ماعت للسلام والتنمية وحقوق الإنسان
Maat For Peace, Development, and Human Rights

Maat for Peace' Submission to The Special Rapporteur on Human Rights of Migrants

Transfer of Migration Policies and Procedures Beyond Borders and Its Impact on Human Rights of Migrants[1]

Maat for Peace, Development, and Human Rights is honored to present this report to The Special Rapporteur on the Human Rights of Migrants in the context of addressing the topic of transferring migration policies and procedures beyond borders and the impact of these practices on the full enjoyment of human rights by migrants.

Through this report, Maat aims to provide reliable information and data relevant to the subject, contributing to the support and enrichment of the upcoming report of The Special Rapporteur regarding possible ways to overcome the current obstacles that hinder the effective and comprehensive protection of the human rights of migrants, scheduled to be presented during the 80th session of the United Nations General Assembly.

Maat's interest in this issue stems from its observation that the trend among states, particularly high-income countries and main destination countries for migrants, to transfer migration policies and procedures beyond their geographic borders has become an increasing trend that significantly affects the human rights conditions of migrants. Therefore, this report focuses on providing accurate and supported answers to a set of core questions posed by The Special Rapporteur, as follows:

First: Examples of Policies or Measures Related to Transfer of Migration Procedures and Policies Beyond Borders

Maat identifies several policies and practices that reflect the growing trend of transferring migration procedures and policies beyond the geographical borders of states, a trend that has become a key part of migration and asylum policies, especially in high-income countries. These policies include measures such as preventing migrants from departing, intercepting them at sea,

[1] The term "externalization of migration procedures and policies" is used as an umbrella term to refer to measures designed to prevent migration, conduct administrative processes outside national borders, or facilitate returns with the involvement of third countries. In general, "externalization" can be understood as "the process of transferring functions typically carried out by the state within its own territory to be implemented partially or entirely outside that territory," and such practices may expose individuals to situations where their human rights are not respected.

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deporting them to third countries, establishing arrangements for their readmission outside their home countries, or selectively adopting "safe third country" concepts.

Among the most notable examples in this context is the United Kingdom's plan to deport asylum seekers to Rwanda, which stipulates the transfer of asylum seekers who enter Britain through irregular means to Rwanda, where their applications are processed without any commitment to return them to the UK afterward.[2] This plan was launched in April 2022 through an agreement with the Rwandan government but faced widespread legal rejection, as the UK Supreme Court ruled in November 2023 that Rwanda is not a safe country for deporting asylum seekers. Despite this ruling, the British government enacted the "Rwanda Safe Country Act" in April 2024, which obliges judicial and executive bodies to assume that Rwanda is a safe country, thereby limiting individuals' ability to challenge this designation. In a subsequent development, the new British government announced in January 2025 its intention to repeal this law and withdraw all associated policies in response to increasing legal and community criticisms.[3]

In European context, Maat has observed that European Union has adopted a similar approach by entering into several agreements with North African countries, particularly Tunisia and Libya, aimed at reducing the departure of migrants to Europe across Mediterranean Sea. These agreements have focused on providing financial and technical support to enhance the border control capabilities of these countries, including the provision of advanced surveillance equipment such as boats and drones, and improving coordination with European coast guards. These policies often rely on non-binding memoranda of understanding and are managed by European Commission, lacking effective parliamentary oversight. Maat expresses concern that these policies have contributed to exposing migrants who are intercepted or returned to serious violations, including arbitrary detention, mistreatment, and deprivation of basic legal guarantees.[4] For instance, EU and Tunisia signed a memorandum of understanding in July 2023 involving the provision of €105 million to enhance the capabilities of the Tunisian coast guard, while a similar agreement with Mauritania in March 2024 amounted to €210 million, as part of efforts to address migration via the Atlantic route towards the Canary Islands.[5]

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[2] What is the UK's plan to send asylum seekers to Rwanda? BBC, 13 June 2024, https://www.bbc.com/news/explainers-61782866

[3] Asylum Aid: Government confirms it will repeal Safety of Rwanda (Asylum and Immigration) Act 2024, Electronic Immigration Network, 29 January 2025, https://tinyurl.com/dh7fjxpy

[4] An agreement between Tunisia and the European Union to control irregular migration, DW, July 16, 2023, https://tinyurl.com/4dmz8zaa

