



Submission to the United Nations Special Rapporteur on the Human Rights of Migrants

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Introduction

In response to the call for inputs on externalization measures, we detail the human rights implications of a bilateral agreement between the United States and El Salvador to transfer individuals living in the US into indefinite and incommunicado confinement in El Salvador in exchange for millions of US dollars.

The US has already rendered approximately 288 people to El Salvador under the agreement, falsely accusing many of gang membership, denying them due process, and violating the prohibition on *refoulement* to persecution and torture. The US maintains that, after transfer, it has no responsibility for the treatment or release of these individuals—if release ever occurs.

Externalization Agreement and Cooperating States

On February 3, 2025, President Nayib Bukele publicly announced that El Salvador had offered to detain “criminals” sent from the US, including both migrant deportees and US citizens, in exchange for a fee.¹ In the weeks that followed, the two governments secretly finalized an agreement under which El Salvador would accept migrants transferred from the US to indefinite, incommunicado detention at prisons infamous for widespread human rights violations such as the Terrorism Confinement Center, known by its Spanish acronym as CECOT.² In exchange, El Salvador has so far received a payment of four million dollars, with total annual payments reportedly ranging from six to fifteen million dollars.³

Since the execution of the agreement, El Salvador has accepted and imprisoned in CECOT approximately 288 individuals transferred by the US. This group includes around 252 Venezuelan nationals and 36 Salvadoran nationals, transferred through flights operated by the US on March 15, March 30, and April 10, 2025.⁴ Around 137 Venezuelan nationals were transferred under the Alien Enemies Act,⁵ a centuries-old US law that President Trump invoked to summarily remove individuals alleged to be part of the criminal organization Tren de Aragua.⁶

¹ Nayib Bukele (@nayibbukele), *We have offered the United States of America the opportunity to outsource part of its prison system.*, X (Feb. 3, 2025), <https://perma.cc/9TV2-YGE5>.

² See Nelson Rentería, *US to pay El Salvador to jail 300 alleged gang members*, AP reports, Reuters (Mar. 15, 2025), <https://archive.ph/HIW18>.

³ See Antonio Pequeño IV, Sen. Van Hollen Says Trump Administration Made \$15 Million Deal with El Salvador to Imprison Deportees—Including Abrego García, *Forbes* (Apr. 18, 2025), <https://perma.cc/7W9D-3UWP>.

⁴ See Adam Isacson, *288 People Rendered to El Salvador’s Mega-Prison. We Only Know 258 of Their Names.*, AdamIsacson.com (Apr. 22, 2025), <https://perma.cc/EAJ4-C9LG>.

⁵ *Id.*

⁶ Donald J. Trump, *Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua*, White House (Mar. 15, 2025), <https://perma.cc/469A-6VCS>.

The rest had removal orders for return to their home countries,⁷ but were instead transferred to El Salvador and imprisoned.

Transparency and Monitoring

To date, El Salvador has not provided any explanation or legal justification for the imprisonment of the individuals transferred to CECOT. According to Vice President Félix Ulloa, El Salvador does not determine the legal classification or condition of the transferred individuals; rather, these determinations are made by the US.⁸ Most of the identities of Salvadoran nationals remain unknown,⁹ and El Salvador has likewise failed to disclose the grounds for their detention. One known individual is Kilmar Abrego García, whose case received significant media attention after members of the US Congress called for his return to the US. Abrego García had been previously granted protection from *refoulement* in the US.

Salvadoran authorities have not provided any official confirmation regarding detained peoples' location, condition, or legal status.¹⁰ With the exception of Kilmar Abrego, largely due to US Senator Chris Van Hollen's visit to El Salvador,¹¹ families have not received any communication from their loved ones. In many cases, the presence of loved ones in CECOT was discovered only through leaked lists, televised footage, or social media posts.¹²

During an on-site visit to the State of El Salvador on April 26-28, 2025, attorneys with the US NGO Robert F. Kennedy Human Rights attempted to visit clients held at CECOT to assess their physical and psychological well-being. Despite following all official channels—including requests submitted to the presidential office, vice presidency, foreign ministry, and both US and Salvadoran embassies—these efforts were ultimately unsuccessful.¹³

Human Rights Implications

Lack of Due Process

The US alleges that the individuals sent to CECOT are members of criminal organizations, namely Tren de Aragua or MS-13.¹⁴ But the designations are based on vague and superficial criteria, bearing no connection to credible evidence of gang affiliation.¹⁵ The majority of individuals transferred and imprisoned in CECOT have no criminal record in the US or internationally.¹⁶

⁷ Isacson, *supra* note 4.

