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[HOME](#) / PRESS RELEASE / SESSIONS OUTLINES MEASURES THAT THREATEN FAIRNESS IN IMMIGRATION COURT

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SESSIONS OUTLINES MEASURES THAT THREATEN FAIRNESS IN IMMIGRATION COURT

Washington, D.C.—Human Rights First today said that Attorney General Jeff Sessions’ announcement on the immigration court system threaten due process and fairness in the asylum system.

“The imposition of ‘performance metrics’—or numerical quotas on immigration judges—coupled with policies that undermine access to counsel, threaten fair decision-making in the immigration courts,” said Human Rights First’s Eleanor Acer. “For the thousands of individuals seeking protection from persecution, this fairness is a matter of life and death. For other immigrants, the future of their families are on the line. The Justice Department should focus on steps that ensure timely—and fair—hearings and abandon those that undermine justice.”

The attorney general and the Executive Office for Immigration Review announced or confirmed a number of steps including the use of “performance measures,” increased conduct of hearings through video-conferencing as opposed to in-person, and a continued effort to discourage adjournments – which can be necessary to secure legal counsel. In justifying these measures, the Justice Department falsely implied that legal counsel for immigrants are the source of the increase in postponements and continuances. As Human Rights First detailed in its October [2017 report](#), however, this is far from the truth. The Government Accountability Office (GAO) identified that the sharpest rises in adjournment requests come from the Department of Homeland Security (DHS) and operational-related continuances, and not from respondent related requests—which would

include requests to adjourn to secure legal counsel. The report also detailed how Trump Administration directives and policies threaten to rush cases through the immigration court system, undermining fair decision-making.

“The Justice Department’s continued efforts to undermine access to legal representation by falsely painting attorneys for immigrants and asylum seekers as the source of the increase in case postponements and delays is frankly shocking; not only is it not true, but this rhetoric—clearly aimed at pressuring judges to deny adjournments when immigrants may need them to secure counsel or gather necessary evidence—undermines the mission of the Justice Department and its Executive Office for Immigration Review,” added Acer.

Human Rights First’s staff and volunteers have overwhelmingly seen their asylum cases adjourned due to requests by Immigration and Customs Enforcement (ICE) or by the court acting on its own motion due to scheduling or other problems. These adjournments have included cases where:

- ICE counsel discovered on the day of the trial that they did not have their file;
- recently-appointed immigration judges who had previously served as counsel for ICE had to recuse themselves from working on cases which they had previously represented with ICE;
- the judge originally assigned to the case was reassigned to another court and forced to reschedule existing cases;
- ICE counsel newly-assigned to the case failed to adhere to understandings reached with their predecessors, and instead of a brief hearing to resolve a limited number of previously-discussed issues, forced rescheduling to a longer hearing slot;
- the court interpreter was not competent.

In yesterday’s announcement the attorney general also spoke of steps to increase immigration judges and staffing, a move that Human Rights First has long supported. The organization notes, however, that the Department of Justice should maintain strong safeguards against politicized or ideologically driven hiring, and should avoid initiatives that short-circuit fairness.

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