[5] EU-Mauritania Pact: Strategic Partnership to Tackle Illegal Migration and Geopolitical Challenges, European Studies Review, 5 August 2024, https://tinyurl.com/53cnxnjs

In The United States, January 2025 saw the reactivation of "Remain in Mexico" program, officially known as the "Migrant Protection Protocols," which was first launched in 2019 under former President Donald Trump. The program mandates the return of non-Mexican asylum seekers to Mexican territory, where they await the adjudication of their claims by U.S. courts, without allowing them to stay within The United States during this period. Department of Homeland Security reactivated the program in coordination with Mexican authorities, without conducting a comprehensive parliamentary review or initiating a broad community dialogue. Maat believes that this program institutionalizes practices that undermine the right to seek asylum, effectively leading to the overcrowding of thousands in unsafe border areas within Mexico, where appropriate shelters, healthcare, and adequate legal assistance are lacking. Various organizations have documented repeated violations against these migrants, including sexual violence, kidnapping, extortion, and physical assault, along with significant difficulties in accessing lawyers or attending hearings for their cases.[6] These practices violate the principle of non-refoulement and the right to fair and effective asylum procedures, contravening United States' obligations under international law.

In an additional development, in February 2025, The United States signed a series of bilateral agreements with several Central American countries, led by Guatemala and El Salvador, aimed at accelerating and expanding the mass deportation of migrants. An agreement with Guatemala was reached to increase the number of deportation flights by 40%, including migrants of various nationalities, with Guatemala being used as a temporary stop before returning migrants to their home countries. A similar agreement was signed with El Salvador, which will likewise receive deported migrants of different nationalities.[7] Maat expresses serious concerns about the humanitarian and legal impact of these arrangements, particularly given the weak legal guarantees in the receiving countries and the potential for migrants to face significant risks, including violations of the principle of non-refoulement, and deteriorating conditions in temporary reception centers that lack basic infrastructure and essential resources.

Second: Is Legal Basis for Transfer of Migration Procedures and Policies Beyond Borders (such as Memoranda of Understanding) Publicly Available? What are Oversight Mechanisms Provided, and How Are They Practically Implemented?

[6] Trump revives 'remain in Mexico' policy as part of anti-immigration crackdown, The Guardian, 21 January 2025, https://tinyurl.com/mwfd3cz
[7] Guatemala gives U.S. another migrant deportation deal, NPR, 6 February , 2025, https://tinyurl.com/3xbvke25

Maat believes that the legal framework for measures transferring migration procedures and policies beyond borders often lacks transparency and clarity. While some memoranda of understanding and bilateral agreements are available to the public, others remain confidential, without official publication or public discussion, raising questions about their legitimacy and compliance with international human rights standards and the fundamental principles of accountability and oversight.

For instance, the publication of the memorandum of understanding between the UK government and the Rwandan government regarding the asylum partnership serves as a relative model of transparency, as the text was made available on the official UK government website, allowing access to the legal framework underpinning the deportation policy to Rwanda. The memorandum also provided for the establishment of an independent oversight committee with broad powers, including unrestricted access to detention and processing centers, the ability to interview individuals and their legal representatives, and to receive complaints confidentially. The committee conducts intensive daily monitoring during the first three months after an individual is notified of their deportation and prepares periodic reports on the implementation process, supported by a management team independent of both parties. Additionally, the memorandum established a joint committee between the British and Rwandan sides to monitor the implementation of the agreement, meeting monthly during the first six months and then semi-annually, focusing on monitoring implementation and providing non-binding recommendations. The memorandum also includes a comprehensive monitoring plan covering pre-departure, appeal, and post-resettlement phases for up to five years, providing a relatively practical framework for follow-up and evaluation.[8]

In contrast, Maat is concerned that the memorandum of understanding signed by EU with Tunisia in July 2023 regarding combating irregular migration, although publicly available, is not a legally binding agreement and does not establish binding financial obligations from EU towards Tunisia. This situation raises issues of transparency and democratic oversight, especially since the memorandum is not subject to any form of parliamentary review at EU level and lacks clear provisions related to human rights guarantees. Furthermore, the memorandum does not include independent oversight mechanisms or instruments to assess the human rights or humanitarian

