



President
James Ellis

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Submitted via www.regulations.gov

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Re: RIN 1125-AA94, EOIR Docket No. 18-0002, Executive Office for Immigration Review (EOIR) Proposed Rule: Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review

Members
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To Whom It May Concern:

I am writing on behalf of Jewish Vocational Service of Kansas City (JVS) to express our disapproval of the proposed rule “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review” as it will have a widespread detrimental impact on thousands seeking asylum.

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Hilary Cohen Singer

Background on JVS

For over 70 years, JVS has engaged, encouraged, and empowered people to achieve social, cultural, and economic integration in Kansas City, Missouri. JVS was established to help Holocaust survivors, refugees, and World War II returnees and has since continued its work to empower all people to engage in and contribute to their U.S. community. JVS’s decades of experience working with the affected population allows us to speak to the impact and implications of this proposal on asylum seekers.

While our comment may only speak against parts of the proposal, we oppose it in its entirety, as we find it to be unjust, immoral, and a departure from the United States’ domestic and international duties. We advise you rescind the entire proposed rule.



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A Shortened Comment Period

This lengthy proposal aims to make more changes to our asylum system than has been made by any singular rule in over 20 years. Such a sweeping adjustment merits longer than a 30 day review and comment period. We suggest you, at a minimum, extend the comment period to 60 days so the public can thoughtfully provide research, testimony, and opinion or retract the proposal and reissue it with an extended comment period.

Impact of the Proposal

Again, we oppose the entire proposal; however, we will pay particular attention to the negative impacts of barring due process, imposing new bars to entry, and altering definitions. The consequences of these changes will leave thousands stranded and in danger of being persecuted, tortured, or executed in their country of origin.

Barring Due Process: Judges should not be allowed to deny asylum without permitting asylum seekers to testify in person and on their own behalf. The asylum application is lengthy and difficult to complete. Allowing individuals to testify permits them to share their experience and incorporate facets of why they deserve asylum in a way that may be impossible for them to include in a written document. If a judge is able to pretermite claims without hearing testimony, they will inevitably turn away individuals who have credible fear of persecution but could not articulate so in their written application. This new rule dehumanizes the process and will harm numerous vulnerable individuals.

Imposing New Bars to Entry Through Nexus: All asylum claims are currently reviewed on a case by case basis and have to prove both that the persecution happened, and that the nexus, or motivation for the persecution was because of their race, religion, nationality, membership in a social group, or political opinion. The new proposed rule would categorically deny any claim where gender is part of the nexus, or where there is “interpersonal animus retribution”, which would include any instance of harm by a private actor, such as a gang member.

We maintain that claims that include interpersonal retribution or gender-based persecution should be reviewed on a case by case basis. Based on JVS’s experience of supporting asylees who have been persecuted based on interpersonal retribution or gender-based persecution, we strongly oppose this rule change. For example: .

One of our clients, Aracely¹, fled Honduras to escape the constant pursuit of gang members and leaders who wanted her as a "wife". She was 15 at the time. She

¹ The name was changed to protect the privacy of the individual

couldn't leave her home without constant and escalating harassment, fearing assault or rape anytime she left. Eventually, she stopped going to school because walking there was too dangerous.

Gang members suspected that Aracely and her family were thinking of fleeing, so they broke into her house and stole all of her family's important documents. Having no time to replace the documents, the family fled without them.

Aracely was raped while traveling through Mexico to the United States and became pregnant. She arrived at JVS as an unaccompanied minor, pregnant, and with no documentation, or assets. She had no way of supporting herself and relied heavily on JVS and other community resources for support.

Aracely undoubtedly needed a safe place for asylum and the U.S. faithfully provided it. Should the new proposal pass, many in Aracely's position will not have that opportunity and face violence and persecution in their present home.

Imposing New Bars to Entry Through Discretion: A part of the proposal flagrantly ignores the reality of seeking asylum. Under the guise of "discretion," judges are allowed to throw out meritorious cases because an individual spent longer than 14 days in any country while traveling to the United States to seek asylum. If found to have entered the United States without being processed, the individual will be barred from receiving asylum status. But if a Central American waits to be processed at the U.S. border in Mexico, which now takes an average of six months to complete, they will have violated the 14 day rule and thus be ineligible.²

Imposing New Bars to Entry Through the Filing of Taxes: A new rule that recently came into effect extended the amount of time an individual seeking asylum has to wait in order to get their work authorization document. Individuals now have to wait 365 days before they can legally work in the U.S. If it is found that an individual works without paying taxes or filing their taxes, then they may be denied asylum. Asylum seekers are not eligible to receive U.S. social benefits to support themselves, and they are not able to work in government supported positions without access to a work authorization document. There is no other way to support themselves while they wait for their case to be reviewed other than taking unsanctioned, nontaxable employment. It's a Catch-22.

Imposing New Bars to Entry by Altering Definitions: The proposed rule significantly limits the flexible interpretations of who can identify as an asylum seeker. Originally written to include individuals being persecuted based on their race, religion, political opinion, nationality, and/or membership in a particular social group, the definitions of "persecution", "particular social group" and "political opinion" have all been altered. These new definitions in conjunction with each other make it nearly impossible to gain asylum status. Persecution is now defined as harm

² See the full article on ImmigrationForum.org <https://immigrationforum.org/article/fact-sheet-u-s-asylum-process/#:~:text=The%20length%20of%20the%20asylum,his%20or%20her%20asylum%20claim.>

that is “extreme” and threats that are “exigent”, but they cannot be interpersonal and must be caused by the government; though we know government inaction to stop non-governmental bad actors contributes greatly to these threats. Additionally, by limiting who is included in a particular social group, individuals facing gender-based violence or persecution because of their identification as LGBTQ+ negates their merit of receiving asylum status.

Benefits of Asylee Community

Based on the proposal’s argument within the discussion section, changes seem to be made out of a fear asylum seekers will somehow deplete U.S. resources or will pose a threat to our citizens or country. Fortunately, neither is the case. Based on data compiled by the New American Economy, there are 140,442 immigrant residents in the Kansas City Metro Area who contributed \$1 billion in taxes and had a collective spending power of \$3.1 billion in 2017 alone³. Additionally, over a 10 year period refugees and asylees, “contributed \$63 billion more to government revenues than they used in public services.”⁴ Undoubtedly, the United States has benefited from asylees’ presence both communally and economically.

To pass this rule harms individuals seeking asylum, as well as the United States. We have been a leader in accepting refugees and asylees, setting an example for the rest of the world. We have slowly degraded that shining example, and to pass this would further deteriorate our status as a country that is welcoming and values freedom.

Conclusion

JVS objects to these proposed changes as they would effectively make it impossible for anyone to find safety in the United States through the U.S. asylum system. They would deny most asylum seekers their day in court, and they would completely bar the granting of asylum on the basis of gender. They would also change the very definition of what “persecution” means. In addition, they would make getting asylum because of one’s political opinion or membership in a particular social group exponentially more difficult, and quite absurdly, deny asylum to people who have two or more layovers while they travel to the United States. If these proposed changes were to be implemented, they would roll back decades of established legal precedent, resulting in the disappearance of refugee protections that have long been accepted as a key part of who we are as a country.

Hilary Cohen Singer
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³ Please read New American Economy. *Immigrants and the economy in Kansas City Metro Area*. Retrieved from <https://www.newamericaneconomy.org/city/kansas-city/>

⁴ Please read <https://publicintegrity.org/inequality-poverty-opportunity/immigration/data-defies-trump-claims-that-refugees-and-asylees-are-a-taxpayer-burden/>