



March 26, 2020

**VIA EMAIL**

To: Prime Minister Justin Trudeau,  
Minister of Public Safety and Emergency Preparedness Bill Blair,  
Minister of Immigration, Refugees and Citizenship Marco Mendicino,

**Regarding: Shutting the Canada-US Border to Refugees**

I am writing on behalf of the British Columbia Civil Liberties Association (“BCCLA”) to strongly urge you and the Government of Canada to reverse section 4(1) of your Order-in-Council “Prohibition of Entry into Canada from the United States.” Section 4(1) of this Order-in-Council, effective March 21, 2020, prohibits asylum-seekers arriving from the United States (“US”) to enter Canada for the purposes of refugee protection.

The BCCLA is Canada’s oldest civil liberties and human rights organization, founded in 1962. We are deeply disturbed and shocked at the federal government’s announcement barring refugees at the Canada-US border. **This is an unprecedented, unnecessary and unjustified measure that places refugees’ lives and public health at risk.**

**First, the prohibition on refugee arrivals at the Canada-US border is in violation of our legal obligations and international commitments.**

All refugees and asylum-seekers who present themselves at a Canadian official land border post or who enter Canada irregularly in-between official land border posts will now be sent back to the US. The federal government has no assurances that refugees returned from the Canada-US border into the US will not be taken into US Immigration and Customs Enforcement custody, or that they will not be returned to the country where they face persecution or torture.

The Federal Court of Canada has already found that is unreasonable to conclude that the US complies with its *non-refoulement* obligations (the international obligation not to return refugees to persecution or torture). Returning refugees to the US would violate Canada’s legal obligations under the 1951 Refugee Convention, Convention against Torture, and protected rights under section 7 and section 15 of the *Canadian Charter of Rights and Freedom*.



The UN High Commissioner for Refugees has published key legal considerations on refugees seeking asylum and protection in the context of the COVID-19 response. These legal considerations clearly stipulate “imposing a blanket measure to preclude the admission of refugees or asylum-seekers, or of those of a particular nationality or nationalities, without evidence of a health risk and without measures to protect against *refoulement*, would be discriminatory and would not meet international standards, in particular as linked to the principle of *non-refoulement*.”<sup>1</sup>

**Second, the prohibition on refugee arrivals at the Canada-US border violates fundamental principles of human rights.**

As Amnesty International details in their recent report *Putting human rights at the heart of Canada’s response to the COVID-19 pandemic*, “Turning refugee claimants away—including as a result of the decision to shut down the Canada/US border—exposes refugees, who face increased hardship, danger and ostracization worldwide related to this pandemic, to serious human rights violations in other countries, including inhumane immigration detention conditions and the risk of *refoulement* to torture and other human rights abuses.”<sup>2</sup>

**Third, the prohibition on refugee arrivals at the Canada-US border is not necessary to preserve public health.**

Doctors Without Borders, the World Health Organization and countless other health professionals stress that blanket bans on asylum-seekers do not contribute to public health.<sup>3</sup> Dr. Christos Christou, International President of *Medicins Sans Frontieres* states, “As the virus knows no borders, the collective reaction to this pandemic must also be managed without borders.”<sup>4</sup> The World Health Organization emphasizes public health screening measures and social distancing,

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<sup>1</sup> UN High Commissioner for Refugees (UNHCR), “Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response,” <https://www.refworld.org/docid/5e7132834.html>

<sup>2</sup> Amnesty International, “Putting human rights at the heart of Canada’s response to the COVID-19 pandemic,” <https://www.amnesty.ca/sites/default/files/COVID%20and%20human%20rights%20principles%20for%20Canada%20-%20FINAL%20EN.pdf>

<sup>3</sup> Doctors Without Borders et al, “Responding to the COVID-19 Crisis While Protecting Asylum Seekers,” <https://www.doctorswithoutborders.org/sites/default/files/documents/COVID-19%20Asylum%20Statement.pdf>

<sup>4</sup> Dr. Christos Christou, “In the midst of COVID-19, “we’re getting down to work,” <https://www.msf.org/msf-president-highlights-priorities-during-covid-19-response>



and according to their latest COVID-19 recommendations, “evidence shows that restricting the movement of people and goods during public health emergencies is ineffective in most situations and may divert resources from other interventions.”<sup>5</sup> The prohibition on refugee arrivals at the Canada-US border also unfairly scapegoats and targets refugees as carriers of COVID-19, and generally escalates anti-refugee sentiment and racist xenophobia. Refugees are already a vulnerable population, and are frequently stigmatized and scapegoated during times of global upheaval and crisis. This announcement worsens the ostracization and stigmatization that refugees and migrants endure.

**Fourth, the prohibition on refugee arrivals is not an effective method of containing COVID-19.**

As we know already with the implementation of the *Safe Third Country Agreement* with the US, the criminalization of legal migration only increases irregular migration, which is more dangerous and sometimes deadly. In the context of COVID-19, an increase in irregular crossings would likely increase the potential for COVID-19 transmission with refugees forced to cross irregularly having no information or resources about self-isolation, quarantine, social distancing, or testing procedures. Lifting the prohibition on refugee arrivals ensures refugees can arrive safely, and can subsequently be housed and remain in quarantine for 14-days during the COVID-19 crisis, as required for all other travelers. This would be far more beneficial for our collective public health and the containment of COVID-19.

We strongly urge the Government of Canada to uphold our international and legal obligations and reverse the cruel, unjustified, and unnecessary turn-backs of refugees at the border. Refugees have a right to safety. Furthermore, the COVID-19 pandemic is a global one; we can’t displace the pandemic beyond our borders. Respecting refugee rights and protecting public health *both* require a robust response where everyone is safe from persecution and has appropriate health protections. No one should be left behind.

Sincerely,

A handwritten signature in black ink, appearing to read 'Harsha Walia', is written over a horizontal line.

Harsha Walia  
Executive Director

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<sup>5</sup> World Health Organization, “Updated WHO recommendations for international traffic in relation to COVID-19 outbreak,” <https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak/>