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RE: Amnesty International USA Comments in Opposition to "Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review"

Amnesty International USA submits the following comment in response to the joint notice of proposed rulemaking issued by the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS), which will make dozens of changes to the U.S. asylum system. If implemented, these changes will place asylum out of reach for nearly everyone seeking protection in the country by unilaterally rewriting every element of the refugee definition and constructing a series of unfounded barriers to asylum eligibility.

Amnesty International is the world's largest grassroots human rights organization, comprising a global support base of millions of individual members, supporters, and activists in more than 150 countries and territories. For years, a top priority of the U.S. section of Amnesty International has been the protection of the right to seek asylum; the organization even helped provide input in the drafting of the 1980 Refugee Act, which continues to serve as the backbone of domestic asylum law. Our opposition to the rule at hand is rooted in our expertise in the international human rights standards governing asylum law and our past engagement in research, policy, and litigation related to access to asylum in the United States and the wider region.

For years, Amnesty International has charted the devastating impacts of this administration's anti-immigrant policies on asylum-seeking families, children, and adults.[1] The proposed rules at hand are characteristic of this administration's animus towards asylum-seekers and its persistent misunderstanding of asylum as a loophole that must be plugged rather than the critical,

[1] *See, e.g.*, Amnesty International, *Facing Walls: USA and Mexico's Violations of the Right to Seek Asylum*, June 2017, https://www.amnesty.org/en/documents/amr01/6426/2017/en/; Amnesty International, *You Don't Have Any Rights Here*, Oct. 2018, https://www.amnesty.org/en/latest/research/2018/10/usa-treatment-of-asylum-seekers-southern-border/.

obligatory protection that it is. The United Nations High Commissioner for Refugees (UNHCR), which provides authoritative guidance on states' legal obligations towards asylum-seekers and refugees, has expressed its concern that "changes contained in the pending regulation, combined with separate restrictions enacted in recent years, would mean that many people fleeing persecution would be unable to request, or obtain, protection in the United States."[2]

Asylum saves lives; these rules will endanger them. For the reasons described below, Amnesty International urges the administration to rescind these proposed rules in full and restore its commitment to a fair and just asylum system.

EXPEDITED REMOVAL AND THRESHOLD SCREENINGS

The proposed rulemaking would create several new hurdles for fairness and due process in threshold screenings. As a preliminary matter, Amnesty International opposes the practice of expedited removal, a fast-track deportation process with minimal procedural protections, which routinely leads to violations of the U.S. government's obligation against *refoulement*.[3] These new provisions would weaken and exacerbate existing flaws in the expedited removal regime by making asylum-seekers' access to full and fair hearings next to impossible.

Asylum and withholding -only procedures

First, the proposed rules would channel people who have passed their threshold fear screenings into limited, "asylum and withholding only" proceedings. Currently, asylum-seekers who pass initial "credible fear" screenings, as well as certain asylum-seekers who receive positive "reasonable fear" determinations, are placed into full removal proceedings, where they are entitled to greater procedural protections, including inquiries into removability and more expansive administrative and judicial review.

The proposed rules argue that placement of asylum-seekers into full removal proceedings "runs counter to the[] legislative aims" of making the expedited removal process "streamlined, efficient, and truly 'expedited.'"[4] But this begs the question: once a person passes their initial fear screening, they are meant to be taken *out* of expedited removal proceedings precisely so their claims for relief can be fully, carefully, and thoroughly considered. By narrowing the judge's ability to review critical elements of a person's case, this proposed rule would damage the fairness of asylum-seekers' proceedings.

Threshold screening

The proposed rule would also unfairly raise the threshold screening standard for first-time applicants who are deemed ineligible for asylum, but who can still apply for withholding of removal and relief under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), from a "significant possibility" to the higher "reasonable

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[2] UNHCR, "Statement by UN High Commissioner for Refugees Filippo Grandi on U.S. asylum changes," July 9, 2020, https://www.unhcr.org/en-us/news/press/2020/7/5f0746bf4/statement-un-high-commissioner-refugees-filippo-grandi-asylum-changes.html.

[3] Amnesty International, *Facing Walls: The U.S. and Mexico's Violations of the Right to Seek Asylum*, https://www.amnesty.org/download/Documents/AMR0164262017ENGLISH.PDF (2017), at 24; *see* Human Rights First, "Asylum Seekers and the Expedited Removal Process," Nov. 2015, https://www.humanrightsfirst.org/sites/default/files/FAQ-asylum-seekers-and-the-expedited-removal-process.pdf.

[4] 85 Fed Reg. at 36267.

possibility" of persecution or torture. The rule notes this is currently the higher screening standard in place for people subject to the third-country transit ban and the ban on asylum for people who crossed between ports of entry, both of which have been declared unlawful by every court to have considered them and are, as of this writing, enjoined.[5]

The text accompanying the proposed rule claims that raising the standard would "allow the Departments to better screen out non-meritorious claims and focus limited resources on claims much more likely determined to be meritorious."[6] But the initial threshold screening standard, particularly for first-time asylum seekers, is meant to be generous precisely because asylum-seekers are screened in exceedingly challenging circumstances, in cursory interviews, without the benefit of counsel or legal orientation, and over the telephone. Given the numerous new bars to asylum eligibility announced in this rule and others – not to mention their dubious legality – this proposed rule would have the effect of eliminating countless asylum-seekers at a threshold stage, before they ever receive a full and fair consideration of their claim.

Amendments to the credible fear process

The rule would also require asylum officers to consider an enormous swath of bars to asylum at the threshold stage and automatically disqualify asylum-seekers if any of those bars appear to apply. Previously, if an asylum officer conducting an initial fear screening issued a positive fear determination but was made aware of a possible bar, they would note that fact in the applicant's file and refer the asylum-seeker to a full removal proceeding for consideration of the asylum claim (and any potential bars).

