

Third-Country Removals in United States Immigration Policy

Third-country deportation and third-country removal are terms used to refer to any case in which the government sends someone to a country that is **not** the country in which they lived prior to arriving in the United States, nor to a country of which they are a citizen or national. Legally speaking, a “third-country removal” happens only after someone has formally been ordered deported from the United States; sometimes, however, discussion of the practice also includes cases in which people are expelled from the United States **without** a formal deportation process (which usually means they have no opportunity to seek asylum or other relief) and subsequently sent to third countries.¹

Historically, the U.S. government rarely conducts third-country deportations. When they do, it is typically the result of individual circumstances rather than a general government policy. Under the second Trump administration, however, third-country removals have become key to executing an aggressive deportation agenda—especially in targeting people who cannot legally be deported to their home countries because they have shown they are likely to be persecuted. The administration has used third-country deportations both to scale up removals of people who could not be deported to their home countries for various reasons, and as a scare tactic: using the threat of deportation to countries such as El Salvador and South Sudan to intimidate immigrants out of continuing their case to remain in the United States.²

U.S. law requires the government not to deport anyone to a country in which they will be persecuted or tortured,³ or to deport them to a country that will **then** send them into harm.⁴ The Trump administration’s use of third-country deportations to send people into foreign prisons indefinitely;⁵ the lack of notice or due process afforded to immigrants before being sent to third countries;⁶ and several cases in which people ended up in countries where they had formally shown they were likely to be persecuted or tortured⁷ all raise serious questions about the U.S. government’s compliance with its own laws in making and carrying out third-country deportation deals.

When are third-country deportations legal?

There are two different ways U.S. law regulates where someone can be sent when they are removed from the United States. One way is to specify where people **cannot** be deported: namely, any country in which they are likely to be persecuted or tortured. This applies to any country to which the government would remove an immigrant—including third countries. The second way regulates how the government decides where someone **will** be deported.

The government is legally bound by the 1951 Refugee Convention and the U.N. Convention Against Torture, as codified in the text of U.S. law.⁸ These prevent the government from sending anyone to a country where

they are likely to be persecuted (under the 1951 Refugee Convention) or tortured (under the U.N. Convention Against Torture). U.S. law specifies a process by which the government is obligated to determine whether someone is likely to be persecuted or tortured in the country where they are sent.

Separately, the law lays out a process for determining where someone **should** be deported once a removal order has been issued.

U.S. law distinguishes between the removal process for “arriving aliens” (people who attempt to enter the United States at a port of entry)⁹ and all other immigrants, such as those who are apprehended after crossing the U.S. border without authorization and those who are arrested while living in the United States.

Generally, “arriving aliens” are supposed to be deported to the country from which they came to the United States, or—if they arrived from Mexico or Canada but came from somewhere else—the country before that.¹⁰

All other immigrants facing removal are legally supposed to be allowed to designate the country to which they will be deported. The U.S. government has the power to override this choice if the government of that country will not accept the deportee (or does not answer the request to accept them within 30 days), or if it believes that sending the deportee to the designated country would be “prejudicial to the interests of the United States.”¹¹

In all cases, if the immigrant cannot be deported to the most obvious country, the government is supposed to consider other countries where the immigrant is a citizen or a national, or where they have lived in the past.¹²

If it is “impracticable, inadvisable, or impossible” to remove someone to **any** of the countries to which they have ties, the government is legally authorized to deport them to another country that will accept the deportee into their territory.¹³

The law does not require a migrant to agree to be deported to a specific country. However, the prohibitions on deporting people to serious harm imply that someone must at least know where they will be deported and have an opportunity to raise concerns of torture or persecution.

Have third-country deportations happened in the past?

People who cannot be returned to their home countries due to risk of persecution or torture are one type of case in which the United States cannot remove someone to the most obvious country.

Historically, people who successfully make a case that they will be persecuted in their home country have been granted asylum, which gives them legal status in the United States, with the opportunity to eventually apply for legal permanent residency and U.S. citizenship. However, asylum also has other requirements—such as a filing deadline, and a lack of serious criminal history.

In some cases, people do not meet the additional requirements but still demonstrate that they are more likely than not to be persecuted if sent to their home country. In that case, two things happen: the immigrant is formally ordered removed, and the **government** is ordered not to deport them to the country in which they’d face harm. This is called “withholding of removal.”¹⁴ A similar process happens when someone demonstrates a likelihood of being tortured, invoking the United States’ obligations under the Convention Against Torture.¹⁵

Granting withholding of removal of an immigrant used to be relatively rare. However, as administrations have layered additional restrictions on asylum, more people have been forced to seek withholding of removal from an immigration judge instead. In 2023, the Circumvention of Lawful Pathways regulation dictated that nearly everyone who crossed into the United States

between ports of entry should be presumed ineligible for asylum, and eligible only for withholding of removal.¹⁶

In addition to legal restrictions, however, there are also diplomatic reasons why someone cannot be deported to a country directed by U.S. law.

