



Response to the Call for input: Externalization of migration governance-new trends and specific aspects

Special Rapporteur on the human rights of migrants

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

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INTRODUCTION

1. **The Advocates for Human Rights** (The Advocates) is a nonprofit, nongovernmental organization headquartered in Minneapolis, Minnesota. Founded in 1983, The Advocates is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publication.
2. The Advocates for Human Rights is the primary provider of legal services to low-income victims of human rights abuses in the states of Minnesota, North Dakota, and South Dakota in the United States. The Advocates' services include representation of asylum seekers, unaccompanied children, victims of human trafficking, and people held in civil immigration detention. The organization has provided free immigration legal services in more than 10,000 cases and is among the few in the region to offer such services. The Advocates also trains and mentors pro bono lawyers, coordinates and presents immigration law at conferences and continuing legal education programs and leads numerous efforts around legal services for non-citizens.
3. The Advocates' Immigration Court Observation Project, established in 2017, sends volunteers into the Fort Snelling Immigration Court in Minnesota to observe administrative hearings for people, including children, facing removal (deportation) from the United States.
4. The Advocates for Human Rights welcomes the opportunity to inform the Special Rapporteur's report on **Externalization of migration governance and its effect on the human rights of migrants**. This response aims to highlight the specific impacts of externalizing migration governance on human rights, including due process and effective remedies, the prohibition of refoulement, and life, security, and personal integrity, among others.
5. Our response to this call for input draws on our experience as the primary service provider of people seeking immigration relief and international protection, and from our court observation data. This response to this call for input draws heavily on and references other reports and work by The Advocates that intersect with the report's focus and your mandate. In this response, we also present cases that exemplify the impacts on individuals with the U.S. government shifting its international responsibility for

migration governance to third countries, where people seeking international protection through asylum petitions or other immigration relief will experience similar human rights violations, including torture.

6. In the following paragraphs, you will find the information and references to several existing reports from our organization; we have annexed such reports for your reference.
7. The Advocates welcomes and commends the work of the mandate and remains available for further engagement with this report or with the general focus of the mandate.

I. The U.S. is using externalization without safeguards and violating the human rights of individuals in the context of externalization

8. According to available information from The Advocates for Human Rights, including governmental webpages, news outlets, daily practice, and information shared by attorneys in our networks, the U.S. government is externalizing its migration governance, including through Asylum Cooperative Agreements (ACAs), to the countries such as Honduras, Guatemala, El Salvador, Sudan, Romania, Panama, Costa Rica, Djibouti, Sudan, South Sudan, Eswatini,¹ Ghana,² Uganda,³ and Equatorial Guinea.⁴
9. The Advocates, in its Stakeholder Report for the U.S. Universal Periodic Review, submitted in April 2025, provided clear examples of how the U.S. uses externalization in its immigration policies, severely impacting the rights to due process and non-refoulement. The Advocates invite the Mandate to review our section that references how the U.S. sent individuals to El Salvador without adequate safeguards to ensure they did not face additional torture or other human rights violations. By sending individuals to El Salvador, the U.S. government severely restricted individuals' access to the asylum process in line with the Refugee Convention, under the argument that they have access to consular services, contact with attorneys, and family.⁵ We invite the mandate to read the attached report for further reference.
10. The Advocates, through our own casework, community input, and Immigration Court Observer volunteers, have documented how third-country removals are being used by the U.S. government to target asylum seekers. In our recent Asylum Policy Brief, attached to this response, we have detailed changes to asylum policy since January 2025.⁶ We identified third-country agreements being used as a basis to deny asylum claims. Further, the U.S. has created a policy allowing "prepermission" of asylum applications without a hearing. That means the mere presence of an agreement with another country can result in

¹ Email and oral communications on file with the Advocates for Human Rights (2025)

² Email and oral communications on file with the Advocates for Human Rights (2025); see also <https://www.courtlistener.com/docket/71323714/da-v-noem/>

³ Information on file with The Advocates for Human Rights (2025).

⁴ Email and oral communications on file with the Advocates for Human Rights (2025)

⁵ The Advocates for Human Rights & The Binger Center for New Americans, United States Joint Stakeholder Report for the United Nations Universal Periodic Review: Rights of Non-citizens, submitted 7 April 2025, available at https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=569

⁶ The Advocates for Human Rights, Immigration Issue Brief: Preserve the Right to Asylum and Provide Protection from Persecution and Torture, November 2025, available at [https://www.theadvocatesforhumanrights.org/Res/Asylum%20Access%20Policy%20Brief%20\(1\)%202.pdf](https://www.theadvocatesforhumanrights.org/Res/Asylum%20Access%20Policy%20Brief%20(1)%202.pdf)

applicants having their cases denied without hearing. Of note, the government is not required to allow a separate hearing on the safety or rights of asylum seekers in the third country before removal.

