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Submission to the Special Rapporteur on the human rights of migrants on externalization of migration measures and impact on human rights

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Human Rights First provides this submission to the Special Rapporteur on the human rights of migrants in advance of the planned report on the externalization of migration. This submission outlines recent Trump administration policies that attempt to evade law and treaties prohibiting returns to persecution and torture and/or send migrants, refugees and asylum seekers to third countries, without due process and in violation of U.S. and international law.

These third country arrangements have been implemented under secret agreements, and without transparency or advance notice. The destinations have often been highly dangerous and plagued by human rights abuses. The current U.S. administration has rejected responsibility for the safety, protection and due process of the people it has unlawfully disappeared or sent to third countries. States, however, cannot simply shirk their legal responsibilities.

People subjected to these policies have suffered disgraceful human rights violations, including refoulement, enforced disappearances, arbitrary and incommunicado detention, denial of the right to contact family, family separations and unlawful transfer to prisons infamous for human rights abuses. For example:

- Andry José Hernández Romero, a Venezuelan makeup artist seeking asylum from persecution due to his sexual orientation and political beliefs, was awaiting his U.S. asylum hearing but was flown by the Trump administration to the notorious Terrorism Confinement Center (CECOT) prison in El Salvador, as Immigrant Defenders Law Center explained.
- An Iranian Christian woman seeking asylum from religious persecution was denied access to asylum and sent to Panama where she was detained, as the New York Times detailed.
- A Russian asylum seeker fleeing persecution based on his sexual orientation and political opinion was denied a fear screening and instead unlawfully sent to Panama, as recounted to Human Rights First and Refugees International.

The U.S. government must end these policies that violate U.S. and international law, as human rights and other U.S. civil society groups have urged in their advocacy and litigations. Other states and the international community also have a critical role to play in upholding the rule of law.

When states agree to receive unlawful third country removals, states are agreeing to actions that flout, subvert and threaten international law and the rule of law globally. Indeed, a key feature of these U.S. arrangements is their demonstration that states will agree to violate international law when threatened or offered a tempting "deal." Whether threats, financial payments, promises to ignore human rights abuses or other inducements are offered, states must not agree to arrangements that violate and subvert international law. Humanitarian and UN agencies must also

adhere to their legal obligations to uphold international law and not succumb to financial or other pressure to help implement unlawful arrangements.

Overview

The Trump administration has implemented executive orders and policies including: a presidential "proclamation" suspending asylum; use of the Alien Enemies Act of 1798, sending people to the Guantánamo Naval Base; and unlawful removals to countries to which deportation had not been legally authorized. Through these and other actions, the Trump administration has implemented a pattern of unlawful deportations and enforced disappearances to detain, remove, and expel migrants and asylum seekers without due process and other legal protections.

Under unlawful third country arrangements, the administration has carried out transfers of people to countries that they have no connection to, where they do not have legal status and face arbitrary detention, refoulement to persecution or torture, and other harms. These transfers violate U.S. law and international human rights obligations including the right to life, right to personal integrity, right to family unity, and rights to not be subjected to enforced disappearances, refoulement, arbitrary detention, and torture and cruel, inhumane, or degrading treatment or punishment.

Proclamation suspending asylum

On January 20, President Trump issued a **Proclamation** that unlawfully suspends asylum processing at the U.S. southern border and denies asylum and other legal protections to people who enter at the border. The proclamation spuriously claims there is an "invasion" that justifies this suspension. The Department of Homeland Security (DHS) has used this Proclamation to automatically deny access to asylum and expel or remove families and adults fleeing Afghanistan, Ghana, Iran, Russia, Turkey, Uzbekistan and other countries.

Under this policy, people seeking asylum are subjected to potential persecution via refoulement or chain refoulement, as Human Rights First and Refugees International documented in a joint report. Families were separated indefinitely, including parents separated from minor children in the United States with no path to reunite. While the administration is, in some instances, providing very limited screenings to asylum seekers on their fear of torture, the government routinely ignores and removes without any screening asylum seekers who directly communicate with immigration officers regarding their fear of return. Even when torture screenings occur, they are a farce by design.

Transfers to Panama and Costa Rica

In February 2025, the Trump administration disappeared nearly 500 migrants, including pregnant women and families with young children, to Costa Rica and Panama under agreements with those countries that have not been made public. This included asylum seekers fleeing Afghanistan, China, Ghana, Iran, Russia, Turkey, and Uzbekistan.

As Human Rights First detailed in its factsheet and joint report with Refugees International, many were transferred to Costa Rica and Panama without a screening on their asylum claim, in violation of law. When they arrived in Costa Rica and Panama, authorities immediately detained them and held their passports, limited their contact with journalists, lawyers, and non-governmental organizations, and transported them to remote facilities lacking sufficient accommodation, food, potable water, medical care, Wi-Fi, and interpreters. Costa Rica and Panama had reportedly agreed to be "bridge" countries for third country nationals who would return from there to their home countries with the help of the International Organization of Migration (IOM). Panamanian and Costa Rican officials stated that the U.S. government was paying for the stay and repatriation of the third country nationals.

