IRAP

International Refugee
Assistance Project

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United Nations
Human Rights Council
Special Rapporteur on the human rights of migrants

Re: Contribution to the report on externalisation

The International Refugee Assistance Project (IRAP) produced this document based on its experience representing, researching, and advocating for refugees and victims of human rights abuses in need of asylum, refugee resettlement, or other humanitarian protections in the United States.

This submission focuses on the United States' increasing and concerning reliance on expulsions and removals of migrants in need of protection to third countries without adequate legal or humanitarian protections.[1]

For the past decades, the United States has hardened its physical borders and has funded and facilitated increased immigration enforcement in Latin American countries with the goal of stopping migrants and asylum seekers from reaching U.S. soil in the first instance. The U.S. has pressured Mexico and other countries in the Americas to militarize their borders and implement restrictive visa policies – all efforts which have limited safe migration through the region.

For individuals who reach the U.S.-Mexico border in recent years, they have faced a growing range of practical and legal barriers to accessing humanitarian protection. This has included turnbacks by Mexican and U.S. officials at U.S. ports of entry,[2] restrictions on asylum eligibility based on manner of entry,[3] and unlawful policies like the Migrant Protection Protocols (MPP or "Remain in Mexico"), in which asylum-seekers who reached U.S. soil were sent back to dangerous conditions in Mexico to await resolution of their fear claims.[4] Most recently, U.S. President Trump has declared that asylum seekers constitute an "invasion" and

[1] This submission uses the phrase "third country" to refer to a country that is not an individual's country of origin, nationality, or last habitual residence. Under U.S. law, there are statutory provisions that provide for situations in which such "third country" expulsions or removals are permissible–none of which have been observed in the practices detailed in this submission. *See* 8 U.S.C. § 1158(a)(2)(1) (safe third country agreements); 8 U.S.C. §§ 1231(b)(1)-(3) (process for designating third countries for removal).

[2] American Immigration Council, *Metering and Asylum Turnbacks* (March 2021); *see also* American Immigration Council, *Court Allows Legal Challenge to CBP One Turnback Policy to Proceed* (Oct. 1, 2024).

[3] *See* American Immigration Council, *Analysis of the President's 212(f) Proclamation and Interim Final Rule Restricting Asylum* (June 5, 2024) (overview of Biden administration's most recent restrictions on asylum eligibility).

[4] Human Rights First, *Fatally Flawed: "Remain in Mexico" Policy Should Never Be Revived* (Sept. 13, 2022).

has issued a sweeping proclamation that authorizes the rapid expulsion of asylum-seekers and eliminates access to asylum in virtually all circumstances.[5]

It is against this backdrop of hardened and extended borders and restrictions on access to asylum that U.S. authorities have increased their use of an additional tool of externalization in recent years: expulsions and removals of migrants in need of protection to third countries. These third-country expulsion and removal practices constitute serious violations of the human rights of migrants, as individuals seeking humanitarian protections a) often are not able to assert asylum or other claims of fear before being forcibly removed from the United States; b) often face dangerous conditions and/or detention in these third countries; and c) face a high risk of chain refoulement to the countries from which they fled. U.S. authorities have carried out these third country expulsions and removals, as detailed below, in contravention of domestic and international law, and without transparency or legislative oversight. Though advocates have challenged many of these practices in U.S., foreign, and international courts, courts have been unable to provide legal remedies that fully protect migrants' rights.

I. Safe Third Country Agreements

In 2019, the Trump administration signed Asylum Cooperative Agreements, or "Safe Third Country" Agreements, with El Salvador, Guatemala, and Honduras.[6] The populations targeted by these agreements were U.S.-bound asylum seekers, as the agreements determined that anyone seeking asylum within the United States could be transferred to any of the three cooperating countries, ostensibly to pursue asylum there.[7] During that time, almost 1,000 Hondurans and Salvadorans were sent to Guatemala before the agreements were officially terminated under the Biden administration in 2021.[8] These Asylum Cooperative Agreements violated migrants' human rights by sending them to countries that did not or could not provide access to a full and fair process for seeking asylum and where migrants faced persecution and the risk of chain refoulement.[9]

Six years ago, the Asylum Cooperative Agreements – while violative of migrants' human rights – were publicly announced, and immigration authorities published rules relating to their implementation, allowing for a certain level of notice and public awareness of the practice.[10] In contrast, the practices enacted in recent months and described in the following sections, have all been carried out in secrecy, with no transparency as to the agreements the U.S. has reached with foreign nations to receive third country nationals. Further, U.S.