Under the new rule, however, an asylum-seeker "who could establish a credible fear of reasonable possibility of persecution but for the fact that he or she is subject to one of the bars would receive a negative" fear finding. This would have disastrous consequences: the list of bars that could theoretically apply at this threshold stage, under the new rule, include possible commissions of serious non-political crimes, national security-related issues, the fact of an asylum-seeker's "firm resettlement" elsewhere, among others; in addition, the rule would require asylum officers to consider at this threshold stage whether an asylum-seeker can relocate elsewhere. All of these are deeply complex questions of law and fact, often entailing multi-part tests, which require an adjudicator's careful, reasoned consideration and an opportunity for the asylum-seeker to furnish evidence and consult with legal counsel. Yet at this threshold stage, such an inquiry simply is not possible, meaning that countless asylum-seekers could be erroneously knocked out of the process based on hasty decisions, misunderstandings, and limited information.

The proposed rules also remove an important protection favoring review of negative determinations following threshold screenings. Under the current rules, an asylum-seeker's refusal to indicate whether they wish to seek review of the initial fear determination is treated as a request for review. Under the amended rule, such refusal will be treated as a denial. But the existing rule errs in favor of review because asylum-seekers, at this early stage of the proceedings, may not understand what is being asked of them or have adequate context. Asylum applicants often report feeling frightened, disoriented, and confused about the asylum process,

[5] East Bay Sanctuary Covenant v. Barr, No. 19-16487 (9th Cir. 2020), CAIR Coalition v. Trump, No. 19-2117, Dkt. 72 (June 30, 2020), https://www.humanrightsfirst.org/sites/default/files/CAIR%20Coalition%20Opinion%20%281%29.pdf.
[6] 85 Fed. Reg. at 36267.

and may not comprehend the review process – particularly given that they do not have access to counsel at this early stage. Indigenous language speakers are often questioned in Spanish, meaning their understanding of the complex questions asked of them may be especially limited.[7] The presumption in favor of review is thus a vital safeguard that must not be removed.

FILING REQUIREMENTS

The proposed rules also propose alarming changes to application filing requirements that will impose draconian punishments on asylum-seekers and deny them a fair day in court.

Frivolous applications

The proposed rules would dramatically redefine what constitutes a "frivolous" asylum application in terms that are alarmingly vague, ambiguous, and capacious. Under current law, for an asylum application to be considered "frivolous," it must contain "direct fabrication of material elements."[8] The proposed rules would change this definition to encompass claims that "include[] a fabricated material element," if "applicable law clearly prohibits the grant of asylum," or if the application is filed "without regard to the merits of the claim."[9] The penalty for a frivolous application is extraordinarily severe: an applicant who is found to have filed a frivolous application will be permanently barred from seeking any form of immigration relief for life.[10]

This changed definition could potentially expose nearly every single asylum applicant to charges of "frivolousness." For example, consider the provision deeming applications "frivolous" if "applicable law clearly prohibits the grant of asylum." The only constant in this administration's asylum policy has been change: there have been dozens of new barriers introduced to asylum eligibility, through regulation, a series of precedential Board of Immigration Appeals (BIA) decisions, and policy changes, as well as litigation challenging this policymaking. Licensed attorneys who represent asylum-seekers have described having trouble keeping track of what the "applicable law" is amidst this sea of changes, let alone accurately advising their clients who are seeking asylum.[11] Yet this new rule would not only curtail asylum eligibility, it would literally penalize asylum-seekers for not managing to stay abreast of a chaotic, shape-shifting asylum policy.

Evincing the pessimism and mistrust with which this administration views asylum claims, the text accompanying the rule claims that this definition "does not appear sufficient to capture the full spectrum of claims that would normally be deemed 'frivolous,'" and "has not been fully successful in its stated intent of discouraging knowingly and patently false claims."[12] But there is no justification offered for this bald assertion and no quantification of the allegedly "frivolous" applications that the administration falsely claims are clogging the courts. While the administration has pointed to asylum denial rates as evidence that many asylum claims are frivolous, this willfully misunderstands the difference between an application motivated by genuine fear of persecution which is nevertheless denied versus an application that is frivolously

[7] Rachel Nolan, "A Translation Crisis at the Border," *New Yorker*, Dec. 30, 2019, https://www.newyorker.com/magazine/2020/01/06/a-translation-crisis-at-the-border.
[8] 8 U.S.C. § 1158(d)(6); 8 C.F.R. § 208.20.
[9] 36273.
[10] 8 U.S.C. § 1158(d)(6).
[11] *See, e.g.*, Geoffrey A. Hoffman, "How Trump-Era Immigration Enforcement Violates the Law," *Yale Journal of Law & Regulation*, Jan. 26, 2019, https://www.yalejreg.com/nc/how-trump-era-immigration-enforcement-violates-the-law-by-geoffrey-a-hoffman/.
[12] 85 Fed. Reg. at 36274.

filed. It also ignores the multitude of reasons why asylum applications may be denied, including lack of access to counsel, increasing legal barriers to relief, and asylum adjudicators whose courts operate as virtually asylum-free zones.[13] In reality, a much more serious and pressing problem in the U.S. asylum system is the vast number of people who have been wrongfully denied asylum or other protection from removal and who have subsequently faced grave harm, torture, and even death upon return – including as a result of Trump-era attempts to restrict asylum.[14]

To make matters worse, the proposed rule would remove the requirement that asylum-seekers be given an opportunity to respond to charges of frivolousness. The text accompanying the rule justifies this by claiming that an applicant "who files an asylum application already knows whether the application is fraudulent or meritless and is aware of the potential ramifications of filing a frivolous application," and that allowing the applicant to explain apparent frivolousness "creates a moral hazard that encourages [applicants] to pursue false asylum applications because no penalty can attach until the [applicant] is caught and given an opportunity to retract."[15] This argument presumes its own conclusion, suggesting that if an application is deemed frivolous by an adjudicator, the applicant must have intended to mislead. In reality, an asylum-seeker could easily have submitted an application motivated by genuine fear that is nevertheless foreclosed by "applicable law" – whatever law happens to be "applicable" at the particular time of its consideration, that is – and thus be deemed "frivolous." Failing to give the applicant a minimal chance to contest a charge of frivolousness of which they may not even be aware, especially in light of the grave consequences that will attach, will create a Kafkaesque nightmare for asylum-seekers.

