Pushback Practices and their Impact on the Human Rights of Migrants

UNICEF Submission to the Thematic Report of the United Nations Special Rapporteur on the Human Rights of Migrants

February 2021

I.   **Context**

In 2017 the UN Committees on the Rights of the Child and on Migrant Workers reiterated that States "shall not reject a child at a border".[1] However, UNICEF has been made aware of pushbacks of children at many borders, including in the past year, despite the extra risks created by the COVID-19 pandemic which has exacerbated many of the dangers faced by migrant, asylum-seeking and refugee children. Pushbacks have sometimes been couched as COVID-19 containment efforts. **States should immediately stop pushbacks and deportations of children, especially if they are unaccompanied or separated. These practices not only threaten children's rights and health, including the right to seek asylum, but also undermine public health for all countries involved.**

Pushing back or deporting children without due process, without giving them an opportunity to apply for asylum or without child protection authorities conducting an assessment of each child's best interests is *always* a child rights violation and puts children at risk of refoulement by being sent back to situations of violence, trafficking, abuse or exploitation that may be life threatening and cause irreparable harm.

Every child's right to seek asylum, protection or to reunite with family members should never be compromised because of public health considerations. UNHCR estimates that about 144 countries have fully or partially closed their borders to contain the spread of the virus, with some 64 States making no exception for access for asylum-seekers. Many have suspended the right to seek asylum, with risks of refoulement as asylum-seekers are turned away at the border.[2] States have a responsibility to protect public health and may temporarily close their borders or introduce movement restrictions to limit COVID-19 transmission. However, containment measures must be non-discriminatory, necessary, proportionate, reasonable and prioritize the protection of the most vulnerable. Child rights are intrinsic rights that do not stop at borders and can never be put on hold -- much less so in the middle of a global pandemic. Every State always has a responsibility to fulfil the Convention on the Rights of the Child (CRC).

Pushing back or deporting children in the context of the ongoing COVID-19 pandemic carries additional serious public health and child protection risks, including gender-based violence and the likelihood of further spread of the disease in countries ill-equipped to manage a public health emergency of this scale. This is especially the case in situations where children who are denied access to territory subsequently end up in unsafe, unhygienic, crowded housing or other makeshift camps. Furthermore, there is evidence of returnees suffering discrimination, social exclusion and stigma, especially in situations where they have been blamed for bringing the virus to their communities of origin and have been the targets of violent incidents, with dire impacts on the safety and mental health of children.

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[1] Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, 16 November 2017, para. 46

[2] See COVID-19 Platform - Temporary Measures and Impact on Protection (unhcr.org) for information which is updated as the situation evolves.

II. Responses to specific questions asked by the Special Rapporteur[3]

1. Please provide information on any relevant legislation or policy in relation to the right to asylum to seek and enjoy in your country, which guarantees that migrants including asylum seekers' protection needs are examined individually, and they are not pushed back at the international border without access to this assessment and other relevant procedures.

UNICEF considers it essential that all States adopt legislation and policy that ensure that any child, whether traveling alone or with family, should be allowed to enter the State's territory in order to apply for asylum and be able to remain there for the duration of asylum proceedings, or until a sustainable solution in her best interests is identified. Reception of asylum-seekers and the processing of asylum claims must continue despite COVID-19, with priority for the most vulnerable. **Child-specific human rights violations and child-specific drivers of migration must be given careful consideration,** including violence in the home or their communities, threat of child marriage and other forms of gender-based violence, forcible recruitment into state and non-state armed groups, and trafficking and other forms of exploitation and abuse, including the worst forms of child labour. The profound consequences for children of the insufficient provision of food or health services, or education being denied, should also be taken into account.

Access to territory is an essential prerequisite to protect the rights of each child, starting with enabling an individual vulnerability screening or initiating a process to assess and determine what is in a child's best interest. **The precondition to the return of any child – whether the child is unaccompanied, separated or within a family – is that return has been found to be in their best interests through an individual process aimed at identifying a sustainable solution, with the central involvement of child protection authorities.** In practical terms, this means that even when they do not qualify for asylum, many children cannot and should not be returned, including due to child protection or family reunification considerations, among others.

2. Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.