Most countries to which the United States seeks to deport people have to issue travel documents for them—which requires them to consent to accept that person from the United States.

In some cases, foreign governments are willing to accept only a certain number of deportees, or deportees of a certain type—or may simply refuse to issue travel documents for a particular individual.¹⁷ In other cases, the United States and the foreign government do not have any diplomatic relationship—the United States does not recognize them as a legitimate government—and therefore negotiations to accept deportees cannot take place.

In any of these cases, someone can be ordered deported without the destination of their deportation being clear.

Traditionally, the U.S. government has sometimes sought to remove these people to another country to which they have ties—as specified by law. This may involve instructing the immigrant to designate an alternate country of removal. However, if there is no obvious alternative, the U.S. government has generally allowed people to remain in the United States—eventually releasing them from detention and instead subjecting them to ongoing monitoring and regular check-ins with the government.¹⁸

Under the second Trump administration, however, third-country removals have become the preferred outcome to any case in which someone cannot be deported to their home countries.

What is the Trump administration's policy on third-country removals?

The second Trump administration has sought to expand the use of third-country removals in two different, but related, ways. Domestically, it has engaged in a policy of detaining (or re-detaining) people who cannot be deported to their home countries in an effort to find another country that will accept them—or to coerce that person into agreeing to stop fighting their removal case. Diplomatically, it has sought to make deals with a number of countries to accept deportees from the United States.

A February 2025 Immigration and Customs Enforcement (ICE) memo outlined the Trump administration's new policy toward people on the “non-detained docket”—people with pending immigration cases or final orders who were not in immigration detention.¹⁹ It instructed agents to carefully review these cases for detention (or re-detention). The memo specifically highlighted people who had been granted withholding of removal and protection under the Convention Against Torture as potential candidates for detention, because they had final removal orders and could potentially be deported to third countries. Because these protections were “country-specific protections from removal,” the memo said, “officers should review the case to determine the viability of removal to a third country and accordingly whether the alien should be re-detained.”²⁰

People who have been granted withholding of removal are now kept in detention rather than released.²¹ The government's policy on what needs to happen before someone can be deported to a third country was laid out in a March 30, 2025 memo from Department of Homeland Security Secretary Kristi Noem.²² In July, after a court decision that had temporarily limited third-country removals was put on hold by the Supreme Court, ICE director Todd Lyons sent out an additional memo restating and clarifying the procedure.²³

- Taken together, the two memos lay out the following requirements:
- The third country must provide the United States with “diplomatic assurances” that deportees will

not be persecuted or tortured, and the U.S. State Department must deem those assurances credible.

- The individual must be told where they will be deported. They will be served a written Notice of Removal that identifies the country, and it should be read to them in a language they understand.
- They will not be asked whether they fear deportation to that country.
- If the individual proactively says that they fear persecution or torture in the country to which they would be removed, they should be referred to an asylum officer to start the process of determining whether they should be granted withholding of removal or protection under the Convention Against Torture for that country. However, if they pass the screening interview by demonstrating it is “more likely than not” they would be persecuted or tortured, ICE can designate a **different** country for deportation and start the process over again.
- If the individual does **not** express a fear, ICE can remove them after 24 hours—or after 6 hours in “exigent circumstances” if the individual has had an opportunity to speak to an attorney.

What are “safe third country” agreements and how are they different from third-country removals?

Agreements with foreign countries to take deportees from elsewhere are sometimes incorrectly referred to as “safe third country” agreements. In fact, there is an important distinction between the two.

In some cases, the decision to deport someone to a third country is made **after** they have been found ineligible for any form of relief that would allow them to stay in the United States. However, in other cases, the government deports people to a third country as an **alternative** to allowing them to seek asylum or another form of

immigration protection in the United States. “Safe third country” refers to a specific type of agreement under U.S. law that allows the government to send people to other countries for the ostensible purpose of allowing them to seek asylum there.

Federal law generally provides that anyone who sets foot on United States soil has the right to apply for asylum. However, one exception in the text of the statute is the “safe third country” exception: a person who can be deported under a “safe third country” agreement negotiated between the United States and a third country is not eligible to apply for asylum.