[8] Between The Government of the United Kingdom of Great Britain and Northern Ireland And The Government of the Republic of Rwanda, https://tinyurl.com/jwnukd5e

impact on migrants who may be affected by the implementation of these policies, increasing the risk of violations occurring without accountability or oversight.[9]

Similarly, Maat has noted a severe lack of transparency associated with the bilateral agreements signed by The United States with Guatemala and El Salvador during the first half of 2025, concerning the repatriation and deportation of migrants to those countries. As of the preparation of this report, the full texts of these agreements had not been published, and the specific conditions governing their implementation had not been clarified. Moreover, they had not been officially recorded or announced in either of the concerned countries, making it difficult to assess their compliance with local and international legal and constitutional standards. Reliable reports indicate that these agreements carry real risks to human rights, particularly in the absence of independent and effective oversight mechanisms, with some sources indicating that migrants deported under these understandings are held in inadequate facilities, including the "Sea Cote" prison in El Salvador, which is notorious for its harsh conditions and mistreatment of inmates.[10]

Maat expresses grave concern regarding information circulating about discussions held on April 14, 2025, between U.S. and Salvadoran officials concerning the potential expansion of cooperation to include the transfer of additional migrants, and possibly even some American citizens, to the "Sea Cote" prison in El Salvador, potentially violating human rights and contravening procedural guarantees under international law. Maat emphasizes that such arrangements, in the absence of transparency and accountability, pose a serious threat to the fundamental rights of migrants and entail significant legal and ethical risks.[11]

What is the Legal and Actual Status of Individuals After Their Transfer or Repatriation to Partner Countries, Regardless of Their Nationality or Status as Refugees or Migrants? What Are the Risks to Human Rights Resulting from the Implementation of Migration Procedure Transfer Policies at Various Stages? To What Extent Can Migrants and Their Families Access Justice and Effective Remedies for Violations of Their Rights During Their Migration Journey?

[9] Parliamentary lawyers: democratic oversight needed for EU-Tunisia migration agreement, State Watch, 15 March 2024, https://tinyurl.com/yr4m5bzd
[10] Civil Society Calls for Urgent UN Action to Denounce U.S./El Salvador Detention Agreement, CCR Justice, 29 April, 2025, https://tinyurl.com/mrn4vcs5
[11] Ibid, https://tinyurl.com/mrn4vcs5

Maat believes that the implementation of these measures often leads to the creation of fragile legal and humanitarian environments characterized by a lack of protection and restricted access to effective remedies. In several cases, the transfer of individuals to third countries under bilateral arrangements or non-binding memoranda of understanding effectively strips them of basic procedural guarantees, the right to judicial review, and the enjoyment of safe and humane asylum conditions. For example, the "Asylum Partnership Agreement" signed between the UK and Rwanda does not provide any legal guarantee for asylum seekers to have their applications reassessed by the UK, nor does it grant them the right to return after a decision is made, which constitutes a serious violation of the principle of non-refoulement and exposes them to the risk of forced resettlement in an environment deemed by the UK Supreme Court to lack safety and justice (November 2023).[12]

In a similar context, the bilateral agreement between The United States and El Salvador raises serious concerns, as it leads to the transfer of migrants to the "Sea Cote" prison, known for its harsh and inhumane conditions, including overcrowding, lack of medical care, and absence of legal assistance. The lack of independent and transparent oversight mechanisms to verify the treatment received by deported migrants increases the risk of systematic violations.[13]

Moreover, the initial stages of these policies, such as maritime interceptions and detention in transit countries, are a source of serious and systematic human rights violations. Repeated experiences in the context of cooperation between EU and countries like Tunisia and Libya show that migrants intercepted at sea are detained in facilities that do not meet minimum international standards and are subjected to repeated patterns of violations, including arbitrary detention, mistreatment, sexual violence, and denial of access to fair asylum procedures.

