Center for Gender & Refugee Studies

Submission to the Special Rapporteur on the Human Rights of Migrants

CGRS Input on Externalization of Migration and the Impact on the Human Rights of Migrants

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The Center for Gender & Refugee Studies (CGRS) is grateful for the opportunity to contribute this input to inform your report on the externalization of migration and the impact on the human rights of migrants.[1]

This submission draws upon the following resources prepared by CGRS, either individually or in collaboration with partner organizations, which provide analyses and information relevant to the call for input. Copies of these resources are included in the Annex.

- CGRS, *Statement for the Record by CGRS on "Remain in Mexico" for the Senate Committee on Homeland Security* (January 15, 2025), [hereinafter, *MPP Statement*];
- CGRS, *Trump's Return: Executive Actions Threatening the Rights and Protection of Refugees and Migrants* (January 24, 2025), [hereinafter, *Factsheet*];
- CGRS; Haiti Justice Partnership; Al Otro Lado; Human Rights First; UndocuBlack Network, *The Impact of U.S. Immigration and Border Externalization Policies on Haitian and Other Black Refugees, Asylum-Seekers, and Migrants*" (April 7, 2025), [hereinafter, *Report*];
- CGRS, *CGRS Comment in Response to CBP Request for Input on San Diego County Border Barrier Construction, CBP Publication Number 4071-0425* (May 2, 2025), [hereinafter, *Border Wall Comment*].

This submission highlights U.S. externalization policies and practices that limit access to protection and outsource migration enforcement, as well as their impact on the human rights of vulnerable migrants. Part I outlines key U.S. policies and practices that contribute to this externalization framework and restrict access to protection. Part II details the

[1] The Office of the High Commissioner for Human Rights, *Call for inputs: Externalization of Migration and the Impact on the Human Rights of Migrants* (Accessed on May 23, 2025). Questions #1: Examples of externalization measures and #2: Human rights implications.

resulting human rights effects of externalization policies. Finally, Part III offers recommendations to address these harms and uphold the rights of refugees and migrants.

I. EXTERNALIZATION POLICIES

The U.S. government has historically engaged in enforcement cooperation with regional partners in ways that amount to externalization. Over the past decade, however, these practices have dramatically increased, with a proliferation of policies designed to prevent individuals from accessing the U.S. asylum system. These policies rely on the collaboration of several countries in the region, primarily Mexico but also others, and include practices that block access to the border, expel migrants, force them to wait in dangerous conditions, or fully outsource or disregard protection responsibilities. These policies violate the United States' protection obligations under both international and domestic law.

A. Policies Implemented 2016-2024

As our Report details, since 2016, the U.S. government has enacted a series of policies that that block access to asylum, expel asylum-seekers to Mexico or other countries, or deny protection. Many of these policies have been declared unlawful in federal courts, yet similar practices continue to proliferate. These include:

- **Metering,** a policy originally implemented by the Obama administration that restricted the number of asylum-seekers allowed to access ports of entry, leading to unlawful pushbacks into Mexico and denying access to protection.

- The **Migrant Protection Protocols (MPP)** (also known as the Remain in Mexico program) forced asylum seekers to remain in Mexico while their claims proceeded in U.S. immigration courts. Nearly 70,000 individuals, including families and children, were exposed to violence, extortion, kidnapping, and inadequate living conditions. Due process was fundamentally undermined: limited access to legal counsel, unsafe travel to hearings, and systemic barriers led to wrongful case closures and denials of protection. MPP effectively denied migrants a fair opportunity to pursue asylum under international and U.S. law.

- The **Title 42 expulsions** policy invoked a public health statute as a pretext and tool to expel asylum seekers to Mexico or their countries of origin without due process. Save for a few exceptions, this policy effectively shut down access to asylum at the border and resulted in over 2.8 million expulsions.

- **Circumvention of Lawful Pathways (CLP),** a Biden era regulation which barred access to asylum based on manner of entry and transit route. It further conditioned access on securing a limited, lottery-based appointment through the flawed CBP One mobile application. This effectively denied asylum access to individuals who did not

speak the app's limited languages, including many African and Indigenous asylum seekers, and to those blocked by technological barriers or the scarcity of available appointments.

- **Securing the Border**, a 2024 executive order imposing an asylum ban on those crossing between ports when encounters exceed a set threshold, further restricting protection during suspension periods.

B. 2025 Border Closure Measures and Expanded Externalization Practices

As detailed in our Factsheet, the start of the second Trump administration in January 2025 ushered in a series of draconian and inhumane measures targeting asylum seekers, refugees, and migrants. These actions are driven by increasingly racist and xenophobic rhetoric, portraying the arrival of asylum seekers at the southern U.S. border as an "invasion." This narrative is used to justify heightened border militarization, denial of access to protection, and expanded deportations.

This section examines the impact of three executive actions: "Guaranteeing the States Protection from Invasion", "Securing Our Borders," and "Declaring a National Emergency at the Southern Border of the United States." These actions block access to asylum, increase risks for migrants and refugees, and intensify enforcement externalization through cooperation with third countries.

1. Expulsions and policies limiting access to protection

The presidential proclamation *Guaranteeing the States Protection from Invasion* suspends the entry of individuals deemed part of an undefined "invasion", seemingly carried out by those crossing between ports of entry and presenting at the border to seek protection. It authorizes border officials to repel, repatriate, or remove these individuals without access to legal protections, including the opportunity to seek asylum.

The proclamation replicates Title 42's effect, enabling mass expulsions without asylum access under a new legal pretext. Broader and with fewer exceptions, it has effectively closed the U.S. southern border to asylum seekers.

