As a 74-year-old humanitarian organization representing 37 Protestant, Anglican, and Orthodox communions and 24 refugee resettlement offices across 17 states, Church World Service (CWS) writes in opposition to the extensive substantive and procedural changes in the DOJ and DHS proposed rule that will severely limit access to asylum. CWS is deeply concerned about the impact of the proposed rule as it would result in the near elimination of the U.S. asylum system as it currently exists, preventing many people with a well-founded fear of persecution from accessing safety. As a faith-based organization, we believe that all of humankind is created in the image of God (Gen 1:27) and all people should be treated with compassion as they seek protection.

As the United States commemorates the 40th anniversary of the signing of the bipartisan Refugee Act of 1980, which created the statutory basis for the modern-day asylum system, it is disgraceful that measures such as this proposed rule will refoul people back to harm and endanger countless lives. This rule violates U.S. and international law, including the Refugee Act of 1980, by severely limiting the basis of asylum claims and imposing new barriers that would prevent countless men, women and children from obtaining asylum in the United States.

This proposed rule would make it more difficult for asylum seekers to pass initial credible fear screenings and begin the asylum process. Credible fear screenings are the first step in the asylum process, meant to screen out only those very few who have clearly illegitimate claims before they enter the immigration court system. The standard is intentional so that the U.S. does not refoul an asylum seeker back to harm. The proposed regulation would narrow the definition of “persecution”, “well founded fear”, “political opinion” and “social group” counter to the intention and purpose of the credible fear screening. The proposed rule adds basis for immigration judges to reject applications as a matter of discretion or “pre-termit” asylum claims before an applicant has access to a hearing, creating greater room for the miscarriage of justice in asylum claims and more people returned to harm.

CWS is deeply troubled by the additional threat this imposes on asylum seekers who are women and sexual minorities. Gender and sexuality are core parts of an individual's identity. Legal wins over the last 20 years have created a pathway for wider recognition of gender as a “particular social group,” giving survivors fleeing gender-based violence the ability to seek safety in the United States. Gender-based violence can include female genital cutting, “honor” violence, intimate partner violence, sexual assault and rape, forced marriage, and human trafficking. The proposed rule would bar evidence that supports an asylum claim if it could be seen as “promoting cultural stereotypes.” This could allow room for situations such as LGBTQ+ youth facing death threats to be viewed as cultural stereotypes and thus that context omitted from the consideration of their asylum claim.

At a time when the world is facing its worst humanitarian crisis and religious persecution remains a significant threat globally, CWS is concerned by the impact the proposed rule will have on individuals fleeing religious persecution. As a faith based organization, freedom of religion is a right that we deeply cherish. At a time when the U.S. refugee resettlement program is being systematically dismantled and this proposed rule will decimate the U.S. asylum system, the U.S. is turning its back on its historic commitments to the persecuted, endangering countless lives and drastically reducing our ability to protect religious freedom. The U.S. asylum system and refugee admissions programs are under threat when they should be protected and used as a humanitarian tool to help victims of religious persecution.

CWS is troubled by the administration’s contemporaneous efforts to eviscerate additional U.S. asylum protection. Our faith calls on us to love all people and stand against dehumanizing policies. During this unprecedented public health crisis, it is imperative that the United States rejects any policy that turns away asylum seekers - and instead ensures the health and safety of all people.

CWS strongly opposes these immoral and unethical proposed asylum rules and strongly objects to the Departments’ approach to the public comments process itself – only allowing 30 days for the public to respond to the Notice of Proposed Rulemaking (NPRM). CWS urges the Departments to rescind the proposed rule immediately and instead promote policies that protect and support survivors of persecution.