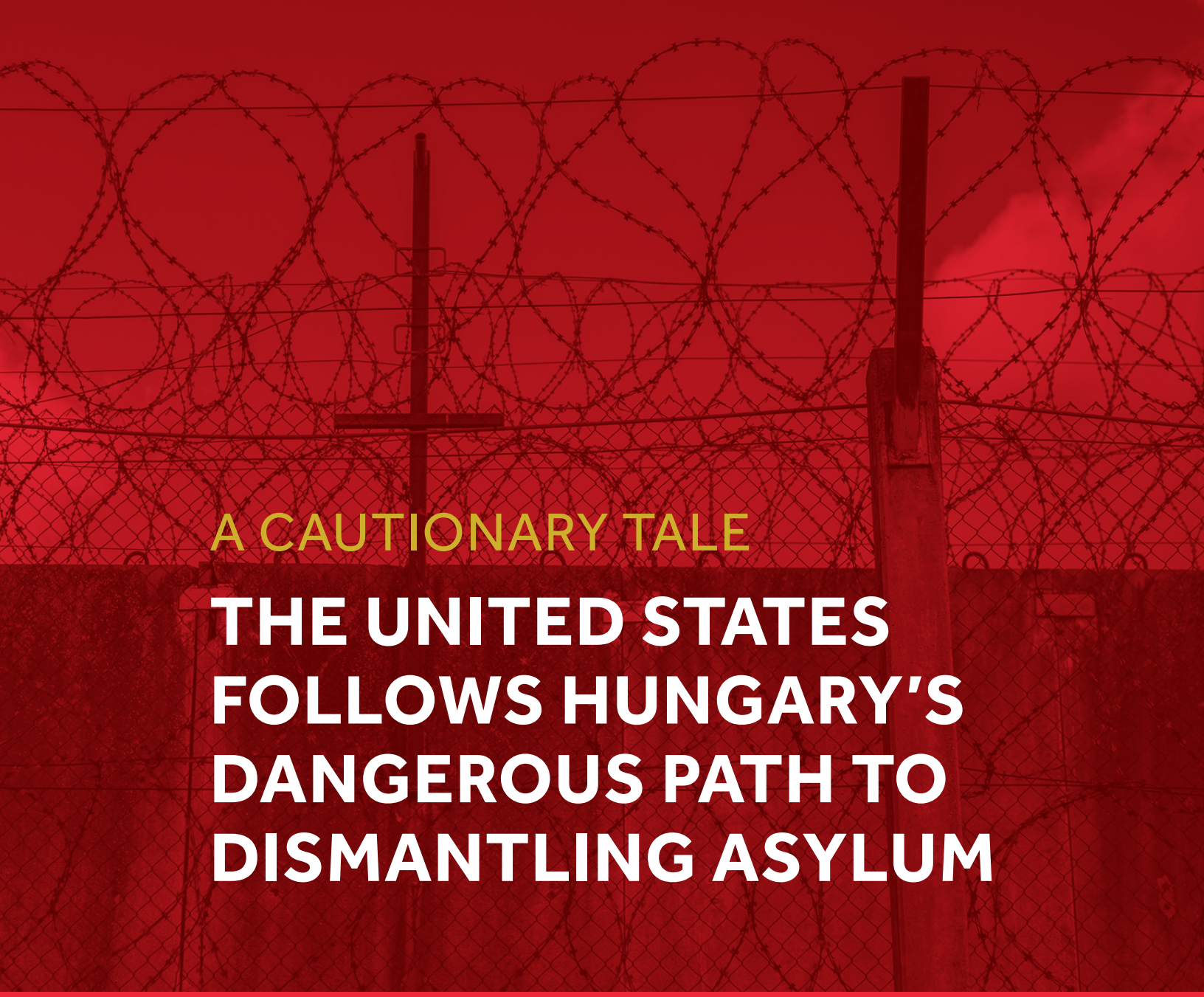


A CAUTIONARY TALE

THE UNITED STATES FOLLOWS HUNGARY'S DANGEROUS PATH TO DISMANTLING ASYLUM

JULY 2018

Rachel Gore Freed
Amber Moulton
Mayuri Anupindi
Joshua Leach

UUSC

ACKNOWLEDGEMENTS

We are especially thankful to our partners in Hungary and the United States for their expertise, leadership, and tireless work to uphold the rights of asylum-seekers. Special thanks to the Hungarian Helsinki Committee for revealing the path to dismantling asylum and to Anikó Bakonyi for editing and review. Thanks to our team at UUSC, especially Meredith Larson, Mike Givens, Shayna Lewis, and Jan Dragin. Many thanks to Michael Quanci for designing the report.

