

Human Rights First

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://www.humanrightsfirst.org/blog/dhs-secretary-kelly-using-alt-facts-about-asylum>

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Areas of Focus

Current Initiatives

Last Friday, Secretary of Homeland Security John F. Kelly defended the [controversial deportation](#) of a Honduran woman and her young child. Now remember the vast majority of the people who come up herein fact I would say the overwhelming numbers say exactly the same words because they are schooled by the traffickers to say certain words to give certain scenarios which generally speaking will get you to remain in the United States in the system because of a credible fear claim, [he said](#), adding that, there were five or six denials, not by ICE, not by DHS, not by Kelly, but by the court system, and [t]here was a removal order by a judge.

This is an astonishingly inaccurate depiction of both this case and asylum seekers generally and it comes from a cabinet-level official in charge of key components of the U.S. refugee protection system, including the agency that adjudicates asylum applications and credible fear screenings. His remarks raise concerns he's getting alt-facts from political appointees.

Intentionally or not, the secretary left listeners with the misimpression that the Honduran mother was a liar who had been found not credible by the courts. In fact, she was [blocked from even applying for asylum](#) under the U.S. expedited removal system, and DHS had found her credible during its screening.

Expedited removal, enacted by Congress in 1996, allows Customs and Border Protection (CBP) agents to issue a removal order an authority previously entrusted to immigration judges. A person is allowed to apply for asylum only if she demonstrates a credible fear of persecution. The expedited removal system is plagued with [problems](#), as the bipartisan U.S. Commission on International Religious Freedom has [documented](#).

The Honduran woman was ordered removed under expedited removal by a CBP officer not a judge. Her pro bono lawyers filed a habeas petition in U.S. federal court, seeking review of the DHS expedited removal order a very rare move. The vast majority of asylum seekers found not to meet the credible fear standard are quickly deported. The overwhelming majority do not have legal representation or meaningful access to the federal courts during expedited removal processing.

Inexplicably, Secretary Kelly contended that credible fear cases generally take as long as her atypical case: Why does it take so long? he said. Because when they come in and say the words credible fear and give a few examples of why they have credible fear then this system takes over and puts them through a system of judgment six times their requests to stay in the US were denied and ultimately the final denial was in April, we have no choice.

People fleeing the Northern Triangle countries have escaped from horrendous persecution and violence, as documented by the U.N. Refugee Agency reports on [women and children](#), a recent report on victims of [sexual and gender-based violence](#) and [report on violence against LGBT people](#) in El Salvador. Asylum requests have [risen](#) steeply in other countries as well. They more than doubled in Costa Rica, nearly tripled in Panama, and increased nearly tenfold in Belize between 2015 and 2016. Secretary Kelly has himself [repeatedly acknowledged](#) the very real dangers facing people in Central America. If border agents are reporting that traffickers tell their victims to use certain words to request protection, that doesn't mean asylum seekers are not genuinely fleeing danger.

Human Rights First and its pro bono attorneys, along with many other nonprofit and volunteer lawyers across the country, have represented thousands of asylum seekers who have fled human rights abuses and violence in the Northern Triangle. These attorneys spend many hours interviewing their clients, contacting witnesses, and gathering affidavits and evidence in support of protection applications. They know that their pro bono clients and their families have very real fears of persecution and harm in their home countries.

Government leaders should be getting information from multiple and diverse sources, particularly at a time when political appointees with long anti-refugee records are influencing briefings, statements, and policies. At his [confirmation hearing](#), Secretary Kelly testified that he believed in meeting with human rights and non-governmental groups because you get a far different view of what is needed, what the real conditions are. While he may have been talking about human rights groups in other countries, this kind of dialogue is also critical in the United States.

More accurate information would lead to more accurate statements, and would ensure that asylum adjudicators have confidence that their

boss isn't pre-judging cases or encouraging asylum denials. Secretary Kelly should meet regularly with outside human rights groups, legal and non-governmental organizations. He may not always like the feedback, which would include criticism of policies and the conduct of some agents, but his agency and the country will be better for it.

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