June 10, 2024

Human Rights First Comment on the Department of Homeland Security's Notice of Proposed Rulemaking, *Application of Certain Mandatory Bars in Fear Screenings*, DHS Docket No. USCIS-2024-0005

Human Rights First submits the following comment in response to the Department of Homeland Security's ("the Department") notice of proposed rulemaking, *Application of Certain Mandatory Bars in Fear Screenings* ("Proposed Rule") and respectfully requests the Department publish a notice in the Federal Register withdrawing it.[1]

The Department should maintain the position on the application of mandatory bars in Credible Fear Interviews it took in 2022. The Proposed Rule's reversal to allow for permissive application during Credible Fear Interviews is, as the Department recognized previously, both inefficient and contrary to congressional intent and United States treaty obligations.[2] The application of the statutory bars to asylum in Section 208(b)(2)(A) of the Immigration and Nationality Act ("INA") is notoriously complex. The interpretation of all of these bars has given rise to years — in some cases decades — of litigation. They frequently involve assessment of the reliability and context of foreign records, analysis of foreign laws, and fact-intensive assessments of an asylum seeker's potential responsibility for bad acts committed abroad.

Credible Fear Interviews are not the appropriate setting in which to consider these mandatory bars due to the legally and factually complex analysis required and the timing and conditions of these fast-track initial interviews. These interviews are already dangerously deficient from both a due process and refugee protection perspective. Asylum seekers are often interviewed without legal representation or counsel, with faulty interpretation, and without sufficient time to gather the evidence they may need to establish their potential eligibility for protection, much less rebut government assumptions that they are subject to a bar. By green-lighting attempts to conduct some of the most notoriously complex legal and factual assessment in these interviews, the Proposed Rule will inevitably lead to the improper and unlawful return of refugees back to persecution and torture.

Instead, as Human Rights First has detailed in its recommendations papers and its 2022 report on expedited removal, the Department should take steps to strengthen and improve the asylum system.[3]

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[1] 89 Fed. Reg, 41,347 (May 13, 2024) [hereinafter "Proposed Rule"].
[2] The Proposed Rule permits consideration of mandatory bars in Credible Fear Interviews and Reasonable Fear Screenings. Proposed Rule at 41,355. References to Credible Fear Interviews in this comment include Reasonable Fear Screenings, unless not applicable.
[3] Upholding and Upgrading Asylum 17-22 (Oct. 2023), https://humanrightsfirst.org/library/upholding-and-upgrading-asylum; Pretense of Protection: Biden Administration and Congress Should Avoid Exacerbating Expedited Removal Deficiencies (Aug. 3, 2022), https://humanrightsfirst.org/wp-content/uploads/2023/01/PretenseofProtection-21.pdf.

I. Human Rights First's Interest in the Proposed Rule

For over 40 years, Human Rights First has provided pro bono legal representation to refugees seeking asylum in the United States and advocated for the protection of the human rights of refugees. Human Rights First grounds its work in the legal standards of the 1951 Refugee Convention, its 1967 Protocol, and other international human rights instruments, and advocates adherence to these standards in United States law and policy. Human Rights First operates one of the largest and most successful pro bono asylum representation programs in the country. Working in partnership with volunteer attorneys at many of the nation's leading law firms, we provide legal representation, without charge, to hundreds of refugees each year in California, New York, and Washington, DC. This extensive experience working directly with refugees seeking protection in the United States is the foundation for Human Rights First's advocacy and informs the observations that follow.

In addition to Human Rights First's experience representing asylum seekers in and after Credible Fear Interviews, including those impacted by various bars to asylum, Human Rights First has over twenty-five years of expertise regarding the expedited removal process, the exclusion clauses of the Refugee Convention, and other bars to asylum and admissibility — including those that unjustly impact people who have engaged in no wrongdoing.[4]

II. The Thirty-Day Comment Period is Insufficient to Fully Respond to the Proposed Rule.

Limiting the comment period to 30 days effectively denies the public the right to meaningfully comment as required by the Administrative Procedure Act.[5] Upon taking office, President Biden formally recognized and stressed the importance of the principles set out in Executive Order 12866, requiring agencies to "afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days."[6]

On May 21, 2024, Human Rights First and 77 other immigrant rights, advocacy, and legal services organizations wrote to the Department requesting that it provide at least 60 days to comment on the Proposed Rule, considering the irreversible consequences for asylum seekers to

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[4] Pretense of Protection, *supra* note 3; Denial and Delay: The Impact of the Immigration Law's "Terrorism Bars" on Asylum Seekers and Refugees in the United States (Nov. 2009), https://www.humanrightsfirst.org/wp-content/uploads/2022/12/HRF-Denial-and-Delay-Terrorism-Bars-2009.pdf; Lawyers Comm. for Human Rights, *Safeguarding the Rights of Refugees under the Exclusion Clauses: Summary Findings of the Project and a Lawyers Committee for Human Rights Perspective*, 12 Int'l J. Refugee L. 315 (Supp. 2000), https://doi.org/10.1093/ijrl/12.suppl_1.317; Brief of Human Rights First et al. as Amici Curiae Supporting Petitioner, *Negusie v. Holder*, 555 U.S. 511 (2009); Lawyers Comm. for Human Rights, *Is This America? The Denial of Due Process to Asylum Seekers in the United States* (2000).

[5] 5 U.S.C. § 533(c).

[6] *Improving Regulation and Regulatory Review,* Exec. Order of Jan. 18, 2011, § 2(b), 76 Fed. Reg. 3,821, 3,821-22 (Jan. 21, 2011).

whom Asylum Officers may erroneously apply mandatory bars.[7] A 60-day comment period is necessary because the Proposed Rule 1) seeks to reverse positions adopted by the Department only two years before, 2) relies in part on evidence from the implementation of a separate rule, and 3) provides no compelling justification for a shorter comment period.[8] The Department should provide the same amount of time, 60 days, to comment as it did the previous Notice of Proposed Rulemaking this Proposed Rule seeks to reverse in part.[9] Rather than moving "as quickly as possible," the Department should prioritize reducing the risk of refoulement.[10]

Finally, the Department announced the Proposed Rule along with other actions, including guidance for Asylum Officers on consideration of internal relocation that is not publicly available.[11] Without this guidance to Asylum Officers, the public is unable to assess the full impact of the Proposed Rule's changes to the conduct of Credible Fear Interviews.

