



April 08, 2020

Via email: Minister@cic.gc.ca, bill.blair@parl.gc.ca

The Honourable Marco Mendicino, P.C. M.P.
Minister of Immigration, Refugees and Citizenship
365 Laurier Avenue West
Ottawa, ON K1A 1L1

The Honourable Bill Blair, P.C., M.P.
Minister of Public Safety and Emergency Preparedness
Public Safety Canada
269 Laurier Avenue West
Ottawa, ON K1A 0P8

Dear Ministers Mendicino and Blair:

Re: COVID-19 and Temporary Border Agreement Regarding Asylum Seekers

I write on behalf of the Immigration Law Section of the Canadian Bar Association (CBA Section) to raise concerns about the government's announcement on March 20, 2020 that it will return asylum seekers who cross the Canada-US border at unofficial ports of entry (POE) to American authorities.

The CBA is a national association of 36,000 members, including lawyers, notaries, academics and students across Canada, with a mandate to seek improvements in the law and the administration of justice. The CBA Section has approximately 1,100 members across Canada practising in all areas of immigration and refugee law.

The recent announcement about asylum seekers is a marked departure from the government's previous policy. Prior to March 20, the government made assurances that asylum seekers would be permitted to enter Canada, and it would ensure they were appropriately screened and isolated. That approach is consistent with the World Health Organization's recommendations that screening measures should be in place at all POEs and hygiene practices and physical distancing should be promoted instead of closing borders.

The new policy is particularly concerning given that American officials have indicated that asylum seekers would be arrested, detained and forcibly repatriated to their country of origin, where they could face persecution.¹

Under international law and the 1951 Refugee Convention, Canada is obliged to allow asylum seekers to make a refugee claim and have their claim determined. By automatically returning asylum seekers to the US, Canada could be seen as contravening international law. This policy may

¹ Homeland Security, [Fact Sheet: DHS Measures on the Border to Limit the Further Spread of Coronavirus](#), (March 23, 2020).

also violate the principle of non-refoulement in IRPA s.115(1), which dictates that asylum seekers cannot be returned to a country where they would face persecution.

The CBA Section believes that the new policy will not stop migrants from entering Canada, but simply make migration riskier for some of the world's most vulnerable people. Asylum seekers entering Canada may remain in hiding and avoid seeking medical attention, increasing their own health risks as well as those of Canadians.

We ask that you immediately reverse this policy and comply with Canada's international, legal and moral obligations to keep its doors open to those in need.

We appreciate that this is a demanding time for you and your colleagues in the federal government. We trust that our comments will be helpful and would be pleased to assist as we are able.

Yours truly,

(original letter signed by Nadia Sayed for Ravi Jain)

Ravi Jain
Chair, Immigration Law Section