

In response to Harvard Law School Report, Canadian Law Professors Renew Call on Government to Halt Enforcement of Safe Third Country Agreement

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In light of a scathing report issued today by the Harvard Immigration and Refugee Clinic, Canadian law professors, who coauthored a letter to the Minister of Immigration signed by 235 colleagues, renew their call for the Canadian government to immediately halt enforcement of the Canada-US Safe Third Country Agreement. The Report highlights the effects of President Trump's Executive Orders on the US asylum system and demonstrates that the United States cannot be considered a "safe" country for refugees. The Canadian law professors, all experts in refugee law, have been in close contact with colleagues on both sides of the border in the wake of the Executive Orders. The report refutes the Canadian government's assertion that the Executive Orders signed by President Trump do not affect asylum seekers.

The Safe Third Country Agreement bars any refugee claimant who is in the US, or traveling through the US, from making a refugee claim at the Canadian border, subject to certain exceptions. To be considered "safe" under the Agreement, the US must provide effective human rights protection to refugees, and must comply with the United Nations Refugee Convention and the Convention Against Torture.

"The Harvard report provides cogent evidence that President Trump's Executive Orders fundamentally curtail the human rights protections offered to refugees in the US", notes Sharry Aiken, law professor at Queen's University. "These Orders restrict refugees' ability to safely pursue their claims, and greatly increase the likelihood that they will be deported to countries where they face persecution."

"This report provides further confirmation of the need to suspend the Safe Third Country Agreement", said Donald Galloway, law professor at the University of Victoria. "As party to the Agreement, Canada is required to ensure a continuing review to determine that the US is living up to its international obligations. This report presents strong evidence that international obligations are being ignored."

The Harvard Report concludes that President Trump's Executive Orders fundamentally restrict access to asylum and other immigration protections in the United States. Among other things, the Report highlights the Executive Orders' call for an expansion of the US immigration detention regime, expanded expedited removal without due process, deputization of state and local officials to detain individuals suspected of immigration violations, and aggressive criminal prosecution for unauthorized entry. The authors also critique the Executive Orders' openly Islamophobic and anti-refugee messaging, and cautions against arbitrary, unpredictable, and non-compliant measures of enforcement.

"This report should serve as a wake-up call to the Canadian government", adds Efrat Arbel, law professor at the Allard School of Law at the University of British Columbia. "Our government has repeatedly stressed its commitment to refugee protection. This commitment comes with the obligation to ensure that Canada does not return refugees to the United States where their lives and safety will be placed at risk."

Refugees are already fearing for their safety. "Asylum seekers are making life-threatening journeys on foot from North Dakota to Manitoba in the dead of winter because, under the Safe Third Country Agreement, Canadian officials will turn them back to the United States if they present themselves at a border post" notes law professor Audrey Macklin, Chair in Human Rights at the University of Toronto.

“These asylum seekers from Somalia and elsewhere report that they are coming to Canada because they believe that the United States is not a safe place to seek refugee protection. They are not wrong.”

“President Trump’s Executive Orders are attacks on the international refugee regime,” says Sean Rehaag, law professor at Osgoode Hall Law School. “And the timing could not be worse: there are more refugees around the world than at any time since WWII. Canada should play a leadership role in responding to these attacks. And we can’t do that if we’re turning away refugees at our own borders.”

Full documents are available at: www.criminology.utoronto.ca

Harvard Documents available at: <https://today.law.harvard.edu/harvard-releases-first-report-effect-trumps-executive-orders-asylum-seekers/>

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