One of the serious harms to children crossing international borders is caused by States utilizing the practice of immigration detention, which is unlawful and never in a child's best interests.[4] Many children and families who have not been permitted access to asylum procedures at borders are held in immigration detention before they are pushed back. In **Mexico**, in January 2021 a new law came into force ending immigration detention of children, and reinforcing the determination of the best interests of the child in migration procedures. This legal reform represents a key step forward that will need strong implementation protocols and investment to strengthen the capacity of the child protection system.

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[3] The information submitted here is not comprehensive, but based on responses from a number of UNICEF offices. We may send further information based on inputs from UNICEF Regional and Country Offices, as we receive them.
[4] Committee on the Rights of the Child, Report and Recommendations of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration, pages 18-19.

In December 2019**, Benin, Burkina Faso and Togo** adopted a tripartite agreement on the protection of children on the move, including victims of trafficking. The agreement, which still needs to enter into force, sets out the obligations of each of the three States as country of arrival, transit or destination whenever they identify a child on the move.

In **Burkina Faso**, a referral mechanism between regions was developed in 2020 to support and facilitate the case management of children on the move, from the moment of identification (either in border areas or elsewhere) all the way through the process.

In **Niger**, UNICEF and partners supported State social services in 2020 in setting up mechanisms for initial screening and referral in border areas with Nigeria following the arrival of large groups of talibé children returning from Nigeria (in the COVID-19 context).

In **Guinea, Burkina Faso, Mali and Niger**, UNICEF has supported the creation of "continuum of care" mechanisms which help to identify and support children on the move. These mechanisms include mobile teams that operate in areas of high concentration of child migrants in Guinea, Burkina Faso and Mali (including border areas), working in collaboration with community focal points and/ or community-based mechanisms, to detect and refer children on the move; and one-stop social welfare shops (OSSWS) in all four countries to assist children on the move including, where necessary, referral to asylum procedures. In Niger, a OSSWS is based close to the border with Algeria as a way of ensuring rapid detection and referral of children returning or/pushed back from Algeria.

The governments of **Myanmar and Thailand** began (in August 2019) discussions on an MoU to establish a cross-border child protection mechanism and framework, including case management standard operating procedures.

3. Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.

4. Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.

Responses to questions 3 and 4 have been merged.

UNICEF is concerned about the development by a number of States of a systematic policy of pushbacks at borders and of restricting access to territory and to asylum processes. **States' pushback practices often result in children experiencing or witnessing violence at borders, including potentially life-threatening interceptions at sea. These practices also prevent children from having their best interests assessed and protection risks or specific vulnerabilities screened and put children at heightened risk of harm and violence in countries of transit or return.**

Instances of pushbacks and restrictions in access to territory in law and practice pre-date the pandemic, but seem to have multiplied since the beginning of the COVID-19 crisis in the context of unprecedented border closures justified to protect public health.

In **Europe** the practice of pushbacks, which appear to be systematic at certain borders, opens a wide space for human rights violations, such as denial of access to asylum, heightening the risks of violating the principle of non-refoulement, and for abuse of power and authority. During pushbacks

children have suffered physical abuse, abusive and degrading treatment, theft, extortion and destruction of property.

France: In May 2020 the State Council in France considered a case of a mother and her 5-year old child who were pushed back to Italy, although she had stated that she wanted to seek asylum upon her arrival in France. This practice is reported as being systematic at this border. The State Council declared that by refusing to examine the woman and her child's claims as per the national legislation, their right to asylum had been breached.[5]

At France's borders with Italy and Spain, UNICEF is concerned that the focus on returns takes precedence, to the detriment of the protection of migrants, particularly of children.[6] It has been reported that the border police (PAF) do not respect existing legal guarantees and safeguards. The people arrested are subject to expeditious and irregular measures to refuse entry, without their situations being adequately studied by the competent authorities. This has been an issue prior to COVID-19. In 2019, in Menton, more than 310 UASC were turned back by the French authorities to Italy, and many UASC were pushed back during the summer of 2020, according to the associations present between Ventimiglia and Menton.