[5] Human Rights First, *Analysis of the Trump Administration's Initial Immigration Executive Actions* (Jan. 22, 2025); National Immigrant Justice Center, *Immigrants' Rights Advocates Sue Trump Administration Over Efforts to Completely Shut Down Asylum at the Border* (Feb. 3, 2025),

[6] Department of Homeland Security, *Fact Sheet: DHS Agreements with Guatemala, Honduras, and El Salvador*.

[7] Tahirih Justice Center, *Tahirih Explains: "Safe Third Country" Rule* (Mar. 2020).

[8] Human Rights Watch, *US Terminates Shameful Asylum-Shirking Pacts* (Feb. 10, 2021).

[9] Human Rights Watch, *Deportation with a Layover: Failure of Protection under the US-Guatemala Asylum Cooperative Agreement* (May 19, 2020).

[10] Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act, U.S. Federal Register (Nov. 19, 2019).

authorities have not published administrative rules regarding these practices, as is required under U.S. law to provide notice to the public and parties affected by new or changed immigration rules.

II. Expulsions and Removals to Mexico

Beginning in 2020, U.S. immigration authorities began expelling non-Mexican migrants encountered in U.S. territory to Mexico – often with no fear screening – under Title 42, a public health authority employed pretextually during the Covid-19 pandemic. Initially, Mexico agreed to accept only nationals of El Salvador, Guatemala, and Honduras. In 2022, during the Biden administration and in the context of negotiating a temporary admissions process for Cubans, Haitians, Nicaraguans, and Venezuelans to parole into the United States up to 30,000 parolees monthly, Mexico agreed to also accept the same number of expulsions of individuals from these countries.[11] These were all countries with significant increases in irregular migration toward the United States and with whom the U.S. has limited diplomatic relations that inhibited the U.S.'s ability to deport people directly to said countries. Though the Trump administration has terminated these parole programs,[12] the administration has continued to expel and remove non-Mexican migrants to Mexico with no transparency.[13]

Non-Mexican migrants removed to Mexico are not automatically provided with any immigration status in Mexico and in practice face major obstacles to accessing asylum or other humanitarian protections in Mexico.[14] Mexican immigration authorities receive immigrants directly from U.S. authorities at the border, maintaining their detention, and then forcibly relocate migrants by bus or plane to southern Mexico, away from the U.S.-Mexico border, where they are unable to freely move throughout Mexico and vulnerable to violence and extortion by both Mexican authorities and organized crime.[15] Further, individuals are at risk of chain refoulement by Mexican authorities to the very countries they fled.[16]

Though the justifications for this practice have changed over time, neither U.S. nor Mexican authorities have made public the bilateral agreements, authority, or process under which these expulsions and removals have been carried out.

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[11] Institute for Women in Migration (IMUMI), *Removal and Return of Non-Mexican Nationals from the United States to Mexico* (June 2024) at 1-4.

[12] Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans, U.S. Federal Register (Mar. 25, 2025).

[13] *Id.; see also* Al Otro Lado, et al., *Information Submitted to the UN Working Group on Enforced or Involuntary Disappearances Regarding Disappearances of Migrants and Asylum Seekers in the United States* (April 25, 2025), at 2-3.

[14] *See Amicus Brief of Asylum Access Mexico and Institute for Women in Migration, East Bay Sanctuary Coalition v. Biden*, No. 23-16032 (9th Cir. 2023).

[15] *See* IMUMI, Removal and Return of Non-Mexican Nationals, *supra* note 11, at 8-10; Al Otro Lado et al., *Submission to UN WGEID, supra* note 13, at 2-3.

