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New York City Bar Association Opposes Use of COVID-19 as Grounds to Reject Asylum Applications Policies Undermine Asylum Law and Protections for Unaccompanied Children

New York, July 9, 2020 – The New York City Bar Association [wrote a letter](#) to the heads of the U.S. Department of Homeland Security, the Centers for Disease Control, and the U.S. Department of Health and Human Services urging the administration “to restore protections for asylum seekers and unaccompanied children in compliance with U.S. and international law” that have been abandoned during the course of the coronavirus (COVID-19) pandemic.

New policies implemented in response to the pandemic have led to the expulsion of more than 40,000 people, including unaccompanied children and asylum seekers. Under the auspices of CDC orders prohibiting certain noncitizens from entering the U.S. by land from Mexico and Canada— purportedly to curtail the spread of COVID-19— U.S. Border Patrol has been turning migrants away at the southern border without an individualized assessment, despite U.S. law that permits refugees to seek asylum, and despite the fact that CDC regulations include a “humanitarian exception” to the entry limitation. “Other nations have ensured that migration restrictions related to the coronavirus contain humanitarian exceptions for protected groups while protecting public health with alternatives such as medical tests or quarantines. However, the United States has failed to implement such measures,” the letter states.

The letter points to several inconsistencies in the reasoning for these policies. The relevant statute permits limiting persons or property from entering the U.S. where there is “serious danger of the introduction” of a disease into the United States from another country; however, the virus already has been introduced into the U.S. Moreover, the policies do not restrict “permanent residents, U.S. citizens, or those traveling to the U.S. by plane or ship—even though those modes of transportation (as opposed to land travel) necessarily place people in the kinds of congregate settings known to increase disease transmission.” Notably, “medical professionals question [the public-health] rationale and have suggested viable alternatives to protect public health while

preserving the rights of asylum seekers.” Over all, the letter states, “the CDC’s orders appear to target certain travelers based on their legal status while not excluding many others who may just as easily carry the virus.”

“Asylum seekers who fear persecution in their home countries cannot be appropriately screened in compliance with due process under these circumstances. Moreover, these rapid-fire expulsions put children and families at grave risk of harm upon their return to countries rife with violence and human trafficking,” the letter contends.

“The administration must not circumvent Congress to chip away at humanitarian protections,” states the letter. “Using the pandemic to bypass the duly enacted immigration statute not only undermines the rule of law, but also erodes confidence in the CDC and public health recommendations during a pandemic. We urge that the CDC’s orders be withdrawn and that the administration restore these critical humanitarian protections in compliance with U.S. and international law, and out of respect for the rule of law which forms the foundation of our free and democratic society.”

The letter can be read here: <https://bit.ly/2ZVro79>

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world. www.nycbar.org