



## Submission to the Special Rapporteur on the human rights of migrants on externalization of migration governance

December 15, 2025

Human Rights First provides this submission in response to the [call for inputs](#) on trends in externalization of migration governance. Since early 2025, the United States has implemented an opaque web of bilateral agreements and informal deals that send asylum seekers and other immigrants—with little to no warning or chance to raise fears of persecution and torture—to countries with which they have no ties and where many are subject to arbitrary detention, torture, or return to danger in the very countries they once fled. In a new tracker, [Banished by Bargain: Third Country Deportation Watch](#), Human Rights First and Refugees International have documented these arrangements, which, as of the date of this submission, included: Belize, Costa Rica, Ecuador, El Salvador, Equatorial Guinea, Eswatini, Ghana, Guatemala, Honduras, Kosovo, Liberia, Libya, Mexico, Panama, Paraguay, Poland, Rwanda, South Sudan, Uganda and Uzbekistan.

These arrangements fall into several [categories](#), including 1) arrangements to **incarcerate forcibly transferred people in prisons**; 2) arrangements for **temporary transfer before onward return to home country**; 3) “**asylum cooperative agreements**” (ACA) or attempts at “safe third country agreements” (STCA); and 4) other types of arrangements that may include **detention, onward transfer, and/or remaining in the third country**.

### I. Recent trends and human rights violations

The United States’ current externalization policies routinely expose people to serious human rights violations, including refoulement and chain refoulement, arbitrary detention, enforced disappearances, and family separation.

States violate their non-refoulement obligations if they send people to third countries that then return them to the place where they face persecution or torture. The Banished by Bargain tracker documents numerous cases of forced transfers where the receiving state sent asylum seekers onward to feared persecution or subjected them to conditions of confinement that pressured them to return to the country they fled. In some cases, individuals who were [granted protection](#) by U.S. judges under the Convention Against Torture (CAT) or withholding of removal to persecution were sent to third countries and, in many instances, returned to their home countries where they face danger. U.S. officials have at times stated during the transfer process that the person would be sent onward,



directly contradicting binding court orders prohibiting their return. For example, a woman from Sierra Leone who had lived in Maryland for 30 years and whom a U.S. judge granted CAT protection because she would likely face torture in Sierra Leone was deported to Ghana and then [sent back to Sierra Leone](#). U.S. officials say Ghana provided “diplomatic assurances” against refoulement, but none have been made public (though such assurances are neither legally sufficient nor effective). Many asylum seekers have also been forcibly transferred to third countries without a meaningful chance to present their claims in the United States, only to be onward-refouled to their home countries. These practices represent grave violations of international law.

Another trend is the widespread use of arbitrary detention in receiving countries—a practice Human Rights First and Refugees International documented in at least seven countries. The Trump administration has made [public statements](#) threatening to send immigrants living in the United States to foreign prisons, and multiple countries have incarcerated third country nationals after their removal from the United States. For instance, the United States [deported hundreds of Venezuelans to El Salvador](#), where they were subjected to months of abuse and torture in the CECOT prison under an agreement that allows their unlawful detention for up to a year; the U.S. Secretary of Homeland Security even publicly stated they would remain there [“for the rest of their lives.”](#) In another example, fifteen men sent to Eswatini were immediately [incarcerated in a maximum-security prison](#) without charges, due process, or meaningful access to counsel. All but one remain detained. In another case, six men transferred to South Sudan have been [confined](#) in a guarded compound since July, cut off from lawyers and family for extended periods.

Additionally, externalization policies generate enforced disappearances, as States refuse to acknowledge the whereabouts of some people who were forcibly transferred and deny them access to family members, counsel, and communication. The Venezuelans who were sent to the CECOT for months were [disappeared](#) in violation of international law: they suddenly vanished from a U.S. detention locator system, were imprisoned incommunicado in the CECOT, and in many instances their loved ones and attorneys only learned they were in El Salvador when they saw photos of them or their names among those obtained by reporters; neither country’s government publicly confirmed the identities of those who were sent there. In another example, Ghanaian authorities [refused](#) to reveal the whereabouts of some people forcibly transferred there by the United States, also amounting to enforced disappearances.



Finally, U.S. externalization policies routinely separate families, leaving many people stranded far from [children](#), [spouses](#), or other family members who remain in the United States.

## **II. Laws and the responsibility vacuum**

The United States has wrongly invoked and misused a variety of provisions in U.S. law to justify its forced transfers of immigrants to third countries, including asylum seekers who have not been screened for refugee protection, people with pending immigration court cases, and people with final orders of removal including those with withholding of removal (to persecution) or protection under CAT. In some cases, these transfers were carried out or attempted in [direct violation](#) of U.S. federal court orders.

[U.S. law](#) delineates circumstances in which an immigrant with a final order of removal may be deported to a third country, but the Trump administration often conducts such removals without having ever raised the third country as a potential removal destination and without notice or an opportunity to claim fear (of return to torture or persecution) with respect to that country. This practice [violates](#) the Immigration and Nationality Act, the Foreign Affairs Reform and Restructuring Act, Constitutional due process protections, and international treaty obligations codified in U.S. law including the prohibition on refoulement.

[U.S. law](#) also includes a provision on “safe third country” agreements that only permits the United States to send asylum seekers to third countries for consideration of their asylum claims if they would be safe from persecution and have access to full and fair asylum procedures in the third country. The Trump administration has repeatedly entered into such agreements [without meeting these requirements](#), [including with countries](#) where asylum seekers would face persecution (and in some cases where the same persecutors they fled operate) and/or that have ineffective or nascent asylum systems.

