

April 16, 2020

Chad F. Wolf  
Acting Secretary  
Department of Homeland Security  
301 7th Street, S.W.  
Washington, D.C. 20528

Robert R. Redfield, MD  
Director  
Centers for Disease Control and Prevention  
1600 Clifton Road  
Atlanta, GA 30333

**Re: Illegal Expulsions by the Department of Homeland Security under the March 20, 2020 Order by the Centers for Disease Control and Prevention**

Dear Acting Secretary Wolf and Director Redfield:

Our 125 legal, faith-based, humanitarian, human rights and community organizations write to vehemently object to the Department of Homeland Security's ("DHS") use of the COVID-19 pandemic and the March 20 [order](#) of the Centers for Disease Control and Prevention ("CDC") to carry out the Trump administration's long-held goal of closing the southern border to people seeking life-saving protection in the United States.

For more than a year the administration has been turning back many asylum-seekers and other migrants to Mexico under the so-called "Migrant Protection Protocols" ("MPP"). But now border officers are blocking essentially all asylum-seekers and vulnerable children from requesting protection and returning them to places where their lives are at risk without even the veneer of sham MPP hearings. These expulsions violate U.S. refugee, immigration and anti-trafficking laws passed by Congress, as well as due process and U.S. treaty obligations to protect people at risk of return to persecution and torture, and are completely contrary to child welfare standards. We urge DHS to immediately halt these illegal and immoral policies, restore the rule of law at our borders, protect unaccompanied children, and implement practices informed by public health principles to safely process those seeking refuge in the United States.

The March 20 CDC order, which appears to rely on [misleading](#) and [unsubstantiated](#) assertions by DHS, and an accompanying [rule](#), purport to empower DHS to immediately turn back migrants at the border without affording any legal process whatsoever. An internal [guidance](#) document [reportedly](#) circulated by DHS to U.S. Border Patrol instructs agents to rapidly expel individuals encountered at the border, including unaccompanied children as well as Mexicans and other nationals who attempt to request asylum. [Thousands](#) of individuals including reportedly at least 400 [children](#) - from Cuba, Ecuador, El Salvador, Honduras, Guatemala, and Mexico - have already been expelled to Mexico. In some cases Border Patrol pushes unaccompanied children back into Mexico with adults whose relationship to the child has not been checked, placing children at risk of trafficking. The Border Patrol turns back some in the [middle of the night](#) in dangerous areas, putting them at even greater risk of kidnapping and assault. Border Patrol officers are also rapidly expelling some non-Mexican nationals to their home countries, including asylum-seekers and [hundreds](#) of [unaccompanied children](#), without any of the legal processes due to them under U.S. refugee, immigration and anti-trafficking laws. At U.S. ports of entry, Customs and Border Protection officers turn away and [expel](#) asylum-seekers and are not processing those who have waited [months](#) to request protection.

The administration cannot suspend U.S. legal obligations to people seeking safety. U.S. refugee and immigration [law](#) allows people to request asylum at a port of entry or after crossing the

border. Legal [guidance](#) issued by the U.N. Refugee Agency (“UNHCR”), on asylum protections in the COVID-19 pandemic, makes clear that the United States may not put in place measures that categorically deny people seeking protection an effective opportunity to ask for asylum. Expelling refugees to countries where their lives or freedom are at risk, or transferring them to countries where they cannot find effective refugee protection, violates U.S. obligations under the Refugee Convention, its Protocol and the Convention Against Torture, which prohibit the United States from *refouling* individuals to persecution or torture. Already Central American asylum-seekers expelled by DHS under the CDC Order have [reportedly](#) been detained by Mexican migration officials, denied an opportunity to seek asylum in Mexico, and deported or left [abandoned](#) at the Mexico-Guatemala border, where they face growing xenophobia.

Nor can the administration suspend the anti-trafficking protections Congress specifically adopted for unaccompanied children. Yet the unpublished [guidance](#) reportedly issued by DHS unilaterally rewrites the statutory definition of an unaccompanied child and instructs Border Patrol agents to expel these children, many of whom are asylum-seekers, to their home countries or push them back into Mexico without any legal process and without screening to determine whether they are victims of trafficking.

The authority cited by the administration as justification to expel asylum-seekers and unaccompanied children, 42 U.S.C. § 265, does not supersede the United States’ domestic law and international obligations. As U.S. Senator Patrick Leahy and other senators [wrote](#) in expressing their grave concern about these expulsions to DHS, the agency “blatantly misinterpret[s] its limited authorities” under the CDC order in an attempt “to override existing federal statutes.” Indeed, nothing in the provision cited in the CDC order permits the administration to derogate its legal obligations under U.S. immigration law and treaties.

The CDC order that DHS is relying upon as justification for these expulsions fails entirely to address the fact that it would lead to the expulsion of people seeking protection in the United States and is predicated on the false assumption that the only possible alternative to detaining asylum-seekers in unsafe, overcrowded border facilities for lengthy periods of time is to turn them away. In fact, CBP could expeditiously parole those seeking asylum into the United States, where the vast majority have ties to families, friends, or faith-based communities. Unaccompanied children can also be expeditiously processed for family reunification. An October 2019 study of 607 asylum-seekers subject to the Remain in Mexico program found that [nearly 92 percent](#) had family or close friends in the United States.