There are particular concerns about age determination practices. Many UASC are pushed-back to Italy or Spain, sometimes based on the subjective assessment of PAF agents of whether they have an "adult appearance", in contravention of existing regulations. UASC have testified that their identity documents have been confiscated or destroyed by law enforcement officials, and their requests to apply for asylum ignored. It is reported that some UASC are pushed-back while others are taken into care of the authorities, with no systematic standards, procedures or protocols, to ensure proper decision-making in the best interests of each child.

The Administrative Court of Nice has issued numerous decisions finding pushbacks of children illegal, in particular for six children in 2019 and 2020, in which the court recalled that any decision to refuse entry against a UASC must include special guarantees ensuring the best interests of the child.[7] When they are not pushed-back to Italy, UASC arrested at the Franco-Italian border can be locked up for several hours in unhygienic conditions, sometimes all night.

Bosnia-Herzegovina (BiH): Frequent pushbacks from **Croatia** to BiH have been reported over the past few months.[8] While the majority of people reporting pushbacks are adult males, an increasing number of families with children and UASC have also reported being pushed back.[9] In addition, pushbacks have been reported from **Italy** to **Slovenia** through Croatia to BiH. While some people reported collection of personal and biometric data, few reported being provided with an interpreter. Those who requested asylum were told that this was not an option. In one instance, two UASC and one injured person were reportedly separated from the group in Slovenia during the process of registration and were not returned to Croatia with the group – indicating vulnerability criteria may be taken into consideration occasionally. But one family of three, including a pregnant woman,

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[5] See: http://anafe.org/spip.php?article572

[6] Les enfants en migration doivent être protégé.e.s [Rapport inter-associatif] - Anafé (anafe.org);
https://refugee-rights.eu/wp-content/uploads/2020/10/Les-Manquements-Des-Autorites-Francaises.pdf

[7] TA of Nice, n ° 1904929, October 18 2019; TA de Nice, n ° 2000572, February 7, 2020; TA de Nice, n ° 2000570, February 7, 2020; TA de Nice, n ° 2000856, February 24, 2020; TA de Nice, n ° 2000858, February 28, 2020; TA de Nice, n ° 2000948, February 28, 2020.

[8] During May 2020, the Danish Refugee Council recorded 1,361 cases of pushbacks, and in June 2020, 1,646 cases.

[9] In May 2020, 29 children moving with their families (22 boys and 7 girls) and 37 UASC were pushed back to BiH. In June, 141 children moving with their families (80 boys and 61 girls) and 37 UASC reported being pushed back.

reported violence by the Slovenian police. In one case, two families from Nepal, reported being "pushed back" to BiH, even though they had never entered BiH before.

Greece: In June 2020 UNHCR urged Greece to investigate multiple reports of pushbacks by Greek authorities at the country's sea and land borders, possibly returning migrants and asylum seekers to Turkey after they had reached Greek territory or territorial waters.[10] In July 2020 MEPs in the Civil Liberties Committee asked the Greek Government to clarify their position regarding several media and civil society reports which indicate that the country's police and border guards systematically prevent migrants from entering Greece, using violence, both at Greece's land and sea borders.[11] Greek authorities denied the allegations but promised to investigate all cases. There have been reports of officials using violence to take people, including children, from a refugee camp (Diavata) or detention pre-removal centre (Paranesti), and pushing them back to Turkey, before their asylum cases have been processed.[12] Upon return to Turkey migrants are usually arrested by Turkish authorities and detained. If Turkey does not accept them as per its bilateral agreement with Greece on returns, they can be returned to Greece and then pushed back again by Greek authorities.

Spain: Push-back practices have mainly been reported in Ceuta and Melilla – an issue for many years. There are legal provisions regulating this practice. This legislation mentions the need to respect international human rights law and to provide special facilities at borders; however, it does not establish any concrete procedures to implement these safeguards. The Spanish Constitutional Court has recently stated that these practices are possible only if three conditions are met: a) case-by-case basis; b) effective and full judicial control; and c) compliance with international obligations.[13] The Spanish Ombudsman and many civil society organizations have repeatedly recommended the adoption of a specific procedure to comply with the safeguards. Respecting these safeguards is even more difficult during COVID-19, since border closures have made access to asylum offices in Ceuta and Melilla almost impossible. During an assessment conducted by UNICEF Spain in 2018 in Ceuta and Melilla, several actors in Melilla claimed that push-back practices also affected children, but these cases are rarely documented, particularly in instances where children are quickly moved to other areas in Morocco away from the border straight after being rejected.

