

March 6, 2023

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
Washington, DC 20530

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Re: DHS Docket No: USCIS 2022-0016, Public Comment on Proposed Rule “Circumvention of Lawful Pathways”

Dear Attorney General Garland and Secretary Mayorkas,

On behalf of the Jesuit Conference Office of Justice and Ecology, Jesuit Refugee Service/USA, and the Ignatian Solidarity Network, we write to request that you withdraw the Proposed Rule “Circumvention of Lawful Pathways.”

The Jesuit Conference’s Office of Justice and Ecology brings the voice of Jesuit leadership to governments, international bodies, non-governmental organizations, and corporations, advocating in solidarity with marginalized communities. With over 14,000 members, the Jesuits are one of the world’s largest Catholic male religious orders. In the United States, there are over 60 Jesuit parishes, over 70 Jesuit schools, and 27 Jesuit colleges and universities, in addition to many other works. Most of these institutions count migrants, refugees, and asylum seekers among those they serve.

Jesuit Refugee Service/USA is a non-profit organization based in Washington, DC whose mission is to accompany, serve, and advocate on behalf of refugees and other forcibly displaced persons. Founded as a work of the Jesuits in 1980, JRS today works in 57 countries worldwide – including the US - to meet the educational, health, and social needs of more than one million refugees. JRS/USA also advocates to defend and protect refugees at home and abroad by representing them to Congress and US Government officials.

The Ignatian Solidarity Network works in partnership with hundreds of Catholic universities, high schools, and parishes across the country by providing social justice education grounded in Catholic Social Teaching. It works to mobilize its 74,000+ network members to take action on timely issues related to a variety of issues, including immigration.

We recognize the significant challenges posed by the backlog of pending asylum cases in the country and by the high number of encounters over the past months at the US-Mexico border. But the proposed rule is an unacceptable response. As organizations rooted in the Catholic faith, we are guided by the social teaching of our Church and the example of Jesus Christ. Jesus himself knew what it meant to be a migrant, having fled for his life along with his parents soon after he was born. Our Church teaches that we are to have a preferential option for the poor, calling us to look at the world from the perspective of

the marginalized and suffering, and to focus our efforts on caring for those who are vulnerable or less well off.

Rather than prioritizing those migrants who are in greatest need, the proposed rule would create significant new barriers for those who seek asylum, especially those who are most vulnerable. It would require nearly all asylum seekers to make appointments through the new CBP One app or be subject to a presumption of ineligibility. Linking people's lives and safety to the proper functioning of an app is simply not right. The proposed rule would make asylum interviews available only to those lucky enough to have the best internet connection and who access the app at just the right time. For those not so fortunate, it may be too late.

Even when the app—currently prone to many glitches—works perfectly, those without a smartphone, those insufficiently fluent in the limited number of languages available, and those without technical experience will all face considerable obstacles. None of these are reasonable bases for determining who should and should not have an opportunity to present themselves for asylum. Regardless of the amount of danger a person is in, or the reasons for which they are seeking asylum, they will have to wait for a potentially significant amount of time for an appointment, if they are able to secure one at all.

Exempting from the presumption of ineligibility those who have sought asylum in a country through which they passed does very little to address these concerns. The countries in question have neither the resources nor the infrastructure needed to accommodate them and ensure their safety. We hear many first-hand stories of extortion, abuse of power, and crimes committed against migrants and asylum seekers returned to Mexico and elsewhere. Further, the asylum systems in these countries fall short in several respects, including severely limited staffing, overly restrictive requirements, and an inability to accommodate asylum seekers from a variety of backgrounds and countries.

While not calling for an outright elimination of asylum as some rules introduced by the Trump administration, the proposed rule is not the standard to which we as a country should hold ourselves. Rather than designing policy to keep as many people as possible out of the US, our faith calls us to design policy to ensure that we as a country can offer protection to those in genuine need. The proposed rule creates unnecessary new obstacles for those urgently seeking protection, especially the most vulnerable. Its likely impacts would include sending many people back into danger. For these reasons, we ask that you withdraw the rule.

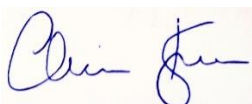
Sincerely,



Rev. Ted Penton, S.J.
Secretary of Justice and Ecology
Jesuit Conference of Canada and the United States



Joan Rosenhauer
Executive Director
Jesuit Refugee Service USA



Christopher G. Kerr
Executive Director
Ignatian Solidarity Network