatization of public

1997–2002', in Presidencia Ejecutiva, *Dirección Actuarial y de Planificación Económica* (San José: CCSS, 2003).

³¹ Devesh Kapur, 'Remittances: The New Development Mantra?', United Nations Conference on Trade and Development (UNCTAD) (New York and Geneva: UNCTAD, 2004), available at http://unctad.org/en/Docs/gdsmdpbg2420045_en.pdf (last access 26 Aug. 2017); Stephen Castles, Hein de Haas and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World* (New York and London: Palgrave Macmillan, 2013).

³² I. Grabel, 'Remittances, Political Economy and Economic Development in Migration in a Globalising World', *DevelopmentISSues*, 11: 2 (2009), p. 16.

³³ *Ibid.*, p. 17.

services'.³⁴ In Nicaragua, remittances represent a key mechanism for migrants and their families to compensate for the lack of access to public social services, either because the latter simply do not exist, or because they do not provide a service of sufficient quality or because access to strong public social services is extremely difficult, and the market option is easier.

Migration and Social Policy in Costa Rica and Nicaragua

Nicaragua–Costa Rica Migration

Costa Rica hosts the largest share of migrants as a percentage of the total population of almost all Latin American countries.³⁵ Census data from 2011 show that migrants represented 9 per cent of the total population, significantly higher than in other important destination countries in the region, like Argentina (4.5 per cent) or Chile (3 per cent).³⁶ First in response to regional instability and conflict since the 1980s and later because of structural adjustment policies in the region following the debt crisis, Costa Rica received large numbers of both economic migrants and refugees from within Latin America. Between 1984 and 2000, the immigrant population in Costa Rica grew at an average annual rate of 7.5 per cent, most of it explained by the influx of Nicaraguans.³⁷ Between 2000 and 2011, the migrant population in Costa Rica still grew annually by 2.4 per cent on average.³⁸ Together with the United States, Costa Rica represented the main destination for the 40,000 Nicaraguans who migrated annually between 2005 and 2010.³⁹ In Costa Rica, Nicaraguans currently make up 75 per cent of the migrant

³⁴ Ester Hernandez and Susan Bibler Coutin, 'Remitting Subjects: Migrants, Money and States', *Economy and Society*, 35 (2006), p. 198.

³⁵ United Nations, International Migration Wallchart (New York: Department of Economic and Social Affairs, Population Division, 2015), available at <http://www.un.org/en/development/desa/population/migration/publications/wallchart/docs/MigrationWallChart2015.pdf> (last access 10 Aug. 2017).

³⁶ Instituto Nacional de Estadísticas y Censos (INEC), *X censo nacional de población y VI de vivienda 2011: Resultados generales* (San José: INEC, 2011); Instituto Nacional de Estadística y Censos de Argentina (INDEC), *Censo nacional de población, hogares y viviendas 2010* (Buenos Aires: INDEC, 2010); Instituto Nacional de Estadísticas de Chile (INE), *XVIII censo nacional de población y VII de vivienda o censo de población y vivienda 2012* (Santiago: INE, 2012).

³⁷ INEC, *VIII censo nacional de población, Costa Rica 1984* (San José: INEC, 1984); INEC, *IX censo nacional de población, 2000* (San José: INEC, 2001). While Costa Rica is a net-immigration country, this should not hide the fact that it also has significant migration outflows, especially to the United States. See, for example, Carmen Caamaño Morúa, *Entre 'Arriba' y 'Abajo'. La experiencia transnacional de la migración de costarricenses hacia Estados Unidos* (San José: Editorial Universidad de Costa Rica, 2011).

³⁸ INEC, *IX censo nacional de población, 2000*; INEC, *X censo nacional de población y VI de vivienda 2011*.

³⁹ Eduardo Baumeister, Edgar Fernández and Guillermo Acuña, *Estudio sobre las migraciones regionales de los nicaragüenses* (Guatemala City: Editorial de Ciencias Sociales, 2008).

population; that is, 6.7 per cent of the total population.⁴⁰ These migration flows are directly connected with the evolution of Costa Rica's key economic sectors. As such, the 'job-focused' migrant population is generally young and low-skilled.⁴¹ In certain sectors, like construction, agriculture and domestic service, Nicaraguan labour migrants represent a large share of the total occupied population.⁴² Recent Nicaraguan migration peaked in the 1990s because of structural adjustment and ensuing changes in labour markets.⁴³

In light of recent financial and social security crises, Nicaraguan migration has become extremely polemic, in part fuelled by negative media coverage.⁴⁴ Nicaraguan migration in the 1990s also coincided with the decline of the Costa Rican welfare state.⁴⁵ By the late 1990s, the impacts of structural adjustment programmes and declining public investment began to be felt in Costa Rica.⁴⁶ During this period, the implementation of structural adjustment policies (SAPs) in Costa Rica both encouraged Nicaraguan migration through the promotion of an export sector that demanded large-scale manual labour and reduced the Costa Rican state's capacity to attend to the social needs of those within its borders.

However, 'the undermining of public services and public investment cutback are usually represented, not as a consequence of neoliberal policies, but as a result of Nicaraguans' migration to Costa Rica'.⁴⁷ Today, Nicaraguan migration is popularly imagined as a key social problem rooted in Nicaraguan migrants displacing nationals in the labour market, being

⁴⁰ INEC, *X censo nacional de población y VI de vivienda 2011*. However, this figure does not include the entirety of an unknown share of irregular migrants who are active in informal labour markets.

⁴¹ Abelardo Morales and Carlos Castro, *Migración, empleo y pobreza* (San José: FLACSO Costa Rica, 2006), p. 44; Sandoval (ed.), *El mito roto*.

⁴² Koen Voorend and Francisco Robles Rivera, *Migrando en la crisis. La fuerza de trabajo inmigrante en la economía costarricense* (San José: IOM/MTSS, 2011).