TABLE OF CONTENTS

1 Introduction

ONE
3 Asylum-Seekers Denied Access

TWO
7 Asylum-Seekers Face Hostile Conditions When They Arrive

THREE
9 Government Removes Legal Safegaurds for Asylum-Seekers

FOUR
11 Government Obstructs Integration of Refugees

13 Conclusion

14 Recommendations

16 Notes

INTRODUCTION

THE DISMANTLING OF HUNGARY'S ASYLUM PROCESS

The United Nations High Commissioner for Refugees (UNHCR) estimates that nearly 20 people are displaced every minute by war, persecution, or violence. In recent years, the Syrian refugee crisis alone has displaced more than 11 million people.[1] Many refugees from Syria, Afghanistan, and elsewhere have attempted harrowing sea and land journeys to reach the European Union (EU). Among European states, Hungary's response to this crisis has been the most extreme and punishing. Beginning in 2015, Hungary responded to its refugee crisis by building border walls, criminalizing asylum-seekers,[2] and carrying out an anti-immigrant public relations campaign. By 2018, the country had severely limited access to asylum. Only two asylum-seekers per working day are permitted into Hungary—approximately 10 people per week.[3]

In 2015, Hungary instituted a series of changes to its asylum law and practices, justifying them as a response to a "crisis due to mass immigration."[4] These changes included the use of military personnel and police at the border, expedited removal procedures, limiting judicial review of asylum decisions, and criminalizing those who entered the country outside of an authorized border point.[5] Since 2015, the Hungarian government has responded to the Syrian refugee crisis by severely restricting asylum access. Consistently, between 4,000 to 5,000 asylum-seekers are stranded in Serbia waiting to enter Hungary's transit zones, where they are then detained throughout their asylum process.

Hungary has come under scrutiny by both the UNHCR and the European Commission for failing to uphold international and EU laws granting safeguards to asylum-seekers. In 2016, the UNHCR condemned a series of rights violations in Hungary, in particular:

Detaining asylum-seekers in transit zones and asylum detention centers

Denying asylum-seekers access to Hungarian territory, denying asylum, and declaring that migrants should have sought protections at a different "safe country" along their journey, e.g., claiming Serbia as a safe third country

Criminalizing irregular entry. UNHCR notes that making irregular entry into the country a criminal act as a deterrent for asylum-seeking is a violation of international law.[6]

U.S. PATH TO DISMANTLING ASYLUM

Hungary's anti-immigrant policies have been brutally effective. They exemplify how nationalist politics in Europe can limit access to protection for refugees and asylum-seekers. But they also offer a cautionary tale for the state of civil rights and human rights in the United States, where harsh anti-immigrant policies and practices are mirroring— and in certain cases exceeding—many of the deliberate steps that Hungary took to dismantle its refugee and asylum protections.

The United States and Hungary are arguably very different nations. Hungary is relatively small, is not a historic destination for immigration, and is part of the larger European Union. The United States is the top destination for immigrants in the world—with 1/5 of the world's immigrants living in the United States in 2017. In spite of their differences, Hungary and the United States have seen similar nationalist and anti-immigrant surges in recent years, including the rise of the anti-refugee Fidesz ruling party and the election of Donald Trump, who allies himself with anti-immigrant and nationalist leaders in Europe, including Hungary's Prime Minister Viktor Orbán.[7]