III. The Proposed Rule Will Increase Inefficiency and Refoulement, Contrary to Congressional Intent and the United States' Treaty Obligations.

Congress created the Department's expedited removal authority in 1996, building in Credible Fear Interviews as a mechanism to reduce the risk of refoulement of those seeking asylum.[12] The legacy Immigration and Naturalization Service's 2000 regulation implementing the process declined to direct or allow Asylum Officers to apply mandatory bars during Credible Fear Interviews, reserving this analysis for a full asylum hearing.[13] Twenty years later, the Trump administration engaged in rulemaking to require the application of all mandatory bars during Credible Fear Interviews, which a federal court enjoined.[14] In 2022, the Biden administration prudently "return[ed] to the existing and two-decade-long practice" of not considering mandatory bars to asylum and withholding of removal during Credible Fear Interviews, concluding that consideration was neither efficient nor consistent with congressional intent.[15]

In its 2022 *Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers* ("2022 Asylum Processing IFR"), the Department observed that the application of mandatory bars was "a decision most

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[7] Request to Provide a Minimum of 60 days for Public Comment in Response to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking (NPRM): Application of Certain Mandatory Bars in Fear Screenings; DHS Docket No. USCIS-2024-0005 (May 21, 2024), https://cgrs.uclawsf.edu/our-work/publications/request-provide-minimum-60-days-public-comment-response-department-homeland.
[8] *Id.* at 2.
[9] *Compare* Proposed Rule at 41, 347, *with Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers*, 87 Fed. Reg. 18,078, 18,109 (Mar. 29, 2022) [hereinafter 2022 Asylum Processing IFR] ("[T]he Departments received 5,235 comments during the 60-day public comment period.").
[10] Proposed Rule at 41,358.
[11] DHS Announces Proposed Rule and Other Measures to Enhance Security, Streamline Asylum Processing (May 9, 2024), https://www.dhs.gov/news/2024/05/09/dhs-announces-proposed-rule-and-other-measures-enhance-security-streamline-asylum.
[12] Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, Div. C., § 302, 110 Stat. 3009–546, 579 (1996) (codified as amended at 8 U.S.C. § 1225(b)(1)(B)); 2022 Asylum Processing IFR at 18,093.
[13] Asylum Procedures, 65 Fed. Reg. 76,121, 76,129 (Dec. 6, 2000).
[14] 2022 Asylum Processing IFR at 18,084, n.4.
[15] 2022 Asylum Processing IFR at 18,078, 18,084, 18,093, 18,134-5.

appropriately made in the context of a full merits hearing . . . before an asylum officer or an [Immigration Judge]" and that "due process and fairness considerations counsel against applying mandatory bars during" fear screenings.[16]

The Proposed Rule seeks to reverse this position to allow Asylum Officers the power to summarily deny access to a full asylum adjudication that will increase the risk of erroneous application and wrongful return of refugees to persecution.[17] Already, the Asylum Office erroneously refers meritorious affirmative asylum claims to the Immigration Courts at an alarming rate, with glaring disparities in affirmative grant and positive credible fear determination rates between the regional Asylum Offices.[18] For example, in Fiscal Year 2023, the Immigration Courts granted asylum to 76% of affirmative asylum cases referred by the Asylum Office.[19]

The Proposed Rule attempts to justify this reversal based on the 2022 Asylum Processing IFR's observation that the consideration of mandatory bars in Credible Fear Interviews is "more appropriately made in the context of a full merits interview or hearing," *but only* "in general and depending on the facts."[20] From this, the Department now takes the position that it never concluded "that applying the mandatory bars [during fear screenings] would lead to . . . potentially negative repercussions in all or even most cases."[21] Additionally, the Department claims its experience implementing the Circumvention of Lawful Pathways Rule's presumption of asylum ineligibility in Credible Fear Interviews demonstrates Asylum Officers can also apply mandatory bars fairly and effectively.[22]

The Department's reversal leaves significant conclusions it made in 2022 to the contrary unaddressed and ignores the state of expedited removal as exercised, counseling in favor of the Department abandoning its reversal and withdrawing this Proposed Rule.

A. Consideration of mandatory bars in preliminary expedited removal screenings is contrary to congressional intent and United States treaty obligations.

In the 2022 Asylum Processing IFR, the Department concluded that consideration of mandatory bars would push the Credible Fear Interview:

> beyond its congressionally intended purpose as a screening for potential eligibility for asylum or related protection—and a

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[16] 2022 Asylum Processing IFR at 18,134.
[17] 2022 Asylum Processing IFR at 18,084.
[18] Cora Wright, *Erroneous Asylum Office Referrals Delay Refugee Protection, Add to Backlogs*, Human Rights First (Apr. 19, 2022), https://humanrightsfirst.org/library/erroneous-asylum-office-referrals-delay-refugee-protection-add-to-backlogs; Pretense of Protection, *supra* note 3, at 33-34.
[19] Asylum Decisions, TRAC Immigration (last visited June 10, 2024) (based on data from the following: "2023" from the first column "Fiscal Year of Decision"; "Affirmative" from second column "Affirmative/Defensive Application"; "Asylum Granted" from third column "Decision"), https://trac.syr.edu/phptools/immigration/asylum/.
[20] Proposed Rule at 41,353 (citing 2022 Asylum Processing IFR at 18,093).
[21] *Id.*
[22] *See id.* 41,354 (referencing *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31,314 (May 11, 2023) [hereinafter Circumvention of Lawful Pathways Rule]).

> fail-safe to minimize the risk of refoulement—and would instead become a decision on the relief or protection itself.[23]

The Department now argues that "Congress's intent that expedited removal proceedings be swift [does not] require[] reading the statute to not allow application of mandatory bars during fear screenings at all."[24] The Department's new position elides the categorical basis of its 2022 position, shifting focus to whether the proposed changes would be contrary to congressional intent for fear screenings to be expeditious instead of whether consideration of mandatory bars transmogrifies the fear screening. The Proposed Rule expands the purpose of fear screenings in addition to making the process less expeditious, all of which runs counter to congressional intent.