By signing a safe third country agreement and invoking it in any particular case, the U.S. government is obligated to determine that the immigrant will not be persecuted in that country, **and** that they will have access to a “full and fair procedure for determining a claim to asylum or equivalent temporary protection” there.²⁴

As of November 2025, the U.S. has announced “safe third country” agreements with the governments of Canada,²⁵ Guatemala,²⁶ Honduras, Uganda,²⁷ Belize,²⁸ and Paraguay,²⁹ with more agreements expected to be signed.³⁰

The first Trump administration signed “Asylum Cooperative Agreements” with the countries of Guatemala, Honduras and El Salvador, allowing the United States to send people to those countries in lieu of seeking asylum in the United States. (They did not allow the other countries to send asylum-seekers **to** the United States, unlike the agreement with Canada.) Ostensibly, these agreements ensured that migrants would be allowed to seek asylum in the country to which they were sent; however, the Trump administration demonstrated more interest in getting countries to accept migrants than in getting them to ensure a robust asylum process.³¹ The Honduras and El Salvador agreements were never fully implemented, and about 1,000 asylum-seekers were sent to Guatemala under that agreement before the COVID pandemic forced the United States to stop implementing the agreement.³²

Since the mid-2010s, the United States has often used other mechanisms, beyond formal safe third country agreements, to send some people to other countries instead of allowing them to seek relief here.

Under the “Title 42” policy during the COVID pandemic, which was instituted by Trump in March 2020 and left in place under President Biden through May 2023, migrants arriving in the United States could be summarily expelled (instead of being formally deported) without the opportunity to make an asylum claim.³³ Many people from northern Central America were expelled to Mexico rather than to their home countries, per an agreement with Mexico, and in 2022 Mexico also agreed to accept some people of other nationalities (Venezuelans, Haitians, Cubans, and Nicaraguans).³⁴

In February 2025, hundreds of asylum-seekers were sent to Panama instead of being allowed to present claims in the United States. They were detained, first in a hotel in Panama and then in a remote camp in Colombia, with no opportunity to seek legal status there. Ultimately, they were released by the Panamanian government and told they had thirty days to leave the country—without being given any option to apply for legal status.³⁵

In March, President Trump signed a declaration invoking the long-dormant Alien Enemies Act.³⁶ The declaration specified that adult Venezuelan men who were deemed by the government to be members of the gang Tren de Aragua could be immediately expelled from the United States without due process.³⁷ In the hours following this declaration, the government sent hundreds of Venezuelans to El Salvador, in possible violation of a court order, where they were held in the infamous prison known as CECOT. Many of them allege that they were routinely beaten, raped, and tortured in CECOT. Whether El Salvador ever intended for them to be released is unclear, and Trump administration officials said they would never return to the United States. In June, thanks to a deal apparently brokered by the United States, the Venezuelans held in CECOT were sent back to Venezuela.

What deals has the Trump administration made with countries to accept third-country deportations?

No formal public agreement has to be made for a country to accept a third-country removal from the United States, as opposed to a formal “safe third country” agreement. For this reason, it is impossible to conclusively list every place to which someone could be deported. Some countries may only agree to accept people seeking asylum under “safe third country” or similar agreements, while others may only agree to accept people who have been previously ordered removed but have not yet found a country to accept them. In some cases, announcements of third-country deals have not specified whether they cover people who have been ordered removed from the United States; people with pending cases here; or both.

As of December 2025, at least eleven countries had been confirmed as accepting at least one flight from the United States containing people from other countries.

³⁸ An additional five countries had publicly announced agreements to accept third-country migrants from the United States, but no actual removals or expulsions have been confirmed.³⁹ However, more agreements may have been made, or removals been conducted, since the time of this writing.⁴⁰

In at least one case, the United States has paid the country to accept and incarcerate deportees. The Department of State gave the government of El Salvador a \$4.7 million “grant” after sending hundreds of Venezuelan men to be imprisoned there; the payment ostensibly covered the cost to incarcerate the migrants “for up to one year or until another decision is made on their disposition.”⁴¹

In other cases, the United States appears to have used visa sanctions, or the threat of visa sanctions, as a way to coerce countries into agreeing to accept third-country deportees. The Trump administration lifted visa sanctions on Ghana, for example, after it accepted deportees from the United States.⁴²

The Trump administration has made a concerted effort to get other countries—especially in Africa—to accept third-country deportees. After enacting a travel ban on 19 countries in June 2025,⁴³ administration officials made it known that they were considering adding dozens more countries to the list if they did not accede to the administration’s demands—and that among these demands were the acceptance of third-country deportations.⁴⁴

With the exception of Mexico, which has taken large numbers of non-Mexicans from elsewhere in the Western Hemisphere, third-country removals have happened at small scale, with each country taking at most a few hundred deportees. Most of those removed or expelled from the United States under the Trump administration have been sent to their home countries.