II. Externalization of immigration causes irreparable harm to the rights of individuals under U.S. jurisdiction.

11. Current externalization practices in the U.S. create an imminent risk that individuals seeking international protection will suffer irreparable harm to their human rights. One such harm is arbitrary detention in the third country, where the individual has significant barriers to accessing the U.S. legal system but also no clear path to challenge his detention in local courts. The Advocates has knowledge of an individual from a Latin American country who was deported to South Sudan under a third-country agreement. The removal was initially fraught because the plane stopped in Djibouti, where applicants were kept detained and not provided adequate conditions. The individual was granted an interview to determine if he had a fear of removal to South Sudan, but the interview was terminated partway through, and no determination was ever provided to the person or his attorney. The government then removed him to South Sudan, where he remains detained months later,⁷ unable to regularly communicate with his U.S. or South Sudanese attorney and unable to challenge his detention in South Sudanese courts. He remains detained in poor conditions in an undisclosed location. Further details on this case are in the declaration attached to this report.⁸ This case illustrates how U.S. externalization policies do not ensure that the person will not be subject to human rights abuses in the third country such as arbitrary detention, enforced disappearance, and torture, cruel, degrading, and inhuman treatment.
12. Credible information indicates that individuals removed from the United States are being subjected to chain refoulement through third countries, exposing them to a real risk of serious human rights violations. According to an immigration attorney, on 23–24 November 2025, nine men of diverse nationalities—who had all been granted withholding of removal under the U.S. Immigration and Nationality Act or protection under the Convention against Torture—were removed from the United States to Equatorial Guinea. The individuals were not informed that they would be deported to a third country and were instead told they were being transferred to another detention facility. Upon arrival, they were detained in a hotel, denied access to asylum procedures even after informing officials they had protections against refoulement in the United States, and informed that they would be returned to their countries of origin unless another destination could be secured. Once travel documents were obtained, some

⁷ Email communication with immigration attorney with The Advocates for Human Rights (2025). On file with the authors.

⁸ Declaration of Alma Leonie David, *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 1:25-cv-10676 (D. Mass. Dec. 8, 2025) (Dkt. 233-2), <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.233.2.pdf>.

individuals were placed on flights to their home countries, including at least one who had filed an asylum application in Equatorial Guinea. To date, seven of the nine individuals have reportedly been returned to their countries of origin. These events raise serious concerns regarding violations of the principle of non-refoulement, the right to seek asylum, and the prohibition on arbitrary detention.⁹

13. In another case, an individual who faced threats of serious harm in Iran was removed to Nicaragua, despite presenting evidence that Nicaragua has close diplomatic relations with Iran and would deport him to Iran despite the protections he had been granted in the United States. Nicaragua did deport him to Iran, but he managed to exit the airplane during a stop in Turkey, though he does not feel safe there either given that Turkey has sent other Iranians back against their will.¹⁰ Further details on the case are in the declaration attached to this report.
14. In addition to harming individuals who have already been adjudicated and received protection against refoulement, the U.S. government is using the threat of third country removals and Asylum Cooperative Agreements (ACAs) to coerce individuals into abandoning legitimate claims. One client from a South American country was indigenous and had a viable claim to protection on those grounds. During his asylum hearing before the immigration court, the attorney for the U.S. government presented a last-minute motion to remove the individual to Honduras. The judge said the asylum seeker could either offer testimony on his fear of removal to Honduras, risking that he would be ordered removed to a country where he has no ties and spending additional time in detention, or take voluntary departure to his country of origin. The client accepted voluntary departure to his country of origin. The coercive threat of deportation to Honduras effectively denied the individual his ability to present an asylum claim and led to his refoulement to a country where he faces serious harm.¹¹
15. In our court monitoring, observers have documented cases that raise serious concerns about the use of ACAs to foreclose access to asylum protections. According to our data, during a hearing in immigration court, an immigration judge (IJ) stated to an individual seeking asylum that, following a change in law, individuals who enter the United States irregularly from Peru are required to establish a likelihood of harm in Honduras as a designated third country under an ACA. On this basis, the IJ initially indicated an intention to dismiss the application without a full merits hearing (pretermit). The IJ questioned the individual about the likelihood of harm if he was returned to Honduras, the petitioner responded that he did not know, explaining that he was not from Honduras. This response reflected an apparent lack of understanding that he faced removal to a third country with which he had no evident connection. Although the IJ indicated that the respondent should be granted time to consult with legal counsel, the Department of Homeland Security (DHS) attorney objected, arguing that no continuance was warranted once ACA notice had been given, and announced an intention to file an interlocutory appeal. Notably, this exchange was not interpreted for the respondent. These practices risk violating the principle of non-refoulement and may result in the return of individuals

⁹ Email from immigration attorney to The Advocates for Human Rights (2025). On file with the authors.

