

## Rights of Noncitizens

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**Summary:** Anti-immigrant sentiment drives current rhetoric, policy, and legislation. The U.S. severely restricts asylum access. Detention and enforcement spending dwarf investment in adjudications, leading to due process violations, refoulement, enforced disappearance, and arbitrary detention. Federal laws impose dual punishment through both criminal penalties and immigration consequences. These policies disproportionately harm marginalized communities through higher bonds, increased deportation rates, discriminatory language access, and inadequate court accommodations. Though some improvements occurred in recent years, these gains were largely reversed in 2025 when the administration began invoking centuries-old laws like the 1798 Alien Enemies Act and 1940 Alien Registration Act to violate migrant rights under the pretense of national security.

## The U.S. Government violates the right to asylum and Convention Against Torture.

- New regulations bar asylum based on how people enter the U.S. and on border apprehension numbers, which was exacerbated in 2025 by a complete pause of refugee resettlement, halt of asylum processing at the border.
- An April 2025 memo allows immigration judges to deny asylum without a hearing.
- People seeking asylum cannot receive work authorization until their cases have been pending for 180 days, must pay significant fees for time-limited work permits, and are not eligible for most forms of government assistance, including health care and other basic needs, until asylum is approved, which can take more than five years.
- In July 2025, Congress passed a law that requires a \$100 fee to apply for asylum and \$100 annual fees while the case is pending, as well as additional fees for related filings, such as for work permits or permanent status.

## The U.S. Government denies due process to noncitizens.

- An underfunded and shrinking immigration court system, lack of access to counsel, denial of language access, vast detention capacity, and reliance on outdated, wartime laws mean that people are denied due process and refouled to face persecution and torture.
- In 2025, the U.S. began dismissing cases in immigration court, even where the person has a pending application for asylum or other relief, denying them a hearing and placing them in “expedited” removal proceedings with limited due process protections and pathways to dispute removal.
- Lack of language access violates due process since immigration filings must be in English, even though many migrants do not speak or write English—especially complex legal terminology.

- People are three times as likely to win their case and more likely to get bond granted if they have counsel; however, no Government-funded counsel is provided, even for children and those with limited mental capacity.
- The U.S. fails to provide child- and trauma-informed immigration court processes, safe and child-specific detention centers, or ensure it does not separate families.
- Reports show that people in immigration detention experience medical emergencies and death, particularly in makeshift and overcrowded detention centers along the border.

## Immigration enforcement violates protections against arbitrary detention and enforced disappearance.

- Since January 2025, the U.S. has violated standards against enforced disappearance, sending nearly 300 people to El Salvador without due process and unable to reach their attorneys or family members. The U.S. is expanding the use of third country removals without safeguards, having sent several Latin American and Asian noncitizens to South Sudan and considering removals to other third countries.
- The U.S. arbitrarily detains people, often for prolonged periods, due to: underfunding of adjudications infrastructure; laws mandating detention, including for arriving asylum seekers subject to newly expanded “expedited removal” authority and people not convicted of crimes; vastly expanded detention capacity; and the current administration’s expanded willingness to detain even when discretion to release is allowed.
- The U.S. has arrested and detained many students for alleged violations related to freedom of expression, relocating them to remote immigration detention centers within the U.S.
- Federal immigration agents now routinely seize individuals without identifying themselves; wear masks to conceal their identities; drive unmarked vehicles; and refuse to disclose their names, badge numbers, or agencies.

## Recommendations

- Take steps to ensure no person is removed to a country where they will face persecution or torture, especially where no opportunity to raise a protection claim has been provided.
- Eliminate use of the Alien Enemies Act or other expulsion mechanisms which circumvent protection hearings and protections against removal without protections against torture and persecution.
- Enact and enforce laws and policies that ensure the right to seek asylum regardless of manner and location of entry, filing date, ability to pay a filing fee, identification as asylum-seeker at time of entry, or perceived bar to asylum unless a judge determines such bar applies are lawful.
- Ensure due process by establishing independent immigration courts outside of the executive branch and guaranteeing counsel for all people in removal proceedings and for people seeking asylum.
- Eliminate the use of detention for migrants, especially for torture-survivors and vulnerable people. Ensure that if detained, people have access to safe and healthy conditions, health care, counsel, and contact with family.
- Ensure the law does not permit or require the arbitrary detention of individuals.
- Investigate, prevent, and punish systemic abuse of people in immigration detention and unaccompanied children in federal custody and ensure all immigration detention conditions comply with the Mandela Rules.