The Department was right in 2022. Consideration of mandatory bars improperly smuggles into Credible Fear Interviews a "decision on the relief or protection itself" in defiance of congressional intent.[25] Credible Fear interviews were "intended to [apply] a low screening standard for admission into the usual full asylum process."[26]

The Department's 2022 position accords more closely with treaty obligations. The United States acceded to the Protocol Relating to the Status of Refugees in 1968, which incorporated the substantive obligations of the 1951 Convention Relating to the Status of Refugees.[27] Chief among these obligations is the principle of non-refoulement, which prohibits States Parties from returning an individual to a country where their "life or freedom would be threatened on account of [their] race, religion, nationality, membership of a particular social group or political opinion."[28]

The Protocol forms the basis of United States refugee law.[29] Early rulemaking in 2000 set forth that individuals who appear to be subject to one or more of the mandatory bars would be referred to removal proceedings for full consideration of their claim, consistent with international refugee law.[30] The United Nations High Commissioner for Refugees ("UNHCR"), in exercising its obligation to supervise the application of the Convention and Protocol, affirmed the Department's 2022 position on the non-application of mandatory bars in Credible Fear Interviews, as decisions on the exclusion of refugees from asylum protection are not

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[23] 2022 Asylum Processing IFR at 18,093.
[24] Proposed Rule at 41,354.
[25] 2022 Asylum Processing IFR at 18,093.
[26] 142 Cong. Rec. S11,491 (Sept. 27, 1996), https://www.govinfo.gov/content/pkg/CREC-1996-09-27/html/CREC-1996-09-27-pt1-PgS11491-2.htm.
[27] Protocol Relating to the Status of Refugees art. 1, § 1, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267; Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150.
[28] Convention Relating to the Status of Refugees, *supra* note 27, at art. 33.
[29] *INS v. Cardoza-Fonseca*, 480 U.S. 421, 436-37 (1987) ("If one thing is clear from the legislative history of the new definition of 'refugee,' and indeed the entire 1980 Act, it is that one of Congress' primary purposes was to bring United States refugee law into conformance with the 1967 United Nations Protocol Relating to the Status of Refugees . . . to which the United States acceded in 1968.") (internal citation omitted).
[30] *See* Asylum Procedures, 65 Fed. Reg. 76,121, 76,129 (Dec. 6, 2000).

appropriately dealt with in accelerated procedures.[31] UNHCR noted that the "potentially serious consequences of an erroneous determination," resulting in the return of an asylum seeker to persecution, makes it "inappropriate to consider bars to asylum during pre-screening."[32]

B. The Department should maintain its position that Credible Fear Interviews are not the appropriate setting in which to consider mandatory bars.

The 2022 Asylum Processing IFR recognized that the application of mandatory bars "is most appropriately made in the context of a full merits hearing, whether before an asylum officer or an [Immigration Judge], and not in a screening context."[33] The Department concluded that consideration of mandatory bars "would increase . . . interview and decision times because asylum officers would be expected to devote time to eliciting testimony, conducting analysis, and making decisions . . . ."[34] The Department went further, assessing that were mandatory bars to be considered, "it is speculative whether . . . a meaningful portion of the [Executive Office for Immigration Review ("EOIR")] caseload might have been eliminated because some individuals who were found at the credible fear screening stage to be subject to a mandatory bar would not have been placed into section 240 proceedings."[35]

The Department now states that it is abandoning its previous position, claiming that it is doing so because the Proposed Rule's provisions allow, but do not require, consideration of mandatory bars and its experience applying the Circumvention of Lawful Pathways Rule leads the Department to believe permissive consideration of mandatory bars can be effective and part of a fair process.[36]

The Department was right in 2022, as it was in 2000. The Department's reliance on its application of the Circumvention of Lawful Pathways Rule's presumption of asylum ineligibility in Credible Fear Interviews is unpersuasive because the comparison is inapt and the Circumvention of Lawful Pathway Rule's well documented failure to protect people from refoulement undercuts the Department's claim. First, the Department concluded in 2022 that the application of the mandatory bars would be more complex than application of the presumption.[37] Second, the Department assessed this in part because Credible Fear Interviews happen soon after crossing, when circumstances relating to the presumption's exemptions and exceptions would be "fresh in noncitizens' minds."[38] Unlike the presumption, mandatory bars implicate conduct stretching much farther back.[39] Third, the Department's record of applying

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[31] *See* Comment of U.N. High Comm'r for Refugees, USCIS-2021-0012-5192, DHS Dkt. No. USCIS 2021-0012, at 2, 16-18 (May 31, 20233), www.regulations.gov/comment/USCIS-2021-0012-5192 (*citing* U.N. High Comm'r for Refugees, Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees, HCR/GIP/03/05, at ¶ 31 (Sept. 4, 2003), https://www.refworld.org/docid/3f5857684.html ("Exclusion decisions should in principle be dealt with in the context of the regular refugee status determination procedure and not in either admissibility or accelerated procedures . . . .")).
[32] *Id.* at 16-17.
[33] 2022 Asylum Processing IFR at 18,135.
[34] *Id.* at 18,093.
[35] *Id.*
[36] Proposed Rule at 41,354.
[37] Circumvention of Lawful Pathways Rule at 31,390.
[38] *Id.* at 31,390-91.
[39] *See infra* pp. 8-9.

the presumption is outcome oriented, casting doubt on its claims that mandatory bars can be applied fairly.

The Department has bragged to a federal court that the presumption "worked as intended" by "significantly" reducing the percentage of positive credible fear determinations for those subject to the presumption.[40] Those subject to the presumption of ineligibility for asylum — for reasons completely unrelated to the merits of their asylum claims — are three times more likely to receive negative credible fear determinations than individuals not subject to the presumption.[41] Human Rights First has documented, in a series of reports, examples of asylum seekers subjected to the Circumvention of Lawful Pathways Rule in expedited removal who were ordered deported or deported to persecution or torture, resulting in refoulement.[42] The Department's "success" in applying the presumption includes the following cases:

> A Venezuelan air force lieutenant, the son of a known opponent to the Maduro regime, was found not to meet the heightened asylum ban fear screening standard, deported without an asylum hearing to Venezuela in December 2023 where he was immediately sent to a military prison.
>
> A Chinese pro-democracy activist jailed as a political prisoner for years and whose persecution was documented by Western media [readily available to the Asylum Office] was ordered deported under the higher screening standard imposed by the asylum ban. He was found to not meet an exception and subjected to the ban's higher screening standard. His deportation order was only reversed after a legal service organization learned of his case and conducted extensive advocacy.[43]

