

HRC 47 | UN expert calls for States to respect and protect the human rights of all migrant people

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No matter where we are born, or what papers we hold, fundamental human rights don't disappear at the border. The Special Rapporteur on migrant rights calls pushbacks a deadly violation of international law and urges States to end the practice immediately, and instead protect migrants.



Throughout the world and across history, migrants have strengthened communities by bringing new ideas, adding diversity, enriching culture, and contributing to society as they strive to build a better life.

Despite the value brought by migrants to societies, many governments are stopping them at borders and effectively banning them from starting a better life. Seeking security and a dignified life free from poverty or conflict for yourself and your loved ones is a basic human right and need. The pushback of people seeking safety and a better life is a denial of this right and need.

These “pushbacks” at borders have been captured in their inhumanity by journalists and denounced by aid workers and civil society. They have increased the danger of transit, and the real risk of lost lives. Yet they have not yet been defined by the international community.

On 23 and 24 June, the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, presented a report to the UN Human Rights Council in Geneva that focused on the human rights impact of pushbacks of migrants on land and at sea.

For the purposes of this report, Morales defines pushbacks as “various measures taken by States...which result in migrants...being summarily forced back, without an individual assessment of their human rights protection needs...” Morales notes that pushbacks have greatly increased as a result of the COVID-19 pandemic and emphasised the danger pushbacks pose for migrants, highlighting the vulnerabilities of child and women migrants in particular.

The report emphasised the need for a human rights-based approach to migration policy, and especially individual assessments of each migrant based on their particular needs and vulnerabilities. The report also notes States' obligation to respect and protect the human rights of all migrants, irrespective of migration status, and urges States to uphold these obligations by launching investigations into pushbacks happening at their own borders.

ISHR has called for just this, joining a number of NGOs in [a joint letter to UN member States prior to the Council session](#). ‘The practice of pushbacks isn't an oversight’, says Sarah M Brooks, ISHR programme director, ‘or a challenge of implementation. It is, as the High Commissioner has said, a ‘lethal disregard’ for rights and dignity of human beings’.

‘Council members from the global North regularly press the Council to take action for accountability on human rights violations. This should be no different’.

Following remarks from Special Rapporteur Morales, the majority of States aligned themselves with the UN expert's view that pushbacks are harmful and violate States' international obligations to protect human rights. Many States, including China, Paraguay, Ecuador, Indonesia, Cuba, Greece, El Salvador, Thailand, and Tunisia reiterated the expert's emphasis on the unique vulnerabilities of migrant children, especially unaccompanied children. France, Indonesia, Cuba, Thailand, Tunisia and a representative from UN Women all spoke up to voice concern for women migrants, who face the additional threat of sexual and gender-based violence. Yet during the same week, in negotiations of a resolution on the human rights of migrants, no State showed true ambition to address pushbacks effectively.

The active advocacy of the Special Rapporteur was not always taken well by States. Hungary, who is named in

the report, questioned the legal basis of his arguments around pushbacks, justifying removals as a response to 'criminal' border-crossings. The Hungarian representative even asserted that migrants have 'different' rights, dependent on their documentation status. A number of States including the EU, Indonesia, Chile, Malta, Algeria, Hungary and Iran expressed frustration that the Special Rapporteur's report did not accurately represent their policies and treatment of migrants. At its worst, the debate in the Council seemed at times to be more a space for picking political battles and pointing fingers, than for actually discussing how to uphold migrants' rights.

[The resolution](#) the Human Rights Council will consider this week references many of the issues discussed in the interactive dialogue, including recognition of specifically vulnerable groups, the shared responsibilities of origin, transit, and destination States, the dangers presented by illegal smuggling and complications resulting from the COVID-19 pandemic.

However, the resolution falls far short of the kind of meaningful action that the Special Rapporteur, the High Commissioner, civil society and migrants themselves see as necessary. ISHR urges States to heed the resolution's call to establish human-rights based migration policies that comply with international human rights law, especially in regard to the return of migrants.

'The Members of the Human Rights Council, however, cannot stop there', says Brooks. 'We will continue to work with migrants' organisations and migrant rights defenders to press for a concerted and ambitious move in the coming months that would see this serious issue treated with the gravity it deserves. Migrants – those who defend and support them and those who mourn their unnecessary deaths – deserve nothing less'.

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