In 2019 in the case of *D.D. v. Spain[14]* the UN Committee on the Rights of the Child strongly criticised the policy and practice of pushbacks by Spanish authorities. The Committee's decision clearly affirms the rights of unaccompanied and separated migrant children at Europe's borders and beyond. D.D. was deported from Melilla to Morocco as a UASC. He was handcuffed and returned without any possibility to explain his personal circumstances and protection needs, without being asked about his age or name, and without any access to a lawyer, translator or social worker. The Committee found that his rights under the CRC were violated.[15]

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[10] https://www.unhcr.org/uk/news/briefing/2020/6/5ee33a6f4/unhcr-calls-greece-investigate-pushbacks-sea-land-borders-turkey.html

[11] https://www.europarl.europa.eu/news/en/press-room/20200703IPR82627/investigate-pushbacks-of-asylum-seekers-at-the-greek-turkish-border-meps-demand

[12] https://www.infomigrants.net/en/post/24620/greece-rights-watchdogs-report-spike-in-violent-pushbacks-on-border-with-turkey

[13] See Comment to the Court ruling by Migrantes Con Derechos, December 2020

[14] Dictamen aprobado por el Comité en relación con el Protocolo Facultativo de la Convención sobre los Derechos del Niño relativo a un procedimiento de comunicaciones respecto de la Comunicación Núm. 4/2016, 12 Feb 2019

[15] The Committee found that the lack of any procedure to identify D.D. as a UASC and the lack of any possibility to present arguments against his imminent return constituted treatment prohibited by Articles 3 and 20 of the CRC. They also found

States are increasingly using laws and policies that attempt to restrict access to territory and asylum procedures, often using the argument that they have passed through "safe third countries". Such policies can create risks for children resulting in them being denied access to territory and asylum procedures. "Safe third country" policies can result in denial of a child's rights to a best interests process to examine the reasons why the child left a country that has been designated "safe", even though there may be circumstances that constitute significant risks for a particular child in a so-called safe country, including risks of trafficking or abuse. Further, these policies may result in children being left in limbo for longer periods of time.

In the **UK**, in December 2020, the Government laid new immigration rules that will prevent people from making an asylum claim in the UK if they have passed through a "safe third country". From 1st January 2021, the new rules will mean that the Home Office may not have to assess a person's asylum claim if they have travelled through, or have a connection to, what is deemed a "safe third country". The new rules also give the Home Office the power to remove people seeking asylum to a "safe country" that agrees to receive them, even if they have never been there or have any connections to it.

In September 2020 the UK Government announced that the Ministry of Defence would support the UK Border Force in the Dover Straits, where migrants have been attempting to enter the UK. The UK government has appointed a Clandestine Channel Threat Commander to work with the French authorities on solutions that are focused on preventing any asylum seekers taking to water, or else returning them to France however possible. In a joint press release, UNHCR and the International Organization for Migration (IOM) spoke out against 'interception at sea', stating that 'the deployment of large naval vessels to deter such crossings and block small, flimsy dinghies may result in harmful and fatal incidents'.[16]

Libya: According to UN data, as of 12 July 2020, the total number of migrants intercepted at sea and returned to Libya in 2020 has reached a total of 5,876 individuals, including 432 women. There are also concerns about pushbacks from Libya of people who have not had access to asylum or procedural safeguards.

In **West and Central Africa**, before the pandemic, issues of forced returns were usually associated with returns from Libya, Algeria or Europe. In the first months of the COVID-19 pandemic in particular, forced returns from Algeria to Niger and, to some extent, Mali, were reported.

COVID-19 has led to new situations for children on the move in the region, and notably children living in the streets or in Koranic schools: during the immediate response, many countries quickly identified and brought together these children in an attempt to take them off the street and offer protection and support. Currently, some countries are engaging in efforts to return these children to their home countries. Countries that are now dealing with returns of children (either as returning and/ or receiving country) are Niger, Nigeria, Guinea, Senegal, Mali, the Gambia and Guinea Bissau. There have been two "major" situations:

  (i)   the return of children who were sent away for Koranic education (called Almajiri children in Nigeria) towards their State of origin (within Nigeria) or country of origin (notably Niger). Over 40,000 children have been returned, of whom over 12,000 to Niger. It should be noted that these are not all cases of forced returns; yet some of them

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that the lack of any risk assessment prior to his return violated his rights under Articles 3 and 37 CRC, and that the way the return operation was conducted violated Article 37 CRC.