⁴³ Sandoval (ed.), *El mito roto*.

⁴⁴ Sandoval García, 'Contestar la hostilidad antiinmigrante en Costa Rica'; H. González and Gabriela Isabel Horbaty Mejía, *Nicaragua y Costa Rica: Migrantes enfrentan percepciones y políticas migratorias* (San José: Migración Intrafronteriza en América Central, Perspectivas Regionales, 2005), available at <http://ccp.ucr.ac.cr/noticias/migraif/pdf/horbaty.pdf> (last access 10 Aug. 2017); Anyelick Campos and Larissa Tristán, *Nicaraguenses en las noticias. Textos, contextos y audiencias* (San José: Editorial Universidad de Costa Rica, 2009); Solís, 'El fenómeno de la xenofobia en Costa Rica'.

⁴⁵ Carlos Sandoval-García, *Threatening Others: Nicaraguans and the Formation of National Identities in Costa Rica* (Athens, OH: Ohio University Press, 2004); available in Spanish: Carlos Sandoval, *Otros amenazantes. Los nicaraguenses y la formación de identidades nacionales en Costa Rica*, 1st edn (San José: Editorial Universidad de Costa Rica, 2002).

⁴⁶ IDESPO, UNFPA, and Foro Permanente sobre Población Migrante, *Memoria final, mesa redonda: La población migrante en Costa Rica y su tratamiento en los medios de comunicación* (Heredia: IDESPO, 2000); Jorge Nowalski and Manuel Barahona, *Asimetrías económicas, sociales y políticas en Costa Rica: Hacia una calidad de vida digna* (San José: PNUD, CIDH, 2003).

⁴⁷ Sandoval-García, *Threatening Others*, p. 444.

culturally too distinct and being held responsible for higher crime rates.⁴⁸ Three-quarters of the Costa Rican population believe they are to blame for the general demise of public social services, particularly the country's emblematic social security and healthcare institution, the CCSS.⁴⁹

Since the 1990s, Nicaragua has experienced a dramatic contraction of social services, salaries and employment. Initially, in the 1980s, while much of the region experienced a retrenchment in social services under structural adjustment, Nicaragua actually underwent an expansion of programmes and services under the Sandinista revolution. For the first time, large numbers of Nicaraguans enjoyed increasing access to public services such as education and healthcare. However, as the decade wore on, Sandinista efforts at social and economic development stalled because of the US trade embargo and the resistance to the Sandinista government known as the Contra War. During the early 1990s, following the revolution, Nicaragua implemented SAPs, reducing government expenditure on social services, salaries and employment as a way to achieve economic stability.⁵⁰ As a result, Nicaragua's informal sector grew to employ about half the economically active population.⁵¹ Migration became a key strategy for ensuring family survival in Nicaragua. Today, about 10 per cent of Nicaragua's population continues to live outside its borders.⁵² Up to 40 per cent of Nicaraguan households receive remittances from relatives in the United States, Costa Rica and Europe, and remittances represent the largest source of national income.⁵³ The majority of remittances contribute to basic household consumption, allowing families to cover their basic needs.

Social and Migration Policy in Costa Rica

In previous work, we have separately argued that recent Costa Rican migration policy has created barriers to immigrant integration, through a restrictive

⁴⁸ Sandoval García, 'Contestar la hostilidad antiinmigrante en Costa Rica'.

⁴⁹ Dobles, Vargas and Amador, *Inmigración*; Goldade, 'Health Is Hard Here'.

⁵⁰ Florence E. Babb, 'From Cooperatives to Microenterprises: The Neoliberal Turn in Postrevolutionary Nicaragua', in Lynne Phillips (ed.), *The Third Wave of Modernization in Latin America: Cultural Perspectives on Neoliberalism* (Wilmington, DE: Scholarly Resources, 1998), pp. 109–22; Francisco Javier Mojica Mendieta, *Acciones del Estado costarricense para enfrentar la demanda de servicios de salud, educación y vivienda de población nicaragüense en Costa Rica* (Heredia: IDESPO/Universidad Nacional, 2003).

⁵¹ Jorge Nowalski, *Asimetrías económicas, laborales y sociales en Centroamérica: Desafíos y oportunidades* (San José: FLACSO, 2002).

⁵² Eduardo Baumeister, *Migración internacional y desarrollo en Nicaragua*, Series 'Población y Desarrollo', 67 (Santiago: CEPAL, 2006).

⁵³ Ricardo Monge-González, Oswald Céspedes-Torres and Juan Carlos Vargas-Aguilar, *South–South Remittances: The Costa Rica–Nicaragua Corridor* (San José: Inter-American Development Bank, January 2011), available at <http://publications.iadb.org/handle/11319/5430> (last access 10 Aug. 2017).

migration law and the interplay with social policy.⁵⁴ Making multiple references to international human rights, Law 8764 (in effect from 2010) commits the state, for the first time, to immigrants' social inclusion in Costa Rican society 'based on principles of respect for human rights; cultural diversity; solidarity; and gender equity' (Law 8764, art. 3). In that respect, on paper it comprises a more holistic approach to migration management than did previous immigration laws, including various ministries (Housing, Social Security, Health and Labour) as well as migrant organisations in reporting and planning. Indeed, it orients immigration not only as an issue of security, but as an issue of development.

However, the recognition of 'integration in economic, scientific, social, labour, education, cultural and sports processes' (Law 8764, art. 7) lacks a plan for public policy operationalisation.⁵⁵ Further, this rhetoric of integration obscures the securitisation of migration policy.⁵⁶ The law grants more autonomy for the migration police, institutes new fees and fines, and changes requisites for obtaining residence permits, adding, for example, the requirement that foreigners married to Costa Ricans must wait for two years following marriage before applying for residency.