For instance, following the signing of the memorandum of understanding between EU and Tunisia in July 2023, mass deportations of migrants from sub-Saharan African countries to remote desert areas on the borders with Libya and Algeria were reported, endangering their lives and leading to deaths and forced disappearances in the absence of any judicial oversight.[14] In April 2025, Maat documented the dismantling of makeshift camps in Sfax, which housed around 7,000 migrants, by

[12] Supreme Court finds Rwanda is not a safe country to which refugees can be removed, free movement, https://tinyurl.com/ysks7sxm
[13] Ibid, https://tinyurl.com/mrn4vcs5
[14] Tunisian authorities expel migrants from sub-Saharan Africa from the center of Sfax, the newspaper, September 18, 2023, https://tinyurl.com/yeyuyury

Tunisian security forces using heavy machinery without providing alternative housing or humanitarian assistance, clearly violating the right to housing and human dignity.[15]

These practices not only violate the fundamental principles of international human rights law but also entrench a culture of impunity, where migrants and their families face significant difficulties in accessing justice, whether in resettlement, transit, or deportation countries, due to a lack of transparency, complicated procedures, and absence of legal assistance. Maat asserts that these combined policies reflect a dangerous trend towards undermining states' obligations under international law and calls for clear accountability and activation of independent international oversight mechanisms to ensure the protection of migrants' rights at all stages of their journey.

Recommendations

Maat for Peace, Development, and Human Rights recommends that The Special Rapporteur on the Human Rights of Migrants:

- **Encourage States**: States should fully commit to the principle of non-refoulement and ensure that migrants and asylum seekers are not deported to countries or areas where they face the risk of torture, inhumane treatment, or persecution. This commitment should apply to all policies that transfer the processing of asylum claims to third countries or border areas lacking adequate protection.
- **Avoid Non-Binding Agreements**: There should be a clear avoidance of using non-binding memoranda of understanding in managing cooperation with transit or origin countries regarding migration. All relevant agreements must be subjected to parliamentary review and judicial oversight, adopting a transparent approach that respects international human rights standards.
- **Conduct Comprehensive Assessments**: States should perform comprehensive assessments of the impact of bilateral or multilateral agreements related to the repatriation or reception of migrants, including a human rights and humanitarian impact analysis to ensure that human rights are not harmed.
- **Prevent Misuse of "Safe Country" Concept**: The arbitrary and unjustified use of the "safe country" concept should be prevented, ensuring it is not used to justify mass

[15] Tunisian authorities give up random camps housing thousands of migrants from sub-Saharan Africa, France 24, April 5, 2025, https://tinyurl.com/388jkre2

deportations or the rejection of asylum claims without thorough individual assessments of the risks asylum seekers may face in the concerned countries.

- **Revoke Asylum Processing Policies Abroad**: States should eliminate policies and practices that require processing asylum claims outside their territories or keeping migrants in transit countries or external areas before their applications are adjudicated, as this violates their rights to access fair protection.
- **Prevent Mass Deportations**: The execution of mass deportation arrangements involving migrants of various nationalities to temporary transit or receiving countries, such as Guatemala or El Salvador, should be prevented unless there are sufficient legal guarantees and infrastructure that respect the dignity and basic rights of migrants.
- **Support Independent Monitoring Mechanisms**: Establish independent mechanisms to monitor and document violations arising from the transfer of migration procedures beyond borders, ensuring accountability for all parties involved in these violations, including maritime interception authorities and receiving states.
- **Enhance Transparency**: Full transparency should be ensured in publishing the texts of memoranda of understanding and bilateral agreements related to migration procedures and policies, allowing for public access to information and enabling parliamentary and community oversight of these policies.
- **Implement Effective Monitoring Mechanisms**: Establish independent and effective monitoring mechanisms that provide unrestricted access to detention centers and processing sites, allowing monitors to confidentially interview migrants and their legal representatives to ensure respect for human rights and transparent implementation of agreements.
- **Avoid Legal Ambiguity**: Agreements that lack clear legal basis and transparency, as well as democratic oversight mechanisms, should be avoided to prevent human rights violations arising from the absence of protective guarantees and accountability, especially in cases of detention and repatriation.
- **Ensure Effective Legal Protection**: Guarantee that migrants receive effective legal protection after being transferred to cooperating countries, including their right to review

asylum claims before competent authorities in the original or concerned state, and provide safe alternatives to prevent forced resettlement in unsuitable environments.

- **Prevent Inhumane Detention Conditions**: Migrants should not be detained in harsh or arbitrary conditions during interception or temporary detention stages, particularly in border detention centers or conflict areas, ensuring their access to legal assistance and fair asylum procedures.

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