[16] https://www.unhcr.org/uk/news/press/2020/8/5f3567a84/unhcr-iom-interception-sea-solution-channel-crossings.html

may have been. **Northern States in Nigeria** have committed to put a stop to returns of children.

(ii)   the return of children withdrawn from the streets in Senegal to their countries of origin (notably Guinea, Guinea Bissau, the Gambia and Mali). This process is still ongoing but there have not yet been reports of forced returns.

Kingdom of Saudi Arabia to Ethiopia: Between 13 March 2020 and 22 June 2020, UNICEF Ethiopia supported 1,602 (out of whom 541 girls) returnee migrant children with child protection services returning from 8 countries. The children returned from 8 countries: Kingdom of Saudi Arabia, Kuwait, Lebanon, Djibouti, Kenya, Somaliland/Puntland, Sudan and Mozambique through six Ports of Entry. There are significant protection issues along the Eastern/Horn of Africa corridor, including in **Saudi Arabia** (destination country), **Yemen** and **Djibouti** (transit countries). **Ethiopia** is the country of origin for the vast majority of migrants on this migration route (over 80%), followed by **Somalia**.

Bay of Bengal and Andaman Sea: Since April 2020 there have been repeated reports of crowded boatloads of Rohingya refugees being stranded in the Bay of Bengal and the Andaman Sea, sometimes for weeks and months, while trying to reach countries around the region, notably Malaysia, or to return to Bangladesh their port of origin.[17] On 8 June 2020, **Malaysian** authorities detained 269 Rohingya boat arrivals originating from Cox's Bazar, including 49 children, and a second boat with an estimated 300 Rohingya allegedly remained at sea near Thailand's Koh Adang island. The government stated that Malaysia would not send these Rohingya back to sea but will seek temporary solutions for them.

In the past few years, at rapid pace, a myriad of **U.S.** regulations, policies and practices have significantly reduced access to safety and family reunification and sought to deter immigration by restricting asylum processing or eligibility. Amidst numerous, overlapping changes, the Migrant Protection Protocols and 'Title 42' are just a few higher profile examples.[18]

In the context of the COVID-19 pandemic, in March 2020, the U.S. effectively halted asylum processing at its borders. Citing public health concerns related to COVID-19, on March 20 the U.S. government invoked a 1944 public health statute (Title 42 of the U.S. Code) and issued an order mandating that foreign nationals without authorization to enter the United States – including those seeking international protection – be pushed back to Mexico (or Canada) or returned to their countries of origin.[19] Migrants and asylum-seekers, including unaccompanied children, have

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[17] Situation COVID-19 (unhcr.org)

[18] Federal Register, 'Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act: A rule by Executive Office for Immigration Review', 19 November 2019, <www.federalregister.gov/documents/2019/11/19/2019-25137/implementing-bilateral-and-multilateral-asylum-cooperative-agreements-under-the-immigration-and>; See also, U.S. Department of Homeland Security, 'Migrant Protection Protocols', 24 January 2019, www.dhs.gov/news/2019/01/24/migrant-protection-protocols (Note: the Migrant Protection Protocols policy is also referred to as "Remain in Mexico"). See also Pierce, S. et al, 'Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency', Migration Policy Institute, Washington, D.C., July 2020, www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency#.XySPYztiQqw.mailto

[19] On 20 March 2020, the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention issued the Order Suspending Introduction of Certain Persons From Countries Where A Communicable Disease Exists, pursuant to 42 U.S.C. § 265, Suspension of entries and imports from designated places to prevent spread of communicable diseases. 1 July 1944, ch. 373, title III, §362, 58 Stat. 704. See U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC), 'Order suspending introduction of certain persons from countries where a communicable disease exists', 20 March 2020, <www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf>; See also Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), 'Interim final rule with request for comments', 24 March 2020, www.federalregister.gov/documents/2020/03/24/2020-06238/control-of-communicable-diseases-foreign-quarantine-

consequently been expelled at the border or deported to countries of origin without due process or adequate health, protection, and trafficking screenings or consideration of their best interests. These shifts put families, and especially unaccompanied children, at even greater risk, since the same criminal elements that target young people in countries of origin exert control along the whole migratory route, and many have no safe place to return.[20] The order was renewed and subsequently made indefinite.