Transfers to Guantánamo Bay U.S. Naval Base

In February 2025, for the first time in history, the United States began transferring migrants from U.S. immigration detention to the military prison and migrant detention center at Guantánamo Bay, as explained in Human Rights First's fact sheet. The administration transferred hundreds of people to Guantánamo, mostly Venezuelan and Nicaraguan migrants, and subsequently removed many to Venezuela as well as at least one person to the CECOT in El Salvador.

As explained in our joint submission to the Working Group on Enforced and Involuntary Disappearances, "no notice is given to a person's attorney or loved ones before their transfer there while severe barriers in accessing counsel and horrific conditions of confinement persist." The astronomical financial costs were reported to be over 21 million dollars to transfer people there between January 20 and April 8, and about 100,000 per person per day to detain people there.

The Alien Enemies Act of 1798

On March 15, 2025 President Trump invoked the notorious Alien Enemies Act to pull people seeking asylum and civil immigration detainees out of lawful U.S. immigration processes and deliver them to a prison system in El Salvador where the U.S. government has described conditions as life-threatening. The administration disappeared about 252 Venezuelan and 36 Salvadoran migrants, including many disappeared under the Alien Enemies Act, to El Salvador where they are detained incommunicado, allegedly at the high security CECOT prison, known for its human rights abuses, use of torture, and inhumane conditions.

Those renditioned to the CECOT had been detained in Immigration and Customs Enforcement (ICE) custody when they vanished from its detainee locator system, as Human Rights First has detailed. They had no opportunity to notify relatives, speak with counsel, or contest the rendition. The U.S. government continues to conceal the fate or whereabouts of these individuals.

The United States is paying the Salvadoran government to jail migrants at the CECOT. The Trump administration has made clear it is using these disappearances to scare migrants into abandoning

their immigration cases and relinquishing their rights, stating: "If you do not leave, we will hunt you down, arrest you, and you could end up in this El Salvadorian prison."

On June 4, a federal just ruled that removals under the Alien Enemies Act on March 15 were unlawful and ordered the Trump administration to provide access to habeas corpus relief.

Countries never raised as removal destinations

The Trump administration is sending people, without notice or opportunity to raise a fear claim, to countries that were not designated as countries of removal during their immigration proceedings. This has included unlawful transfers of people granted withholding of removal – a protection against deportation to their home country due to likelihood of persecution or torture. These transfers to third countries put people who have already been determined to require protection, at risk of refoulement or chain refoulement. Some of the people disappeared to the CECOT were people who had final orders of removal. It is unlawful to remove people with final orders of removal to a third country without notice or an opportunity to express a fear of persecution or torture and apply for protection from removal to that third country.

Human Rights First and co-counsel are challenging the policy of deporting noncitizens to countries that were not designated as countries of removal during their immigration proceedings, as outlined in this background on the litigation. A federal district court granted in part the plaintiffs' motion for class certification and a preliminary injunction. In this case, the U.S. government has argued that a destination government's "credible assurance" that people sent there will not be tortured suffices to relieve the United States of its legal obligations.

In early May, following news of a potential deportation flight to North Africa, plaintiffs' attorneys made an emergency request to block migrants from being deported to Libya without ensuring their due process rights were met. The judge ruled that the deportation flight would violate the court order and the flight was canceled. Later in May, the court ruled that DHS broke the law when it attempted to deport six people to South Sudan—without warning and without giving them a real chance to ask for protection. The court ruled that DHS could either return them to the United States to receive a fear screening or provide that screening under equivalent conditions.

The court also ordered the government to facilitate the return of one of the plaintiffs in this litigation, a gay man from Guatemala who had been granted protection from return to Guatemala by order of a U.S. immigration judge but was then sent by U.S. officers to Mexico. Mexico returned the man to Guatemala, where he lived in hiding and constant fear. The judge concluded that the removal lacked any semblance of due process.

The Trump administration has also reportedly sought agreements to send migrants to other countries mired in conflict or plagued by human rights abuses. This includes Uzbekistan, which the United States seems to have paid to accept the returns of Kazak and Kyrgyz nationals "expected to

continue on to their home countries." The U.S. government was also reportedly negotiating further removals of non-Rwandan people to Rwanda, where it recently sent a resettled refugee from Iraq.

Recommendations:

- States – including the United States - must uphold international law and their legal obligations, and end "externalization" or other policies and practices that violate international human rights and humanitarian law, including policies and practices that violate prohibitions on refoulement, arbitrary detention, torture and the unlawful penalization of people seeking refugee protection.
- Arrangements with other nations regarding the return, deportation, transfer or relocation of non-citizens must comply with domestic and international law, including prohibitions on refoulement, arbitrary detention, and torture. All people subject to such policies must have meaningful access to due process, legal counsel, the courts and communication with family members and loved ones.
- Arrangements or agreements must be publicly available, transparent and include mechanisms for monitoring human rights abuses, accountability, and procedures for reversing any deportations that fail to comply with domestic or international law.
- States must arrange and facilitate returns in cases where the law is violated, and/or as directed or requested by any court or legal authority.
- So-called "assurances," diplomatic or otherwise, that an individual person, group or categories of persons will not be subjected to torture, or other mistreatment that violates human rights law, are inherently ineffective, deficient and cannot relieve a sending state of their legal responsibilities.
- Destination states must not enter into agreements that violate and/or subvert international law, including in response to threats, financial inducements, promises of aid, and/or other inducements.
- 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 further or implement violations of international law.

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