Furthermore, this rule would not only dramatically expand the grounds for frivolousness, thus potentially discouraging refugees from submitting asylum applications and exposing applicants to unfair, draconian consequences, it would also deputize asylum officers to make frivolousness findings during affirmative asylum proceedings. Currently, only immigration judges are authorized to make such findings in defensive asylum proceedings.[16] Under this new rule, asylum officers would be empowered to refer "frivolous" cases to immigration judges, thereby, per the rule's justification, allowing the officer to "focus more during the interview on matters that may be frivolous."[17] But an asylum officer's primary job is not to act as a fraud detector or a law enforcement officer; it is to ensure the full, fair, and thorough examination of an asylum claim.[18] By placing such outsize emphasis on fraud, this proposed rule jeopardizes the atmosphere of trust and confidence so essential to the fairness of affirmative asylum interviews.

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[13] *See, e.g.*, TRAC Immigration, "Asylum Decisions Vary Widely Across Judges and Courts - Latest Results," Jan. 13, 2020, https://trac.syr.edu/immigration/reports/590/; TRAC Immigration, "Record Number of Asylum Cases in FY2019," Jan. 8, 2020, https://trac.syr.edu/immigration/reports/588/ ("Starting in June 2018, however, denials began climbing again after former Attorney General Sessions strictly limited the grounds on which immigration judges could grant asylum. Sessions unilaterally restricted the legal basis for asylum for Central American women and children fleeing from gang and domestic violence. The unusually high denial rate in January 2019 occurred during the federal government shutdown when the only asylum cases judges heard were for detained immigrants who were often unrepresented.").

[14] *See, e.g.*, Human Rights Watch, "Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse," Feb. 5, 2020, https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and.

[15] 85 Fed. Reg. at 36277.

[16] 8 CFR § 1208.12.

[17] 85 Fed. Reg. at 36275.

[18] *See, e.g.*, UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* and *Guidelines on International Protection*, https://www.unhcr.org/en-us/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (Feb. 2019) at 45 (describing adjudicator's responsibilities).

Finally, the new frivolousness rule, perhaps recognizing its own harshness, claims to "ameliorate the consequences" by allowing applicants to: withdraw their application and any other application for any form of relief before the court with prejudice, accept a voluntary departure order, and depart the country within 30 days. This harsh set of measures hardly ameliorates the consequences of a frivolousness finding; it practically replicates them in its severity and permanence. It is little more than "heads I win, tails you lose," in which every applicant faces a grave risk of having their applications erroneously deemed frivolous under this vague new rule and can only avoid those consequences by departing the country.

Pretermission

Another troubling new rule would allow immigration judges to "pretermit and deny" an application for asylum, withholding of removal, or CAT relief "if the [applicant] has not established a prima facie claim for relief or protection under the applicable laws or regulations," either sua sponte or upon a motion from the government.[19]

This rule would have devastating consequences for asylum-seekers, particularly those who do not speak English or who are uncounseled – in other words, the vast majority of people seeking protection in the United States.[20] The rule is especially dire given administration programs like the so-called Migrant Protection Protocols (MPP), the Prompt Asylum Claim Review (PACR) program, and the Humanitarian Asylum Review Process (HARP), all of which keep asylum-seekers far from legal aid: recent statistics reveal that 93% of asylum-seekers in MPP, for example, lack access to counsel.[21] Every one of these applicants must singlehandedly fill out an application in a language that they very likely do not speak, while living in precarious and dangerous conditions and contending with trauma. Ignoring these nearly impossible obstacles, this rule would allow a judge to throw out their applications for relief if not perfectly pled.

UNHCR has explained that information in an initial written application "will normally not be sufficient to enable the examiner to reach a decision, and one or more personal interviews will be required" for an applicant to "fully explain" the basis for their claim.[22] The broad pretermission scheme runs afoul of that principle and ignores the importance of a full and fair hearing – a bedrock element of asylum adjudications.

STANDARDS FOR CONSIDERATION OF ASYLUM CASES

In addition to introducing serious procedural unfairness into asylum adjudications, the proposed rules also seek to alter nearly every element of the refugee definition, in a stark and concerning departure from U.S. obligations under the 1951 Convention Relating to the Status of Refugees (the "Refugee Convention") and its accompanying Protocol, as well as domestic asylum law.

[19] 85 Fed. Reg. at 36277.
[20] *See, e.g.*, TRAC Immigration, "Record Number of Asylum Cases in FY2019," Jan. 8, 2020, https://trac.syr.edu/immigration/reports/588/.
[21] *See* TRAC Immigration, "Details on MPP (Remain in Mexico) Deportation Proceedings," https://trac.syr.edu/phptools/immigration/mpp/ (last accessed July 15, 2020).
[22] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* and *Guidelines on International Protection*, https://www.unhcr.org/en-us/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (Feb. 2019), at 200.

Membership in a particular social group

The proposed rules would radically restrict who can qualify for asylum on the basis of "particular social group." This ground, per UNHCR, is meant to refer to a "group of persons who share a common characteristic other than their risk of being persecuted, *or* who are perceived as a group by society."[23] While not a catch-all, the term is meant to be read in an "evolutionary manner, open to the diverse and changing nature of groups in various societies and evolving international human rights norms."[24]

The proposed rule would starkly depart from this guidance. First, it would codify the requirement that a particular social group be "(1) composed of members who share a common, immutable characteristic; (2) defined with particularity; *and* (3) socially distinct in the society in question."[25] This is misguided: under international guidelines, the test of whether members of a particular social group share a "common characteristic" or are "socially visible" is meant to be disjunctive, requiring proof of either one or the other.[26] Furthermore, the "particularity" requirement is unfounded: per UNHCR, size of the group "is not a relevant criterion in determining whether a particular social group exists," just as the number of adherents to a particular political opinion or a particular religion would not disqualify that opinion or belief from serving as the basis for an asylum claim.[27]