The Department's claim that permissive consideration of mandatory bars, rather than the required application of all mandatory bars, can be "efficient and appropriate in a larger class of cases than the Asylum Processing IFR appreciated" is unpersuasive.[44] The "larger class" the Proposed Rule references is only 4% or less of cases since Fiscal Year 2020 relative to the 0% of cases implicated by the Department's previous conclusion that it would not be efficient to consider mandatory bars in Credible Fear Interviews.[45] While factually larger, it is not merely "speculative," but unlikely, that permissive consideration of mandatory bars in 4% or less of cases would lead to "a meaningful portion of the EOIR caseload" being eliminated.[46]

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[40] Declaration of Blas Nuñez-Neto at 4-5, *M.A. v. Mayorkas*, No. 23-cv-01843 (D.D.C. Oct. 27, 2023), https://storage.courtlistener.com/recap/gov.uscourts.cand.334557/gov.uscourts.cand.334557.176.2_1.pdf.
[41] Trapped, Preyed Upon, and Punished: One Year of the Biden Administration Asylum Ban 4 (May 7, 2024), www.humanrightsfirst.org/library/trapped-preyed-upon-and-punished.
[42] *Id.* at 23-26; Inhumane and Counterproductive: Asylum Ban Inflicts Mounting Harm 46-49 (Oct. 12, 2023), www.humanrightsfirst.org/library/inhumane-and-counterproductive-asylum-ban-inflicts-mounting-harm; Refugee Protection Travesty: Biden Asylum Ban Endangers and Punishes At-Risk Asylum Seekers 55-56 (July 12, 2023), www.humanrightsfirst.org/library/refugee-protection-travesty.
[43] Trapped, Preyed Upon, and Punished, *supra* note 41, at 24.
[44] Proposed Rule at 41,354.
[45] *Id.* at 41,351, 41,354; 2022 Asylum Processing IFR at 18,093.
[46] *See* 2022 Asylum Processing IFR at 18,093.

1. *Mandatory bars present legal and evidentiary issues that are too complex to be fairly adjudicated in a Credible Fear Interview.*

Application of bars, whether mandatory or permissive, requires complex legal and factual analysis. The mandatory bars cover a wide range of scenarios, excluding from refugee protection individuals:

1) who participated in the persecution of another based on a protected ground;[47]
2) who having been convicted of a "particularly serious crime" constitute a danger to the community of the United States;[48]
3) for whom there are "there are serious reasons to believe that [they] committed a serious nonpolitical crime outside the United States;"[49]
4) for whom "there are reasonable grounds to believe that [they are] a danger to the security of the United States;" and[50]
5) who are subject to any of an extensive list of "terrorism-related inadmissibility grounds" (referred to as "TRIG").[51]

Conduct defined as "terrorist activity" under the unduly sweeping language of the INA includes, "any activity which is unlawful under the laws and place where it is committed . . . and which involves . . . the use of any . . . explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property."[52]

This definition has no explicit limitations as to the targets or purposes of such use of violence, with the result that the Department has over the years applied it to attempts to overthrow Saddam Hussein, fighting alongside United States forces in Vietnam, fighting in Bangladesh's 1971 war of independence, fighting against the regime of Bashar al-Assad, fighting for Zimbabwean independence against the racist regime of Ian Smith, fighting against the ruling military junta in Myanmar, and fighting against the Taliban in Afghanistan during periods when they were in power, regardless of the compliance of such actions with international humanitarian law.[53]

The INA also defines as an undesignated "terrorist organization" any "group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in" terrorist activity as very broadly defined by the INA.[54] Groups the Department has deemed to meet this definition have included ones that were not primarily armed groups. During successive periods in history, for example, the Department has treated each of the major

[47] 8 U.S.C. § 1158(b)(2)(A)(i).
[48] 8 U.S.C. §§ 1158(b)(2)(A)(ii), 1231(b)(2)(B)(ii).
[49] 8 U.S.C. §§ 1158(b)(2)(A)(iii), 1231(b)(2)(B)(iii).
[50] 8 U.S.C. §§ 1158(b)(2)(A)(iv), 1231(b)(2)(B)(iv).
[51] 8 U.S.C. §§ 1158(b)(2)(A)(v), 1231(b)(2)(B).
[52] 8 U.S.C. § 1182(a)(3)(B)(iii), (iii)(V).
[53] Denial and Delay, *supra* note 4, at 3-5, 43; Case summaries on file with Human Rights First.
[54] 8 U.S.C. § 1182(a)(3)(B)(vi)(III).

political parties in Bangladesh as terrorist organizations for purposes of the INA.[55] They have also included groups that were allies of the United States.[56] The statute also defines "material support" to any such organization as "engaging in terrorist activity" in its own right, a bar that is applied not only to voluntary contributions but also to assistance provided under duress.[57]

Because groups defined as "undesignated" or "Tier III" terrorist organizations under the INA are not listed or designated as such by any central authority, these determinations are case-specific and typically involve detailed consideration of factual and historical evidence in addition to legal analysis.[58] It is simply impossible for an asylum seeker, not fluent in English, lacking access to research tools, and in nearly all cases unrepresented in dealing with a notoriously complex and counterintuitive statute, to rebut the Department's conclusions of this kind in expedited removal proceedings.

