

On June 11, the Trump administration proposed new regulations that would exclude nearly all people seeking asylum in the United States. The new rules would apply to any person seeking asylum in the United States, regardless of how they enter the country, whether by land, air, or sea. They could also affect people who already applied for asylum and have pending cases. Over 300,000 people currently have affirmative asylum applications pending with U.S. Citizenship and Immigration Services (USCIS). Hundreds of thousands of additional people have asylum cases pending in immigration court.

The new rules are detailed and complex running at 161 pages. The following is just a summary of some of the rules. The proposed rules (A) greatly decrease the number of individuals who would qualify for asylum; (B) make the substantive standards for granting asylum much tougher; and (C) limit access to full and fair court hearings on asylum claims.

The proposed regulation make ineligible for asylum any individuals who have:

- Passed through at least two countries before arriving in the United States or stayed in another country for at least 14 days before arriving in the United States.
- Ever failed to pay taxes, paid taxes late, or failed to report any income to the IRS.
- Been unlawfully present in the United States for at least one year.

The tougher standards for proving a right to asylum include:

- Immigration judges must use a person's unlawful entry into the United States as a "significant adverse factor" when deciding whether to grant asylum. This would be applied even though many people are turned away at ports of entry and that it is legal to seek asylum between ports of entry.
- The proposed regulations impose expansive new grounds for having an asylum application declared "frivolous." A person whose asylum application is declared frivolous is banned from any other immigration relief.
- The proposed rules raise the definition of "persecution" to cover only "extreme" harms. This would be a much higher standard than the current one. The rules also require that an applicant for asylum alleging a fear of persecution must show a direct failure of their government to intervene
- The proposed regulations also redefine what it means to be persecuted on account of "membership in a particular social group" or on account of "political opinion." Many Central Americans who were the victims of MS-13 or other transnational criminal organizations previously won asylum on these grounds. The proposed rules would effectively eliminate that possibility by declaring that "particular social groups" relating to opposition to gangs or terrorist organizations do not qualify, nor would political opposition to those groups.
- The proposed rules also specifically prohibit applying for asylum based on persecution on account of gender. Even women fleeing from sex slavery at the hands of ISIS would not be allowed to argue that they were persecuted "on account of gender."
- The proposed regulations also redefine what it means to have "firmly resettled" in a third country. Anyone who *could* have resettled in a third country on their way to the United States—even if they did not know it was a possibility—was indeed "firmly resettled" by the government's definition and would make the person ineligible for asylum.
- The proposed rules eliminate confidentiality requirements that enable asylum seekers to safely disclose their fears and the violence they suffered to asylum officers and judges, likely chilling countless people from sharing their stories.
- Other changes included heightened standards of proof of credible fear of (a) persecution in proceedings for removal or aliens and (b) torture for protection under the Convention Against

Torture, heightened screening processes at the border, and new burdens on asylum applicants to prove that they could not have relocated elsewhere to avoid persecution.

The rule makes two major changes to the asylum process:

- Individuals who seek protection at the border who pass the first stage of the asylum process would no longer be put into full immigration court proceedings. Instead, they would only be given access to narrower “asylum-only” court proceedings. In these proceedings, even if they were eligible for form of relief other than asylum, they would not be allowed to apply for it.
- Second, the new rules permit a judge to deny asylum applications without a hearing if the judge finds that an applicant had not put enough evidence in the application itself. Currently, asylum applicants must be permitted to testify about their case in court.

The public may comment on these rules through July 15. We urge you to submit a comment in opposition to these new rules, which effectively end the possibility of asylum for most people. You must submit your comment, identified by the agency name (Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security) and reference RIN 1125-AA94 or EOIR Docket No. 18-0002, by one of the two methods below.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the website instructions for submitting comments.
- Mail: Direct the mail to Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041. Mailed items must be postmarked or otherwise indicate a shipping date on or before the submission deadline.