Additionally, the United States has unlawfully invoked other provisions of U.S. law, such as a [centuries-old wartime law \(the Alien Enemies Act\)](#) to expel Venezuelans to the CECOT and [section 212\(f\) of the Immigration and Nationality Act](#) to [illegally](#) expel asylum seekers to third countries. In invoking these provisions, the administration has [wrongly used](#) the dehumanizing language of “invasion” to describe people seeking safety.

These unlawful externalization practices misuse U.S. legislative provisions and often create a legal void regarding the protection of migrants, where both the sending state and



receiving state fail to uphold—or even deny responsibility for—human rights and refugee law obligations. These gaps pave the way for human rights abuses such as arbitrary detention and chain refoulement. With respect to Venezuelans who were imprisoned in the CECOT, both the U.S. and Salvadoran governments denied responsibility for the incarcerated men, with the United States repeatedly claiming it had no control over them, while El Salvador [told](#) the United Nations that the United States had exclusive “jurisdiction and legal responsibility for these persons.” In El Salvador, as well as other countries where migrants were incarcerated or detained, they were held without any apparent lawful basis or charge, as our [tracker details](#). In many cases, the detention involves egregious due process violations including denial of access to counsel. The Trump administration’s attempts to [dismantle and undermine](#) domestic oversight mechanisms created to protect immigrants’ rights and curb governmental abuses further endangers people subjected to these forced transfers with little to no transparency, exacerbating the legal voids created by U.S. externalization measures.

### **III. Motivations and impact on third States**

The U.S. government has used various measures—some directly tied to arrangements and others not—that appear to have pressured or encouraged the third States to agree to accept third country nationals. At the time many agreements were signed, the Trump administration had [imposed or threatened tariffs](#), [trade restrictions](#), and [visa restrictions](#) on a [number of those countries](#). In addition, the U.S. government pledged funding related to the agreements with at least six countries, [including](#): \$4.76 million to El Salvador for detaining Venezuelans for up to 12 months; \$7.5 million in to Equatorial Guinea for third country removals; \$5.1 million to Eswatini for border and migration management; \$7.5 million to Rwanda in exchange for approving third country transfers; \$7.85 million to Costa Rica to facilitate transfers and onward deportation flights; and continued funding for Panama’s deportation flights.

These forced third-country agreements send a clear message to other governments: the United States will tolerate—and even implicitly condone—human rights abuses, corrupt practices, and undermining of the rule of law in third countries. For example, the government of El Salvador has [carried out grave human rights violations](#) under its ‘state of exception’, including arbitrary detention and torture, and hundreds of people have died while in state custody. In another case, the Equatorial Guinea government is widely recognized for its brazen corruption. The State Department’s 2023 [Human Rights Report](#)



notes that “the president and members of his inner circle continued to amass personal fortunes from the revenues associated with monopolies on all domestic commercial ventures” and that corruption permeated all levels of government.

#### **IV. Persons in vulnerable situations**

Under these externalization measures, the United States has endangered vulnerable populations such as [families, children, pregnant people, people with medical vulnerabilities](#) and those [fleeing persecution based on sexual orientation, gender, religion, and other protected characteristics](#). The [January 2025 Presidential Proclamation](#)—used to expel many of the vulnerable populations described above to Costa Rica and Panama—makes individuals arriving at the U.S.-Mexico border ineligible for asylum regardless of their refugee claims, unlawfully eliminating access to asylum in the United States for LGBTQ+ individuals, people fleeing gender-based violence, and other refugees and exposing them to unlawful transfer through externalization agreements.

Other forced transfer arrangements similarly subject LGBTQ+ and other vulnerable populations to arbitrary detention, chain refoulement, and other harms. For instance:

- In September 2025, the United States forcibly transferred to Ghana a [Gambian man](#) granted CAT protection from return to Gambia due to his sexuality. Ghana, in turn, chain refouled him to Gambia.
- [Andry Hernández Romero](#), a gay man from Venezuela, expelled to the CECOT while he had a pending asylum claim in the United States, reported being sexually abused by prison staff in CECOT, describing the experience as: “[w]e were stuck in hell, and we were told we would never leave that place.” He was eventually refouled to Venezuela, where he fears persecution based on his sexual orientation, without ever having his U.S. asylum claim considered.

#### **Recommendations:**

- States—including the United States—must uphold their international legal obligations and end externalization policies that violate human rights, refugee and humanitarian law. Third countries should not enter into agreements that violate or undermine international law, whether prompted by threats, financial incentives, promises of aid, or other forms of pressure, and should withdraw from any such agreements.



- States must adhere to laws and treaties prohibiting refoulement, and cannot evade them through so-called “diplomatic assurances,” which are legally deficient and ineffective.
- All asylum seekers and immigrants in the United States and third countries must have meaningful access to due process, legal counsel, the courts, and communication with loved ones, as well as the ability to seek protection against refoulement.
- Bilateral agreements between States must be transparent, publicly available, and include mechanisms to monitor human rights, ensure accountability, and remedy transfers that violate domestic or international law. States must facilitate returns of transferred individuals whenever the law has been violated or as required by a court or other legal authority.
- UN agencies and NGOs, while duty bound to assist people in need, must be very careful to not agree to actions—or receive funding for actions—that contribute to or perpetuate violations of international law.