With the benefit of representation and administrative and judicial review, asylum seekers have been able to correct some egregious instances of legal or factual error or overreach in applying the TRIG bars. Allowing the Department to adjudicate the TRIG bars in expedited removal proceedings would foreclose any possibility of judicial review.[59] For example, in a 2009 report, Human Rights documented the following case:

> A refugee from Burundi was detained for over 20 months in a succession of county jails because the [Department] and the [I]mmigration [J]udge who would otherwise have granted him asylum took the position that he had provided "material support" to a rebel group because armed rebels robbed him of four dollars and his lunch.[60]

That Burundian refugee was granted asylum only thanks to a successful appeal to the Board of Immigration Appeals ("BIA"), which correctly held that the INA's material support bar required the commission of an act and did not apply to someone who had been a victim of armed robbery, a statutory argument the man himself would have had no way of making while unrepresented in a Credible Fear Interview.[61] Similarly, the United States Court of Appeals for the Third Circuit, faced with an appeal from a Bangladeshi man denied refugee protection based on his involvement in the Bangladesh National Party ("BNP"), held that the BNP could not be treated as a Tier III terrorist organization under the INA absent a finding that acts of violence by individual BNP members were authorized by the party's leadership.[62]

In addition, the BIA and federal courts, in cases where they have declined to limit the reach and perverse impacts of the TRIG bars, have pointed to the discretionary authority of the Secretary

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[55] Denial and Delay, *supra* note 4, at 26 (Awami League); *Uddin v Att'y Gen.*, 870 F.3d 282, 286, 288 (3rd Cir. 2017) (Bangladesh National Party).
[56] Denial and Delay, *supra* note 4, at 4.
[57] *Id.* at 30-32.
[58] *Uddin v. Att'y Gen.*, 870 F.3d at 285 ("There is no official register of Tier III organizations; instead, groups are adjudicated as Tier III organizations on a case-by-case basis.").
[59] *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U. S. _____ (2020) (slip op. at 7) ("[C]ourts may not review 'the determination' that an alien lacks a credible fear of persecution.")(quoting 8 U.S.C. §1252(a)(2)(A)(iii)).
[60] Denial and Delay, *supra* note 4, at 2, 33-34.
[61] *Id.* at 34.
[62] *Uddin v. Att'y Gen.*, 870 F.3d at 292.

of Homeland Security to grant exemptions from the application of the bars in individual cases as the means of ameliorating those harsh consequences.[63] The grant of such exemptions by U.S. Citizenship and Immigration Services requires multiple levels of review, and is incompatible with the expedited process the Proposed Rule contemplates.[64]

What convictions would fall under the "particularly serious crime" bar, meanwhile, have been the subject of years of legal debate, as the term "is not statutorily defined in detail, beyond an aggravated felony."[65] What convictions meet the INA's definition of an "aggravated felony," which will be treated as a particularly serious crime for asylum purposes and (depending on the length of sentence) frequently also for withholding of removal, has for years been the subject of litigation, circuit splits, United States Supreme Court precedent.[66]

The serious non-political crime bar, meanwhile, poses other challenges, as it can be triggered by alleged criminal conduct abroad for which the asylum seeker need not necessarily have been convicted.[67] The need for full adjudication in such cases is particularly acute in light of the practice of several repressive governments of using illegitimate prosecutions on non-political offenses as a means of targeting dissidents.[68]

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[63] *See, e.g., Matter of S-K-*, 23 I&N Dec. 936, 941 (BIA 2006) (looking to exemption process to provide relief to an ethnic Chin refugee from Myanmar barred for non-violent assistance to Chin National Army); *Matter of A-C-M-*, 27 I&N Dec. 303, 308-309 (BIA 2018) (looking to exemption process to provide relief to Salvadoran woman forced to cook and clean for guerillas who had previously kidnapped her and made watch as they forced her husband to dig his own grave before killing him).

[64] *See* Anwen Hughes, Thomas K. Ragland & David Garfield, *Combating the Terrorism Bars Before DHS and the Courts*, *in* Immigration Practice Pointers, 450, 454-55 (2010-2011 ed.), https://www.ilw.com/seminars/201008_citation2e.pdfhttps://www.ilw.com/seminars/201008_citation2e.pdf.

[65] 2022 Asylum Processing IFR at 18,093.

[66] Merle Kahn & Marco Tueros del Barco, Imm. Legal Resource Ctr., "Particularly Serious Crime" Bars to Asylum And Withholding 10-12 (Dec. 2023) (collecting cases), https://www.ilrc.org/sites/default/files/2023-12/Particularly%20Serious%20Crimes%20Advisory_Dec%202023.pdf; Nancy Morawetz, *The Perils of Supreme Court Intervention in Previously Technical Immigration Cases*, 64 Ariz. L. Rev. 767, 775-78 (2022) (summarizing Supreme Court precedents), https://arizonalawreview.org/pdf/64-3/64arizlrev767.pdf.

[67] Hillel R. Smith, Cong. Research Serv., LSB10816, An Overview of the Statutory Bars to Asylum: Limitations on Granting Asylum (Part Two) 3 (Sept. 7, 2022), https://crsreports.congress.gov/product/pdf/LSB/LSB10816.

[68] *See* Edward Lemon, *Weaponizing Interpol*, 30 J. Democracy 15, 16 (Apr. 2019), www.journalofdemocracy.org/articles/weaponizing-interpol; Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *Cuba 2021 Human Rights Report* 14 (Apr. 12, 2022) ("lack of governmental transparency, along with systemic abuse of due process rights, obscured the true nature of criminal charges, investigations, and prosecutions . . . [allowing] government authorities to prosecute and sentence peaceful human rights activists for criminal violations or 'precriminal dangerousness.'"), https://www.state.gov/wp-content/uploads/2022/02/313615_CUBA-2021-HUMAN-RIGHTS-REPORT.pdf ; Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *Egypt 2022 Human Rights Report* 28-29 (March 20, 2023) (collecting examples of Egyptian authorities prosecuting journalists on terrorism-related charges, in one case after a journalist accused a provincial governor of sexual harassment), https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf; Amnesty International, Muzzling Critical Voices: Politicized Trials Before Saudi Arabia's Specialized Criminal Court 33 (Feb. 6, 2020) (political protesters from Shi'a religious minority convicted of "participating in shooting at security personnel, security vehicles", "preparing and using Molotov Cocktail bombs", "theft and armed robbery" and "inciting chaos, organizing and participating in riots" all of whom alleged they were tortured to extract confessions),

The persecutor bar similarly includes several unresolved issues. Whether the bar applies to acts committed under duress, in particular, is a question on which the Department of Justice has taken divergent positions just over the past six years in the case known as *Matter of Negusie*. This case originated in expedited removal proceedings and made its way to the United States Supreme Court on the issue of whether the persecutor bar applies to coerced conduct, a case that reversed the BIA's long-standing assumption, based on an earlier Supreme Court decision interpreting the Displaced Persons Act, that the Refugee Act's persecutor bar did not recognize a defense of duress.[69] On remand, the BIA in 2018 issued a decision recognizing the duress defense.[70] In November 2020, then-Attorney General Barr reversed that decision.[71] In 2021, the present Attorney General certified the case to himself.[72] The Attorney General has issued no further decision in the case, however, and while the Departments of Homeland Security and Justice last fall announced an intention to engage in rulemaking "to modify the regulations regarding the persecutor bar to include provisions addressing duress, lack of knowledge, and general principles," no such regulation has been proposed.[73] It is entirely inappropriate to allow a bar that not only involves intense and difficult factual and legal analysis, but whose interpretation is in such an unsettled state, to be adjudicated in a summary interview.