¹⁰ Email from immigration attorney to The Advocates for Human Rights (2025). On file with the authors.

¹¹ Email from immigration attorney to The Advocates for Human Rights (2025). On file with the authors.

to countries where they have not had a genuine or informed opportunity to assess or articulate potential risks of harm.¹²

16. The case described is not an isolated one. The Advocates' observers have reported multiple cases in which IJs have pretermitted asylum cases without a hearing on the merits and then either ordered them removed to the third country or granted a generally 30-day period for the individuals — many of them without legal counsel — to file “an application” explaining why they would not be safe in the safe third country. When requesting such additional information, IJs have mentioned voluntary departure as an option, which risks violating non-refoulement.¹³
17. Court monitoring documented a case that illustrates the gendered and intersectional risks faced by LGBTQI+ women within externalized migration and asylum procedures. The applicant, a woman in a same-sex marriage to a U.S. citizen, was pursuing asylum and protection under the CAT while also seeking adjustment of status through a pending family-based petition. According to our observation, despite these pending proceedings, the DHS moved to pretermitt her protection claims and raised the possibility of removal to Honduras during a hearing, notwithstanding the respondent's expressed fear of return and her lack of nationality ties to that country. Although Honduras does not recognize same-sex marriage, the Immigration Judge indicated that prevailing country conditions were insufficient to establish a likelihood of persecution.¹⁴ This case highlights significant protection gaps at the return stage of externalization, particularly for LGBTQI+ women whose gender, sexual orientation, and marital status intersect to heighten exposure to gender-based violence, discrimination, and legal invisibility. It also underscores risks arising from procedural uncertainty and the potential removal of individuals with pending family-unity proceedings, pointing to the need for gender- and SOGIESC-responsive risk assessments, effective procedural safeguards, and stronger protections against removal that may expose individuals to gender-based violence.

The United States is externalizing its asylum obligations to countries with a well-known high risk for individuals to experience revictimization and additional harm to their human rights.

18. The Advocates is also referencing different reports that the organization has submitted to UN and regional human rights mechanisms. Such reports focus on human rights issues in countries with which the U.S. government has signed, negotiated, or established a de facto “Safe third country agreements.” With this, The Advocates aims to exemplify to the Mandate the diverse human rights violations individuals are subject to when removed from the U.S. as a consequence of government policies and practices of externalization. We invite the mandate to consider the potential human rights violations individuals may

¹² Data from The Advocates for Human Rights' Immigration Court Observation Project on file with The Advocates for Human Rights (2025).

¹³ Data from The Advocates for Human Rights' Immigration Court Observation Project on file with The Advocates for Human Rights (2025).

¹⁴ Data from The Advocates for Human Rights' Immigration Court Observation Project on file with The Advocates for Human Rights (2025).

face when removed to countries by the U.S. government in its current practice of externalizing immigration governance.¹⁵

III. List of Annexes to this response

19. For your reference, here we list the documents The Advocates have annexed to this response. This aims to facilitate the reference and revision of the following:

- The Advocates for Human Rights & The Binger Center for New Americans, United States Joint Stakeholder Report for the United Nations Universal Periodic Review: Rights of Non-citizens, 7 April 2025, https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=569
- The Advocates for Human Rights, Immigration Issue Brief: Preserve the Right to Asylum and Provide Protection from Persecution and Torture, November 2025, [https://www.theadvocatesforhumanrights.org/Res/Asylum%20Access%20Policy%20Brief%20\(1\)%202.pdf](https://www.theadvocatesforhumanrights.org/Res/Asylum%20Access%20Policy%20Brief%20(1)%202.pdf)
- Affidavit of Alma Leonie David, *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-10676 (D. Mass. Dec. 8, 2025) (Dkt. 233-2), <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.233.2.pdf>

¹⁵ See The Advocates for Human Rights reports on [Panama](#), [Guatemala](#), [Sudan](#), [Honduras](#) and [Uganda](#) to United Nations and Regional Human Rights Mechanisms available at https://www.theadvocatesforhumanrights.org/International_Submissions