[16] *See, e.g., D.V.D. v. Noem*, 1:25-cv-10676 (D. Mass 2025), Dkt. No. 1 (Complaint) at 5 (U.S. authorities deported Guatemalan man granted withholding of removal to Guatemala to Mexico, where Mexico deported him to Guatemala).

III. Funding and Facilitating Removals through Panama and Costa Rica

Under President Biden, the United States and Panama entered into an unprecedented diplomatic arrangement that would allow Panama to utilize U.S. Department of State funds to deport foreign nationals from Panama.[17] Under this agreement – the text of which has not been made public – Panama has used U.S.-provided funds to deport at least 2,000 individuals from its territory, both to other countries in Latin America, as well as to countries in Asia and Africa.[18] These U.S.-funded deportation flights began under President Biden and have continued under President Trump.

In addition to continuing the practice of financing another country to deport individuals in transit heading toward the United States, the Trump administration began a new practice of "bridge" deportations in agreement with Central American countries. In the first month of President Trump's second term, immigration officials began expelling asylum-seekers, primarily of Asian, African, and Middle Eastern nationalities, from the United States to Panama and Costa Rica, pursuant to non-public agreements that these countries would serve as "bridge" countries from which the International Organization for Migration (IOM) would facilitate repatriation to migrants' home countries.[19] Costa Rica has indicated that the United States is funding the detention and repatriation of these expelled migrants.[20] None of these agreements or their terms have been made public.

These individuals were not given an opportunity to seek asylum in the United States before being summarily expelled to countries that had indicated they would return asylum-seekers to the countries they had fled–a clear example of how this externalization tactic poses high risks of chain refoulement[21]. And expelled asylum-seekers that do not agree to assisted return to their home countries have faced detention and poor conditions in Panama and Costa Rica, conditions which human rights advocates have challenged in domestic and international fora.[22]

IV. Third Country Agreements with Countries with Records of Serious Human Rights Violations

The practices described in the two sections above generally involve U.S. authorities expelling or removing recently-arrived migrants to third countries to avoid U.S. responsibility for

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[17] IRAP, *U.S. Funding of Deportations from Panama is Unprecedented and Deeply Concerning* (July 2024).

[18] U.S. Embassy in Panama, U.S.-Panama Migration MOU Facilitates 48 Deportation Flights of Illegal Migrants (May 6, 2025); Associated Press, *US says $14m program with Panama for removal of migrants has funded 2,000 deportations* (May 7, 2025).

[19] Human Rights First, *"This is an Order from Trump:" Abuse, Expulsions, and Refoulement of People Seeking Asylum"* at 12-16 (May 8, 2025); Human Rights Watch, *Nobody Cared, Nobody Listened": The US Expulsion of Third-Country Nationals to Panama* (Apr. 24, 2025) at 33-37.

[20] *Costa Rica Will Take Central Asian and Indian Migrants Deported by U.S.*, New York Times (Feb. 17, 2025).

[21] Human Rights First, *This is an Order from Trump, supra* note 19, at 13-14.

[22] *Human rights lawyers challenge Costa Rica's role in US deportation pipeline,* Washington Center for Human Rights (Apr. 22, 2025); Whitney Eulich, *Panama accepted asylum-seekers the US didn't want. Then its troubles began*, Christian Science Monitor (Apr. 21, 2025); Megan Janetsky et al., *Panama and Costa Rica turning into a 'black hole' for migrants and deportees from U.S., observers warn*, LA Times (Feb. 28. 2025);

processing their asylum claims and to send a deterrent message to U.S.-bound asylum-seekers. Since the beginning of the second Trump administration, U.S. immigration authorities have also increased the use of third-country removals for people who have already gone through immigration removal proceedings and who cannot be removed to their country of origin because they either a) been granted withholding of removal or protection under the Convention Against Torture or b) because their country of origin will not accept their repatriation.[23] U.S. officials have scaled up efforts to remove these individuals to third countries, without following the statutory procedure for such third-country removals or guaranteeing the protections required under U.S. law.[24]

Generally, affected immigrants – many of whom have already been granted protections from removal and have strong ties in the United States – have not been given any opportunity to present any fear-based claim to removal to a third country before they are physically removed from the United States.[25] Immigration authorities have sought to remove these individuals to countries with serious records of human rights abuses, including Libya, Rwanda, and South Sudan – even in contravention of judicial orders.[26] None of these agreements or their terms have been made public, and the U.S. government has pursued these removals without public notice or transparency.