Equally important is that the CCSS now plays a key role in internal migration control.⁵⁷ The law stipulates that affiliation to Costa Rica's social security system is now required for starting a regularisation process.⁵⁸ Not only is this too costly and bureaucratic for many migrants, but in practice also eliminates the possibility of indirect insurance for migrants without regular migratory status. In combination with stricter law enforcement by the CCSS, it has become extremely difficult for an uninsured patient to receive (non-emergency) healthcare services. Additionally, following a request from the Directorate of Migration, the CCSS now requires regular migratory status for insurance, which leaves many irregular immigrants in a Catch-22 situation: they need the status to get insurance, but must be insured to gain status.⁵⁹ In all, the interplay of social and migration policy has created formal barriers for immigrants' access to social services, and to social integration more generally.

⁵⁴ Fouratt, 'Those Who Come to Do Harm'; Fouratt, 'Temporary Measures'; K. Voorend, *¿Universal o excluyente? Derechos sociales y control migratorio interno en Costa Rica* (Buenos Aires: CLACSO, 2013); Voorend, "'Shifting In" State Sovereignty'.

⁵⁵ Shirin Noy and Koen Voorend, 'Social Rights and Migrant Realities: Migration Policy Reform and Migrants' Access to Health Care in Costa Rica, Argentina, and Chile', *Journal of International Migration and Integration*, 17: 2 (2016), pp. 605–29; Voorend, "'Shifting In" State Sovereignty'.

⁵⁶ Fouratt, 'Those Who Come to Do Harm'; Kron, 'Gestión migratoria en Norte y Centroamérica'.

⁵⁷ Voorend, "'Shifting In" State Sovereignty'.

⁵⁸ Fouratt, 'Those Who Come to Do Harm'; Voorend, "'Shifting In" State Sovereignty'.

⁵⁹ Fouratt, 'Those Who Come to Do Harm'; Fouratt, 'Temporary Measures'; Voorend, "'Shifting In" State Sovereignty'.

Social Policy, Poverty and Exclusion in Nicaragua

In Nicaragua, the state plays only a marginal role in public social service provision and, instead, social provisioning is dependent on international aid and, especially, on families making their own arrangements.⁶⁰ Here, barriers to access are related not to citizenship status but to the poor coverage and quality of public services. While per capita public social expenditure increased considerably between 2000 and 2009, from US\$91 to US\$157, this total spending is still less than half the amount (US\$343) spent on healthcare alone in Costa Rica in 2009.⁶¹ And while most social programmes in Nicaragua are universal on paper, in practice they are aimed only at the poor.⁶² For example, between 1998 and 2005 pre-school coverage (between four and six years of age) remained stagnant at 17 per cent of the eligible population. Similarly, in 2015, only 38 per cent of the population had attended at least some secondary schooling and the country had only 3.7 physicians per 10,000 people (compared to Costa Rica's 11.1).⁶³

As a result, remittances, which represented 9.6 per cent of GDP in the first two trimesters of 2017, play an important role in facilitating access to social services.⁶⁴ While data is scarce, remittances are key in Nicaraguan families' social provisioning, and almost half of all remittances to Nicaragua are spent on medicine, housing and education.⁶⁵

Sidestepping the State on Both Sides of the Border

We find that, despite dramatically different contexts, Nicaraguans' access to health services and medicine is complicated and strongly mediated by market options in both Nicaragua and Costa Rica. While previous scholarship has identified both legal and extra-legal, formal and informal mechanisms of

⁶⁰ Juliana Martínez Franzoni and Koen Voorend, 'Who Cares in Nicaragua? A Care Regime in an Exclusionary Social Policy Context', *Development and Change*, 42: 4 (2011), pp. 995–1022.

⁶¹ Economic Commission for Latin America and the Caribbean (ECLAC), CEPALSTAT Databases and Statistical Publications (Santiago, Chile: ECLAC, 2015), available at http://estadisticas.cepal.org/cepalstat/WEB_CEPALSTAT/estadisticasIndicadores.asp?idioma=i (last access 27 Aug. 2017).

⁶² Juliana Martínez Franzoni and Koen Voorend, *Veinticinco años de cuidados en Nicaragua 1980–2005: Poco estado, poco mercado, mucho trabajo no remunerado* (Geneva: UNRISD with United Nations Development Programme [UNDP] and Centro de Investigación y Estudios Políticos [CIEP], Universidad de Costa Rica, 2012); Martínez Franzoni and Voorend, 'The Limits of Family and Community Care'.

⁶³ UNDP, *Human Development Report 2015. Work for Human Development* (New York: UNDP, 2015).

⁶⁴ Banco Central de Nicaragua (BCN), *Informe de Remesas Familiares. I Trimestre 2017* (Managua: BCN, División Económica, 2017), available at http://www.bcn.gob.ni/publicaciones/periodicidad/trimestral/remesas/Remesas_1.pdf (last access 27 Aug. 2017).

⁶⁵ Martínez Franzoni and Voorend, 'Who Cares in Nicaragua?'

exclusion, this section turns to how people perceive and experience these forms of exclusion, especially with respect to access to healthcare. We are concerned with how people cope with and devise strategies for dealing with exclusion. What we find is that Nicaraguans on both sides of the border circumvent the state to seek services through the market. The reasons for this sidestepping, however, are context specific.

Access to Healthcare in Costa Rica: Migratory Status, Bureaucracy and Discrimination

Nicaraguans' practices of accessing social services as migrants in Costa Rica vary according to several factors, most notably legal status, social insurance, the presence of children and discrimination. Legal status is a key element for not only access to social services, but integration more generally. As one Nicaraguan woman put it:

... here, honestly, without the *cédula* [residency documents], you can't do anything. [...] Without insurance, we are nothing here, without the *cédula* we are nothing. Without the *cédula*, they will not give you work, without the *cédula* they will not give you a doctor's appointment: you need the *cédula* for everything in the entire country.⁶⁶

In terms of access to healthcare for immigrants, a lack of legal status or documents prevents their affiliation with the CCSS, which inhibits their access to healthcare services. Mariela explained that when her elderly mother's residency expired, she was unable to get treatment after she suffered a major burn in a cooking accident. 'Her papers had expired. She was burned; they didn't give her the medication and treatment she needed because she didn't have her papers.'⁶⁷ Her mother received emergency care in a public hospital but was forced to pay for medication and follow-up treatment at a private clinic.

