

Human Rights First

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://www.humanrightsfirst.org/blog/asylum-seekers-already-face-prolonged-detention>

Public Facing Advocacy Writing

Work With Asylum Seekers

If you are seeking asylum, we can help

Areas of Focus

Current Initiatives

By Gemma Hallett

President Trump's January 27 executive order, which banned immigrants from seven Muslim-majority countries for 90 days and suspended the U.S. refugee program for longer, has captured much of the media cycle. Yet an earlier executive order signed on January 25th, Border Security and Immigration Enforcement Improvements, could also have significant consequences for U.S. global leadership and protection of refugees.

That order announces the Trump Administration's intention to send more asylum seekers to immigration detention and to further limit the existing but extremely narrow avenues for being released from immigration detention facilities and jails.

The order directs a massive escalation of immigration detention and therefore detention costs at a time when this country's use of immigration detention is already at an [all-time high](#).

Many of those seeking protection in the United States are detained for many months or longer. Asylum seekers are often classified as arriving aliens, since they came to an official U.S. border entry point and requested protection. Therefore they are not given access to immigration court custody hearings. Instead, they can only ask Immigration and Customs Enforcement (ICE) to consider releasing them on parole.

Essentially, for these asylum seekers, ICE is both judge and jailer. It alone decides whether they may be released or continue to be held in detention for many months or longer.

In a series of reports issued in [August, September](#), and [November](#) 2016, Human Rights First documented the sharp increase in detention, with asylum seekers held in jails and detention facilities for months on end. They were typically denied affordable bond rates and denied release on parole even when they satisfied the relevant criteria.

The exact steps the Department of Homeland Security (DHS) will take pursuant to the January 25th executive order remain unclear. However, in a hearing this week before the House Committee on Homeland Security, DHS Secretary Kelly [stated](#), DHS is immediately taking all appropriate action to ensure that the parole and asylum provisions of federal immigration law consistently applied with the requirements of the law, and not exploited to prevent the removal of otherwise removable aliens.

Secretary Kelly's comments may signal a plan to stop even more asylum seekers from being released from detention and to increase the numbers of detained asylum seekers even further. But [recent studies](#) show that rates of parole are already very low and many asylum seekers who are eligible for release remain in detention.

Since issuing its series of reports in 2016, Human Rights First continues to receive reports of asylum seekers denied parole despite appearing to present no danger or flight risk, and to have sufficient evidence of identity. For example:

A transgender refugee was denied parole, held six months in detention where she was sexually assaulted multiple times, and only released after being granted asylum.

A 21-year-old transgender woman fleeing brutal persecution in Honduras due to her gender identity applied for asylum at the southern border. She was detained with men, despite identifying as a woman. She was found to have a credible fear of returning to Honduras, and requested parole. She provided ICE with her national identity card, and letters of support from family members in Florida willing to sponsor her if paroled.

ICE denied her request for parole, even though she had no criminal history and was at a high risk of sexual assault in detention as a transgender woman. During her detention, she was sexually assaulted numerous times. After six months in detention, an immigration judge determined she was a refugee, and only then was she released.

A woman who sought asylum from political persecution in Cameroon is still held in detention in Florida since she cannot afford to pay the \$15,000 parole bond.

A woman fleeing political persecution, arrest, rape, and detention due to her refusal to divulge information about a family member sought asylum at the southern border. She was found to have a credible fear of returning to Cameroon, and applied for parole. Despite providing ICE with her national identity card, birth certificate, and supporting letter from a U.S. citizen friend willing to sponsor her if she was released, ICE refused to release her unless she pays a \$15,000 bond. She cannot afford this excessivesum, andremains in detention while her immigration case is pending.

A Nigerian refugee who fled Boko Haram was blocked from parole andonly released from detention after he was granted asylum.

After his wife and child were killed, a Nigerian man fled his country and sought protection at the southern border of the United States. After being detained and found to have a credible fear of returning to Nigeria, he requested parole.

Despite submitting a police identification card and his birth certificate, ICE denied parole citing a failure to establish identity. Eventually, ICE agreed to release him from detention on parole if he could pay a \$7,500 bond. The man could not afford to pay the bond and remained in detention. Two months later, an immigration judge granted his asylum case, and only then was he released from detention.

Across the country, ICEis holding many asylum seekers in detention unnecessarily.[Statistics](#)show that immigrants who are not detained overwhelmingly appear for immigration removal hearings, and those who are represented by legal counsel[also appear at high rates](#).Not only is thisover-reliance on detentiona waste of taxpayer resources, but it alsoviolateshuman rights and refugee protection treaties.

As DHS moves forward with implementation of the January 25thexecutive order, Secretary Kelly must ensure that all steps his department takes are consistent with U.S. law and treaty obligations, which prohibit arbitrary and unnecessary detention of asylum seekers.

Published on February 9, 2017

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