Should health austerity policies be implemented? *The case of México*

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This essay analyzes whether the implementation of austerity policies in the financing of medical care violates the human right to health because austerity policies cause, among other things, a shortage of medicines. I will examine the implementation of austerity policies in Mexico, specifically where there is evidence of drug shortages because of the austerity policies implemented by the Mexican government. I address the question: *Are austerity policies that limit access to medicines implemented in Mexico just?* The government implements austerity policies to combat social inequality, corruption, greed, and waste of national assets and resources.[1] However, sometimes austerity policies end up subtracting resources from the health system setting up a conflict between austerity policies and the right to health. Drug shortages can be analyzed as a regression of human rights. I argue that austerity policies are unjust when they exacerbate existing inequalities in health and opportunities.

The Right to Health

The right to health is a human right that is recognized in various international legal organizations and instruments,[2] especially in Art. 25, paragraph 1 of the Universal Declaration of Human Rights, which states that Every person has the right to an adequate standard of living that ensures health and well-being for himself and his family.[3]

The object of the right to health is interpreted as a whole range of facilities, goods, services and conditions necessary to achieve the highest possible level of health.[4] Therefore, right to health should be understood as the right to health protection and promotion, and not as the right to not suffer from diseases.

In Mexico, the right to health is recognized in its Constitution, and various laws, regulations, and standards.[5] It is recognized as a positive right that implies the obligation on the part of the State to guarantee treatment and the supply of medicines free of charge or at low cost to the beneficiaries of the health system.

Austerity Policies and Consequences for Public Health

Austerity policies imply restricting the budget to make up previous deficits or debts.[6] As Alesina mentions, the objective of austerity policies is to reduce the public deficit and stabilize the State debt, through reducing spending, raising taxes or a combination of both options.[7]

Austerity policies are implemented with the objective of making resources or services more efficient and managing them with transparency, as well as avoiding waste and combatting corruption; However, in the case of Mexico, there is little clarity in the way in which the savings from implanting austerity policies were—and will be—used.

Austerity policies have been implemented in various countries as a consequence of economic crises, with consequences for public health.
Some examples include:

- The case of the economic crisis in Greece, in which government restrictions led to a shortage of medicines, and with the implementation of austerity policies, the most vulnerable groups could not access health services, including cases of emergency and hospitalization. An increase in the incidence of tuberculosis in patients with HIV is due to the lack of access to their medications.[8]
- Torfs and collaborators analyzed the Statistics of Income and Living Conditions in the European Union (EU-SILC), during the great European Union recession of 2008, to compare the unequal effects of austerity measures between income groups in the access to health care and obtained as a result that only the case of Ireland demonstrated that certain austerity policies can save without directly affecting the poorest and affecting the middle class income groups more, in matters of health care.[9]

Austerity policies have an unequal impact on the population. According to Torfs and collaborators, the burden of

the effects of austerity policies increases inequality and affects the poor most.[10] Furthermore, Doetsch and colleagues reviewed the scope of the impact of austerity on access to healthcare in the European Union and demonstrated that austerity policies have led to the deterioration of healthcare, leading to further inequality.[11]

Austerity in Mexico and Medicine Shortage

In Mexico, the austerity program was implemented in 2019, when President Andrés Manuel López Obrador signed a decree establishing the New Republican Austerity Policies.[12] The objective of austerity policies is to reduce as much as possible the cost of government through various budget cuts.[13] Austerity proposes that public spending be managed effectively to combat social inequality, corruption, greed and waste of national assets and resources.[14]

The main interests of the Mexican government in implementing austerity policies in the health sector are to end corruption in the health system, save money and human resources used to pay distributors and service providers, implement new methods to acquire and distribute medicines through direct allocations from the companies in charge of supply as the allocation process is not very transparent,[15] award direct contracts for the distribution of medicines,[16] control the centralization of purchases by the Ministry of Finance and Public Credit, and a political interest in strengthening the alliances of the party in power.[17]

People with chronic diseases and conditions such as HIV or cancer, who receive medical care in public health services, face shortages of medicines under normal circumstances. However, things get worse during periods of forced austerity. Many patients who must follow a strict protocol in the continuity of their treatments face a shortage crisis as a consequence of austerity policies.