The likelihood of erroneous application of bars is increased by the Proposed Rule's starkly asymmetrical evidentiary burdens. The Asylum Officer need only conclude it "appears" that a mandatory bar applies, while on the other side of the table, the asylum seeker must work to prove, by a preponderance of the evidence, there is a significant possibility or reasonable possibility the bar does not apply, for asylum and withholding of removal, respectively.[74] This disparity is exacerbated by the conditions under which Credible Fear Interviews are conducted, discussed below, which regularly deny asylum seekers access to counsel and the ability to collect evidence. Asylum Officers could easily rely on unverifiable information from an individual's country of origin, especially as it relates to bars that do not require a conviction, like the serious non-political crime bar that only requires "serious reasons to believe."[75]

This legal analysis and evidentiary burden is incompatible with the conditions under which Credible Fear Interviews are conducted. The Department administers most Credible Fear Interviews to asylum seekers while they are being held in abusive conditions by United States Customs and Border Protection ("CBP") or Immigration and Customs Enforcement ("ICE"). Credible Fear Interviews in these settings take place too soon after arrival and in conditions too hostile to due process to allow for the fair adjudication of mandatory bars.[76]

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https://www.amnesty.org/en/documents/mde23/1633/2020/en/; *López Alvarez v. Honduras,* Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 141 (Feb. 1, 2006) (ruling imprisonment of Honduran Garifuna community leader held in preventive detention for over six years on narcotics trafficking charges was arbitrary and illegal).

[69] *Negusie v. Holder*, 555 U.S. 511, 522-23 (2009).

[70] *Matter of Negusie*, 27 I&N Dec. 347 (BIA 2018).

[71] *Matter of Negusie*, 28 I&N Dec. 120 (A.G. 2020).

[72] *Matter of Negusie*, 28 I&N Dec. 399 (A.G. 2021).

[73] *Asylum Eligibility; Persecutor Bar*, RIN 1125-AB25 (Spring 2023), https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202304&RIN=1125-AB25.

[74] Proposed Rule at 41,360 (proposed 8 C.F.R. § 208.30(e)(5)(ii)(A)-(B)).

[75] 8 U.S.C. §§ 1158(b)(2)(A)(iii), 1231(b)(2)(B)(iii); *see supra* note 68 and accompanying text.

[76] "I'm a Prisoner Here": Biden Administration Policies Lock Up Asylum Seekers 24-25 (Apr. 2022), https://humanrightsfirst.org/wp-content/uploads/2022/09/ImaPrisonerHere.pdf.

Credible Fear Interviews in CBP custody can take place in as little as 4 hours upon arrival in the United States.[77] Conditions in CBP and ICE facilities are dehumanizing and sometimes life-threatening, resulting in predictably poor outcomes for those detained — including physical, mental, and fatal harm.[78]

Some families with children are also placed in expedited removal and scheduled for Credible Fear Interviews within 6 to 12 days of their release from CBP custody, while forced to wear an ankle shackle and placed under electronic surveillance and home curfew.[79] Without an opportunity to address any urgent housing or medical concerns, consult an attorney, secure legal representation, learn about the fear screening process, and prepare their case, many parents and children who have recently escaped persecution and trauma — including at the U.S.-Mexico border — must navigate the high-stakes process alone and testify about their asylum claim while at imminent risk of deportation.[80]

The Asylum Officers Union described the circumstance many individuals find themselves in when subject to expedited removal:

> Noncitizens undergoing credible fear screenings often do so mere days after their initial encounter with DHS. They are frequently detained and face inadequate access to counsel. Most have undertaken a long and difficult journey to the U.S. border. Many have recently suffered traumatic events. Certain classes of applicants, such as torture victims, may suffer from severe psychological trauma—such as denial, memory lapses, and inability to communicate.[81]

These conditions leave asylum seekers in no position to adequately present their claims before an Asylum Officer, let alone litigate the application of mandatory bars. Due process barriers inherent to expedited removal, including significant barriers to access to counsel and denial of language access, increase the likelihood of erroneous application of a mandatory bar in the fear screening process. In an August 2022 report, Human Rights First tracked widespread instances of people seeking safety who were denied interpretation in their native language during Credible Fear Interviews.[82]

Expedited removal is structurally biased against legal representation. The vast majority of asylum seekers who are subjected to expedited removal and receive Credible Fear Interviews do not have meaningful access to legal assistance before, or legal representation in, these life or

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[77] Mem. from Patrick J. Lechleitner, Senior Off. Performing the Duties of the Dir., Immigration and Customs Enforcement, to Daniel A. Bible, Exec. Assoc. Dir., Immigration and Customs Enforcement, *Implementation Guidance for Noncitizens Described in Presidential Proclamation of June 3, 2024, Securing the Border, and Interim Final Rule, Securing the Border* 4 (June 4, 2024).
[78] Inhumane and Counterproductive, *supra* note 41, at 51-52; Pretense of Protection, *supra* note 3, at 13-22.
[79] Inhumane and Counterproductive, *supra* note 41, at 55-58.
[80] *Id.*
[81] Comment of Nat'l Citizenship and Immigration Servs. Council 119, USCIS-2022-0016-12267, Dkt. No. USCIS 2022-0016, at 15 (Mar. 27, 2023), https://www.regulations.gov/comment/USCIS-2022-0016-12267.
[82] Pretense of Protection, *supra* note 3, at 13-16.

