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Department of Homeland Security

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RE: Security Bars and Processing, DHS Docket No. USCIS 2020-0013

The 135 undersigned faith-based groups, national and local legal services providers, medical and public health experts, refugee, human, and civil rights organizations, gender-based violence advocates, children’s rights defenders, and legal clinics urge the Department of Homeland Security and the Department of Justice (collectively the “Departments”) to rescind in its entirety the “Security Bars and Processing” rule issued by the prior administration in December 2020.

This rule would label asylum seekers a “danger to the national security of the United States” merely because they transited through or come from a country with a communicable disease, or exhibit symptoms “consistent with” such disease. Under the rule, covered asylum seekers would be barred from refugee protection in the United States in violation of U.S. law and international treaty obligations, all but ensuring their deportation to persecution or torture. By perpetuating xenophobic tropes that falsely portray migrants as spreaders of disease, the rule undermines the directive in the President’s Executive Order on strengthening integration of immigrant communities to “ensure that our laws and policies encourage full participation by immigrants, including refugees, in our civic life.”

We urge the administration to withdraw this unjustifiable, illegal, and harmful rule. The Departments have repeatedly paused the rule’s implementation due to ongoing litigation against a related regulation and as they are reviewing and reconsidering” the rule and whether to modify or rescind” it. The Departments now request comment on whether to further delay implementation. Ample time to study the legality and impact this baseless ban would have on asylum seekers has already elapsed. There is no need for additional delay. The administration can and must swiftly and completely rescind the rule.

A plethora of experts have already highlighted grave concerns that this rule is both fatally flawed and “xenophobia masquerading as a public health measure.” In their comments leading public health experts, including at the Columbia Mailman School of Public Health and Johns Hopkins School of Public Health and School of Nursing, found no public health justification for this sweeping ban. In a comment submitted by Physicians for Human Rights, Dr. Monik Jiménez of Harvard Medical School concluded that the targeting and classification of asylum seekers as a
public health threat is “not based on sound epidemiological evidence.” Médecins Sans Frontières/Doctors Without Borders, a humanitarian organization with 50-years experience responding to disease outbreaks, characterized the rule as “counterproductive” and noted that “public health measures work best when they are inclusive. They fail when vulnerable people, like migrants and asylum seekers, are excluded.”

As the African Human Rights Coalition commented, the rule “exacerbates racist tropes and myths of immigrants as carriers of disease.” Deeply rooted in eugenics, this ideology echoes throughout this rule. Many LGBTQ groups and HIV advocacy and treatment organizations also expressed alarm that the rule, similar to the discriminatory immigration ban on individuals living with HIV that was finally lifted by the Centers for Disease Control and Prevention (CDC) in 2010, would discriminate “against individuals on the basis of immigration status [and the] countries in which the person has lived or traveled” and would put particularly vulnerable populations such as “women, people from the LGBTQ+ community, and people from ethnic or religious minorities at risk.”

The rule violates U.S. law and treaty obligations, including those adopted by Congress through its passage of the Refugee Act of 1980. The Congressional Hispanic Caucus stressed in its comment that the rule would have “devastating and senseless consequences” for asylum seekers and violate the clear intent of Congress, “reiterated over and over for four decades,” “that the United States provide a meaningful and fair path to protection for those fleeing persecution.” The American Bar Association and the Round Table of Former Immigration Judges, a bipartisan group of dozens of former immigration judges, similarly objected to the rule as inconsistent with domestic and international law. Human rights organizations, including Amnesty International, Human Rights First, and Human Rights Watch, condemned the rule as violating U.S. obligations under the Refugee Convention that prohibit the return of refugees to persecution as well as U.S.’ obligations under the Convention Against Torture, the International Covenant on Civil and Political Rights, and customary international law. UNICEF expressed concern that “this harmful rule could result in the forced return of children and families to Central America and Mexico, where they will face the grave child protection risks they fled in the first place.”

In addition, scores of faith-based groups, national and local legal services providers, refugee, immigrant, and civil rights organizations, gender-based violence advocates and children’s rights defenders provided the Departments submissions detailing how the rule would deny people seeking refuge access to the U.S. asylum process in violation of domestic law and international obligations, baselessly exploit a public health emergency to enshrine discrimination against refugees in U.S. regulations, threaten the safety of vulnerable children, and return survivors of persecution and torture to grave harms.

In concert with so many experts and stakeholders condemning this unjustifiable rule, we reiterate that it is past time to fully rescind this ban on asylum.