Austerity policies in Mexico have caused a regression in terms of health protection and promotion by preventing the availability, access, acceptability, and quality of medical services in general and in the supply of medicines in particular. This is arguably a violation of the human right to health. The supply of medicine falls among the goods and services that the state is obliged to provide to ensure the human right to health.

When austerity policies affect healthcare services, the impact can be drastic. Cuts in public budgets under austerity policies impact access to healthcare services and as a consequence widen the gap in health inequality: It is estimated that, with the implementation of austerity policies, the shortage of medicines violates the right to health of 12 million people in Mexico.[18]

Those involved in this conflict of rights are, first of all, the government, which, as an authority, has an obligation to provide medicines. Establishments that provide health care are also involved. Although the right to health is not met merely by the provision of services, by not having the necessary supplies, care falters Finally, the shortage of medicines affects all users of health services, especially people diagnosed with cancer and other autoimmune, chronic-degenerative diseases, and HIV.

The process for the supply of medicines occurs thanks to a sequence of interconnected actions that begin with the acquisition of raw materials, the selection and preparation of the medicine, their sale and the continuity of the supply chain understood as the supply chain. actions ranging from the selection, programming, acquisition, storage, distribution and administration of the rational use of medicines.[19] These actions are generally regulated by health institutions and involve hospitals, suppliers, producers, and distributors.

To understand the impact of austerity policies, it is necessary to know how the acquisition of medicines and supplies for the public health system was carried out before the implementation of austerity policies.

The acquisition of medicines and supplies from the public health system, which from 2013 to 2018 functioned as a four-piece mechanism made up of the Price Negotiating Commission (CNP); the Federal Consolidated Purchase; the Storage and Distribution Infrastructure of medicines and therapeutic supplies and finally the manufacturers or laboratories. This mechanism guaranteed the supply of medicines in health services by up to 97.7%.[20,21]

The process of acquiring medicines began with experts negotiating prices. Through the procurement procedure, they carried out a detailed analysis of the data related to the consumption of medicines and the market variables to establish a Maximum Reference Price for the products that were going to be acquired. Then, they called for bids from companies in the pharmaceutical sector registered to participate in the Consolidated Purchasing process. The Consolidated Purchase consisted of an administrative process through which the Mexican Social Security Institute made the request for the generic medications in greatest demand to buy in volume and obtain better prices.[22]

The third part involved the Infrastructure of Storage and Distribution of medicines and therapeutic supplies, which was responsible for creating the logistics of the operational routes that distributors followed to take the medicines and supplies to their final destination. Part of the logistics also consisted of financing the consolidated package while the government managed the payment, so distributors collected, stored, and distributed all the requested products, saving delivery costs. The distributors also had the appropriate transportation for the handling and preservation of the medications in cold or dry chambers, depending on their needs. Finally, the drug manufacturing laboratories established a regulated price and competed in a bidding process so that the government could acquire the drugs and supplies for the public health system. It was a standardized cyclical process carried out by experts that was repeated year after year.

This entire system was transformed with the transition team for the change of government, which began by canceling the tenders for consolidated purchases and creating the Administration and Finance Unit under the coordination of the Ministry of Finance and Public Credit. This put a new person in charge of the administration of resources and the purchase of medicines and supplies for health institutions. With this change, the Price Negotiating Commission and the Consolidated Purchase Commission were canceled.

Additionally, the administration of President López Obrado since 2018 displaced experts in the purchase and distribution of medicines from the acquisitions in consolidated purchasing department, which was made up of more than 450 marketers and data analysts from the Coordination IMSS Market Research Technique.[23] The President's administration vetoed distributors, placed inexperienced people in strategic positions but with partisan loyalties similar to the party of their preference, and promoted the neoliberal strategy—highly criticized by the government itself—to favor private companies in a free market system by purchasing medicines from abroad at a higher cost in an ineffective and non-transparent process.[24]

The new government pointed out that to end corruption it was necessary to implement austerity policies in the health system and began by saving resources in the acquisition of medicines,[25] calling the distributors monopolies, intermediaries, corrupt. Government officials thought that the system involved waste that could be saved under the protection of the new austerity policies.