To make matters worse, the proposed rule would also specifically enumerate a set of nine different grounds that would "generally be insufficient to establish a particular social group," many of which constitute common claims for asylum.[28] For example, the proposed rule would bar claims based on "attempted recruitment of the applicant by criminal, terrorist, or persecutory groups" or *any "*past or present criminal activity or associations."[29] This would throw out countless exigent claims for asylum based on gang brutality. UNHCR has explained the importance of recognizing claims based on resistance to forced recruitment by non-state armed groups and desertion from those groups: it has described how "[g]angs may direct harm at individuals who in various ways have resisted gang activity or who oppose, or are perceived to oppose, the practices of gangs," and how desertion from a gang "carries heavy consequences, [as] gangs tend to punish defectors severely, including through intimidation, death threats and/or physical revenge (which sometimes extends to family members)."[30]

The proposed rule would also generally forbid particular social groups formulated based on "interpersonal disputes" or "private criminal acts."[31] As written, this risks erroneously excluding the numbers of survivors of what this administration has derided as "private violence," including

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[23] UNHCR, "Guidelines on International Protection No. 2: Membership of a Particular Social Group," May 7, 2002, available at https://www.unhcr.org/en-us/publications/legal/3d58de2da/guidelines-international-protection-2-membership-particular-social-group.html, at 1 (emphasis added).
[24] *Id.*
[25] 85 Fed. Reg. at 36278.
[26] UNHCR, "Guidelines on International Protection No. 2: Membership of a Particular Social Group," May 7, 2002, available at https://www.unhcr.org/en-us/publications/legal/3d58de2da/guidelines-international-protection-2-membership-particular-social-group.html, at 1.
[27] UNHCR, "Guidelines on International Protection No. 2: Membership of a Particular Social Group," May 7, 2002, available at https://www.unhcr.org/en-us/publications/legal/3d58de2da/guidelines-international-protection-2-membership-particular-social-group.html, at 3.
[28] 85 Fed. Reg. at 36279.
[29] *Id.*
[30] UNHCR, *Guidance Note on Claims Relating to Victims of Organized Gangs*, March 2010, https://www.refworld.org/pdfid/4bb21fa02.pdf, at 4-5.
[31] 85 Fed. Reg. at 36279.

survivors of domestic and intimate partner violence, who suffer from "private criminal acts" but are unable to access protection or redress from the state as a result of systemic subjugation, misogyny, and abuses of women's rights.[32] It codifies a wrongly decided BIA precedent decision, *Matter of A-B-*,[33] which slams the door to survivors of domestic violence at a time when incidences of such violence are increasing around the world due to COVID-19 lockdowns, in a phenomenon experts have described as a "shadow pandemic."[34]

The proposed rule would also explicitly exclude particular social groups formulated on the basis of an asylum-seeker's "status as a [noncitizen] returning from the United States," even though rights groups have repeatedly documented how people deported from the United States, particularly long-term residents, "are singled out as easy and lucrative targets for extortion or abuse" upon deportation – feared harm that should give rise to protection.[35]

Finally, the proposed rule introduces a draconian new procedural bar to claims based on particular social group, requiring that *all possible* particular social groups be articulated in the asylum application on the record at the initial asylum hearing or otherwise be foreclosed from raising those claims ever again – even if the applicant suffered constitutionally deficient legal assistance.[36] The text accompanying the rule claims this is to avoid "gamesmanship and piecemeal analyses of claims," but in reality, the rule will result in foreclosing asylum to applicants with valid asylum claims that they may have failed to initially properly plead, including because their attorneys may have provided ineffective assistance or because they were forced to proceed pro se.

Political opinion

The proposed rule also dramatically restricts the scope of asylum claims based on political opinion. It seeks to define a "political opinion" as "one expressed by or imputed to an applicant possesses an ideal or conviction in support of the furtherance of a discrete cause related to political control of a state or unit thereof."[37] In other words, for a political opinion-based asylum claim to qualify, an applicant must prove they were advocating for regime change. Under this rule, even if an asylum-seeker has been politically active and targeted for that activism — they would not qualify.

This change ignores how so many actions not directly related to state control can be deeply political in nature: for example, a prominent LGBTI rights activist harassed for their advocacy, a believer in voting rights tortured for registering new voters, a journalist thrown in jail for publishing epidemiological data about COVID-19 in an authoritarian country whose government wishes to hide the full scale of the pandemic. Under this new rule, none of these people would qualify for asylum despite holding opinions, acting on those opinions, and being targeted by their governments as a result of those opinions.

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[32] *See, e.g.*, Theresa Vogel, "Critiquing *Matter of A-B-*: An Uncertain Future in Asylum Proceedings for Women Fleeing Intimate Partner Violence," University of Michigan Journal of Law Reform (2019), https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1804&context=mjlr.
[33] *Matter of A-B-*, 27 I. & N. Dec. 316 (BIA 2018).
[34] "UN Women raises awareness of the shadow pandemic of violence against women during COVID-19," May 24, 2020, https://www.unwomen.org/en/news/stories/2020/5/press-release-the-shadow-pandemic-of-violence-against-women-during-covid-19.
[35] Human Rights Watch, "Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse," Feb. 5, 2020, https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and.
[36] 85 Fed. Reg. at 36279.
[37] *Id.*

As purported support for this definition, the text accompanying the proposed rule cites UNHCR guidance.[38] But in the very same guidance cited, UNHCR explicitly counsels in favor of interpreting political opinion "in the broad sense, to incorporate any opinion on any matter in which the machinery of State, government, society, or policy may be engaged."[39] This proposed definition takes the opposite tack, foreclosing many political opinion-based claims as a result.

Persecution

The proposed rules would also ratchet up the requisite showing required to demonstrate persecution, requiring the applicant to demonstrate an "extreme concept of a severe level of harm."[40] Under this new rule, harm arising out of "civil, criminal, or military strife," "unjust" treatment, "repeated threats with no actions taken to carry out the threats," "non-severe economic harm," "brief detentions," and laws on the books that explicitly discriminate against the applicant would not qualify as persecution.[41] In the words of one expert, this standard would require no less than a showing that a "gun was held to [the applicant's] head."[42] An applicant who fled their country after receiving serious threats would risk having their claim denied because they did not remain for those threats to be completed.