While many migrants are eligible for legal status, for example based on a first-degree family relation (marriage to a Costa Rican, or as parent of a Costa Rican-born child), the process of regularisation is not straightforward, nor is legal status a sufficient condition for integration in general and for access to social services in particular. Decisions to regularise status were tied to other financial burdens faced by low-income migrants. For the Nicaraguan participants, almost all employed in informal, low-wage employment, the high costs of regularisation proved to be a significant hurdle. Estimates oscillate between US\$370 and US\$800 for obtaining residence permits, including the issuing and authentication of documents in

⁶⁶ Diana, focus-group discussion, Pavas, 3 May 2014.

⁶⁷ Mariela, interview, Río Azul, 24 April 2012.

Nicaragua.⁶⁸ One migrant estimated these to be as high as US\$1,200.⁶⁹ As one participant put it, ‘it is difficult to get your papers, because look, I either pay for the house or I file these papers. If I don’t pay for the house, they kick me out, and if I file for these papers I can’t pay either.’⁷⁰ Sofia, a mother of three, explains just how exhausting and expensive she found the process of getting her legal documents.

... I went [back to Nicaragua] two years ago and I paid for the quick procedure. What 100 *córdobas*? What 100 [US] dollars? They make use of the situation. So I was there, and my three kids over here [in Costa Rica], and I was going to be there at least three days. Well that was my hope, not the week it took me and paying other procedures, and ... they asked me if I had the birth certificate, if not, they would not give me the police record. So one day for the birth certificate, 100 *córdobas*. Another day for the police record, 20 dollars. Another day for who knows what, 25 dollars. Then you go to the bank here, 58 thousand *colones* plus 25 dollars for this, plus another 30 dollars for that. In all that, I had to pay for accommodation, and the authentication of documents and show them [immigration officials] the return bus ticket, and then all that for my kids too.⁷¹

Indeed, it is common to find Nicaraguans who have a right to residency because of their family links to Costa Rican citizens but who remain undocumented because of the high costs of applying and obtaining the needed documents. Notably, ethnographic work suggests that because of gendered modes of incorporation in the Costa Rican labour market, Nicaraguan women are more likely to be the last ones in their households to gain legal status or residency, making them least likely to be able to access services for themselves.⁷² As Yolanda, an undocumented mother of four, explained, her husband had residency, her 17-year-old, Nicaraguan-born daughter had residency, and her two Costa Rican-born children had citizenship, but she remained undocumented:

He got his residence permit almost three years ago, because, you know, he was working. We did it on purpose, so that he would earn better. He works in construction. In domestic work, one does not earn that well, and they don’t demand [the residence permit]. In construction, they do.⁷³

Other participants mentioned the bureaucratic challenge of regularisation. The process entails obtaining several documents from the country of origin,

⁶⁸ Voorend, ‘“Shifting In” State Sovereignty’.

⁶⁹ Pedro, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁷⁰ Isabel, focus-group discussion, Pavas, 3 May 2014.

⁷¹ Sofia, focus-group discussion, Alajuelita, 26 Jan. 2014. In 2012 100 *córdobas* were worth approx. US\$5; 58,000 *colones* were worth approx. US\$114.

⁷² Fouratt, ‘Temporary Measures’.

⁷³ Yolanda, interview, Río Azul, 14 Feb. 2012.

and visits to several Costa Rican ministries as well as the migration offices and the bank.

The 2009 Migration Reform has made this process even more complex and expensive. Before 2010, migrants could obtain insurance relatively easily as it was not conditional on migratory status. Regular and irregular migrants alike could have access to healthcare services, provided they were either insured by their employers or paid the voluntary insurance fee. Combined with lenient enforcement of CCSS rules until 2011, the eligibility criteria on their own did not strongly condition migrants' access to healthcare, as much as the costs involved in purchasing insurance.

Further, the administrative requirements translate into a bureaucratic nightmare for migrants trying to navigate the system. Since the law's first implementation, there have been a series of miscommunications and lack of coordination among the state institutions involved in the residency and insurance application processes.⁷⁴ As Juliana put it, 'And look how terrible it is, because if you are not insured and want to renew your *cédula*, you can't. If you don't have the *orden patronal* [social security slip], and if you are not working, how do you do it then?'⁷⁵

This lack of clarity translates into more degrees of freedom for counter clerks and other public-sector employees working at the operational level to determine their own criteria for the regularisation process or obtaining insurance. There are many accounts of subtle and less subtle forms of discrimination and exclusion, even from migrants who have all their legal paperwork in order.

You always, always find people in Migration who are angels, and there are others that have woken up with their knickers in a twist, as they say. From the moment they arrive, it is just bitterness, bitterness. [...] It's always like, look, *mamita* [lady], this paper I can't accept, bring this, go find that and come back and then another day they want another one, because everything has changed. Or they tell me go find this paper because they didn't read well the first time, [and when I bring it and say] 'Here is the one the woman [clerk] asked me for the last time', [they reply]: 'Nooooo, it is not that one, it is another one ... go file for that one.'⁷⁶

While most participants acknowledge that they are generally attended to if they have health insurance, some migrants interviewed also reported encountering exclusionary practices despite legally being eligible for access. Isabel faced barriers even though she was insured through a family member: 'Yes, my oldest son insures me [...] so I present his social security slip but they did not attend to me. They told me, no, you need to have your own documents in order.'⁷⁷

⁷⁴ Fouratt, 'Those Who Come to Do Harm'; Fouratt, 'Temporary Measures'.

⁷⁵ Juliana, focus-group discussion, Pavas, 3 May 2014.

