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Statement of the Human Rights Initiative of North Texas Submitted to the House Judiciary Subcommittee on Immigration and Citizenship

Hearing on "Courts in Crisis: The State of Judicial Independence and Due Process in U.S. Immigration Courts"

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Contact: Kali Cohn
Community Education & Advocacy Director
kcohn@hrionline.org, 214-855-0520 x4338

As a Texas-based immigration law non-profit serving survivors of human rights abuses from all across the world, the [Human Rights Initiative of North Texas](#) sees the real life consequences of the crisis in our immigration courts every day.

For twenty years, we have worked to help our courageous and resilient clients forge a path to safety, freedom, and opportunity. We represent asylum seekers making their case before immigration judges: people who have escaped horrifying abuse in their home countries for speaking up against government corruption, for practicing their faith, and for living their authentic lives. We also represent children who have been abused, abandoned, or neglected by one or both of their parents: kids who have no one to protect them or provide for them in their home countries and who need to find safety here in the U.S.

We rigorously screen potential clients to ensure they qualify for relief under our laws and have sufficient, credible evidence to prove their claims. For our clients, the immigration courts should be a respite. But increasingly, immigration courts have become yet another obstacle in our clients' journey to safety.

We submit this statement to you as immigration practitioners in Texas, based on the observations our lawyers have made practicing before immigration court. We loudly echo the observations of our fellow immigration lawyers across the country: current EOIR policies and practices undermine due process and create significant barriers to a fair day in court.

Extreme Pressures to Close Cases Are Compromising Fair Adjudication of Cases

Over the past three years, immigration judges have come under a tremendous pressure to close cases: the Attorney General has subjected judges to [case closing quotas](#), while [limiting their ability to hold off on decisions about deportation](#) while someone's immigration application is pending before USCIS and [limiting their ability to put cases on hold](#) while other agencies or courts are handling issues material to the case. These policy decisions have had a dramatic impact on the way immigration courts are operating, seriously affecting the rights of people appearing in court.

Increasingly, we have seen immigration judges make *sua sponte* attempts to rule on issues outside of their jurisdiction. Instead of continuing or administratively closing a case while those issues are adjudicated (and while the underlying applications for relief remain pending), they are raising substantive issues within the sole purview of USCIS or a state court, deciding those issues, and entering removal orders. Although it may seem counterintuitive, it's to be expected: doing so allows immigration judges to close cases and move the needle closer to their 700 required closures per year. So long as someone has an attorney, a case like this won't remain closed: it's an abuse of discretion to rule on issues over which the court lacks jurisdiction, and the Board of Immigration Appeals will send the case back. But from a practical standpoint, that means that pro bono legal service providers like HRI are spending unnecessary time filing appeals when they could be serving other clients; it means that people with private attorneys are paying unnecessary money to achieve a just outcome; and it means that people without attorneys—the vast majority of people in immigration court—are stuck without recourse.

Over the past three years, we've also watched as the judges reduce time in court available for hearings. The Dallas Immigration Court has significantly increased the number of hearings docketed for a master calendar session. There is no longer time during master calendar hearings, which are initial hearings similar to arraignments in criminal courts, for presentation of evidence and information that could affect the scheduling out of cases—ultimately creating inefficiencies down the road.

Merits hearings have also been affected. Four years ago, an asylum seeker would have a full day to present her case; today, the Dallas Immigration Court is scheduling merits hearings for an hour and half. Respondents and advocates simply cannot present a meaningful asylum case-in-chief in that time. The compressed scheduling either means that people don't get their fair time in court—another appealable issue with the same impacts we've already described—or merits hearings scheduled later in the day must be rescheduled, oftentimes years later. For the people awaiting their day in court, it is justice yet again delayed.

Delayed justice has real and serious impacts. Many of our asylum clients, for example, are forced to flee from their homes without their families and cannot be reunified until after their relief is granted. The emotional toll of waiting for relief—sometimes while their family members live their days in hiding—can be nearly unbearable.

Political Priorities of the Administration Are Impacting Court Dockets

In addition to the overt efforts by the Administration to [change case outcomes through Attorney General case certification](#) and [limit who can access immigration court within the United States](#),

we've also observed quieter effects of the political environment on the system. In our observation, master calendar and merits hearings are being scheduled much more quickly for Central American respondents than respondents from other parts of the world. In the asylum context, this appears particularly true for Central American respondents alleging persecution based on a particular social group.

Disparate scheduling has two unjust effects: for Central American people with expedited schedules, there is less time to find representation, gather necessary evidence, and present a case. And for the people from the rest of the world, there are unnecessary years of waiting for relief, during which time they must navigate the challenges of living in the United States without status.

The Current Immigration Court Structure Cannot Provide the Fair Day in Court That Due Process Requires

Our current immigration court structure is fundamentally flawed. As a judicial body, the immigration court should be a neutral arbiter of justice—an independent, third-party that can fairly weigh a respondent's case. But the design of the system forbids it: our immigration courts are merely an arm of the Attorney General, the chief enforcer in the system. The practical realities that we are observing are a natural consequence of that design.

We join together with the American Bar Association, the American Immigration Lawyers Association, and legal organizations across the country in calling for an independent immigration court.