



FAQ: What Is Happening to the U.S. Asylum Laws?

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What is asylum and why is it important to the Catholic Church?

The Catholic Church recognizes the right of sovereign nations to control their borders, but also believes that those fleeing violence and persecution should be protected. In a recent statement, Bishop Jose S. Vásquez of Austin, Texas and Sean Callahan, President and CEO of Catholic Relief Services said, “[w]e steadfastly affirm a person’s right to seek asylum and find recent efforts to curtail and deter that right deeply troubling. We must look beyond our borders; families are escaping extreme violence and poverty at home and are fleeing for their lives.”¹

What is happening to the U.S. asylum laws?

There have been many changes or attempted changes to the U.S. asylum laws in recent months. Several have been through the Notice of Proposed Rulemaking (NPRM). Through this process, a federal agency gives notice of a newly proposed rule and allows for a period of public comment, after which, the proposed change is implemented by the Administration either as initially written or with some changes due to the comments.

What proposed changes to asylum are happening currently?

During Summer 2020, the Department of Homeland Security (DHS) and the Department of Justice Executive Office of Immigration Review, Department of Justice (DOJ/EOIR) have published two NPRMs regarding asylum in the Federal Register. The first NPRM that directly affects asylum, “[Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review](#)” was published on June 15, 2020.² The most recent NPRM on asylum, “[Security Bars and Processing](#),”³ was published on July 9, 2020.⁴ Each of these proposed rules would significantly and detrimentally change asylum laws in the United States, making it nearly impossible for asylum seekers to find protection in our country.

What would the proposed asylum regulations change?

- The first NPRM “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review” is a lengthy 161-pages of proposed changes to the country’s current asylum laws. The changes would:

allow immigration judges to summarily deny applications before the asylum-seeker can see a judge; redefine the term “particular social group” in asylum law to effectively eliminate asylum for those fleeing domestic and/or gang violence; heighten the standards for initial asylum interviews; and codify and heighten the standard of “persecution.” The proposed changes are so severe and expansive that they would upend nearly all elements of U.S. asylum law and could cut off access to asylum for nearly all asylum seekers.

- USCCB was deeply troubled by the proposed changes in the NPRM, and issued a [statement](#)⁵ and a comment. Please see the full comment [here](#).⁶ In the statement, Bishop Mario E. Dorsonville, auxiliary bishop of Washington, and chairman of the U.S. Conference of Catholic Bishops’ Committee on Migration stated: “These proposed asylum regulations will have devastating consequences for those seeking protection in the United States who are fleeing domestic violence or persecution from gangs in their home countries. The Catholic Church teaches us to look at the root causes of migration, poverty, violence, and corruption. Pope Francis reminds us that ‘we must keep our eyes open..., keep our hearts open..., to remind everyone of the indispensable commitment to save every human life, a moral duty that unites believers and non-believers.’ We cannot turn our backs on the vulnerable.”
- The second NPRM “Security Bars and Processing,” published on July 9, seeks to create permanent restrictions to asylum seekers on public health grounds by extending the “danger to the security of the United States” bar in light of the COVID-19 pandemic and would apply in the context of future public health emergencies.
- Further, it would apply the above-mentioned prohibitions in credible fear screenings⁷ during the expedited removal process,⁸ allow for those who are eligible for “deferral of removal” under the Convention Against Torture to be expeditiously removed, and would allow DHS prosecutorial discretion to place asylum seekers into regular immigration proceedings or immediately remove them to a third country if they “affirmatively” establish they would be tortured in their home country despite being banned as dangers to national security.⁹

Can the Administration do this?

The NPRM process is the formal way through which an agency announces its intent to set forth a new rule and allows for the public to comment. However, many organizations, including USCCB, have argued that the 30-day period allowed for comment is not sufficient time to respond to proposed rules of this magnitude, particularly in the case of the June 15 NPRM. Further, the legality of the proposed changes is in question. It is for this reason that it is important to use your voice to participate and raise your concerns with lawmakers.