⁷⁶ Carmen, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁷⁷ Isabel, focus-group discussion, Pavas, 3 May 2014.

But even those who can gain access through affiliation with the CCSS face obstacles to accessing services. Much of this is due to widespread xenophobia. As Mariela noted,

With papers, it is a bit better, but I feel that there is still that discrimination. Maybe not for not having papers, because even with papers there still is [discrimination], just because of our country [of origin]. I have my papers in order, but I have had problems.⁷⁸

When asked about discriminatory practices, Nicaraguans emphasised children's experiences in the education sector, especially regarding bullying: 'there are a lot of kids that are discriminated against for being immigrant'.⁷⁹ When asked specifically about discriminatory practices in healthcare, participants' reactions were very diverse. One participant claimed that she 'sometimes feels that the [CCSS] attends Nicaraguans better than their own Ticos [Costa Ricans]',⁸⁰ but others reported feeling mistreated or discriminated against in public clinics. For these migrants, interactions with Costa Rican bureaucracy are characterised by xenophobia and discrimination:

Yes, sometimes they treat you really bad, they take advantage of people in need, and they mistreat us. [...] Sure, if they can they will even hit you, and God forbid, you hit them back. Then not only are you a Nica [Nicaraguan], but you come here to play sly [*jugar de vivo*]. [...] If they throw you your papers, you just have to keep quiet and say thank you. What are you going to do?⁸¹

In some instances, such mistreatment included being set extra requirements or steps not required by law. For example, a social worker in Río Azul reported that mothers often came to her distressed over the paperwork needed to enrol their children in school, but that, in many cases, school administrators had added to the required paperwork for Nicaraguan students. Ruth, who had a Costa Rican-born daughter and was insured by the Caja, described the attention she received during her pregnancy in 2010:

I feel that there's also a terrible medical attention for immigrants. Yes, when I was pregnant ... I got pregnant soon after arriving [in Costa Rica], and the doctor spoke to me like I was stupid. They think that because you're Nicaraguan you're illiterate, ignorant, stupid, and it's not true.⁸²

⁷⁸ Mariela, interview, Río Azul, 24 April 2012.

⁷⁹ Karla, focus-group discussion, San Ramón, 30 Oct. 2014.

⁸⁰ Graciela, focus-group discussion, San Ramón, 30 Oct. 2014.

⁸¹ Luz, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁸² Ruth, interview, Río Azul, 10 April 2012.

As these interviewees and focus-group participants suggest, it is often adult migrants who face major barriers with regard to accessing services for themselves because of stigmatisation, precarious working and living conditions, discrimination, and increasingly restrictive immigration policies, including the threat of deportation.

Further, as with legal status, incorporation into public health insurance seems to be gendered. Ethnographic work suggests that Nicaraguan women will typically obtain insurance after their spouses and children, if at all. Karina, a young mother of two small children, explained: ‘Here only the two little ones and my husband have [insurance], but not me. I can get sick and all, and well, I could even be dying, but I have no money to pay a private medical appointment.’⁸³

However, participants explained that they are often able to access public services for their children. These are fairly easy to access for a number of reasons. First, Costa Rican law guarantees children’s access to healthcare and education regardless of immigration status. Second, many Nicaraguan migrants have Costa Rican-born children, who are citizens by the *ius soli* principle (whereby a person’s nationality is determined by the place of birth). Sara Leon Spesny Dos Santos argues that these children are not considered ‘true Costa Ricans’ and are caught in a ‘symbolic ambiguity [...] and will most likely always be perceived as first generation migrants’.⁸⁴ While this may be true, their Costa Rican *cédula* gives them, at least legally, an edge over children born in Nicaragua. Mothers in particular remarked on the relative availability of services and ease of access for children.

I had to go to Emergency with [my daughter] [...] and in the Children’s Hospital they attended to her really well. They attended to her with the condition that if she relapsed, I had to have her documents in order and especially mine. But yes, the first time they attended to her excellently.⁸⁵

However, even for children access is not always straightforward. Sofia’s daughter, Karla, was six months old when they migrated, but they did not have her birth certificate. Because of a complicated situation with Karla’s father, Sofia explains that they could not go to Nicaragua to retrieve the birth certificate, a requirement for the regularisation process. Recently Karla, now nine years old, needed medical attention which she was denied by the CCSS:

They denied this right to my daughter in the Children’s Hospital. She, without residency or anything, ‘illegal’, was denied this right. But I know we have rights too, and as

⁸³ Karina, focus-group discussion, Pavas, 20 Aug. 2014.

⁸⁴ Spesny Dos Santos, ‘Undeserving Mothers?’, p. 195.

⁸⁵ María, focus-group discussion, San Sebastián, 7 Aug. 2014.

soon as I mentioned that I would sue them, they sent us to validate our documents but of course, they already had a bad attitude towards us. So there – no medicines for us.⁸⁶

Also, children's access does not necessarily mean they are a 'vehicle' for access for adults, who often feel they are not 'deserving' of services and therefore often do not seek them unless strictly necessary. One research participant put it this way: 'It is one thing feeling that your child has the right to access medical services; it is a different thing entirely to feel that right for yourself.'⁸⁷

Faced with difficulties in accessing public social services, many migrants find alternatives, especially with regard to healthcare. These alternatives vary across respondents, but almost always include purchase of private services. Most common among interviewees' responses was the option of purchasing services, like medical appointment or medicines, in the Costa Rican private sector. As Martha explained, 'Sometimes I have to see with my brothers and sisters how we arrange and pay for a private clinic [for our sick mother].'⁸⁸ The CCSS is avoided at all costs when migrants do not have medical insurance.

