



*Lauren Alder Reid, Assistant Director  
Office of Policy  
Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 1800  
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July 14th, 2020

**Re: U.S. Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS) and Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) (the Departments) Joint Notice of Proposed Rulemaking (NPRM): Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review; RIN 1615-AC42 / 1125-AA94 / EOIR Docket No. 18-0002/ A.G. Order No. 4714-2020 published in the Federal Register on June 15, 2020.**

Dear Assistant Director Reid:

I submit the following comments on behalf of **The Unity Council**, in response and **opposition** to the above-referenced NPRM (“Asylum NPRM” or “proposed rule”). **We object in particular to how these changes will prevent victims of brutal gender-based violence and oppression from obtaining protection under our immigration laws. We urge the Departments to rescind the rule.**

The Unity Council is a nonprofit social equity development corporation located in the Fruitvale district of Oakland, the most diverse neighborhood in the country with a high number of immigrant and refugee families, with a history of 55th years empowering low-income families and immigrant families to achieve economic mobility. Every day, we get to serve people who have left behind everything to start their lives over in our community. It is our incredible conviction that the United States is made better because of its diversity, and that this diversity drives innovation and opportunity for economic growth.

Over time, we have evolved into a ‘poverty-fighting beast’ serving over 9,000 low-income families annually regardless of immigration status. Our mission is to promote social equity and improve quality of life by building vibrant communities where everyone can work, learn, and thrive. As community leaders dedicated to promote social equity and enhance the lives of thousands of families every day, we believe that a policy amendment where the target is to punish vulnerable immigrant families, children, women and individuals fleeing their countries to look for help to save their lives is immoral and goes against the American values of fairness, justice and equality.

The US Declaration of Independence declares, “All Men Are Created Equal”, but this proposal will not treat asylum seekers with the same respect and opportunity. Our values should demonstrate our humanity.

The proposed rule imposes so many new bars to asylum, and would basically rewrite asylum law to exclude nearly all people seeking refuge. If implemented, the United States could no longer call itself a country that offers refuge to the persecuted.

There are several reasons why this proposal opposes international humanitarian laws:

- This rule goes against international law and guidance on the treatment of refugees and how to adjudicate their claims for asylum.
- It is irresponsible to create impossible barriers for Asylum Seekers and preclude the fulfillment of international refugee protection laws mandates. Refuge & Asylum is an International Human Right. Article 14(1) of the Universal Declaration of Human Rights (UDHR), which was adopted in 1948, guarantees the right to seek and enjoy asylum in other countries.
- There are also regional human rights instruments guaranteeing the “right to seek and be granted asylum” in a foreign territory American Convention on Human Rights, art. 22(7); African [Banjul] Charter on Human and Peoples’ Rights, art. 12(3).
- It would change the definition of the term "refugee", established by Article 1 of the Convention relating to the Status of Refugees
- The Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, recognizes that the refugee situation in Central America has evolved in recent years to the point at which it deserves special attention; and establishes a protection and asylum right that could be put in limbo at Court Cases:
  - in Title III. 5) To reiterate the importance and meaning of the principle of non-refoulement (including the prohibition of rejection at the frontier) as a corner-stone of the international protection of refugees. This principle is imperative in regard to refugees and in the present state of international law should be acknowledged and observed as a rule of jus cogens.
- This regressive framing echoes a time in this country before the 1984 passage of the Family Violence Prevention and Services Act and the 1994 Violence Against Women Act, when domestic violence was treated as a “private matter,” with victims suffering in silence behind closed doors. There is no good reason for denying survivors the chance to include evidence of their government’s failure to protect them in their asylum applications.
  - They should not be punished twice: first by the failure of their own government to protect them, and second by the U.S.’s refusal to accept evidence of that failure.

Below are some of the most objectionable parts of the new rule:

- 1) **It would raise the bar children and families must meet when they first arrive at the border seeking asylum by changing the definition of persecution.** This change would unfairly exclude many asylum seekers who have suffered serious harm. It particularly harms individuals from

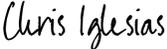
Central American countries, which have some of the highest murder rates in the world and are controlled by violent gangs. These changes would be particularly difficult for the many asylum seekers who cannot speak, read or write English, and do not have legal representation to help them through what can be a very complicated process.

- **2) It would make it easier for immigration judges and asylum officers to throw out requests for asylum as "frivolous."** Thousands of asylum seekers would be denied the most basic right to a fair day in court to hear their case. It would also set up other arbitrary restrictions, such as whether someone had two or more layovers on a flight to the U.S. or spent more than 14 days in another country during their voyage to reach our borders.
- **3) Asylum based on gender would no longer be recognized as a viable claim,** despite domestic and international laws affirming this right. This would undermine efforts to eradicate gender based violence (GBV), a hugely pervasive problem. Women and girls are not only at risk of GBV in their countries of origin, but also during their journey here. We cannot take away the few protections that are currently in place.
- **4) The new rules would permit judges to deny asylum applications without a hearing.** Judges could declare that an applicant hadn't put enough evidence in the application itself and deny a person their day in court. This change would be particularly harmful for those without lawyers.
- **5) Domestic violence and other gender-based violence.** Laws against domestic and sexual violence and other forms of gender-based violence are limited or non-existent in many countries. In some countries, law enforcement officers ignore or dismiss reports of gender-based violence, and at times, may even be complicit in harming survivors. A law enforcement officer may themselves be a perpetrator, and fellow or supervising officers may turn a blind eye or help cover up violence. Or officers may have a family or personal relationship with perpetrators. Prosecutors may likewise fail to bring charges on gender-based violence, and judges and juries may render weak verdicts or acquittals.
- **6) Asylum seekers should not be categorically banned from receiving asylum simply because of where they arrive.** There should be a fair, case-by-case process for determining whether individuals qualify for asylum under the law.
- **7) Advocating for equal rights for women and pressing for social norm changes can make one a target for persecution, and thus should make one eligible for protection.** This exceptionally restrictive definition would exclude survivors persecuted for trying to advance equal rights for women or LGBTQI+ individuals in socio-economic matters of education and employment; in legal matters like marriage, business contracts, property ownership and inheritance; or in civil rights like voting or serving in office. The proposed rule would exclude such persecution, no matter how heinous the harm meted out against such activists.

- **Rules should not be put into effect without meaningful opportunity for the public to issue comments.** The short timeframe the Departments have set for public comment does not permit to address all the ways these sweeping changes are especially unfair to survivors of gender-based violence and will deny them any hope of due process or a fair chance at obtaining protection.

The United States of America is a nation of immigrants and we cannot turn our backs on those in need, especially children. Asylum is a form of protection created for people who have left everything behind and need our help to get to safety.

We urge that the rule be withdrawn in its entirety and for DHS to reconsider this proposed change as the origins of this unfair policy and stand with survivors of gender-based violence, unaccompanied children, families, and those who need protection.

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Chris Iglesias,  
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