

# THE *Episcopal* CHURCH

Lauren Alder Reid  
Assistant Director  
Office of Policy  
Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 1800  
Falls Church, VA 22041

Dear Ms. Reid,

The Episcopal Church, the U.S.-based constituent member of the Anglican Communion, the third largest Christian denomination globally, opposes the Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS) and Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) Joint Notice of Proposed Rulemaking: Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review; RIN 1615-AC42 / 1125-AA94 / EOIR Docket No. 18-0002/ A.G. Order No. 4714-2020.

The Episcopal Church has longstanding policy affirming the universal right to seek asylum. These policies are rooted in our strong belief that immigration policies must be just and humane. It is because of our commitment to supporting the most vulnerable among us that we oppose regulations that deny protection to those fleeing persecution. The proposed rule undermines our nation's obligation to protect fundamental human rights and ensure everyone has the right to seek asylum from persecution.<sup>1</sup>

The Most Rev. Michael B. Curry, Presiding Bishop and Primate of The Episcopal Church, has written “We are children of the one God who is the Creator of us all. It is our sisters, our brothers, our siblings who are seeking protection and asylum, fleeing violence and danger to children, searching for a better life for themselves and their children. The crisis at the border is not simply a challenge of partisan politics but a test of our personal and public morality and human decency.” The proposed rule would deny the right to asylum to people in the greatest need of legal protections: those fleeing violence, domestic abuse, persecution based on sexual orientation or gender identity, and persecution from “rogue” government officials.

Under the drastic changes to asylum in the proposed rule, the United States would be in direct violation of both domestic and international human rights law. As a signatory to the 1951 Refugee Convention, the 1967 Protocols, and the Convention Against Torture, the United States would be rescinding its position as a world leader committed to human rights. This rule would deny individuals their basic right to a fair hearing in court and create impossible barriers that violate refugee protections and put asylum seekers in direct harm. In the 1951 Refugee Convention, Article 31 states that we “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 in the sense of article 1, enter or are present in their territory without authorization, provided they present

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<sup>1</sup> <https://episcopalchurch.org/posts/publicaffairs/episcopal-church-response-crisis-border>



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themselves without delay to the authorities and show good cause for their illegal entry or presence.” Article 33 states, “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” These proposed mandates will do nothing but further dismantle asylum law and prevent the most vulnerable from obtaining asylum.

Section 1101(a)(42)(A) of the Immigration and Nationality Act defines a “refugee” as “any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” This rule seeks to redefine the meaning of “well-founded fear” and “persecution” to “an extreme concept of a severe level of harm.” The U.S. Supreme Court in *INS v. Cardoza-Fonseca*, 480 U.S. 421, held that to qualify for asylum is to show a “well-founded fear” of persecution, and asylum seekers do not have to meet the “clear probability of persecution” to be eligible for asylum.<sup>2</sup> This ruling was made in line with the United Nations refugee convention and protocol and the “plain language” of the statute that governs asylum. This new rule seeks to eradicate the U.S. court legal precedent that affirms the U.S. government’s obligation to accept those fleeing forms of persecution.

If the proposed changes to asylum are implemented, they would rescind our country’s established legal precedents, which offer pathways of protection to the most vulnerable children, women, and men. The measures outlined in the rule would be a detriment to human life and would violate our legal obligations to those seeking protection. The Episcopal Church urges the Department of Homeland Security and the Department of Justice to rescind this proposed rule.

Respectfully,

The Rev. Dr. Charles K. Robertson  
Canon to the Presiding Bishop for Ministry Beyond The Episcopal Church

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<sup>2</sup> *INS v. Cardoza-Fonseca* - 480 U.S. 421, 107 S. Ct. 1207 (1987)