In these market alternatives, migrants find strategies to overcome the high costs of private healthcare services. A relatively common option, among both migrants and Costa Ricans, is to purchase medication at a pharmacy, without first seeing a doctor. Dora explained, 'I am not insured, and when I feel bad what I do is go to a pharmacy, if I have money. And if I don't, I hang on in there.'⁸⁹ Others simply go to the 'the *pul* [*pulpería*: corner store] to get a pill'.⁹⁰

Another option is to 'have medicines sent from Nicaragua, or buy them in the black market, secretly, in the La Merced Park where many Nicaraguans come to'.⁹¹ In such cases, participants say they opt for 'self-medicating and guessing what we should take'.⁹² Informal commodification practices and clandestine import of medicine from Nicaragua also seem to be common alternatives. Medicines from Nicaragua are generally bought 'in private pharmacies where one explains the case [of the patient in Costa Rica], and the doctor explains what it is [that person] can take'.⁹³

What we do, is buy medicines. Some people bring them from pharmacies, or some come from Nicaragua, or we go there ourselves with the prescriptions. Either that,

⁸⁶ Sofia, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁸⁷ Pablo, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁸⁸ Martha, focus-group discussion, Alajuelita, 26 Jan. 2014.

⁸⁹ Dora, focus-group discussion, Pavas, 20 Aug. 2014.

⁹⁰ Xinia, focus-group discussion, Pavas, 20 Aug. 2014.

⁹¹ Carlos, focus-group discussion, San Sebastián, 7 Aug. 2014.

⁹² Stefani, focus-group discussion, San Sebastián, 7 Aug. 2014.

⁹³ Isabel, focus-group discussion, Pavas, 3 May 2014.

or we have to pay a lot of money, the pharmacy is expensive here. [...] People from Nicaragua bring big bags [of medicine], and then [we] buy them in La Merced park. [...] That is how it is, 'I have penicillin, I have this, I have that', so you just have to go there.⁹⁴

Respondents tell us that many people go back to Nicaragua for medical attention, either in the public system or in the much more affordable private sector there. 'If you don't have insurance here, you go back to your country.'⁹⁵ As Rafaela, an immigrant activist, explained in stark terms:

When we get sick, [...] well, we go with terminal illnesses, because since we don't have insurance here to take care of us, when we go to the clinic they won't attend to us. [...] We have six *compañeras* [female friends] that have died of cancer, because they didn't have access to healthcare, they didn't have timely access. And so, yes, most of us choose to return to our country. To die there.⁹⁶

Some emergency situations, however, leave migrants with no choice but to seek medical attention in Costa Rica. In such cases, as the CCSS prescribes, migrants are presented with the invoice after receiving medical aid. Thus, in all of the alternatives to public social services, the migrant ends up paying.

Accessing Quality Care in Nicaragua: The Role of Remittances

If Nicaraguan migrants participate in commodified practices of accessing healthcare services in Costa Rica, they and their families adopt similar strategies in Nicaragua. Indeed, migration is part of these practices. In Nicaragua, barriers to access are related not to citizenship status but to the poor coverage and quality of public services, as previously discussed. Poor treatment and lack of services is compounded by expectations that those who use public services will also make voluntary contributions of labour, money, or supplies as a requirement for accessing them. Indeed, migrants in Costa Rica frequently made positive comments on the quality of services in Costa Rica, in direct contrast to what they perceived as a lack of quality services in Nicaragua.

Although few participants mentioned affordable healthcare as a principal factor in the decision to migrate, the healthcare needs of families are part of the calculus of migration. One participant got visibly annoyed at the question of whether he took Costa Rica's social services into account:

Look, when you are in Nicaragua you don't analyse where you go, if you want to get out of where you are. You don't first analyse whether social security in Costa Rica is better than in Nicaragua. What do you think? Well, you think like this: I don't have a

⁹⁴ Fabian, focus-group discussion, Carrillo, 18 Oct. 2014.

⁹⁵ Isabel, focus-group discussion, Pavas, 3 May 2014.

⁹⁶ Rafaela, interview, Sabanilla, 14 Nov. 2011.

job, I eat one meal a day, sometimes I don't eat at all. How is it possible to think that we analyse, when all we want is to get out of there.⁹⁷

Notwithstanding the views expressed above, there are cases when access to healthcare does directly drive the decision to migrate. Such cases, however, were specific to health conditions that could not be treated in Nicaragua. In other cases, the need to afford healthcare in Nicaragua contributes to decisions to migrate. For example, in 2009, in an interview with a family of four daughters in Achuapa, Nicaragua, whose parents both worked in Costa Rica, the eldest daughter explained that her parents had migrated not just to improve the construction of their home and pay for the girls' education, but also for her youngest sister's medication. The teenaged girl had a heart condition that required expensive medication not covered by the Nicaraguan healthcare system. As poor farmers in rural Nicaragua, they could not afford the monthly expense of purchasing her medication without migrating to Costa Rica for higher wages. However, instead of purchasing medication in Costa Rica and sending it back to Nicaragua regularly, which could incur import fees and require shipping, they sent money back to their eldest daughter to purchase medication in Nicaragua. This sending back of money for medicine was common practice among participants, as many noted that the variety of free public medicines in the Nicaraguan healthcare system is limited.

Further, paying for emergency or urgent procedures in the private sector may leave Nicaraguans in debt. As in other Latin American countries, debt is a common driver of migration.⁹⁸ For example, Kenneth, a 20-year-old in Granada, whose mother had already migrated, talked about how traumatising it was to take his pregnant girlfriend to hospital in Nicaragua for treatment for a kidney infection. At the public hospital, medical staff warned them of the chance of miscarriage because of the infection, but refused to perform an ultrasound scan to check on the foetus:

So, there in the hospital they do ultrasounds, but they said that one of the machines was broken and they were only doing ultrasounds for pregnancies in later stages, like seven or eight months. So, I didn't know what to do. I went and borrowed money to pay for an ultrasound outside [the hospital].⁹⁹

In this case, Kenneth borrowed money from his employer, took his girlfriend to a private clinic for the ultrasound, and then took her back to the hospital for

⁹⁷ Ignacio, focus-group discussion, San Sebastián, 7 Aug. 2014.