While many other categories of individuals are allowed to cross the border, people seeking protection from persecution and other harms are being returned to danger - [heightened](#) in some countries by repressive government responses to COVID-19. The laws that protect them - laws this administration has long worked to evade and tried to eliminate - are being violated. Far from being designed to protect public health, this new policy is just another attempt to shut down access to asylum at the border, endangering more lives.

We urgently call on DHS to immediately halt the expulsion of asylum-seekers and comply with U.S. refugee and immigration laws. We call on the CDC to amend its order to allow for the entry and processing of asylum-seekers and unaccompanied children with appropriate public health safeguards while respecting U.S. laws that protect people seeking safety.

As some of the undersigned groups have explained, U.S. agencies [can](#) effectively and safely respond to asylum-seekers at the border during the COVID-19 pandemic in ways that uphold U.S. law and treaty obligations. Decisions relating to the COVID-19 pandemic should be aimed at saving, not endangering lives, and should be driven by science, public health expertise, and respect for human rights.

Sincerely,

Al Otro Lado  
Alianza Americas  
Allard K. Lowenstein International Human Rights Clinic  
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Asylum and Human Rights Clinic at the University of Connecticut School of Law  
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California Collaborative for Immigrant Justice (CCIJ)  
Capital Area Immigrants' Rights (CAIR) Coalition  
Catholic Migration Services  
Center for Gender & Refugee Studies  
Center for Victims of Torture  
Central American Resource Center - CARECEN - of California  
Central Washington Justice For Our Neighbors  
Centro Legal de la Raza  
Children's Rights  
Church World Service  
Columban Center for Advocacy and Outreach  
Columbia Law School Immigrants' Rights Clinic  
Cooperative Baptist Fellowship  
Cornell Asylum and Convention Against Torture Appellate Clinic  
Cornell Law School International Human Rights Clinic: Litigation and Advocacy  
Council for Global Equality  
DC - MD Justice For Our Neighbors  
Dolores Street Community Services  
Equality North Carolina  
Familia: Trans Queer Liberation Movement  
Federation of Protestant Welfare Agencies (FPWA)  
Fellowship Southwest  
First Focus on Children  
The Florence Immigrant & Refugee Rights Project  
Global Justice Clinic, NYU School of Law  
Harvard Immigration and Refugee Clinical Program  
Haitian Bridge Alliance  
HIAS  
Hispanic Federation  
Homies Unidos Inc.  
Human Rights Advocates

Human Rights First  
Human Rights Initiative of North Texas  
Human Rights Watch  
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Immigrant Allies of Marshalltown (Iowa)  
Immigrant Defenders Law Center  
Immigrant Legal Resource Center  
Immigration Counsel  
Immigration Equality  
Immigration Law Clinic, Detroit Mercy School of Law  
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International Human Rights Clinic, Western New England University  
International Refugee Assistance Project  
International Rescue Committee  
Just Neighbors  
Justice for Migrant Women  
Justice For Our Neighbors Houston  
Justice in Motion  
Kids in Need of Defense  
Kino Border Initiative  
Latin America Working Group (LAWG)  
Legal Aid at Work  
Legal Services for Children  
Leitner Center for International Law and Justice  
Los Angeles Center for Law and Justice  
Lutheran Immigration and Refugee Service  
MADRE  
NAACP  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Center for Youth Law  
National Immigrant Justice Center  
National Immigration Law Center  
National Justice for Our Neighbors  
National Lawyers Guild Bay Area Chapter  
National Lawyers Guild of Los Angeles  
National Partnership for Women & Families  
Network in Solidarity with The People of Guatemala  
New York Justice for Our Neighbors  
New York Law School Asylum Clinic  
NorCal Resist  
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 San Antonio Region Justice For Our Neighbors  
 Santa Clara County Wage Theft Coalition  
 Save the Children Action Network  
 South Texas Human Rights Center  
 Southern Border Communities Coalition  
 Southern Poverty Law Center  
 Southwest Asylum & Migration Institute  
 Southwestern Law School Community Lawyering Clinic  
 Southwestern Law School Removal Defense Clinic and Pro Bono Removal Defense Program  
 Tahirih Justice Center  
 TakeRoot Justice  
 Touro Law Center Immigration Law Clinic  
 Trans Wellness Center  
 Union for Reform Judaism  
 United We Dream  
 University of North Carolina School of Law, Immigration Clinic  
 UnLocal, Inc.  
 Urban Morgan Institute for Human Rights, University of Cincinnati College of Law  
 USC Keck School of Medicine Keck Human Rights Clinic  
 Volunteers of Legal Service  
 Washington Office on Latin America (WOLA)  
 Witness at the Border  
 Women's Refugee Commission  
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 Young Center for Immigrant Children's Rights

\* Institutional affiliation provided for identification purposes only