Respectfully,
ADL (Anti-Defamation League)
Adorers of the Blood of Christ, US Region
Advocating Opportunity
Al Otro Lado
Aldea - The People’s Justice Center
American Friends Service Committee
American Immigration Council
American Immigration Lawyers Association
Asian Pacific Institute on Gender-Based Violence
Asylum Seeker Advocacy Project (ASAP)
Bellevue Program for Survivors of Torture
Border Kindness
Caldwell Sisters of Saint Dominic
California Collaborative for Immigrant Justice
Capital Area Immigrants’ Rights Coalition
Casa Monarca, Humanitarian Aid for Migrants
Center for Gender & Refugee Studies
Center for Victims of Torture
Central American Resource Center - CARECEN - of California
Centro Legal de la Raza
Christian Reformed Church Office of Social Justice
Church World Service
Coalition on Human Needs
Columbia Law School Immigrants’ Rights Clinic
Community Legal Services in East Palo Alto
Comunidad Maya Pixan Ixim
Congregation of Divine Providence, Texas
Cooperative Baptist Fellowship
Council for Global Equality
Daughters of Charity of Saint Vincent de Paul USA
Detention Watch Network
Disability Rights Education & Defense Fund
Disciples Immigration Legal Counsel
Disciples Refugee and Immigration Ministries
Doctors for Camp Closures
Doctors of the World - USA
Dominican Sisters of Adrian
East Bay Sanctuary Covenant
Education and Leadership Foundation
Esperanza Immigrant Rights Project, CCLA Inc.
Fayetteville Justice for Our Neighbors
Fellowship Southwest
First Focus on Children
Florence Immigrant & Refugee Rights Project
Franciscan Action Network
Franciscan Sisters of the Sacred Heart
Freedom Network USA
GEOPSYCHIATRY
Georgia Asylum and Immigration Network (GAIN)
HIAS
Hope Border Institute
Human Rights First
Human Rights Initiative of North Texas
Immigrant Defenders Law Center
Immigrant Hope Atlanta
Immigrant Legal Resource Center
Immigration Equality
Instituto para las Mujeres en la Migración (IMUMI)
Interfaith Movement for Human Integrity
Interfaith Welcome Coalition - San Antonio
International Refugee Assistance Project (IRAP)
International Rescue Committee
Japanese American Citizens League
John Hopkins Center for Humanitarian Health
Just Neighbors
Justice Action Center
Justice for Our Neighbors El Paso
Kids in Need of Defense
Kino Border Initiative
Leadership Conference of Women Religious
Long Island Immigration Clinic
Madres e Hijos
Migrant Center for Human Rights
Mississippi Center for Justice
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
National Justice for Our Neighbors
National Network for Immigrant and Refugee Rights
NETWORK Lobby for Catholic Social Justice
New York Annual Conference Board of Church and Society
North American Climate, Conservation and Environment (NACCE)
Oasis Legal Services
OneAmerica
Open Immigration Legal Services
Oxfam America
PANA (The Partnership for the Advancement of New Americans)
Peace and Justice Team Congregation of Saint Joseph
Physicians for Human Rights
Program on Forced Migration and Health, Columbia University Mailman School of Public Health
Public Law Center
Quixote Center
RAICES
Refugees International
Rochester, Minnesota Franciscan Sisters and Cojourners
Rocky Mountain Immigrant Advocacy Network
RUN - Redeemer’s University
Sante Fe Dreamers Project
Saratoga Immigration Coalition
Save the Children
Servants of Mary, US/Jamaica Community Council
Sisters of Charity
Sisters of Charity, BVM
Sisters of Charity of Nazareth Congregational Leadership
Sisters of Charity of Nazareth Western Province Leadership
Sisters of Charity of New York
Sisters of Mercy of the Americas Justice Team
Sisters of Saint Francis
Sisters of Saint Francis Dubuque, IA Leadership Team
Sisters of Saint Francis of Oldenburg
Sisters of Saint Joseph of Baden, PA
Sisters of Saint Joseph of Boston
Sisters of Saint Joseph of Carondelet, Albany Justice Committee
Sisters of Saint Joseph of Chestnut Hill Philadelphia, PA
Sisters of the Holy Cross
Sisters of the Most Precious Blood Leadership Team
St. John’s Community Health
Student Clinic for Immigrant Justice
Tahirih Justice Center
Texas Civil Rights Project
The Advocates for Human Rights
The Georgia Human Rights Clinic
U.S. Committee for Refugee and Immigrants
UCSF Health and Human Rights Initiative
UCSF Pediatric Human Rights Collaborative
Union Reform Judaism
Unitarian Universalists for Social Justice
UNITED SIKHS
University of San Francisco Immigration & Deportation Defense Clinic
University of Southern California Gould Immigration Clinic
VECINA
Weill Cornell Medicine Students in Healthcare Advocating for Incarcerated Persons (SHAIP)
Witness at the Border
Women’s Refugee Commission
Young Center for Immigrant Children’s Rights