Over 13,000 children have been pushed-back or forcibly returned **from the USA and Mexico to Mexico and the northern countries of Central America** since March 2020, including over 9,000 unaccompanied children, a majority without adequate protection and health safeguards.[21] **Mexico** has also taken on a heightened enforcement approach, curtailing irregular migration before many children can arrive at the U.S. border. Following a joint declaration by the U.S. and Mexico aimed at controlling irregular migration in June 2019,[22] 25,000 of Mexico's National Guard troops were deployed at Mexico's borders with Guatemala and the U.S., and the subsequent months saw dramatic increases in the number of migrants and asylum-seekers apprehended in Mexico and returned to Central America.[23]

As a part of this agreement, the Migrant Protection Protocols (MPP, also known as "Remain in Mexico") were expanded along the U.S.-Mexico border. Since its implementation in January 2019, MPP has forced more than 66,000 asylum-seeking families to stay in overcrowded shelters or informal tent encampments along the northern border of Mexico while waiting for their asylum hearings in U.S. courts.[24] As a result, large numbers of children have been unable to access U.S. territory at all.

According to Guatemalan migration authorities, 8,000 people, mostly Hondurans, had entered **Guatemala** since Friday 15 January 2021 in a so-called "caravan", which was initiated in Honduras and was headed towards Mexico and the US. After crossing the border, they were blocked by Guatemalan Security Forces, and in the Vado Hondo area (Chiquimula department) clashes between migrants and armed forces were reported. The "caravan" remained in this site between 16 - 18 January, when the group was dispersed by Guatemalan security forces, and as of 19 January no major groups were reported remaining in Vado Hondo. The Guatemalan Migration Institute (IGM)

suspension-of-introduction-of-persons-into. See Centers for Disease Control and Prevention, 'Interim Final Rule: Control of Communicable Diseases: Foreign Quarantine; Suspension of Introduction of Persons into United States from Designated Foreign Countries or Places for Public Health Purposes, 19 May 2020, <www.cdc.gov/quarantine/order-suspending-introduction-certain-persons.html>. Customs and Border Protection began implementing related border restrictions on 21 March 2020, as noted in their operational update of 9 April 2020. See U.S. Customs and Border Protection, 'CBP announces March operational update', 9 April 2020, www.cbp.gov/newsroom/national-media-release/cbp-announces-march-operational-update

[20] Kriel, Lomi, 'The Trump Administration is Rushing Deportations of Migrant Children During Coronavirus', *ProPublica*, 28 May 2020, <www.propublica.org/article/house-democrats-demand-trump-administration-stop-rushing-through-deportations-of-migrant-children>. See also Nichols, Michelle, 'U.S. returns migrant children despite risks worsened by coronavirus: UNICEF', *Reuters*, 21 May 2020, <www.reuters.com/article/us-health-coronavirus-usa-mexico-idUSKBN22X1RP>.

[21] This reflects government data from receiving countries and may not include all children returned.

[22] United States Department of State Office of the Spokesperson, 'U.S.-Mexico Joint Declaration', Media note, 7 June 2019, www.state.gov/u-s-mexico-joint-declaration

[23] Ruiz Soto, Ariel G., 'One Year after the U.S.-Mexico Agreement: Reshaping Mexico's Migration Policies', Migration Policy Institute, Washington, D.C., June 2020, www.migrationpolicy.org/research/one-year-us-mexico-agreement