What is next and how can I help?

- **Submit a Comment**—The comment period for “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review” closed on July 15, 2020. The Administration will now have to review each of the comments submitted on the proposed rule. The comment period for the “Security Bars and Processing” ends on August 10, 2020. You can submit your comment [here](#).¹⁰
- **Call Your Elected Representative**—Call your Representative and your Senators and let them know that you oppose the changes to the U.S. asylum laws and urge restoration of due process to all asylum seekers.
- **Pray** for Asylum Seekers.¹¹
- **Donate to Groups Assisting Asylum Seekers:**
 - [Catholic Charities RGV](#)¹²
 - [Casa Alitas-Arizona](#)¹³
 - [Catholic Charities San Diego](#)¹⁴
 - [El Paso DMRS](#)¹⁵
 - [Hope Border Institute](#)¹⁶
 - [KINO Border initiative](#)¹⁷

Endnotes

- 1 USCCB Migration Chairman and CRS President Issue Statement Supporting Texas-Mexico Border Bishops' Statement on Recent U.S. Government Asylum Policy (Mar. 13, 2019), available at <https://justiceforimmigrants.org/statements/usccb-migration-chairman-and-crs-president-issue-statement-supporting-texas-mexico-border-bishops-statement-on-recent-u-s-government-asylum-policy/>.
- 2 Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 Federal Register 36, 264 (June 15, 2020).
- 3 Security Bars and Processing, 85 Fed. Reg. 41,201 (July 9, 2020).
- 4 This NPRM is still open for public comment until August 10, 2020.
- 5 U.S. Conference of Catholic Bishops, <https://www.usccb.org/news/2020/migration-committee-chairman-opposes-proposed-new-rule-seeking-eliminate-protection>.
- 6 Office of General Counsel, "Re: Procedures for Asylum and Withholding of Removal; for Credible Fear and Reasonable Fear Review," U.S. Conference of Catholic Bishops (July 13, 2020), <http://www.usccb.org/about/general-counsel/rulemaking/upload/usccb-comments-on-procedures-for-asylum-and-withholding-of-removal-credible-fear-and-reasonable-fear-review-7-13-20.pdf>.
- 7 8 U.S.C. § 1225(b)(1)(B)(ii). An asylum applicant is interviewed by an asylum officer in order to determine the individual's fear of persecution—the outcome then determines whether the applicant will be detained for further consideration of the application for asylum or removed from the U.S. Credible fear is defined as "the significant possibility, taking into account the credibility of the statements made by the applicant in support of their claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum."
- 8 8 U.S.C. § 1225(b)(1)(A)(i). A migrant is subject to expedited removal if an immigration officer determines that they are inadmissible under certain immigration clauses. The officer shall then order the individual removed without further hearing or review unless they indicate an intention to apply for asylum.
- 9 Reena Arya, "Citing COVID-19, the Administration Seeks to Bar Asylum Seekers as a Danger to National Security," CLINIC (July 21, 2020), <https://cliniclegal.org/resources/asylum-and-refugee-law/citing-covid-19-administration-seeks-bar-asylum-seekers-danger>.
- 10 <https://www.federalregister.gov/documents/2020/07/09/2020-14758/security-bars-and-processing#open-comment>.
- 11 "Video Rosary for People Seeking Asylum," Justice for Immigrants, <https://justiceforimmigrants.org/uncategorized/video-rosary-for-people-seeking-asylum/>.
- 12 Catholic Charities RGV, <https://www.catholiccharitiesrgv.org/Donations.aspx>.
- 13 Catholic Community Services of Southern Arizona, <https://www.ccs-soaz.org/donate/form>.
- 14 Catholic Charities, San Diego, <https://ccdsd.org/donate-primary/>.
- 15 Diocesan Migrant and Refugee Services, <http://www.dmr-ep.org/donate/>.
- 16 Hope Border Institute, <https://www.hopeborder.org/donate>.
- 17 KINO Border Initiative, <https://www.kinoborderinitiative.org/give/>.