This standard also runs afoul of international principles, which have long understood persecution as a concept difficult to define but generally encompassing a serious threat to life, other serious violations of human rights, "prejudicial actions or threats," or even, when considered cumulatively, discriminatory measures and other adverse factors.[43] Such a flexible, broad understanding of what constitutes persecution is necessary considering the diverse situations asylum-seekers flee and the many forms that serious harm can take.

Nexus

In addition to constricting the most common bases of asylum, the proposed rules go a step further, enumerating eight specific situations in which "alleged acts of persecution would not be on account of one of the five protected grounds."[44] This is illogical: a persecutory act is either "on account of" a protected ground or not, as a factual matter. This regulation, if implemented, would require the adjudicator to ignore the facts at hand if the result is not to the administration's liking.

Furthermore, the specific situations outlined by the rule appear targeted to include many common asylum claims, particularly claims brought by asylum-seekers from Central America, evincing the administration's longstanding animus against this population.[45] For example, the

[38] 85 Fed. Reg. at 36279.
[39] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* and *Guidelines on International Protection*, https://www.unhcr.org/en-us/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (Feb. 2019), at 89.
[40] 85 Fed. Reg. at 36280.
[41] *Id.*
[42] Bill Frelick, "For World Refugee Day, the US plans to reject them all," The Hill, June 20, 2020, https://thehill.com/opinion/civil-rights/503507-for-world-refugee-day-the-us-plans-to-reject-them-all.
[43] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* and *Guidelines on International Protection*, https://www.unhcr.org/en-us/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (Feb. 2019), at 21.
[44] 85 Fed. Reg. at 36281.
[45] Miriam Jordan, A Day After It Was Filed, New Trump Asylum Policy Gets Hit in Court," New York Times, July 16, 2019, https://www.nytimes.com/2019/07/16/us/asylum-lawsuit-aclu.html; U.S. Committee on Civil Rights, "Trauma At the Border," Oct.

rule would foreclose asylum based on "personal animus or retribution in which the persecutor has not targeted, or manifested an animus against, other members of an alleged particular social group in addition to the member who has raised the claim at issue."[46] Tellingly, the rule cites to *Matter of A-B-*, the BIA decision discussed above, which slams the door to survivors of domestic and gender-based violence. This rule would entrench *Matter of A-B-*'s erroneous reasoning in regulation and have devastating consequences for survivors.

The rule would also generally foreclose claims based on "opposition to criminal, terrorist, gang, guerilla, or other non-state organizations," resistance to recruitment by those organizations, or perceived past or present membership in those organizations. For reasons discussed above, this rule will result in the *refoulement* of countless people fleeing violence at the hands of non-state armed groups and flies in the face of international guidance regarding the seriousness and gravity of these claims.[47]

Finally, the rule would exclude claims based on "gender." With that single word, this proposed regulation sweeps aside entire categories of people at grave risk of persecution, including LGBTI asylum-seekers and women and girls. As Amnesty International has documented, "LGBTI people are frequently the target of different forms of violence due to their real or perceived sexual orientation and/or gender identity, such as intimidation, threats, physical aggression, sexual violence and even murder."[48] A 2017 UNHCR study of LGBTI asylum-seekers from Central America concluded that 88 percent surveyed had suffered sexual and gender-based violence in their countries of origin.[49] Women, meanwhile, suffer epidemic levels of violence in many common countries of asylum: a recent study by the Economic Commission of Latin America and the Caribbean registered an astonishing 3,529 femicides in the region in 2018 alone, and studies have confirmed that rates of domestic violence are skyrocketing during COVID-19 lockdowns.[50] Yet this rule would foreclose these applicants' gender and gender identity-based claims.

As support for the sweeping proposition that gender-based claims will no longer qualify applicants for asylum, the rule cites to a single sentence in a single court opinion which muses about "understandable concern in using gender as a group-defining characteristic" given that "one may be reluctant to permit, for example, half a nation's residents to obtain asylum on the ground that women are persecuted there."[51] But the numerosity of a particular social group is an irrelevant consideration; as UNHCR guidance has explained, "[t]he size of the group has sometimes been used as a basis for refusing to recognize 'women' generally as a particular social

24, 2019, https://www.usccr.gov/pubs/2019/10-24-Trauma-at-the-Border.pdf (U.S. Committee on Civil Rights describing possible Equal Protection Clause concerns in the repeatedly demonstrated animus by administration officials towards asylum-seekers from Central America).

[46] 85 Fed. Reg. at 36281.

[47] UNHCR, "Guidance Note on Refugee Claims Related to Victims of Organized Gangs," March 2010, https://www.refworld.org/docid/4bb21fa02.html.

[48] Amnesty International, *No Safe Place: Salvadorans, Guatemalans, and Hondurans Seeking Asylum in Mexico Based on Their Sexual Orientation or Gender Identity*, Nov. 2017, https://www.amnesty.org/download/Documents/AMR0172582017ENGLISH.PDF.

[49] UNHCR, Población LGBTI en México y Centroamérica (LGBTI Population in Mexico and Central America), 2017, http://www.acnur.org/donde-trabaja/america/mexico/poblacion-lgbti-en-mexico-ycentroamerica/.

[50] Anya Prusa, Beatriz Garcia Nice & Olivia Soledad, "Pandemic of Violence: Protecting Women During COVID-19," May 15, 2020, https://www.wilsoncenter.org/blog-post/pandemic-violence-protecting-women-during-covid-19.

[51] 85 Fed. Reg. at 36281.

group. This argument has no basis in fact or reason, as the other grounds are not bound by this question of size."[52]

Finally, this rule would "bar the consideration of evidence promoting cultural stereotypes of countries or individuals, including stereotypes related to race, religion, nationality, or gender, to the extent those stereotypes were offered in support of an [applicant's] claim to show that a persecutor conformed to a cultural stereotype."[53] Yet prohibiting the use of this type of evidence would prevent asylum applicants from demonstrating their fear is well-founded or objectively reasonable. Furthermore, applicants whose claims are based on membership in a particular social group are *required* to show that their group is "socially distinct," an inquiry which turns on how society perceives them, which the BIA has recognized requires furnishing evidence about how the group is treated and the historical animosities they face – in other words, precisely the evidence that this rule would ban.[54] This prohibition would force asylum-seekers into an impossible situation in which they would be banned from submitting evidence that is elsewhere required to prove their claims.

