



Public Health and International Legal Obligations First: Closing Canada's border to refugee claimants is dangerous and illegal, and must be reversed

Toronto, March 30, 2020 — Canada's decision to shut the border to refugee claimants puts those individuals in danger, is out of step with public health measures designed to curb the spread of COVID-19, and runs counter to our international legal obligations. From moral, public health and legal perspectives, closing the border to refugee claimants is wrong.

On March 19, 2020, in response to the ongoing COVID-19 pandemic, the Government of Canada announced new border entry restrictions that preserved the right to seek refugee protection while also protecting public health through non-discriminatory screening and self-isolation measures. Then, on March 20, the government abandoned this sensible and humane approach, and [announced a new decision](#) made with the US government to shut the border almost entirely to people seeking refugee protection in Canada when entering from the US.

Doctors Without Borders/Médecins Sans Frontières (MSF), the Canadian HIV/AIDS Legal Network and Amnesty International Canada call on the Government of Canada to immediately reverse this unnecessary, inhumane and harmful decision, and to respect Canada's obligations under international law.

Banning Refugee Claimants Puts People in Danger

A refugee claimant's right to be protected from forced return is the cornerstone of international refugee legal protection. Returning people to the US who are seeking protection risks endangering their lives by putting them in precarious limbo. We know from medical and human rights experience that when a person seeking refugee protection is refused at the border, they are put in highly vulnerable situations and tend to turn to riskier underground methods.

While international refugee and human rights law affirms that states may put in place measures which can include health screening or testing of persons seeking international protection upon entry and/or putting them in quarantine, such measures may not result in denying them an effective opportunity to seek refugee protection or result in refoulement.

Banning Refugee Claimants is Poor Public Health Practice

The Canadian government's March 20 [Order in Council](#) imposes certain measures to avoid the "introduction" of COVID-19. Accepting refugee claimants and testing them for COVID-19 is a proactive and protective public health measure. Refugee claimants can and should receive the same health screening, testing referral and mandate to self-isolate as all others entering Canada. The government can provide accessible health information (in multiple languages) about [best-known public health practices](#) to

limit the spread of COVID-19 to protect individuals and the public (e.g. physical distancing, diagnostic tests, case identification and tracing, mobilization of the public to prevent onward transmission). It can also coordinate and communicate with local groups to ensure that housing and transportation is provided for refugee claimants as needed, avoiding use of detention and holding people in enclosed or densely populated spaces.

Refugee claimants must be actively included in, not excluded from, outbreak prevention and public health response plans. Public health measures only work by protecting everyone and fail when some populations are not included – whether they are citizens, refugee claimants or undocumented persons.

Banning Refugee Claimants is Illegal

Canadian government measures relating to the COVID-19 pandemic must respect human rights standards and obligations under Canadian law, as well as treaties to protect refugee claimants, allowing anyone who enters Canada, whether or not at an official port of entry, to [apply for refugee protection](#).

This new “[reciprocal arrangement with the US government](#)” to ban and return refugee claimants arriving from the US violates Canada’s legal obligations to protect refugee protection claimants. Under the 1951 Refugee Convention, people fearing persecution have a right to seek protection in another country and to have that claim adjudicated. [Legal guidance](#) listed by the UN High Commissioner for Refugees (UNHCR) on protections in the COVID-19 pandemic makes clear that states may not put in place measures that categorically deny people seeking protection an effective opportunity to do so.

In summary, Canada’s ill-conceived decision to close the border as a COVID-19 public health measure will endanger people, runs counter to best practice for outbreak control, and flouts the international legal norms that Canada consistently claims to defend. Canada has an opportunity to exemplify the international standard it wants to set by protecting the public’s health and upholding international law.

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