

TLDEF Leads Coalition Opposing Federal Rule to Exclude Transgender Refugees from Seeking Asylum in the United States



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(New York, NY – July 15, 2020) The Transgender Legal Defense & Education Fund (TLDEF) today joined Casa Anandrea, Colectivo Transgrediendo, GMHC, Sylvia Rivera Law Project, and Translatinx Network in submitting comments to oppose a proposed federal rule that would erode the current U.S. asylum system, effectively preventing transgender refugees from seeking asylum in the United States. The proposed rule, entitled, “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review,” was introduced by the Department of Homeland Security and the Department of Justice and seeks to unlawfully create a complex yet narrow path to asylum that would be virtually unattainable for transgender refugees.

“The proposed rule is part of an aggressive effort to close our nation’s doors at a time when transgender people worldwide are fleeing increased violence and persecution in their countries of origin,” said **Andy Marra, Executive Director of the Transgender Legal Defense & Education Fund**. “The lived experiences of transgender refugees documented in our comments should inform our nation’s immigration policies instead of resorting to xenophobia, racism, and transphobia.”

TLDEF’s comments prepared in partnership with transgender and LGBTQ+ groups represent thousands of transgender refugees who currently reside in the United States. This also includes the experiences found among current and past participants of [TLDEF’s Name Change Project](#) for whom acquiring identity documents that correctly match their name and gender has been life-saving.

Since the proposed rule was made public in June, TLDEF has added its voice to the chorus of opposition against the proposed rule by [submitting comments](#).

A substantial rollback of protections included in the proposal would expedite the credible fear interview (CFI) stage, a critical first step in the asylum process. Asylum seekers must establish – in English and often without a lawyer present – a “well-rounded fear of persecution” in their country of origin. By expediting this process, the proposed rule would fast-track deportation by creating barriers within the CFI stage that all but guarantee immigrants to fail, including denying arriving asylum seekers to develop and present their claims to a judge.

The proposed rule would also exclude violence perpetrated against transgender people by non-state actors when establishing a well-rounded fear of persecution. In the absence of documented state-sponsored violence against transgender people, the proposed rule would eliminate access to asylum for people who are either fleeing persecution or who fear persecution from individuals, gangs, terrorist organizations, and other non-governmental actors and would result in asylum seekers being sent back to dangerous conditions in their countries of origin.

Both the proposed expedited credible fear interview (CFI) and the redefinition of what it means for a refugee to be persecuted would disproportionately affect transgender refugees and immediately close the door for asylum seekers. Transgender refugees – particularly transgender women – fleeing their countries of origin are additionally subject to discrimination and violence during the journey to the United States. By denying asylum to transgender refugees seeking safety here in the States, the current administration is tacitly endorsing gender-based violence in more than 80 countries.

Asylum is currently available to non-citizens who establish a well-founded fear of persecution based on the non-citizen’s “race, religion, nationality, membership in a particular social group, or political opinion.” A particular social group (or “PSG”) is – and was intended to be – a flexible concept capable of extending protection to those who are not described by one of the other categories, including new or newly-understood groups properly protectable as refugees including gender identity or sexual orientation.

The public comment period ends on July 15, 2020, just thirty days after the proposed rule was introduced.

TLDEF's Name Change Project provides pro bono legal name change services to low-income transgender people, including asylum seekers, asylees, refugees, and immigrants through partnerships with some of the nation's most prestigious law firms and corporate law departments to assist in obtaining legal name changes. Official documents that correctly list a person's name and gender is a human right and can help reduce instances of violence and discrimination once in the United States.

About TLDEF

TLDEF is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through public education, test-case litigation, direct legal services, and public policy efforts. Please support TLDEF today to help us transform the legal landscape for transgender and non-binary people nationwide. To learn more about how you can support TLDEF's work, visit tldf.org.

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