

AI Index: IOR 40/4331/2021

To: Member and observer States of the United Nations Human Rights Council

23 June 2021

Re: The UN Human Rights Council must urgently respond to the global pattern of pushbacks, human rights violations, and lethal disregard for human life at international borders

Dear Excellencies,

The undersigned civil society organizations write to express our grave concern about widespread, unlawful, and sometimes severe mistreatment of migrants at and around international borders around the world and to call on the Human Rights Council to take appropriate action by establishing an independent monitoring mechanism on pushbacks and collective expulsions, and the accompanying violations used to enact them.

The report of the Special Rapporteur on the human rights of migrants on the human rights impact of pushbacks of migrants on land and at sea ([A/HRC/47/30](#)) documents a deeply concerning global pattern of routine human rights violations at international borders concluding:

The practice of “pushbacks” is widespread and exists along most migration routes. Pushbacks manifest an entrenched prejudice against migrants and demonstrate a denial of States’ international obligations to protect the human rights of migrants at international borders.

This report echoes the pattern of human rights violations at international borders that the High Commissioner has repeatedly drawn the Human Rights Council’s attention to. In September 2019 the High Commissioner used the phrase “lethal disregard” to describe the use of policies and practices that repeatedly put people’s lives and wellbeing at risk, including children. In September 2020 she called for independent monitoring on the European Union’s external borders.

The Special Rapporteur highlights that “in many contexts [pushbacks have] become a routine element of border governance, with a serious negative impact on the human rights of migrants.” These practices result in violations of the prohibition of collective expulsion, the principle of non-refoulement and the right to seek asylum and, additionally, are often carried out with violence amounting to inhuman or degrading treatment and/or torture, as well as exacerbating or creating vulnerabilities. The Special Rapporteur, the High Commissioner, and the reports of many of the undersigned civil society organizations show that this pattern of violations and abuses is not limited to one corridor or region.

The serious, systematic and widespread nature of human rights violations and abuses at international borders has been reported to the Human Rights Council on multiple occasions in [the reports of the](#)

Special Rapporteur and has prompted several other Special Procedures to focus reports on migration, including the Special Rapporteur on torture, the Special Rapporteur on human rights defenders, the Independent Expert on human rights and international solidarity, and the Working Group on the use of mercenaries. Despite this, violations persist unabated and with impunity.

The Human Rights Council has acknowledged guidance from the Office of the High Commissioner for Human Rights including Recommended Principles and Guidelines on Human Rights at International Borders and the Principles and Guidelines on Human Rights of Migrants in Vulnerable Situations. Despite this, violations persist unabated and with impunity.

The Human Rights Council has adopted a Presidential Statement on protection at sea (2014) and resolutions on migrants in transit (2015), migrants and refugees in large movements (2016). Despite this, violations persist unabated and with impunity. A new and stronger response drawing on and complementing the work of the Special Rapporteur is needed.

The Missing Migrants project records 5,652 deaths in migration since the Human Rights Council last passed a thematic resolution on the human rights of migrants, including 1,469 deaths in migration so far this year (more than were recorded in the whole of 2020).¹

In light of the scale, severity, and global nature of this lapse of respect and protection for the human rights of all migrants, we call on you ensure an appropriate response from the Human Rights Council, through a resolution that calls on all States to fully implement all the recommendations of the Special Rapporteur, which include:

- ending pushback practices, respecting fully the prohibition of collective expulsion and upholding the principle of non-refoulement;
- harmonizing domestic legislation with international human rights law to prohibit refoulement and collective expulsion, and decriminalizing irregular entry;
- ensuring that administrative or criminal measures are not applied to deter or immobilize search and rescue capacities and humanitarian assistance at borders;
- address bias in law enforcement and adopt and implement standard operating procedures that provide operational guidance on human rights compliant border governance;
- ensuring due process guarantees for all migrants under the State's jurisdiction or effective control regardless of their status, by ensuring access to an individual examination, and to effective remedy and appeal before a judicial authority; providing access to gender-responsive legal and interpretation services; and suspending removal while an appeal is pending;
- promptly and thoroughly investigating allegations of human rights violations and abuses at international borders;
- establishing effective independent monitoring mechanisms and ensure access to all migration-related facilities and procedures to monitor their compliance with international human rights laws and standards.

In addition, the HRC should build further on the Special Rapporteur's recommendations and complement the mandate's work by establishing an independent monitoring mechanism to undertake a

¹ Data on 15 June 2021 from <https://missingmigrants.iom.int>. Note that this refers to recorded deaths and provides a minimum estimate.

global investigation on pushbacks and collective expulsions and the human rights violations that enable and result from these practices, including:

- the impact of criminalization of irregular entry;
- actions that deny or undermine the right to seek asylum, including the absolute closure of borders;
- criminalization and suppression of humanitarian assistance and human rights defenders, including the misuse of anti-smuggling legislation to target them;
- militarization of borders and excessive use of force.

This independent monitoring mechanism should report on its findings and provide recommendations on robust follow up action at national, regional and international levels to ensure remedy for victims and end these practices and the climate of impunity surrounding pushbacks and prevent further human rights violations.

Sincerely,

1. Aditus Foundation
2. Alianza Americas
3. American Association of Jurists (AAJ)
4. Amnesty International
5. Asociación Coordinadora Comunitaria de Servicios para la Salud, Guatemala
6. Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej)
7. Asylum Access
8. Asylum Access Mexico (AAMX) AC
9. Bloque Latinoamericano sobre Migración
10. borderline-europe Human Rights without borders
11. bordermonitoring.eu
12. Center for Law, Justice and Society - Dejusticia (Colombia)
13. Centre for Peace Studies
14. Centro de Atención a la Familia Migrante Indígena - CAFAMI A.C
15. Centro de Derechos Humanos Fray Matías de Córdova A.C.
16. Centro de Estudios Legales y Sociales
17. Civil Society Action Committee
18. Clínica Jurídica de Migrantes y Refugiados de la Universidad Diego Portales
19. Comité de Familiares de Migrantes del Centro de Honduras (COFAMICENH)
20. Danish Refugee Council
21. EuroMed Rights
22. Friends World Committee for Consultation (Quakers)
23. Fundación Cepaim
24. HIAS Greece
25. Human Rights Watch
26. HUMANRIGHTS360
27. Hungarian Helsinki Committee
28. Instituto para las Mujeres en la Migración (IMUMI)
29. International Catholic Migration Commission (ICMC)
30. International Detention Coalition (IDC)
31. International Federation for Human Rights (FIDH)

32. International Migrants Bill of Rights (IMBR) Initiative
33. International Movement Against All Forms of Discrimination and Racism (IMADR)
34. International Policy Fellowships Network
35. International Service for Human Rights (ISHR)
36. JRS Belgium
37. Mixed Migration Centre
38. Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP)
39. National Network for Immigrant and Refugee Rights
40. OAID (Oxford Against Immigration Detention)
41. Penrith and Eden Refugee Network
42. PICUM - Platform for International Cooperation on Undocumented Migrants
43. Quaker Asylum and Refugee Network - QARN
44. Red Jesuita con Migrantes LAC
45. Refugee Advice & Casework Service (RACS) Australia
46. Refugees International
47. Sea-Watch
48. SWANSEA ASYLUM SEEKERS SUPPORT
49. The Lutheran World Federation
50. Unión de Comités de Familiares de Migrantes Desaparecidos de Honduras
51. World Beyond War