⁹⁸ David Stoll, *El Norte or Bust! How Migration Fever and Microcredit Produced a Financial Crash in a Latin American Town* (Lanham, MD: Rowman and Littlefield Publishers, 2012); Ann Miles, *From Cuenca to Queens: An Anthropological Story of Transnational Migration* (Austin, TX: University of Texas Press, 2010); Sarah J. Mahler, *American Dreaming: Immigrant Life on the Margins* (Princeton, NJ: Princeton University Press, 1995).

⁹⁹ Kenneth, interview, Granada, 13 June 2012.

treatment of her kidney infection. However, the debt he incurred for his partner's ultrasound and subsequent treatment led him to make plans to leave for Costa Rica shortly after the baby's birth. Thus, even when accessing healthcare in Costa Rica is not a principal reason for migration, repaying medical debt or affording medical expenses in Nicaragua may represent an important part of the migration decision-making process.

Many families reported using remittances to pay for services ranging from ultrasounds and medication to appointments in private clinics. Frequently, families back in Nicaragua use remittances to access services for the migrants' own children. However, these remittances are usually earmarked for education, food, and other necessities, so their use for emergency medical care can put a strain on caregivers' tight budgets. Marina, a grandmother raising two grandchildren in Managua while her daughter worked in Costa Rica, explained that when the children fell ill, she almost always took them to a private clinic:

When they get sick, I take them ... especially since they don't have insurance here. So, I take them to a doctor. If you take them to a health centre, you know, a public one, and they don't take care of them, then you have to take them to a paid doctor. [...] I have to take them to a private doctor so that they pay more attention to the illness. So, I have to think about all this and it is my responsibility.¹⁰⁰

In other cases, when migrants are unable to send remittances, this can significantly impact children's access to healthcare. For example, Esther, who was raising her 13-year-old granddaughter Jessy, reported frustration that the child's father had not sent money in several months, while Jessy was suffering from recurring headaches:

I don't know. It looks like things are going badly for him economically. That's what I feel. Because Jessy has been very sick, she was in the hospital, and his help has been minimal, almost absent. The difference a CT scan would make. But that costs almost [US]\$200. And he couldn't send that. So, we haven't been able to get the scan for her.¹⁰¹

A lack of remittances, then, may translate into a lack of access to healthcare, especially for children of migrants, who depend on money sent home by absent parents to meet their basic needs.

While dissatisfaction with public healthcare services in Nicaragua is widespread, migration, and the remittances it provides, offers a way for families to sidestep state-sponsored services and purchase care in the private sector. However, given the high costs of such services and the general unreliability of remittances, families often combine basic care in the public sector with

¹⁰⁰ Marina, interview, Managua, 1 Sept. 2012.

¹⁰¹ Esther, interview, Managua, 17 July 2012.

the purchase of medication or specialist appointments or examinations in the private sector. Families who participated in such commodified practices of care also expressed dissatisfaction with the current Nicaraguan administration, which they saw as looking out for its own interests at the expense of the working class. It is particularly interesting to note that, despite the different circumstances, similar strategies for accessing healthcare among migrants and their families can be observed in both countries, with the use of the private sector as a strategy to deal with exclusion from the public sector (Costa Rica) and the inadequacy of public services in general (Nicaragua).

Conclusions

The analysis we provide suggests that, as members of transnational families, Nicaraguans in both Nicaragua and in Costa Rica adopt very similar commodified practices of welfare strategies. That is, for adult migrants in Costa Rica, or their families in Nicaragua, public social services on either side of the border play only a limited role in the provision of healthcare. Instead, Nicaraguans have developed strategies that sidestep the state to access healthcare and other services for family members. The reasons for this sidestepping, however, are context specific. In Costa Rica, mechanisms of exclusion from public social services take the form of a strict legal framework and an interplay between regular migratory status and social security affiliation. The seemingly unresolvable legal impasse – whereby regularisation is dependent on obtaining social security and vice versa – despite having been officially resolved in the Supreme Court, creates a bureaucratic nightmare for migrants through a lack of clarity regarding procedures and protocols, while giving the service provider or counter clerk much leeway to decide upon requirements for access to social services.

More important, however, are the high costs involved with both regularisation and social security. Migrants' concerns about these high costs were recurrent in fieldwork spanning a period of six years, and for most they prove an unsurpassable hurdle to regularisation of their status. These legal state-led mechanisms of exclusion show the importance of citizenship and denizenship status¹⁰² for integration, despite increased discursive recognition of human rights. This is in stark contrast with globalist arguments to the effect that the demise of state sovereignty in the face of international normative frameworks would oblige states to grant broad social rights to newcomers.

When such a multi-faceted concept as integration is understood narrowly as legalisation, and discrimination and xenophobia are so socially ingrained,

¹⁰² Denizens are people who are citizens of another country with a legal and permanent resident status in their adopted country: T. Hammar, *Democracy and the Nation State. Aliens, Denizens and Citizens in a World of International Migration* (Aldershot: Avebury, 1990).

migrants may be entitled to legal status but may not in practice be able to access their social rights. Thus this case underscores the importance of going beyond the formal recognition of rights and extending the analysis of (social) rights to actual access to services. The way institutional access is framed by law has real impacts on migrants' lives, as migrant accounts testify. Further, this framework is so ingrained socially that those implementing the policies, and even those in need of services, cannot move away from this legal/'illegal' split. Migrants themselves point to negative xenophobic experiences when acquiring health-care services or the blunt denial of access altogether; or do not themselves approach social-service institutions because they feel they are not deserving of their services. These migrant accounts underscore that legal status and social security affiliation are necessary, but not sufficient, conditions for access to social services. Finally, because of the importance of commodified healthcare strategies, access to health services is directly mediated by migrants' integration in labour markets, and acquiring the necessary funds to pay for such services, which in turn is mediated by 'legality'.