Internal relocation

Finally, in addition to these significant changes to protected grounds and nexus, the proposed rules would create a presumption that asylum-seekers who fear persecution at the hands of non-state actors can safely relocate elsewhere in their country of persecution unless they prove otherwise. Currently, if an asylum-seeker demonstrates their well-founded fear of persecution on account of a protected ground, DHS bears the burden of demonstrating that the asylum-seeker can safely relocate within their country of origin, thus negating the need for international protection.[55]

Under international guidelines, the state must show that an internal flight or relocation alternative exists.[56] Furthermore, UNHCR has clarified that "[i]nternational law does not require threatened individuals to exhaust all options within their own country first before seeking asylum; that is, it does not consider asylum to be the last resort. The concept of internal flight or relocation alternative should therefore not be invoked in a manner that would undermine important human rights tenets underlying the international protection regime, namely the right to leave one's country, the right to seek asylum and protection against *refoulement*."[57] Yet, by presuming that safe internal relocation alternatives exist, this proposed rule would do just that. This presumption also ignores the statewide, even transnational, reach of many non-state persecutory groups and the weakness of state mechanisms to protect against them, not to

[52] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* and *Guidelines on International Protection*, https://www.unhcr.org/en-us/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (Feb. 2019), at 21.
[53] 85 Fed. Reg. at 36282.
[54] *See, e.g.*, *Matter of M-E-V-G-* 26 I. & N. Dec. 227 (BIA 2014) (requiring particular social group to be "socially distinct" and clarifying that "evidence such as country conditions reports, expert witness testimony, and press accounts of discriminatory laws and policies, historical animosities, and the like may establish that a group exists and is perceived as "distinct" or "other" in a particular society.").
[55] 8 CFR 208.13(b)(1)(i)(B)(2)(ii).
[56] UNHCR, "Guidelines on International Protection No. 4: Internal Flight or Relocation Alternatives," July 23, 2003, https://www.refworld.org/docid/3f2791a44.html.
[57] *Id.*

mention the significant strain that would be placed on asylum-seekers who have already confronted persecution and trauma by having to relocate elsewhere.[58]

Discretionary factors

For the few asylum-seekers who manage to somehow surmount these impassable new hurdles to refugee status, the proposed rules introduce a range of factors to "guide" adjudicators' discretion in denying asylum claims. These factors are entirely unrelated to the merits of an asylum-seeker's claim; many also run afoul of established principles of international protection. Taken together, they appear to serve no purpose other than ensuring that as few people with meritorious claims as possible can access asylum.

First, the rules create three new "significantly adverse" factors that adjudicators "must" consider during "every asylum adjudication" and which would counsel against an exercise of discretion.[59] Elsewhere, the rulemaking also proposes introducing nine *additional* adverse factors, "the applicability of any of which would normally result in the denial of asylum as a matter of discretion."[60] Given that even these ordinary adverse factors would "normally result" in the denial of asylum, the "significantly adverse" factors will likely be read by adjudicators not as discretionary factors, but as absolute bars to asylum eligibility. Just this month, a federal appeals court made clear that eligibility bars to asylum are strictly constrained by statute, and that the administration cannot shoehorn eligibility bars into its broad authority to deny asylum claims as a matter of discretion.[61] But by enumerating specific factors that will effectively *always* counsel in favor of denial of asylum-seekers' claims, the "significant adverse factors" proposed here are nothing but eligibility bars by another name. As discussed below, they are just another attempt to achieve the same draconian limits on asylum eligibility the administration has attempted before, through other measures which courts have repeatedly enjoined.

The first of the proposed "significant adverse factors" is "a [noncitizen's] unlawful entry or unlawful attempted entry into the United States unless such entry or attempted entry was made in immediate fight from persecution or torture in a contiguous country."[62] This language mimics the November 2018 ban on asylum eligibility for people who cross between ports of entry.[63] That ban was swiftly enjoined because it is in clear conflict with the plain language of the asylum statute, which specifies that noncitizens may apply for asylum "irrespective of [their] status."[64]

The administration attempts to sidestep the proposed rule's plain conflict with the statute by arguing in a footnote that "consideration of the [applicant's] unlawful manner of entry as a discretionary negative factor does not limit [their] right or ability to apply for asylum."[65] But that is exactly what it does: the rule will have the effect of limiting applicants' eligibility based on a past unlawful entry, a practice deemed impermissible by every court to have considered it.

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[58] *Id.*; *see, e.g.*, Claire Ribando Seelke, "Gangs in Central America," Congressional Research Service, Aug. 29, 2016, https://fas.org/sgp/crs/row/RL34112.pdf, at 3-4.
[59] 85 Fed. Reg. at 36283.
[60] 85 Fed. Reg. at 36284.
[61] East Bay Sanctuary Covenant v. Barr, No. 19-16487 (9th Cir. 2020) (slip op. at 35).
[62] 85 Fed. Reg. at 36283.
[63] "Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims," Nov. 2018, https://www.federalregister.gov/documents/2018/11/09/2018-24594/aliens-subject-to-a-bar-on-entry-under-certain-presidential-proclamations-procedures-for-protection.
[64] *East Bay Sanctuary Covenant v. Trump*, 909 F.3d 1219 (9th Cir. 2018).
[65] 85 Fed. Reg. at 36283 n.34.

