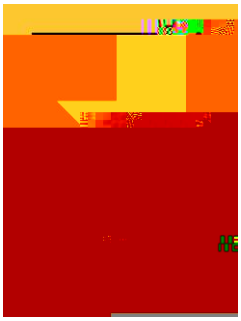

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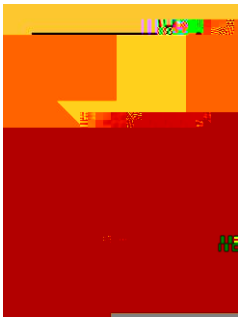
Olga Byrne, Director, Immigration
International Rescue Committee
1730 M St NW #505
Washington, DC 20036

Re: 84 FR 69640; EOIR Docket No. 18-0002, A.G. Order No. 4592-2019; RIN 1125-AA87, 1615-AC41; Comments in Opposition to Proposed Rulemaking: Procedures for Asylum and Bars to Asylum Eligibility

January 20, 2019

To Whom It May Concern:

I am writing on behalf of the International Rescue Committee in response to the above-referenced Proposed Rules amending eligibility for asylum, as published in the Federal Register on December 19, 2019. The International Rescue Committee (IRC) would like to express its strong opposition to these amendments, which



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involving a domestic relationship; (7) and any conviction for several newly defined categories of misdemeanor offenses, including *any*

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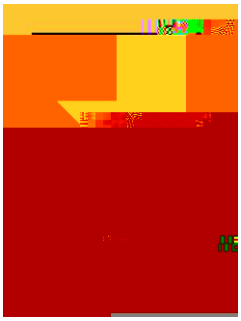

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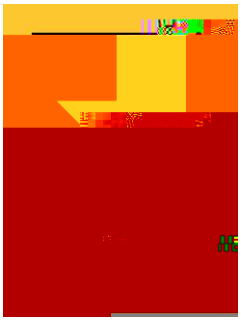
And perhaps most fundamentally, there is continuing jeopardy for withholding and CAT recipients that does not exist for asylum recipients. When a noncitizen is granted asylum, the person receives a legal status. Asylum, once granted, protects an asylee against removal unless and until that status is revoked. None of these protections exists for withholding and CAT recipients. They have no access to permanent residency or citizenship. Instead, they are subject to a removal order and vulnerable to the permanent prospect of deportation to a third country.

V. The Proposed Rules require immigration judges to make



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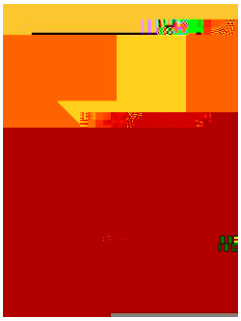
VI. The Proposed Rules undermine Sixth Amendment protections and harm immigrants unfamiliar with the complex criminal and immigration framework.

The Proposed Rules outline a new multi-factor process asylum adjudicators must use to determine whether a conviction or sentence remains valid for the purpose of determining asylum eligibility. The proposal includes a rebuttable presumption "against the effectiveness" of an order vacating, expunging, or modifying a conviction or sentence if the order was entered into after the asylum seeker was placed in removal proceedings or if the asylum seeker moved for the order more than one year after the date the original conviction or sentence was entered.

This newly created presumption unfairly penalizes asylum applicants, many of



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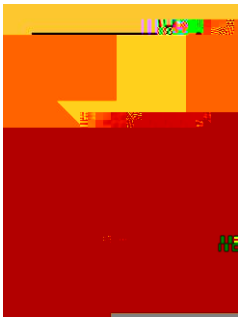
accomplish the stated goal of making communities safer. They will disparately impact vulnerable populations, who comprise asylum seekers hailing primarily from Central America and the Global South, and those routinely criminalized because of their identities, racially disparate policing practices, or in connection with experiences of trafficking and domestic violence. For these populations especially, the discretion currently delegated to asylum adjudicators is crucial for them to become fully integrated in the larger community. The imposition of additional categorical bars to asylum will further marginalize asylum seekers already struggling with trauma and discrimination.

Barring asylum for immigrants convicted of migration-related offenses punishes



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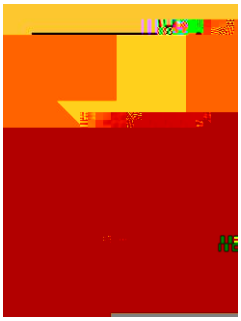
The Proposed Rules expand the asylum bar to include any asylum seeker who has been convicted of a misdemeanor offense for use of a fraudulent document. In so doing, the Rule entirely ignores the migration-related circumstances that often give rise to convictions involving document fraud. Migrants fleeing persecution often leave their home countries with nothing and must rely on informal networks to navigate their new circumstances. Extension of a blanket bar to asylum seekers who are compelled to resort to fraudulent means to enter the United States, or to remain safely during their applications for asylum, upends decades of settled law directing that violations of law arising from an asylum applicant's manner of flight should constitute only one of many factors to be consulted in the exercise of discretion. Moreover, Congress specifically omitted unlawful employment as a ground of inadmissibility for asylee adjustment—indicating its intent to not punish legitimate refugees for seeking to support themselves out of desperation after fleeing persecution.

The Proposed Rules will harm communities with overlapping vulnerabilities, including LGBTQ asylum seekers, survivors of trafficking, and survivors of domestic violence.

Survivors of domestic violence include trafficking survivors and the LGBTQ community members, such that inclusion of offenses related to domestic violence in the expanded asylum bars affects populations with overlapping vulnerabilities. The Proposed Rules too broadly categorize domestic violence offenses as particularly serious and sweep



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not provide any evidence or indication that an attempt at quantifying this impact, as required in Executive Order 13563, was made.

The agencies admit that the proposed expansion will likely result in fewer asylum grants annually, but fail to attempt to quantify or evaluate the impact of the decrease. In saying that these individuals would possibly qualify for withholding does not detract from the agencies' responsibility to assess the impact in a decrease of asylees. As expounded upon above, withholding and asylum offer vastly different protections and greatly impact the asylum-