Similarly, our analysis questions the welfare magnet argument, the persistent perception among Costa Ricans that Nicaraguans migrate to the country for, and are overrepresented in, its 'exceptional' social services. It is true that in Nicaragua the state plays a minor role in social provisioning, and that the lack of public social services weighs in the decision to migrate. However, it is not a straightforward assumption that Nicaraguans establish a relationship with public services in their new host society. While access is more common amongst children, and migrants can regularise their migratory status through their Costa Rican-born children, they do not necessarily access social services for themselves.

The finding of commodified strategies to access health services not only adds to our understanding of reactions to processes of social exclusion, but also contributes to our understanding of universal social policy in developing contexts. This has important implications for understanding the links between migration and social policy within Latin America. It is not only migrants who sidestep the state and purchase access to services in the private sector. Migration – through remittances – provides a way to purchase services in the sending communities as well. Thus, migration plays a key role in complex welfare strategies of families within the region. The market option is not only an alternative to universalism for upper-class sections of society when the general quality of services is eroded; it is also key for the poorest sections of society when they are excluded from universal services by legal and extra-legal mechanisms.¹⁰³ In Costa Rica, the waiting lists for hospital or

¹⁰³ Dobles, Vargas and Amador, *Inmigración*; Juliana Martínez Franzoni, *La seguridad social en Costa Rica: Percepciones y experiencias de quienes menos tienen y más la necesitan*

doctor appointments frequent within the Caja push even Costa Ricans with insurance coverage to seek diagnostic tests and routine procedures in the private sector. In Nicaragua, poor quality of services drives even the working poor to the private sector, increasing debt and contributing to migration.

As this analysis shows, migrants' agency in their own welfare strategies is directly mediated not only by 'legality' but by purchasing power. Interestingly, not only do remittances from Costa Rica to Nicaragua facilitate commodified practices of healthcare access in Nicaragua, but also, because of the high costs of private medicine in Costa Rica, it is not uncommon to obtain medicine on the black market, or to import it from Nicaragua. Similarly, depending on the severity of the case, if access to public healthcare services is impossible in Costa Rica, migrants go back to Nicaragua to seek medical attention there, often in the relatively cheaper private sector. In this sense, migrants participate in transnational processes of social provisioning that, while conditioned by state policies, transcend national borders.

The importance of the commodification of social-service access is a key finding, directly related to the kind of relations migrants establish with the state. Ultimately, it creates disincentives for both the Costa Rican and Nicaraguan state to ensure social protection for these populations. In Nicaragua, this is caused by weak institutional capacity and a culture of not demanding state-led services that were never there, as well as by the large influx of remittances, which makes the purchase of medicine and medical care possible for many families. In Costa Rica, the state has conveniently created a restrictive situation, through migration policy and law enforcement, in which it discursively recognises the importance of 'integration' and 'human rights', but in practice limits outsiders' access to social services. Such limits are legitimised by xenophobic media coverage and negative public opinion of Nicaraguan migration. In both countries, the state can afford to keep a hands-off policy with regard to migrants and their families. Ultimately, then, our analysis shows the continued importance of the state in setting the stage for inclusion in or exclusion from social services, and the importance of the market alternative as a survival strategy for migrants and their families.

(Washington, DC: Unidad para la Igualdad de Género en el Desarrollo and Banco Interamericano de Desarrollo), available at <http://services.iadb.org/wmsfiles/products/Publications/882713.pdf> (last access 27 Aug. 2017); Juliana Martínez Franzoni and Diego Sánchez Ancochea, *Good Jobs and Social Services: How Costa Rica Achieved the Elusive Double Incorporation* (London: Palgrave Macmillan, 2013).

Spanish and Portuguese abstracts

Spanish abstract. En Costa Rica existe la creencia generalizada entre el público y los diseñadores de políticas de que el sistema de salud universal ‘excepcional’ del país representa un imán para los migrantes nicaragüenses. Sin embargo, cuando se examina el acceso real a las políticas sociales se demuestra la importancia de los mecanismos de exclusión legal y extralegal que van de la mano con el reconocimiento oficial de los derechos humanos. Este artículo evalúa críticamente la relación entre migrantes y el estado, especialmente las políticas sociales públicas, tanto en el país de origen como en el de destino. Analizamos el grado en que las familias migrantes nicaragüenses en ambos lados del sistema migratorio Costa Rica–Nicaragua incorporan la protección social pública dentro de sus estrategias de bienestar. A partir de datos cualitativos de dos fuentes, encontramos que en ambos lados de la frontera los migrantes y sus familias muestran prácticas mercantiles de bienestar muy similares, basadas en circunvenir al estado y comprar servicios al sector privado.

Spanish keywords: migración, remesas, sistema de salud, legalidad, servicios sociales, burocracia

Portuguese abstract. Na Costa Rica há uma crença generalizada entre público e decisores políticos de que o ‘excepcional’ sistema universal de saúde do país age como um ímã para imigrantes da Nicarágua. No entanto, ao examinar o acesso que os imigrantes realmente têm às políticas sociais, revela-se a importância de mecanismos de exclusão legais e extralegais paralelos ao reconhecimento oficial dos direitos humanos. Este artigo avalia de maneira crítica a relação entre migrantes e o Estado, em particular no que diz respeito à política pública social, em ambos os países recebendo e enviando migrantes. Analisamos o quanto famílias Nicaraguenses nos dois lados do sistema de migração Costa Rica–Nicarágua incorporam proteção pública social em suas estratégias de bem-estar. Baseando-nos em duas fontes de dados qualitativos, descobrimos que em ambos os lados da fronteira, migrantes e suas famílias demonstram práticas mercantilizadas muito similares de estratégias de bem-estar, evitando o estado e adquirindo serviços diretamente do setor privado.

Portuguese keywords: migração, remessas, saúde, legalidade, serviços sociais, burocracia