⁸ See Florent Zemmouche, *Dicen que algún funcionario negoció con las pandillas —son acciones aisladas—. No es una política de gobierno»: la entrevista con el consigliere de Bukele*, Grand Continent (May 6, 2025), <https://perma.cc/59HX-QXP4>.

⁹ Isacson, *supra* note 4.

¹⁰ Human Rights Watch, *US/El Salvador: Venezuelan Deportees Forcibly Disappeared* (Apr. 11, 2025), <https://perma.cc/PJW6-JUBA>.

¹¹ Nnamdi Ekwuonwu, Sen. Chris Van Hollen meets with Kilmar Abrego Garcia as Trump fights to keep him in El Salvador, NBC News (Apr. 17, 2025), <https://archive.ph/LaeK8>.

¹² See, e.g., Maanvi Singh, *The desperate search for a father disappeared by Trump to El Salvador: 'We don't know anything'*, The Guardian (May 8, 2025), <https://perma.cc/KX6B-PNKL>.

¹³ Kerry Kennedy (@KerryKennedyRFK), X (April 28, 2025 12:45 PM), <https://perma.cc/76AY-65S4>.

¹⁴ Press Release, US Dep't of State, *On the President's Action to Protect Americans from Dangerous Foreign Gang Members* (Mar. 16, 2025), <https://perma.cc/B3E8-E9E7>; Press Release, US Dep't of State, *More Foreign Gang Terrorists Deported Out of America* (Mar. 31, 2025), perma.cc/TG9H-WUZZ.

¹⁵ *Id.*

¹⁶ See Cecilia Vega, *US sent 238 migrants to Salvadoran mega-prison; documents indicate most have no apparent criminal records*, CBS News (Apr. 6, 2025), <https://perma.cc/UL2U-8K3J>; see also Bloomberg News, *About 90% of Migrants Sent to El Salvador Had No US Criminal Record* (Apr. 9, 2025), <https://archive.ph/Beb1r>.

For example, in the case of Venezuelan nationals accused of belonging to Tren de Aragua, the criteria apparently used to identify alleged members includes tattoos, speaking Spanish with a Venezuelan accent, association with other Venezuelans, and originating from certain regions of Venezuela.¹⁷ These indicators are not recognized by experts as reliable evidence of affiliation with Tren de Aragua and reflect arbitrary profiling rather than any individualized or evidence-based determination of gang membership.¹⁸ One individual, Jerce Reyes Barrios, a former soccer player, was identified as a gang member based on a tattoo inspired by the Real Madrid logo, a star tattoo, and a 2011 Facebook photo in which he made a hand gesture commonly interpreted to mean “I love you” or associated with music culture.¹⁹

The transferred individuals were not given an opportunity to respond to the accusations made against them or to contest their removal to El Salvador and imprisonment in CECOT.²⁰ Several had legal status in the US or were actively pursuing protection from removal, yet were sent to CECOT without any notice to immigration courts, attorneys, or family.²¹ In May 2025, two US federal courts ruled that the government’s use of the Alien Enemies Act to justify deportation of alleged Tren de Aragua members was unlawful,²² reinforcing that the transfers were both marred with procedural irregularities and carried out on dubious legal grounds.

Violent and Abusive Conditions at CECOT

El Salvador has deliberately created CECOT as a legal vacuum to perpetrate abuses that remain unchecked. President Bukele has made clear he has no intention of instituting oversight or accountability.²³ El Salvador has 25 detention centers, the largest of which is CECOT. Initially reported to hold 20,000 people, the government later claimed it could hold up to 40,000.²⁴

El Salvador has denied independent monitors and human rights organizations access to CECOT, while allowing only limited, controlled media and political visits. But numerous national and international organizations report systemic human rights violations and brutal acts of violence against individuals detained across facilities in El Salvador, including CECOT.²⁵ Testimonies from survivors describe prolonged periods of confinement without access to light,

¹⁷ US Dep’t of Homeland Sec., *Alien Enemies Act Alien Enemy Validation Guide* (Apr. 2024), perma.cc/5BOT-73R2.