death interviews.[83] Unofficial data from CBP indicate that the Credible Fear Interview pass rate for those in CBP custody is an abysmal 23%.[84] Legal service providers are barred from physically entering CBP facilities. Attorneys face enormous barriers in speaking with clients or potential clients because they cannot call people back directly, must obtain a document physically signed by the client to represent them (even though attorneys cannot meet clients in person), and need to obtain signatures or set up calls by coordinating via email with CBP officials who are reportedly unresponsive at times.[85] The systemic due process issues with expedited removal, amplified in CBP custody, combined with the Circumvention of Lawful Pathway rule's presumption of asylum ineligibility is already leading to people with refugee claims being returned to harm.[86]

Even where a person manages to speak with an attorney, it is extremely difficult to prepare a person by phone on an rushed timeline to address all the issues that may arise during a Credible Fear Interview, as those interviews are now drastically complicated by the application of the Circumvention of Lawful Pathways Rule and potential deportation to Mexico for some nationalities, and to discuss severe persecution and trauma, while the person is detained and facing deportation.[87] Attorneys also face enormous obstacles in obtaining documents and records from the government to provide assistance to clients. Asylum seekers in CBP and ICE custody undergoing telephonic Credible Fear Interviews are largely unable to submit or gather evidence supporting their claim.[88]

Conducting analyses of legally and factually complex bars to asylum during fear screenings in the truncated context of expedited removal, without meaningful access to counsel or evidence, will increase the likelihood of erroneous applications of bars resulting in refugees being returned to persecution.

2. *Mandatory bars cannot be efficiently adjudicated in a Credible Fear Interview.*

The Department suggests permissive consideration would be useful in "clear" cases, like those in which "a noncitizen was convicted of murder and sentenced to ten or more years in prison in a country with a fair and independent judicial system" and where there is "easily verifiable evidence"[89] But these cases are rarely so simple and evidence is rarely so immediately verifiable. Even were they so simple, the Proposed Rule does not limit consideration to these cases. Permissive consideration suffers the same defect as mandatory consideration: the bars at issue capture vast swaths of behavior that does not lend itself to easy or efficient adjudication in a summary proceeding and will result in arbitrary and unfair outcomes.

Like the Circumvention of Lawful Pathways Rule's presumption, which the Department characterizes as less complex than the mandatory bars, permissive consideration of even one or two bars would present, as the Asylum Officers Union explained, "additional factual complexities that an asylum officer must explore in a credible fear screening, adding to the

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[83] *Id.* at 21-22.
[84] Pablo Balcazar, *Volunteers Needed for Credible Fear Interview Preparation in CBP Hotline*, Immigration Impact (May 3, 2024), https://immigrationimpact.com/2024/05/03/volunteers-credible-fear-interview-cbp-hotline/.
[85] Inhumane and Counterproductive, *supra* note 41, at 52.
[86] *Id.* at 50-54.
[87] *Id.*
[88] Pretense of Protection, *supra* note 3, at 16.
[89] Proposed Rule at 41,351, 41,354.

workload and time expenditure of asylum officers and further taxing the asylum system as a whole."[90] These lines of inquiry would be in addition to whatever consideration the matter of internal relocation receives under guidance to Asylum Officers announced by the Department but not shared with the public.[91]

Consideration of the mandatory bars and the availability of internal relocation would further complicate Credible Fear Interviews that already run long because of the application of the Circumvention of Lawful Pathways Rule's presumption. Responding to the Proposed Rule, the President of the Asylum Officers Union observed, "We're under pressure to quickly make our screening determinations in 24 hours or 48 hours at the most. Now you're adding more lines of inquiry. That's inevitably going to mean a longer interview."[92] The Department acknowledges that mandatory consideration would "potentially add[] hours to interviews," but fails to address the risk that erroneous permissive applications would have the same effect, further contributing to backlogs.[93]

The Proposed Rule will increase the Asylum Office backlog in a purported effort to reduce the EOIR backlog, an effort likely to fail considering the "relatively small" population the Proposed Rule admits to potentially addressing.[94] The Department's efforts to expand the scope of Credible Fear Interviews divert Asylum Officers from conducting affirmative asylum interviews and asylum merits interviews.[95] With the Department's expansion of the use, scope, and content of Credible Fear Interviews, these merits adjudications now languish in a backlog which is just as large as the backlog of asylum cases pending before EOIR as of the first quarter of Fiscal Year 2024.[96] Notwithstanding, the Department is poised to trade a claimed attempt at reducing, or at least keeping pace, with the Asylum Office backlog, which has grown by at least 2,000 cases a month between January and April 2024, to keep an estimated 346 to 1,497 cases out of the EOIR backlog annually.[97] This attempted justification is not only unpersuasive and difficult to believe, but it does not justify the risks to people seeking refuge and the additional inefficiencies and injustice that it will add to Credible Fear Interviews.

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[90] Comment of Nat'l Citizenship and Immigration Services Council 119, *supra* note 81, at 16-17; Circumvention of Lawful Pathways Rule at 31,390.
[91] *Supra* note 11.
[92] Eric Katz, *Is Biden's New Immigration Rule Doomed Without More Staffing?*, Gov't Exec. (May 13, 2024), https://www.govexec.com/management/2024/05/bidens-new-immigration-rule-doomed-without-more-staffing/396521/.
[93] Proposed Rule at 41,353.
[94] *See id.* 41,351.
[95] Trapped, Preyed Upon, and Punished, *supra* note 41, at 19.
[96] *Compare* the Asylum Office backlog of 1,129,237 pending asylum applications, U.S. Citizenship and Immigration Servs., Asylum Division Monthly Statistics Report. Fiscal Year 2024. April 2024, at Tab I-589_Pending_FY24YTD (May 29, 2024), https://www.uscis.gov/sites/default/files/document/reports/asylumfiscalyear2024todatestats_240430.xlsx, *with* the Immigration Court backlog of 1,153,474 pending asylum applications, Exec. Office of Immigration Review, Total Asylum Applications (Jan 18, 2024), https://www.justice.gov/eoir/media/1344871/dl?inline.
[97] *Compare* U.S. Citizenship and Immigration Servs., Asylum Division Monthly Statistics Report, *supra* note 96, *with* Proposed Rule at 41,351 (listing numbers of positive credible fear determinations in which an Asylum Officer flagged the possible application of a mandatory bar by Fiscal Year).

IV. Conclusion

Thank you for the opportunity to submit a comment on the Proposed Rule. Please find attached to this comment the following full versions of selected cited materials for the Department's consideration.