Furthermore, treating unlawful entry as a "significant adverse factor" runs afoul of the U.S. government's obligations under article 31 of the Refugee Convention, which exhorts that states "shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened . . . enter or are present in their territory without authorization."[66] The "significantly adverse factor" this proposed rule would seek to introduce is just that: an impermissible penalty based on how an asylum-seeker entered the country. It is also especially cruel considering the numerous policies in place at the border – from automatic expulsions to unlawful asylum waitlists at ports of entry – which push desperate asylum-seekers to cross between ports,[67] as the government itself has acknowledged.[68]

The second "significant adverse factor" would be an applicant's "failure" to seek asylum "in at least one country" through which they transited on the way to the United States.[69] This provision echoes the third-country transit ban, which prohibits from asylum anyone who has transited through nearly any third country on the way to the United States who failed to apply for asylum in that country.[70] Amnesty International has previously criticized that ban for running afoul of international standards, engendering *refoulement*, and failing to recognize the many real and pressing reasons asylum-seekers cannot safely access protection in many common countries of transit, including persecution and insecurity.[71] Just weeks ago, the transit ban was declared unlawful by multiple courts; in one of the decisions, the court specifically noted that "denial of asylum cannot be predicated solely on a [noncitizen]'s transit through a third country."[72] By including the fact of an applicant's transit through a third country without seeking protection there as a "significant adverse factor," however, this rule would effectively do just that.

The third "significantly adverse" factor concerns the applicant's use of fraudulent documents to enter the United States. UNHCR has recognized that "circumstances may compel an asylum-seeker to have recourse to fraudulent documentation when leaving a country in which [their] physical safety or freedom are endangered," such that use of fraudulent documentation may be justified in compelling circumstances.[73] Yet this rule would counsel against grants of asylum where even those compelling circumstances exist.

The rulemaking also proposes introducing nine additional adverse factors that would "normally" lead to asylum denials.[74] These include factors related to presence in other countries, including a previous stay of more than 14 days in a country that permitted asylum applications, or passing through more than one transit country on the way to the United States.[75] As described above,

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[66] 1951 Convention Relating to the Status of Refugees, art. 31, available at https://www.refworld.org/docid/3be01b964.html.
[67] *See, e.g.*, Amnesty International,
[68] *See, e.g.*, DHS Office of the Inspector General, "Special Review - Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy," Sept. 2018, https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf.
[69] 85 Fed. Reg. at 36283.
[70] "Asylum Eligibility and Procedural Modifications," 84 Fed. Reg. 33829, July 16, 2019, https://www.federalregister.gov/documents/2019/07/16/2019-15246/asylum-eligibility-and-procedural-modifications.
[71] "Amnesty International USA Comments on Interim Final Rule Regarding Asylum Eligibility," Aug. 9, 2019, https://www.amnestyusa.org/our-work/government-relations/advocacy/our-comment-on-asylum-ban-2-0-submitted-august-9-2019/.
[72] East Bay Sanctuary Covenant v. Barr, No. 19-16487 (9th Cir. 2020) (slip op. at 35).
[73] UNHCR Executive Committee Conclusion No. 58 (1989), section (i), quoted in Guy S. Goodwin-Gill, "Article 31 of the 1951 Convention relating to the Status of Refugees: Non-penalization, Detention and Protection," Oct. 2001, https://www.unhcr.org/3bcfdf164.pdf.
[74] 85 Fed. Reg. at 36284.
[75] *Id.*

denying asylum to people who have transited through third countries ignores the reality that many common countries of transit are deeply unsafe for asylum-seekers and that the existence of asylum systems on the books does not translate to protection in reality. Furthermore, these factors ignore the reality that asylum-seekers – particularly those who arrive from extra-continental countries – routinely have to pass through several other countries on their way to the United States; in some cases, it may be literally impossible to avoid transiting through more than one country before reaching this one. This rule would make it so only the very wealthiest asylum-seekers who are able to afford a direct ticket to the United States can avoid application of these adverse factors.

The proposed rules would also generally lead to the denial of asylum applications of people who previously abandoned their applications or had them denied. This is exceptionally cruel considering programs in operation at the southern border that are seemingly designed to force asylum-seekers to abandon their claims. Under MPP, for example, asylum-seekers regularly describe being kidnapped in Mexico, sometimes on their way to court.[76] Amnesty International staff observed an immigration judge hearing cases on this docket describe how she had received guidance requiring that she enter removal orders for every person who failed to show up for court, despite her serious concerns about the risks of kidnapping and violence that may have contributed to their inability to appear.[77] This new rule would penalize people in this situation, placing asylum out of their reach because of dangers they were exposed to by the U.S. government.

The proposed rules would also unjustly foreclose asylum for people who failed to pay income taxes on every single penny of income earned in the United States.[78] This is especially unfair considering new rules adopted by this administration make asylum-seekers' ability to access lawful work next to impossible: asylum-seekers who crossed irregularly are banned from obtaining employment authorization at *any* point in their (often years-long) process of seeking asylum; everyone else is barred from even applying for asylum for a year after their asylum application has been pending.[79] While that rule will almost certainly force asylum-seekers into irregular work, this one will now penalize them for that work. Taken together, these rules force an impossible choice upon asylum-seekers. This proposed "adverse factor" is little more than a mean-spirited attempt to punish asylum-seekers who attempt to survive.

Firm resettlement

The proposed rules will also create a set of new hurdles based on the statutory "firm resettlement" bar. Under current regulation, an asylum-seeker is barred under this provision if they "entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement."[80] Under the new rules, the firm resettlement bar would apply against anyone (1) who theoretically "could have resided" in any permanent or non-permanent, renewable immigration status in a transit country; (2) who physically resided in any country for a year without "continuing to suffer persecution"; or

[76] *See, e.g.*, Human Rights First, *Pandemic as Pretext: Trump Administration Exploits COVID-19, Expels Asylum Seekers and Children to Escalating Danger*, May 13, 2020, https://www.humanrightsfirst.org/resource/pandemic-pretext-trump-administration-exploits-covid-19-expels-asylum-seekers-and-children.
[77] Amnesty International observation in San Antonio Immigration Court (Sept. 2019).
[78] 85 Fed. Reg. at 36285.
[79] USCIS, "New USCIS Rule Strengthens Employment Eligibility Requirements for Asylum Seekers," June 22, 2020, https://www.uscis.gov/news/news-releases/uscis-rule-strengthens-employment-eligibility-requirements-asylum-seekers.
[80] 8 C.F.R. § 208.15.