Then, when it realized the shortage of medicines it was causing, the government requested the intervention of the United Nations (UN) to purchase and distribute medicines through the United Nations Office for Projects (UNOPS), an entity in charge of managing acquisitions and contracts, as well as public works and infrastructure. In addition to managing specialized services such as the selection and hiring of project personnel, acquisition of goods, the organization of training and coaching, the administration of financial resources, and acquisition of resources, UNOPS also offers services to bilateral donors, international financial institutions, and governments of developing countries.[26] According to news reports:

The UNOPS charged the Mexican government 130 million dollars, only for operating expenses and another 4,549 million pesos, in the supply of medicines due to failures in the agreement that they had to make up for with direct emergency awards, without transparency, with higher prices and in a disorderly manner […] the sum of the recovery costs amounts to 7 billion pesos for health.[27]

In addition, other events accompanied the shortage of medicines, such as closing the main company that produces basic medicines for cancer treatment, such as methotrexate. Finally, austerity policies limited the participation of civil associations that support the sick in various ways.

Analysis of the conflict between the right to health and austerity

Although austerity policies in the health sector in the case of Mexico were implemented with the intention of combating corruption, greed, and waste of national assets and resources, the passage of time showed us that this did not happen.[28]

The previous reflection leads us to question how austerity policies should be implemented, or even if they should be implemented at all. Health austerity policies must be implemented gradually and based on the available scientific evidence to be reasonable in the optimal level of health spending.[29] The way they were implemented in Mexico was unfair because a reduced budget directly impacts the acquisition of supplies and medicines, people's health, and, in many cases, their lives.

According to Amartya Sen, there are clearly remediable injustices in our environment that we would like to eliminate.[30] In this sense, the way austerity policies were implemented was unfair for the sick, their families, doctors, and society who did not have access to the medications they previously had access to. This further disenfranchised an already vulnerable group because of their health.

Under a human rights approach, it is the obligation of the State in matters of health protection to provide equal opportunities of access to services to all those who require them. But according to Amartya Sen's capabilities theory, to overcome injustice and with the aim of equitably achieving the highest possible level of health for all, equal resources should not be provided to different people. In this case, access to medicines should be assured to those who need it most.[31]

Now, if austerity policies are inevitable to restructure the economy, governments should establish adequate austerity policies that do not impact the area of health. They should aim to reduce the uncertainty that patients experience due to the shortage of medicines and supplies. Given that a just society is one in which everyone has the same opportunities to access primary goods, governments should carry out a reasoned analysis of the conditions and implement austerity policies in ways that affect the right to health as little as possible.[32] They must continually assess the effects of their decisions.

When austerity policies violate the right to health by limiting or eliminating access to medicines that are necessary to maintain health, it must be inferred that they were implemented unethically since not only does it generate a shortage of medicines, but it also increases inequity and discrimination. Medicine shortages exacerbates the burden of the disease and worsens extant social inequality due to economic conditions, the political situation, and social determinants. Because by not having the medications that the state previously supplied, the sick reliant upon government aid to provide medicine cannot continue their treatments, putting

their health—and their right to health—at risk. Supplying patients with medicine is not only a relief but also an act of justice.

Implementing austerity policies must prioritize subtracting from those resources that do not violate the right to health. If not, it can be considered a setback, as already mentioned above. In this situation, the state has the task of guaranteeing equal access to health services for all people, as well as ensuring the supply of medicines to those who need it most.

Some dilemmas that confront health personnel with patients could be avoided with the timely supply of medicine. That way, they can implement health strategies with patients that maintain equitable opportunities to improve their health status. In this way, all patients have equal access to benefit from health services, whether it involves accessing medications or not. The State's and the professionals' commitment to guarantee access to health services is thus fulfilled.

Acting beneficently in a situation of medication shortage means effectively managing the available resources, since an efficient system can satisfy more needs, in such a way that a greater good is achieved. It is necessary to do everything possible to ensure that the burdens of efficiency, during austerity and more prosperous times, are distributed equitably between society, the sick, the health system and the government. Resolving—and preventing—medication shortage is an act of justice for all those affected.

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