

Enforced Disappearances of International Migrants & Asylum Seekers in the United States

OVERVIEW

A recent article published in the *Journal on Migration & Human Security* (Leal and Cadwalader 2025) provides evidence of enforced disappearances (i.e., deprivations of liberty carried out by the State without acknowledging the location or fate of the detainee) targeting international migrants and asylum seekers (IMAS) on U.S. soil. This unique study includes data on phone access for IMAS released in New Mexico who had not been permitted to contact anyone while in U.S. Customs & Border Protection (CBP) custody. During this period, their location was not available in any public registry, nor were they permitted visitors, thus amounting to enforced disappearances under international law. This first-of-its-kind study provides essential empirical evidence of enforced disappearances of IMAS in the U.S. at a critical time when this phenomenon is on the rise, evolving in alarming ways and at an accelerated pace, and garnering media and legal attention in the U.S. and the international community.

The study also provides a classification of six different types of contemporary enforced disappearances of IMAS in the U.S.: 1) interdictions at sea (e.g., U.S. Coast Guard interdicting boats of IMAS, typically from Haiti and Cuba); 2) family separations (e.g., the infamous ‘Zero Tolerance’ policy under the first Trump administration); 3) reporting failures of in-custody CBP deaths (e.g., Border Patrol not properly reporting IMAS in-custody deaths); 4) ICE detentions with no location information; 5) pushbacks (e.g., relocating IMAS to third countries such as Mexico; more recently, the relocation of IMAS to a maximum security prison [i.e., C.E.C.O.T.] in El Salvador); and, 6) incommunicado BP detentions, which was the primary focus of the authors’ study.

KEY FINDINGS

- 78% of respondents (86 families) reported a lack of phone access while detained by CBP, all while their location was not in a public-facing registry, nor were they permitted to receive visitors, thus constituting enforced disappearances under international law.
- 100% of respondents detained by CBP experienced one aggravating factor (disappearance of a minor), given that all respondents were members of a family unit that included at least one minor.
- 15% of cases included at least two aggravating factors (disappearance of a minor plus either disappearance of someone with a disability or who was pregnant).
- The lengths of detention for respondents in CBP custody ranged from 1 to 8 days.
- The fear of requesting that an officer allow them to make a phone call was the most frequently reported reason by respondents for not being able to access a phone (35%). 27% of respondents reported believing that they were not allowed to make calls, with another 21% reporting that agents outright denied their requests to make a phone call to a loved one.
- Only 16% of respondents reported success in making a phone call while in CBP custody.

POLICY RECOMMENDATIONS

- Because the U.S. Government has shown that it is not ensuring essential protections against enforced disappearances, they should release IMAS so that they may exercise their rights to due process and/or to seek asylum.
- The U.S. Department of Homeland Security (DHS) must establish a publicly accessible detainee locator system for all immigrant detainees, including those in CBP custody, that includes location and contact information.
- DHS must ensure logistic feasibility for detainees to access phones within a reasonable amount of time upon their initial detention and any subsequent custodial transfers.
- DHS must train staff to affirmatively inform detainees of their right to make a phone call and to ensure detainees are able to invoke this right.
- DHS must permit family, lawyers, and anyone else with a legitimate interest in detainees' safety to be able to conduct phone, video, and in-person visits within a reasonable amount of time upon request.
- DHS must not execute any removals of individuals before their information has been entered into a publicly accessible detainee locator system and the detainee has had a reasonable opportunity to seek advice and counsel of a lawyer.
- DHS must not take advantage of a detainees' disappearance or unregistered status as an opportunity to violate other rights, such as the right to request asylum, the right to due process, and freedom from non-refoulement in relation to their fear claims.
- Lawmakers must pass legislation defining, prohibiting, and criminalizing enforced disappearances and creating an avenue to seek redress for harm by direct victims and their families.

Source: Leal, Diego F., and Natalie L. Cadwalader. 2025. "Enforced Disappearance as a Border Management Tool: The Case of Border Patrol Detentions of Immigrant and Asylum-Seeking Families in the United States." *Journal on Migration and Human Security* 13(2): 234-256.