¹⁸ See Vega, *supra* note 16.

¹⁹ Leila Fadel & Majd Al-Waheidi, *Deported over a tattoo? Lawyer claims client is not a gang member*, NPR (Mar. 28, 2025), <https://perma.cc/R5WT-2C3P>.

²⁰ Erica Bryant, *What Does “Due Process” Mean for Immigrants and Why Is It Important?*, Vera Inst. (June 4, 2025), <https://perma.cc/6GKF-UVXM>.

²¹ Sarah Blaskey et. al., *Trump’s 48-hour scramble to fly migrants to a Salvadoran prison*, Wash. Post (May 4, 2025), <https://archive.ph/4qKJI#selection-181.0-181.63>.

²² *J.A.V. v. Trump*, No. 1:25-cv-072, at 2 (S.D. Tex. May 1, 2025), <https://perma.cc/9UF7-Z23C>; *G.F.F. v. Trump*, No. 25 Civ. 2886 (AKH) (S.D.N.Y. May 6, 2025), <https://perma.cc/HR4S-4WBS>.

²³ See Leire Ventas, *Coming Face to Face with Inmates in El Salvador’s Mega-Jail*, BBC News (Feb. 14, 2024), perma.cc/LGS4-75Q5.

²⁴ See Christine Murray, Alan Smith & Christopher Cook, *Inside El Salvador’s Mega-Prison: The Jail Giving Inmates Less Space than Livestock*, Fin. Times (Mar. 6, 2023), perma.cc/B8SE-UY27.

²⁵ See, e.g., Cristosal, *El Silencio no Es Opción: Investigación Sobre las Prácticas de Tortura, Muerte y Justicia Fallida en el Régimen De Excepción* (San Salvador, Jul. 2024), available at perma.cc/5X43-ZW5C; José Luis Sanz, *Torturas y muertes violentas en prisión: la CIDH exige el fin del estado de excepción en El Salvador*, El País (Sept. 4, 2024), <https://perma.cc/87G6-S25D>.

basic hygiene, or food.²⁶ They also recount being subjected to tear gas, hung by their wrists, and forced to perform punitive exercises by prison guards.²⁷

In June 2024, the Inter-American Commission on Human Rights reported serious concerns about detention conditions, including overcrowding, inadequate medical care, and scarce and inadequate access to water.²⁸ The NGO Cristosal has similarly documented “serious health deterioration among incarcerated persons” and has collected “photographic evidence of deaths in detention showing bodies with bruises, lacerations, dislocations, fractures, and other serious injuries.”²⁹ Over 390 people have died in state custody over the last three years.³⁰

Responsibility and Jurisdiction

Legal challenges in the US were unable to prevent the transfer of individuals now detained in CECOT. Although one individual has been returned, efforts to secure the return of others are still ongoing, in some cases due to US defiance of court orders.

On March 15, 2025, a US federal district court issued an emergency order halting removals under the Alien Enemies Act and instructing the government to turn around flights already in the air.³¹ The US ignored the directive and allowed the flights to proceed.³² On April 7, 2025, the US Supreme Court vacated the emergency order, allowing removals to continue, but held that individuals subject to deportation under the Alien Enemies Act must be given notice and reasonable opportunity to challenge their removal in court.³³

Federal courts have also ordered the return of certain individuals transferred to CECOT. A notable example is the case of Kilmar Abrego García, who had been granted international protection against removal to El Salvador by an immigration judge but was transferred to CECOT due to what the US administration subsequently acknowledged as an administrative error.³⁴ On April 10, 2025, the US Supreme Court unanimously held that the government must “facilitate” Abrego García’s release from the custody of El Salvador.³⁵ Nearly two months later, the US administration allowed his return in order to face charges of a criminal conspiracy to engage in human trafficking based on his previous employment as a taxi driver.³⁶

Conclusion & Recommendations

²⁶ Cristosal, *supra* note 25.

²⁷ *Id.*; see also OAS, IACHR Issues Report on State of Emergency and Human Rights in El Salvador, para 300, available at: <https://perma.cc/GFY9-TZMA>.

