

Human Rights First

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://www.humanrightsfirst.org/resource/new-asylum-ban-recycled-pretext-proposed-rule-would-illegally-unjustly-bar-many-asylum>

Policy Issue Resources

Work With Asylum Seekers

If you are seeking asylum, we can help

Areas of Focus

Current Initiatives

Asserting specious public health justifications, a sweeping new [rule](#) proposed by the Trump administration on July 9, 2020 would expand and make permanent the administrations illegal, discriminatory, and xenophobic restrictions on asylum and other humanitarian protections. For the past four months the administration has exploited COVID-19 as a [pretext](#) to effectively evade and eliminate protections for refugees and unaccompanied children at the border despite public health experts [conclusions](#) that the March 2020 [order](#) used to block and expel asylum seekers and children fails to protect public health and despite U.S. laws that require U.S. authorities to provide key protections to adults and children seeking refuge.

Now, the administration is proposing to label asylum seekers as threats to national security on specious and expansive public health grounds, automatically block them from asylum and other humanitarian protections in the United States, summarily deport many without asylum hearings, and illegally send them to persecution and torture. The proposed rule is yet another attempt by the administration to achieve its [long-held](#) goal of exploiting baseless public health justifications to prevent refugees from seeking and receiving humanitarian protection in the United States. By once again banning asylum seekers on spurious public health grounds while uncontrolled community spread of COVID-19 [within](#) the United States poses the real threat, the administration makes transparent the xenophobic aims behind the rule. Legal [guidance](#) issued by UNHCR, the U.N. Refugee Agency, on asylum 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 seek asylum.

While the administration cites the spread of COVID-19 (and the potential for other communicable disease threats) as justification for the rule, this unprecedented public health asylum ban applies irrespective of whether an individual asylum seeker presents any public health risk. This new mandatory bar to refugee protection would ban asylum seekers merely for having recently transited through a country where COVID-19 is prevalent, c[o]m[ing] into contact with the coronavirus, including in U.S. immigration detention centers that medical experts have noted create conditions for contagion, and/or exhibiting symptoms possibly linked to COVID-19, like a cough or fever. The rule would also give the Department of Homeland Security (DHS) and the Department of Justice (DOJ) expansive authority to declare a potentially vast array of other treatable diseases as national security threats to deny asylum to refugees even after the coronavirus threat abates. The rule, if codified, would be used to significantly elevate the credible fear standard set by Congress making it virtually impossible for asylum seekers to pass preliminary screenings and blocking them from even requesting protection in the United States before an immigration judge.

This cruel rule does not further public health. The United States can respond to this pandemic and future potential public health concerns with policies that preserve the right to seek asylum and also protect public health through non-discriminatory screening, isolation, treatment, and other measures. Procedures are already in place to address communicable diseases that do not baselessly target asylum seekers, and leading experts have recommended other evidence-based [measures](#) that the administration has chosen not to implement that would safeguard the processing of asylum seekers while the coronavirus circulates in the United States and elsewhere.

Published on July 29, 2020

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