(3) who is a citizen of a third country, even if they renounced that citizenship after coming to the United States.[81]

As justification for vastly expanding this new bar, the text accompanying the rule points to the supposed "increased availability of resettlement opportunities" around the globe, citing as evidence the fact that 43 countries have signed onto the Refugee Convention since 1990.[82] The fact that a country is a signatory to the international refugee treaties of course does not mean protections exist or are respected in practice, as the United States itself has demonstrated.[83] Furthermore, far from seeing an increase in availability in resettlement opportunities around the globe, the context of refugee resettlement today is one of exploding need and shrinking availability.[84] Around the world, as numbers of those forcibly displaced continue to rise, more and more refugees are being forced into situations of precarity, unable to access livelihoods, work, education, or safety.[85]

Yet this rule would foreclose countless asylum-seekers who have survived on the margins in third countries from receiving asylum here if they had managed to survive for over a year, or if they could theoretically have accessed lawful status even if, in reality, that status never materialized. It would even potentially foreclose asylum-seekers who have been forced to live in Mexico for a year or more under MPP, given the numbers of people who have been forced to wait for longer and longer periods of time due to the COVID-19 pandemic.[86] Like the other transit-based bars discussed above, this new rule, too, is predicated on the fiction that common countries of transit are safe for asylum-seekers.

Rogue officials

Aside from this dramatic set of changes to asylum eligibility, the proposed rules would also implement changes to how claims for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) are adjudicated. Under CAT, an applicant is eligible for withholding or deferral of removal if they are more likely than not to face torture "by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."[87]

The new rule would limit CAT relief by clarifying that "pain or suffering inflicted by, or at the instigation of or with the consent or acquiescence of, a public official, is *not* torture unless it is done while the official is acting in his or her official capacity (i.e., under color of law)," and "pain or suffering inflicted by, or at the instigation of or with the consent or acquiescence of, a

[81] 85 Fed. Reg. at 36286.
[82] 85 Fed. Reg. at 36285.
[83] *See, e.g.*, Amnesty International Canada, "Legal Challenge of Safe Third Country Agreement Launched," July 5, 2017, https://www.amnesty.ca/news/legal-challenge-safe-third-country-agreement-launched (describing how the United States systematically fails to abide by its international protection obligations, such that Canada can no longer deem it a "safe third country" for asylum-seekers).
[84] "1.4 million refugees set to need urgent resettlement in 2020: UNHCR," July 1, 2019, https://news.un.org/en/story/2019/07/1041632.
[85] *See, e.g.*, Amnesty International, "The Mountain Is in Front of Us and the Sea Is Behind Us," June 17, 2019, https://www.amnestyusa.org/reports/the-mountain-is-in-front-of-us-and-the-sea-is-behind-us-the-impact-of-us-policies-on-refugees-in-lebanon-and-jordan/; Amnesty International, "In Search of Safety: Peru Turns Its Back on People Fleeing Venezuela," Feb. 4, 2020, https://www.amnesty.org/en/documents/amr46/1675/2020/en/ (describing challenges faced by asylum-seekers in common refugee host countries).
[86] Alice Driver, "At the US-Mexico border, asylum chaos and coronavirus fear," The New Humanitarian, June 22, 2020, https://www.thenewhumanitarian.org/news/2020/06/22/US-Mexico-border-asylum-chaos-coronavirus-fear.
[87] 8 C.F.R. § 1208.1(c)(2).

public official not acting under color of law does not constitute 'pain or suffering inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity' even if such actions cause pain and suffering that could rise to the severity of torture." Put simply, even if a public official has tortured, or will torture, a person seeking CAT relief, these rules would leave that person unprotected unless the official was acting "under color of law."

This definition raises serious concerns. For one, it is disturbingly tautological: 170 countries have, at least nominally, eschewed the use of torture by becoming parties to the CAT,[88] so seemingly any government official who commits torture could be said to be acting outside the scope of the law. For another, it ignores the lived reality of people who face torture at the hands of so-called "rogue officials": for example, an applicant for CAT relief who faces sexual violence at the hands of their police officer partner would be excluded under this provision – even if the fact their partner is a police officer means they cannot access state protection. This rule, if implemented, will lead to countless wrongful denials of protection for people whose removals would send them back to a real risk of torture, in violation of the principle of *non-refoulement*.

Information disclosure

Finally, the proposed regulations would seriously compromise the confidentiality of asylum applications by allowing DHS and DOJ to broadly disclose "all relevant and applicable information" in asylum applications "as part of a federal or state investigation, proceeding, or prosecution; as a defense to any legal action relating to the [noncitizen's] immigration or custody status; an adjudication of the application itself or an adjudication of any other application or proceeding arising under the immigration laws; pursuant to any state or federal mandatory reporting requirement; pursuant to any state or federal mandatory reporting requirement; and to deter, prevent, or ameliorate the effects of child abuse."[89] Taken together, these offer alarmingly broad bases for the sharing of confidential information in asylum applications.

The confidentiality of an asylum application is of paramount importance, considering the sensitivity of the information collected and the serious ramifications of that information reaching the wrong hands. Asylum-seekers are frequently required to divulge deeply personal details about some of the most traumatic and difficult events of their lives, and are often in danger of persecution if even the fact of their asylum application is made public. As UNHCR has explained, "[t]he right to privacy and its confidentiality requirements are especially important for an asylum-seeker, whose claim inherently supposes a fear of persecution by the authorities of the country of origin and whose situation can be jeopardized if protection of information is not ensured."[90] By broadly permitting information-sharing with law enforcement agencies and other entities, this rule flouts asylum-seekers' right to privacy in their asylum proceedings and will jeopardize applicants' ability to fully share their stories.

For all these reasons, Amnesty International USA urges DOJ and DHS to immediately rescind these proposed rules, which together constitute a grievous attack on the U.S. asylum system and will place asylum protections out of reach for nearly everyone who applies for them.

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[88] *See* United Nations Treaty Collection, UN Convention Against Torture, available at https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en.
[89] 85 Fed. Reg. at 36288.
[90] UNHCR, "Advisory opinion on the rules of confidentiality regarding asylum applications," https://www.refworld.org/pdfid/42b9190e4.pdf (March 31, 2005).

Sincerely,

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