1. Upholding and Upgrading Asylum 17-22 (Oct. 2023), https://humanrightsfirst.org/library/upholding-and-upgrading-asylum
2. Pretense of Protection: Biden Administration and Congress Should Avoid Exacerbating Expedited Removal Deficiencies (Aug. 3, 2022), https://humanrightsfirst.org/wp-content/uploads/2023/01/PretenseofProtection-21.pdf.
3. Denial and Delay: The Impact of the Immigration Law's "Terrorism Bars" on Asylum Seekers and Refugees in the United States (Nov. 2009), https://www.humanrightsfirst.org/wp-content/uploads/2022/12/HRF-Denial-and-Delay-Terrorism-Bars-2009.pdf
4. Lawyers Comm. for Human Rights, *Safeguarding the Rights of Refugees under the Exclusion Clauses: Summary Findings of the Project and a Lawyers Committee for Human Rights Perspective*, 12 Int'l J. Refugee L. 315 (Supp. 2000), https://doi.org/10.1093/ijrl/12.suppl_1.317
5. Cora Wright, *Erroneous Asylum Office Referrals Delay Refugee Protection, Add to Backlogs*, Human Rights First (Apr. 19, 2022), https://humanrightsfirst.org/library/erroneous-asylum-office-referrals-delay-refugee-protection-add-to-backlogs
6. Request to Provide a Minimum of 60 days for Public Comment in Response to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking (NPRM): Application of Certain Mandatory Bars in Fear Screenings; DHS Docket No. USCIS-2024-0005 (May 21, 2024), https://cgrs.uclawsf.edu/our-work/publications/request-provide-minimum-60-days-public-comment-response-department-homeland.
7. Trapped, Preyed Upon, and Punished: One Year of the Biden Administration Asylum Ban 4 (May 7, 2024), www.humanrightsfirst.org/library/trapped-preyed-upon-and-punished.
8. Inhumane and Counterproductive: Asylum Ban Inflicts Mounting Harm (Oct. 12, 2023), www.humanrightsfirst.org/library/inhumane-and-counterproductive-asylum-ban-inflicts-mounting-harm
9. Refugee Protection Travesty: Biden Asylum Ban Endangers and Punishes At-Risk Asylum Seekers (July 12, 2023), www.humanrightsfirst.org/library/refugee-protection-travesty
10. Comment of U.N. High Comm'r for Refugees, USCIS-2021-0012-5192, DHS Dkt. No. USCIS 2021-0012, at 16-18 (May 31, 20233), www.regulations.gov/comment/USCIS-2021-0012-5192
11. Declaration of Blas Nuñez-Neto, *M.A. v. Mayorkas*, No. 23-cv-01843 (D.D.C. Oct. 27, 2023), https://storage.courtlistener.com/recap/gov.uscourts.cand.334557/gov.uscourts.cand.334557.176.2_1.pdf
12. Anwen Hughes, Thomas K. Ragland & David Garfield, *Combating the Terrorism Bars Before DHS and the Courts*, *in* Immigration Practice Pointers (2010-2011 ed.),

https://www.ilw.com/seminars/201008_citation2e.pdfhttps://www.ilw.com/seminars/201008_citation2e.pdf
13. Merle Kahn & Marco Tueros del Barco, Imm. Legal Resource Ctr., "Particularly Serious Crime" Bars to Asylum And Withholding (Dec. 2023) (collecting cases), https://www.ilrc.org/sites/default/files/2023-12/Particularly%20Serious%20Crimes%20Advisory_Dec%202023.pdf
14. Nancy Morawetz, *The Perils of Supreme Court Intervention in Previously Technical Immigration Cases*, 64 Ariz. L. Rev. 767 (2022) (summarizing Supreme Court precedents), https://arizonalawreview.org/pdf/64-3/64arizlrev767.pdf.
15. Hillel R. Smith, Cong. Research Serv., LSB10816, An Overview of the Statutory Bars to Asylum: Limitations on Granting Asylum (Part Two) (Sept. 7, 2022), https://crsreports.congress.gov/product/pdf/LSB/LSB10816.
16. Edward Lemon, *Weaponizing Interpol*, 30 J. Democracy 15 (Apr. 2019), www.journalofdemocracy.org/articles/weaponizing-interpol
17. Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *Cuba 2021 Human Rights Report* (Apr. 12, 2022) https://www.state.gov/wp-content/uploads/2022/02/313615_CUBA-2021-HUMAN-RIGHTS-REPORT.pdf
18. Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *Egypt 2022 Human Rights Report* (March 20, 2023), https://www.state.gov/wp-content/uploads/2023/03/415610_EGYPT-2022-HUMAN-RIGHTS-REPORT.pdf
19. Amnesty International, Muzzling Critical Voices: Politicized Trials Before Saudi Arabia's Specialized Criminal Court (Feb. 6, 2020), https://www.amnesty.org/en/documents/mde23/1633/2020/en/
20. "I'm a Prisoner Here": Biden Administration Policies Lock Up Asylum Seekers (Apr. 2022), https://humanrightsfirst.org/wp-content/uploads/2022/09/ImaPrisonerHere.pdf.
21. Mem. from Patrick J. Lechleitner, Senior Off. Performing the Duties of the Dir., Immigration and Customs Enforcement, to Daniel A. Bible, Exec. Assoc. Dir., Immigration and Customs Enforcement, *Implementation Guidance for Noncitizens Described in Presidential Proclamation of June 3, 2024, Securing the Border, and Interim Final Rule, Securing the Border* (June 4, 2024)
22. Comment of Nat'l Citizenship and Immigration Servs. Council 119, USCIS-2022-0016-12267, Dkt. No. USCIS 2022-0016 (Mar. 27, 2023), https://www.regulations.gov/comment/USCIS-2022-0016-12267.
23. Pablo Balcazar, *Volunteers Needed for Credible Fear Interview Preparation in CBP Hotline*, Immigration Impact (May 3, 2024), https://immigrationimpact.com/2024/05/03/volunteers-credible-fear-interview-cbp-hotline/.
24. Eric Katz, *Is Biden's New Immigration Rule Doomed Without More Staffing?*, Gov't Exec. (May 13, 2024), https://www.govexec.com/management/2024/05/bidens-new-immigration-rule-doomed-without-more-staffing/396521/.