²⁸ IACHR Issues Report on State of Emergency and Human Rights in El Salvador, para 8, 239, 279, 400, available at <https://perma.cc/T69A-H5VV>.

²⁹ *Id.*

³⁰ Socorro Jurídico Humanitario (@SJHumanitario), X (May 5, 2024, 9:36 PM), perma.cc/QF8H-NFTA.

³¹ Minute Order Granting Temporary Restraining Order, *J.G.G. v. Trump*, No. 1:25-cv-00766, ECF No. 101 (D.D.C. Mar. 15, 2025), perma.cc/FD6T-HEG8.

³² See Lindsay Whitehurst and Regina García Cano, *Judge Questions Trump Administration on Whether It Ignored Order to Turn Around Deportation Flights*, AP News (Mar. 17, 2025), <https://archive.ph/A3qTy>.

³³ *Trump v. J.G.G.*, No. 24A931, at 23 (US Apr. 7, 2025), <https://perma.cc/P5BY-9UT3>; see also *D.V.D. v. US Dep’t of Homeland Sec.*, No. 1:25-cv-10676, at 1 (D. Mass. Apr. 18, 2025) (order granting class certification and preliminary injunctive relief requiring the US government to provide written notice, a meaningful opportunity to raise fear-based claims, and, where appropriate, time to reopen proceedings or seek other relief), <https://perma.cc/M2WZ-X22Z>.

³⁴ *Abrego García v. Trump*, No. 24A949 (US Apr. 10, 2025), <https://perma.cc/P5BY-9UT3>.

³⁵ *Id.*

³⁶ See Hannah Rubinowitz et al., *Kilmar Abrego Garcia has been returned to the United States to face criminal charges*, CNN (June 6, 2025), <https://perma.cc/P6JR-P4FV>.

Given the dire nature of the externalization agreement, we respectfully request that the Special Rapporteur take the following actions:

1. In his forthcoming thematic report to the 80th session of the General Assembly, identify and condemn human rights abuses perpetrated by the United States and El Salvador pursuant to their externalization agreement.
2. Issue communications to El Salvador mandating that it:
 - a. Immediately release the transferred individuals detained in CECOT and facilitate return of individuals to the US or to another country at the individual's request consistent with international human rights obligations;
 - b. Ensure meaningful processes to challenge the legality and conditions of detentions of the individuals detained in CECOT;
 - c. Provide a method to immediately facilitate access to communication between the transferred individuals detained in CECOT and their family members and legal counsel;
 - d. Provide information to the public regarding the identities of individuals detained in CECOT, as well as any alleged legal basis for their detention;
 - e. Guarantee conditions of detention compatible with human dignity and regional and international human rights standards, and allow for independent monitoring;
 - f. Refrain from deporting or forcibly returning transferred individuals to any other country where they would be subjected to persecution, death, or torture
3. Issue communications to the United States mandating that it:
 - a. Immediately facilitate the return of individuals transferred to CECOT to the US;
 - b. Refrain from transferring any other individuals to El Salvador under the existing or any future agreements or to any other country without due process of law;
 - c. Release information to the public regarding the identities of individuals transferred to CECOT under the externalization agreement;
 - d. Comply with all court orders mandating due process and the return of transferred individuals.
4. Conduct a country visit to El Salvador to witness and report on conditions at CECOT.
5. Urge the Inter-American Commission on Human Rights to communicate with the states of El Salvador and the United States to uphold their binding commitments to the protection of human rights as contained in the American Declaration of the Rights and Duties of Man.³⁷

Respectfully submitted,

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³⁷ See, e.g. Boston University School of Law International Human Rights Clinic et al., Request for Precautionary Measures on Behalf of Individuals Transferred by the United States to Incommunicado detention in CECOT, PM-578-25, Inter-Am. Comm'n H.R. (filed May 9, 2025) (requesting that the Commission order El Salvador to facilitate access to communication with family members and legal counsel, bring transparency to the status of those detained in CECOT, timely resolve habeas corpus petitions pending with the Constitutional Chamber of the Supreme Court of El Salvador, and immediately release the proposed beneficiaries and facilitate return to the United States consistent with US federal court orders or to another country requested).