

March 13, 2024

Hon. Merrick B. Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Hon. Alejandro N. Mayorkas  
Secretary  
U.S. Department of Homeland Security  
301 7th Street, SW  
Washington, DC 20528

**RE: Pending and Promised Regulatory Actions Related to Asylum**

Dear Attorney General Garland and Secretary Mayorkas:

The undersigned 83 organizations and legal scholars urge the Departments of Justice and Homeland Security to rescind, propose, or finalize the following regulations. It is critical that the former administration's anti-asylum rules be rescinded to fully dismantle its unlawful and inhumane policies. In addition, rulemaking is essential to fulfill President Biden's [commitment to restore](#) the United States' "historic role as a safe haven for refugees and asylum-seekers" as called for in his [executive order](#) on the safe and orderly processing of asylum claims.

Most of the asylum-related rules promulgated by the former administration have been enjoined, vacated, rescinded in part, or had their effective dates delayed. Rather than relying on litigation, partial rescission, and delays, the Departments should rescind the rules in their entirety so that future administrations cannot rely on the authority they provide. Rules that should be rescinded include:

- *Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act*, [84 Fed. Reg. 63,994](#) (Nov. 19, 2019). The interim final rule provides for the implementation of cooperative arrangements that fail to meet the statutory requirements for safe third country agreements and attempt to allow the removal of asylum seekers to third countries through which they transited.
- *Procedures for Asylum and Bars to Asylum Eligibility*, [85 Fed. Reg. 67,202](#) (Nov. 20, 2020). The final rule greatly expands mandatory bars to asylum eligibility.
- *Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*, [85 Fed. Reg. 80,274](#), (Dec. 11, 2020). The final rule [severely restricts](#) the legal standards governing asylum and protection adjudications, including persecution, political opinion, particular social group, firm resettlement, internal relocation, and the nexus standard, as well as the evidence asylum seekers can present to support their claims, among other things.
- *Procedures for Asylum and Withholding of Removal*, [85 Fed. Reg. 81,698](#) (Dec. 16, 2020). The final rule further erects [barriers to asylum eligibility](#) through the imposition of a 15-day filing deadline for asylum applications, broadening the definition of a frivolous application, conditioning eligibility on payment of an application fee, and allowing Immigration Judges to submit their own evidence into the record, while prejudicing evidence from non-governmental organizations, among other things.

- *Asylum Eligibility and Procedural Modifications*, [85 Fed. Reg. 82,260](#) (Dec. 17, 2020). The final rule follows an [interim final rule](#) that established a [third country transit ban](#) that caused disorder, family separations, and human rights abuses.
- *Security Bars and Processing*, [85 Fed. Reg. 84,160](#) (Dec. 23, 2020). The final rule treated asylum seekers as threats to public health, on specious grounds rooted in racist tropes and that public health experts have [debunked and opposed](#).

The Departments should take the following actions on rulemaking initiated by this administration:

- *Clarifying Definitions and Analyses for Fair and Efficient Asylum and Other Protection Determinations*, [RIN 1615-AC65](#) (Fall 2023). Consistent with President Biden’s [executive order](#), the Departments should propose and swiftly finalize this rule. The rule should adopt a definition of “particular social group” that [accords with international law](#).
- *Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers*, [87 Fed. Reg. 18,078](#) (Mar. 29, 2022). The Departments should publish a final rule incorporating the changes advocates have [recommended](#) to the interim final rule.
- *Circumvention of Lawful Pathways*, [88 Fed. Reg. 31,314](#) (Dec. 28, 2022). The Departments should rescind the rule, except those parts that rescind *Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims*, 83 Fed. Reg. 55,934 (Nov. 9, 2018) and *Asylum Eligibility and Procedural Modifications*, 85 Fed. Reg. 82,260 (Dec. 17, 2020). Diverse [organizations](#), [68 Members of Congress](#), and the [United Nations High Commissioner for Refugees](#) opposed the initial [notice of proposed rulemaking](#), which has led to grave human suffering, is contrary to statute, and [counterproductive](#) to safe and orderly processing.
- *Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants*, [RIN 1615-AC78](#) (Spring 2022). The Department of Homeland Security [should issue](#) an interim final rule that authorizes a renewed 540-day, or longer, automatic work authorization extension period for immigrants who apply to renew their Employment Authorization Document.

Thank you for your consideration of these recommendations. We look forward to the Departments taking action to protect access to asylum in the United States.

Sincerely,

*Organizations*

Acacia Center for Justice  
 African Immigration Initiative  
 African Human Rights Coalition  
 Al Otro Lado  
 Americans for Immigrant Justice  
 Asian Americans Advancing Justice | AAJC  
 Asian Pacific Institute on Gender-Based Violence

Asylum Seeker Advocacy Project (ASAP)  
Black Alliance for Just Immigration  
Borderlands Resource Initiative  
Boston University School of Law Immigrants' Rights and Human Trafficking Program  
Capital Area Immigrants' Rights (CAIR) Coalition  
Care for Friends  
Center for Gender & Refugee Studies  
Center for Victims of Torture  
Chacón Center for Immigrant Justice at MD Carey Law School  
Church World Service  
Coalición de Derechos Humanos  
Community Renewal Society  
Estrella del Paso (Formerly DMRS)  
FAITH IN TEXAS  
Freedom Network USA  
Global Refuge  
Haitian Bridge Alliance  
HIAS  
Human Rights First  
Immigrant Defenders Law Center  
Immigrant Legal Resource Center  
Immigration Equality  
Jesuit Refugee Service/USA  
Justice Action Center  
Justice At Last  
Justice in Motion  
Kingdom Embassy Center International USA  
La Raza Community Resource Center  
Las Americas Immigrant Advocacy Center  
Lawyers for Good Government  
Mariposa Legal, program of COMMON Foundation  
Minnesota Freedom Fund  
Muslim Advocates  
National Employment Law Project  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project  
National Korean American Service & Education Consortium (NAKASEC)  
National Partnership for New Americans  
NETWORK Lobby for Catholic Social Justice  
New York Immigration Coalition  
Oasis Legal Services

Presente.org  
Provincial Council Clerics of St. Viator  
Rocky Mountain Immigrant Advocacy Network  
Safe Harbor Clinic, Brooklyn Law School  
Sanctuary for Families  
Sanctuary Working Group  
Sanctuary Working Group, Chicago  
Services, Immigrant Rights and Education Network  
STRANGERS NO LONGER (Michigan)  
Tahirih Justice Center  
The Asylum Program of Arizona  
The Faith Community Initiative  
Volunteer Lawyers for Justice  
Washington Office on Latin America  
Witness at the Border  
Women's Refugee Commission

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cc: The Honorable Ur M. Jaddou, Director, U.S. Citizenship and Immigration Services  
The Honorable David L. Neal, Director, Executive Office for Immigration Review