

**Comment for Conscience Project**  
**Nondiscrimination in Foreign Assistance**

**RIN 1400-AF66**

Exporting American ideals by promoting individual freedoms and fair treatment under the law has been part of U.S. foreign policy for decades. But no longer, it seems. As evidenced by these proposed rules, the State Department is less interested in freedom and fairness than in pushing its fanatical post-liberal progressive agenda. These rules forbid discrimination “on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran’s status.” That’s quite a feat of box-ticking, isn’t it? The problem is that we don’t really know what’s in some of the boxes. The rules, for example, don’t define terms like “sex,” “gender,” “gender identity or expression,” or “sex characteristics.” Given that gender ideology is so muddled that its proponents can’t tell us what a woman is, this isn’t surprising. The rules also fail to define discrimination based on “pregnancy.” Will the administration interpret the term to include abortion? The Foreign Assistance Act of 1961 says, “Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.” Under the act, the secretary of state has “broad discretion” to set terms and conditions for the provision of foreign assistance. Of course, this discretion is limited by the Constitution and federal law. Granted, the proposed rules give the State Department discretion to grant a waiver to an award recipient or a contractor if “it is determined to be in the best interest of the US government.” But given the president’s goal to impose gender ideology across all departments and agencies, this is an empty promise for charitable groups unwilling to embrace gender ideology or celebrate the gruesome practice of abortion. Faith-inspired organizations, in particular, are likely to find their religious convictions excluding them from participating in government-funded relief work. It’s true that the proposed rules related to contractors allow the State Department to grant a waiver “to allow a religious corporation, association, educational institution, or society to employ individuals of a particular religion to carry out the activities under the award in a manner consistent with its religious beliefs.” But that doesn’t mean that religious organizations will be allowed to make hiring and firing decisions based on their beliefs. Fortunately, the First Amendment’s protections may set things straight. Because the State Department’s proposed rules include mechanisms for granting waivers, it is subject to the most exacting form of judicial review, requiring the government to prove it has a compelling interest in enforcing the regulation without providing an exemption. In the Supreme Court’s unanimous decision after the City of Philadelphia refused to exempt Catholic Social Services from endorsing same-sex married couples as foster parents, Chief Justice John Roberts reminded progressive government bureaucrats, “We have never suggested that the government may discriminate against religion when acting in its managerial role.” It seems, however, that no one at the State Department was listening. To be clear: Conditioning access to government funds on ignoring religious teaching and embracing gender ideology is offensive to the Constitution and makes a mockery of the country’s commitment to promoting religious freedom as a foreign-

policy priority as enshrined in the International Religious Freedom Act. Put bluntly, these proposed rules will weaponize the “power of the purse” to push gender ideology and abortion on the developing world. It will also limit the number of providers who can partner with the government to offer humanitarian aid abroad by imposing unnecessary and unlawful conditions on faith-inspired organizations. If the United States exploits the plight of struggling countries to inflict its latest dogmatic obsessions on them, then we risk stirring up anti-American sentiment around the world, and the achievements of decades of humanitarian assistance will count for nothing.