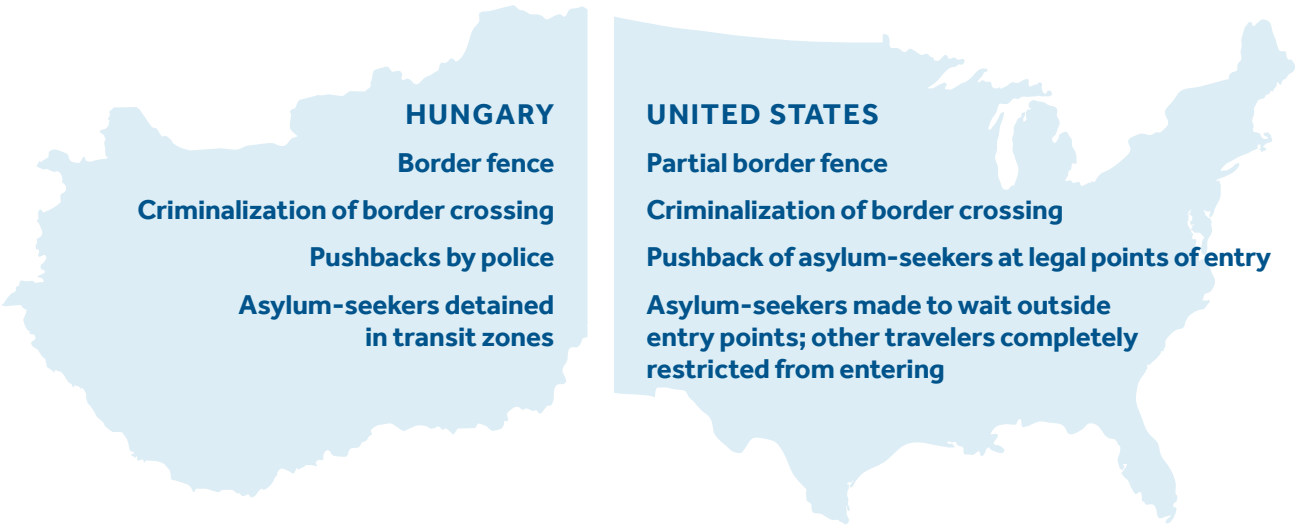
FOUR STEPS THAT DISMANTLE ASYLUM

The Hungarian Helsinki Committee,[8] a human rights organization supporting refugees in Budapest, has identified four steps the government has taken to dismantle the asylum system there:

1. **Asylum-seekers are denied access**
2. **Asylum-seekers receive hostile conditions when they arrive**
3. **The government removes safeguards for asylum-seekers**
4. **The government obstructs the integration of refugees**

As the following comparison shows, the United States is steadily progressing down a path to destroying its asylum system.

1 ASYLUM-SEEKERS DENIED ACCESS



IN HUNGARY

ACCESS DENIED AT THE SERBIAN BORDER

Between 2015 and 2017, Hungary limited asylum access dramatically. In 2015, 177,135 people applied for asylum. In 2016, 29,432 applications were submitted. In 2017, however, only 3,397 asylum-seekers were able to apply. In 2017, only 106 applicants received refugee status and 1,100 were granted a subsidiary protection status.[9] More than 69% were rejected. In 2017, Hungary rejected 70% of Afghans, 74% of Iraqis, and 60% of Syrians, despite the recognized refugee crises in their regions.[10] Hungary's 30% asylum recognition rate trailed the EU average of 46.4% in 2017.[11]

In 2015, Hungary built a 325-mile fence along its border with Serbia to keep asylum-seekers out of the country and made unauthorized entry across the fence grounds for immediate prosecution and deportation. As of March 2017, asylum applications could only be processed in "transit zones" at the Hungarian border fence.

In 2016, the Syrian refugee crisis driving an increase in asylum-seekers attempting to enter Hungary was used to justify enlisting Hungarian police to patrol the border zones.[12] Hungary also enlisted international police from Germany and elsewhere in the EU to carry out "flexible" border operations. Hungarian police are now obliged to automatically push back asylum-seekers apprehended within the borders of Hungary or who cross the fence at undesignated points.[13] Between July 2016 and August 2017, 14,438 people were pushed back to the external side of the fence

FIGURE 1
HUNGARY ASYLUM APPLICATIONS 2015-2018

*Projected for 2018
Source: Hungarian Helsinki Committee

from within Hungary and an additional 18,334 were prevented from crossing the fence. Human rights organizations note that these confrontations have often been violent.[14] Despite the fact that most of these people came from war-torn regions, they have been denied the right to apply for international protections.[15]