The *Securing Our Borders* executive order escalates deterrence and detention, revives Trump-era policies like MPP, and ends key parole programs for Cubans, Haitians, Nicaraguans, and Venezuelans. It canceled over 30,000 CBP One asylum appointments, stranding applicants in limbo outside the U.S. By dismantling legal pathways and restricting asylum access, the order exposes hundreds of thousands to heightened risk of refoulement.

2. Border barriers as a tool of externalization and deterrence

The executive order *Declaring a National Emergency at the Southern Border of the United States* further reinforces externalization by militarizing the border and authorizing the construction of new physical barriers designed to block asylum seekers from reaching U.S. territory.

As detailed in our Border Wall Comment, plans to extend the barrier by 2.5 miles in the western U.S.-Mexico border will force asylum seekers into more remote and dangerous crossings. Vulnerable groups, especially women and children, face increased risks of harm or death from exposure and extreme desert heat. These areas lack humanitarian aid. Migrants apprehended there are often held in open-air sites without adequate food, water, shelter, or medical care, violating basic human rights.

3. Collaboration with other States in the Region Contributing to Externalization

The *Securing Our Borders* directs increased cooperation with regional governments to prevent migrants from reaching the U.S. border and to pursue potential "safe third country" agreements. What has followed is deeply concerning.

The Trump administration pursued third-country transfer arrangements disregarding refugees' protection needs. This included transferring African and Asian nationals to Costa Rica and Panama, and deporting two third-country nationals to South Sudan, apparently violating a federal court order. These practices raise serious concerns regarding non-refoulement and compliance with legal obligations.

Among the most troubling developments is a secret U.S.–El Salvador agreement under which individuals are transferred from the United States to CECOT, a maximum-security prison. To date, about 288 Venezuelan and Salvadoran nationals, many with legal status or pending protection claims, have been transferred, the vast majority without criminal records. Families and attorneys received no prior notice, and some individuals believed they were being deported to Venezuela, highlighting the veil of secrecy that surrounded the transfers. In May 2025, CGRS and partners requested precautionary measures from the Inter-American Commission on Human Rights.

Beyond these agreements, the U.S. government has long leveraged its influence to induce other countries to undertake immigration enforcement actions aligned with U.S. border objectives. There has been clear continuity in this practice across administrations. As detailed in the Report, U.S. pressure led Mexico, beginning in January 2024, to expand migrant interceptions, detentions, and restrictions on northbound travel. In February 2025, President Trump reinforced this approach by threatening tariffs to further compel Mexican enforcement.

II. THE EFFECTS OF EXTERNALIZATION POLICIES ON HUMAN RIGHTS

This section presents two examples of how U.S. externalization policies have resulted in serious human rights violations.

A. Conditions for Haitian and Black Migrants Stranded in Mexico

Long-standing U.S. policies that externalize migration control into Mexico disproportionately impact Haitian and other Black migrants. Racial, cultural, and language barriers limit access to legal status, work, housing, healthcare, and protection, leaving them vulnerable to violence and abuse by criminal groups and corrupt authorities.

As documented in our Report, many arrive destitute after being robbed *en route*. Haitians face pervasive discrimination and severe economic hardship, often relying on insecure, informal work as work permits take months or longer to obtain. In 2024, Haitians were extorted more than any other group, with some paying up to $16,000. Over 90 percent lack basic necessities, and nearly half require food assistance. Barriers to medical care are acute; our Report documents hospitals routinely denying care to those without legal status or means to pay, resulting in preventable deaths.

Finally, our Report documents that Haitian migrants also face severe barriers to seeking asylum. There is insufficient information in *Haitian Kreyòl* about the process. Mexican law requires applicants to remain where they file, often in Chiapas; those forced to leave due to violence, discrimination, or to seek work risk having their claims deemed abandoned. These challenges are compounded by an under-resourced asylum system lacking capacity to meet protection needs, leaving Haitian and other non-Spanish-speaking Black migrants particularly vulnerable.

B. Enforced Disappearance of Individuals Transferred to El Salvador

Individuals transferred by the United States to CECOT face serious human rights violations, including arbitrary and incommunicado detention amounting to enforced disappearance. They are held in a maximum-security prison designed for alleged gang members, without access to legal counsel or family contact.

The Salvadoran government has provided no information on charges or the legal basis for their detention under domestic law. Their detention is not publicly acknowledged through proper legal channels. Detainees face ongoing risk of torture and cruel, inhuman, or degrading treatment due to extreme confinement conditions, inadequate medical care, and lack of effective mechanisms to challenge their detention or seek release. Families and attorneys remain unable to obtain information about their location, status, or well-being.

III. RECOMMENDATIONS

The findings in this submission illustrate how border externalization policies, exemplified by U.S. practices, can lead to serious human rights violations and obstruct access to international protection. Asylum seekers face increased risks of violence, arbitrary detention, discrimination, and refoulement. This submission respectfully urges the Special Rapporteur to consider the following recommendations to help States prevent such harms and uphold their international legal obligations.

1. States should ensure that individuals seeking international protection are able to access asylum procedures in a manner consistent with their obligations under international refugee and human rights law, and should not implement border measures that effectively deny access to protection.
2. States should refrain from externalization measures that deny access to protection or lead to human rights violations, and should not pressure other countries to adopt such policies.
3. States should guarantee that no person is expelled or transferred without individualized assessment and effective legal remedies, in full respect of non-refoulement obligations.
4. States should cooperate regionally to ensure migrants' access to legal status, housing, healthcare, and protection from violence and discrimination.