[24] Ruiz Soto, 'One Year after the U.S.-Mexico Agreement'. See also TRAC Immigration, 'Details on MPP (Remain in Mexico) Deportation Proceedings by Hearing Location and Attendance, Representation, Nationality, Month and Year of NTA, Outcome, and Current Status', TRAC Reports, Inc., Syracuse, New York, data updated monthly. https://trac.syr.edu/phptools/immigration/mpp

reports 3,303 people from the caravan (2,981 adults, 322 accompanied children) returned to their countries of origin and an additional 1,223 (887 adults, 336 accompanied children) were to be returned. The IGM reports 4,526 people from El Salvador, Honduras and Nicaragua who have been returned or referred to the authorities. At least 58 unaccompanied children (15 girls, 43 boys) had been identified and transferred to shelters under protection of Guatemalan authorities. UNICEF supported with care, adequate best interests determination procedures and cross-border coordination. As of 18 January, a total of 85 persons in need of international protection were identified by Guatemalan authorities and partners within the context of the caravan. A total of 35 people among those in need of protection expressed their interest to seek asylum in Guatemala and were referred to the relevant procedures.

Dominican Republic: Since the state of emergency was declared on 19 March 2020, according to IOM 94,898 people have been returned voluntarily or pushed back through three official ports of entry: Dajabon/Ouanaminthe, Elias Pina/Belladere y Jimani/Malpasse. Unfortunately there is no disaggregation of these data by age, sex or type of return.

Trinidad and Tobago (TT): It has been reported that over 50 children were deported in 2020 back to Venezuela, often under very precarious conditions. For example, on 22 November 2020 it was reported that after being detained in TT waters on Tuesday, 16 children and 9 women were put in two unregistered boats and escorted out of TT waters.

5. Please indicate any specific challenges that your Government has encountered, in the context of the COVID-19 pandemic, on ensuring the human rights of migrants crossing international borders, either by land or by sea.

6. *Please indicate any challenges and/or obstacles faced by Governmental institutions or civil society organizations and individuals in protecting the human rights of migrants at international borders, including those in distress at sea and in situations where pushbacks or pullbacks are likely to take place.*

Responses to questions 5 and 6 have been merged.

UNICEF has identified some of the specific challenges encountered by children crossing international borders, in the context of the COVID-19 pandemic.

i. **Lack of child-sensitive approaches**
   - Child-sensitive approaches are not prioritized by governments.
   - In labour migration contexts, the relatively small number of children may lead to a perception that children are not impacted, while in reality those children who are impacted require specific attention as they are highly vulnerable.
   - There is a lack of proper best interests assessment and determination (BIA/BID) processes, family tracing and reunification, and vulnerability assessments, potentially exposing children to situations of violence, abuse or exploitation upon their return.
   - There is also little follow -up of returned children due to the high numbers of returns and the limited availability and capacity of child protection and social services in countries of return, coupled with lack of access (increased insecurity, COVID-19 related movement restrictions, etc.).

ii. **Exposure to COVID-19 before, during and after return**
   - Crowded living conditions at borders (encampments, informal settlements) and detention before pushbacks and returns is common, which exposes children to COVID-

19, together with Insufficient capacities for quarantine, lack of personal protective equipment (PPE) and lack of access to healthcare and other services. .
- Most children are sent back without testing, social distancing or other safeguards to countries of transit or origin where there is little capacity to prevent or treat COVID-19.

iii. Violence, neglect, abuse, detention and family separation, including in 'quarantine' centres and in situations where children are stranded at borders / in transit while being returned
- Pushbacks may result in children losing access to accommodation and support. Losses of money, valuable items and mobile phones during pushbacks can create challenges for children to get in contact with family. Some pushbacks are threatening children's lives and those of their family members.
- Immigration detention of children and families creates severe physical and mental health risks for children.

iv. Stigmatization and discrimination upon return
- This relates to concerns that returned migrants could spread the virus in the communities to which they return and also to the economic impact of these returns given lack of employment opportunities for returned families.

v. No sustainable reintegration and lack of opportunities
- Lack of reintegration support is a major concern, given the additional obstacles that children face to reintegrate and the fact that many children and families face economic hardship and even destitution upon return.
- In the short term, opportunities for migration, a necessary coping mechanism for socio-economic wellbeing, will be hindered, pushing populations further into poverty.
- It is also likely that more people (possibly including more women, adolescents and children), may be pushed to undertake unsafe migration again after being pushed back.
- Concern about potential increases in child labour and child marriage.