What are the problems with third-country removals?

Risk of persecution or torture

Fear-based relief in deportation proceedings does not address potential removal to **every** country—merely to the country designated by the immigrant or government. Therefore, simply removing someone to a country they have not considered runs the risk of sending them to persecution or torture in violation of U.S. and international law.

The Trump administration claims that it only sends people to third countries once they have received “diplomatic assurances” that the individuals will not be persecuted or tortured. However, in several cases, they have explicitly sent people to be incarcerated indefinitely, in countries whose prison systems are known for torture and other human rights abuses. The Venezuelan men sent to CECOT have testified that, among other abuses, they were shot with rubber bullets and beaten on a regular basis.⁴⁵

A federal lawsuit filed in March 2025 challenged the Trump administration’s use of third-country removals as a violation of its immigration laws and international

commitments.⁴⁶ A federal judge has ruled that the plaintiffs are likely to succeed in arguing that the government needs to provide meaningful due process before removing someone to a third country. However, the Supreme Court temporarily halted that ruling while the case is pending, meaning that DHS may continue its practices while the case is resolved.⁴⁷

Even while the government was under a ruling restricting its use of third-country removals, it continued to engage in them. The judge intervened to prohibit the removal of several men to Libya, where they were set to be deported six hours after they had been notified, with no meaningful opportunity to consult a lawyer or make a claim of fear. After a stay by the Supreme Court, the United States successfully deported several men to South Sudan on less than 24 hours’ notice.⁴⁸

Chain refoulement

The 1951 Refugee Convention and the U.N. Convention Against Torture also bar countries from sending someone to a country that will **then** send them back to persecution or torture, a phenomenon known as “chain refoulement.”⁴⁹

However, many of the countries who have received third-country deportees from the United States have proceeded to send them back to their home countries—including people who had specifically received protection in the United States from being sent back there.⁵⁰ Officials in countries who have agreed to accept third-country migrants have said that the aim of the agreement is to take them temporarily before sending them home.⁵¹ Federal judges have accused the Trump administration of deliberately engaging in chain refoulement as an “end-run” around international law.⁵²

Confusion over “constructive custody”

In theory, upon deporting someone to another country, the United States relinquishes control over that person to that country. However, in several cases, the Trump administration’s third-country removals have sent

people to legal no-man's-land where no government will claim responsibility for their care, holding them completely in limbo.

The Trump administration maintained that the men sent to CECOT were fully in the custody of the Salvadoran government, until the United States itself brokered a deal to send them back to Venezuela. When asylum-seekers were sent to Panama, the Panamanian government denied responsibility for them for several weeks, claiming that they were under the protection of the U.N.—while the U.N. said they were in custody of the Panamanian government.⁵³

Access to legal status

Even when not subjected to indefinite detention in a third country, the path to resettlement—including legal and economic integration—is often barred or unclear. Under the “Asylum Cooperative Agreements,” asylum-seekers sent to Guatemala and other countries were supposed to be given the opportunity to apply for asylum there; however, the asylum systems in these countries were not always functional, and lacked the capacity to process even a fraction of those that governments agreed to accept from the United States.⁵⁴ Asylum-seekers sent to Panama have been given a series of short-term visas, without the ability to work, in what lawyers claim is an effort to get them to give up and self-deport.⁵⁵

Are third-country deportations a form of punishment?

The legal requirement for removing someone to a country they lack ties to—that it be “impracticable, inadvisable, or impossible” to deport them to somewhere they do have ties—incorporates a certain amount of discretion on the part of the government. However, the United States has not, until the second Trump administration, threatened people with third-country removals to dangerous places even when they could be sent elsewhere as an apparent act of coercion or punishment.

Kilmar Abrego Garcia, a Salvadoran man who was sent to CECOT in violation of an order of withholding of removal to El Salvador, was returned to the United States only to be repeatedly threatened with third-country deportation. At one point, according to his lawyers, the government offered to deport him to Costa Rica if he agreed to plead guilty to federal crimes—but said he would be deported to Uganda if he pled not guilty.⁵⁶ The prospect of being sent to CECOT has led other Venezuelans in detention to accept deportation orders rather than risk torture in El Salvador.

The threat of third-country deportation and incarceration has become a part of the Trump administration’s rhetoric.⁵⁷ By celebrating high-profile removals and using them as a threat to coerce compliance, the Trump administration may be inducing more people to leave the U.S. because they fear third-country deportation than are actually being removed to third countries.

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