Advocates have brought litigation in U.S. courts to challenge this practice, and domestic courts have ordered preliminary relief, which directs immigration authorities to provide individuals with a) written notice of the country to where they may be removed and b) an opportunity to submit an application for protection under the Convention Against Torture regarding the third country to an immigration court.[27] Unfortunately, U.S. authorities have in many cases not observed even this limited protection and have continued to try to remove individuals to danger in third countries.[28]

V. U.S. Renditions and Enforced Disappearances to El Salvador

As detailed above, the Trump administration has abused its immigration authorities to summarily expel and remove migrants to third countries in an attempt both to avoid legal obligations and to deter future migration. Simultaneously, the administration has also invoked a 1798 wartime authority (the Alien Enemies Act) to summarily render Venezuelan

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[23] *See, e.g., D.V.D. v. Noem*, Dkt. No. 1, *supra* note 16, at 19-20 (discussing directive to U.S. immigration authorities to evaluate these cases for removal to third countries).

[24] *e, e.g., D.V.D. v. Noem*, Dkt. No. at 7 (Memorandum in Support of Preliminary Injunction) at 1-6

[25] Human Rights First, *D.V.D. v. DHS: Challenging the Deportation of People to Third Countries without Due Process; see also* Ximena Bustillo, *The White House is deporting people to countries they're not from. Why?*, NPR (Jun. 1, 2025)

[26] *See, e.g.,* Bustillo, *supra* note 20; Marisa Kabas, *U.S. "relocates" Iraqi refugee to Rwanda via new diplomatic arrangement*, The Handbasket (Apr. 22, 2025); Mattathias Schwartz et al., *What to Know About the Deportees the U.S. Is Trying to Send to South Sudan* (May 28, 2025); Phil Stewart et al., *Swiftly deporting migrants to Libya would violate court order, US judge rules*, Reuters (May 7, 2025).

[27] National Immigration Litigation Alliance, et al., *Third Country Removals: Procedural Protections Afforded by the Preliminary Injunction in DVD v. DHS* (May 27, 2025).

[28] *See, e.g.,* National Immigration Litigation Alliance, *Judge Finds U.S. Government Unlawfully Deported Noncitizens on Flight to South Sudan in Violation of Court Order, Issues Remedial Relief* (May 22, 2025).

men from the United States to El Salvador.[29] Arriving in El Salvador, authorities disappear these men into the Terrorism Confinement Center (CECOT), a prison with a well-documented history of inhumane conditions and torture.[30] The U.S. has acknowledged paying El Salvador approximately $6 million dollars to incarcerate the men renditioned from the United States, though the exact terms of the agreement have not been made public.[31]

While advocates immediately brought litigation challenging this practice and abuse of a wartime authority last used during World War II, the U.S. Supreme Court has limited the ability of detained migrants to timely challenge the legality of their renditions, and government authorities have defied court orders to bring back renditioned men.[32]

[29] The White House, Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren de Aragua (Mar. 15, 2025).
[30] Declaration of Human Rights Watch on prison conditions in El Salvador for the J.G.G. v. Trump case, Human Rights Watch (Mar. 20, 2025).
[31] Sukey Lewis, *What Are US Taxpayers Getting in $6 Million Deal With Salvadoran Mega-Prison,* KQED (May 7, 2025).
[32] Noah Lanard, *US and El Salvador Celebrate Their Refusal to Return Man Wrongly Deported to "Gulag,"* Mother Jones (Apr. 14, 2025); Nina Totenberg, *Supreme Court backs Trump in controversial deportations case,* NPR (Apr. 7, 2025).