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Media Release – Refugee lawyers take Federal Government to Court over refugee border restrictions

The Canadian Association of Refugee Lawyers (CARL) has today filed a legal challenge of the Federal Government’s Canada-U.S. border restrictions that have shut out most refugee claimants from Canada since the start of the COVID-19 pandemic. The litigation highlights the severe harm faced by refugee claimants who have tried to seek safety in Canada, and instead have been turned back at the U.S. border to wait for the pandemic to end but may never be able to return.

Canada imposed travel restrictions for refugee claimants in March 2020. Days before these restrictions were announced, Minister of Public Safety and Emergency Preparedness Bill Blair indicated that Canada would not turn away refugee claimants, and instead they would be subject to a health screening and 14-day quarantine after crossing the border. Despite this, Canada nonetheless put in place measures to return refugee claimants to the U.S. who arrive at the Canadian border. Although this return is meant to be temporarily, the policy fails to ensure this.

“CARL has launched this case to provide a voice to vulnerable people during the pandemic who are seeking Canada’s protection, and who face harsh consequences when turned back to the U.S. at our border,” says Maureen Silcoff, President of CARL and co-counsel in the case. “Refugee claimants can be immediately jailed when handed over to U.S. border officers, and then face deportation to their country of origin without having had a chance to make their case in Canada. This is unlawful.”

The legal challenge highlights the Federal Government’s failure to take into account Canada’s international obligations to refugees, and its failure to protect those who are turned back to U.S. jails and face prison and potential deportation to torture, persecution or even death in their country of origin. CARL’s legal challenge is asking that refugee claimants be allowed to enter and quarantine, like other so many travellers whose entry is deemed essential.

“We have made exceptions for essential workers, actors, professional athletes, and family members of Canadians and permanent residents, and many thousands of people have entered Canada at the U.S. border during the pandemic because we have deemed their travel is essential”, says Lorne Waldman, CARL’s Past President and co-counsel in the case. “The least we can do for those seeking refugee protection at our border is ensure we abide by the law. This means they cannot be denied access to a fair hearing in our refugee system. Turning them back when they face jail in the U.S. jeopardizes this right.”

Founded in 2011, CARL is a non-profit organization that serves as an informed national voice on refugee law and the human rights of refugees and forced migrants. CARL’s membership includes close to 400 lawyers, academics and law students from across Canada.

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