FIGURE 2
IMPACT OF HUNGARIAN SECURITY FORCES' PUSHBACKS AND BORDER APPREHENSIONS, AUGUST 2016-AUGUST 2017

Source: Hungarian Helsinki Committee

28,595 ASYLUM-SEEKERS PUSHED BACK OR APPREHENDED

7,506 ASYLUM APPLICATIONS

IN THE UNITED STATES

ACCESS DENIED AT THE SOUTHERN BORDER

The United States currently has approximately 700 miles of border fence along the U.S.-Mexico border.[16] There are 48 "legal" points of entry along a border that stretches almost 2,000 miles. Entry at any other place along that border is a misdemeanor offense that can carry fines and six months of jail time.

American Immigration Council and Human Rights First have reported on, and filed lawsuits against, U.S. Customs and Border Protection (CBP) agents turning asylum-seekers away at points of entry.[17] Recent reports indicate that this is a growing practice.[18] More recently, CBP has begun a new tactic—making asylum-seekers wait on the Mexican side of the border for days or weeks.[19] In 2018, when 200 members of a "caravan" of asylum-seekers, many from Honduras, reached the United States border at Tijuana, CBP used a play from Hungary's playbook and allowed only handfuls of people to cross per day, claiming that the entry point was "full."[20]

Disturbingly, President Trump signaled his personal interest in following Hungary's lead in denying the due process rights of people entering the country outside of a legal entry point. In a series of tweets on June 24, 2018, he called border-crossers "invaders" and wrote that they should be deported without a trial.[21]

CRIMINALIZATION OF ASYLUM SEEKING

The U.S. government has responded to the crisis of asylum-seekers, especially from the Northern Triangle of Central America (El Salvador, Honduras, and Guatemala), not with compassion, but with tools to address what it views as "illegal immigration." Officials from the U.S. Departments of Justice (DOJ) and Homeland Security (DHS) now routinely refer to asylum-seekers as people exploiting a "loophole" when, in fact, it is a well-established matter of both international and U.S. law.

In May 2018, the Trump administration announced its plans to prosecute all parents who cross the border outside ports of entry with "illegal entry," and separate families, even if they are seeking asylum. This created an exponential rise in the number of children who were taken from their parents and detained as "unaccompanied minors." By mid-June 2018, DHS reported it had separated more than 2,000 children from their family members in the preceding six weeks.[22] Parents have been deported without their children and without knowledge of their children's whereabouts or care. The United Nations called upon the United States to immediately stop this practice, which is a violation of international law. According to the UN Office of the High Commissioner for Human Rights, separating families in this way, "amounts to arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child."[23]

After immense public outcry, on June 20, 2018, President Trump signed an executive order the administration claims halts the practice of separating families, however it leaves ample room for the practice to continue and contains no provisions for the reunification of thousands of children already impacted.[24] On June 26, 2018, a federal judge issued a nationwide injunction ordering an end to most family separations and reunification of those separated within 30 days. Yet, there is no workable plan in place to carry out these reunifications.[25]

The administration's treatment of separated and unaccompanied minors shows that one of its goals is limiting their ability to successfully apply for asylum. Children—even infants and toddlers—in these situations are left to make their own plea for asylum. Just as Office of Refugee Resettlement (ORR) shelters are filling with children separated from their parents, the administration announced that it is also cutting a program that funded legal services for children there.[26] Some immigrants have reported that immigration officers told them they would be reunited with their children if they gave up their asylum case and signed a voluntary deportation order.[27] On June 23, 2018, DHS issued a "fact sheet" that purports to lay out the steps for reuniting families and is heavily weighted toward reunification for the purpose of removing both parent and child from the United States.[28] In late June, *Vox* reported that DOJ has drafted a regulation that would deny asylum to anyone who is convicted of unauthorized border crossing.[29] This is in direct conflict with U.S. asylum law, which states that people may apply for asylum "whether or not at a designated port of arrival," and will undoubtedly be challenged in court.

FIGURE 3
REFUGEES ENTERING THE UNITED STATES

Source: U.S. Department of State

In late June, *Vox* reported that the DOJ has drafted a regulation that would deny asylum to anyone who is convicted of unauthorized border crossing. This is in direct conflict with U.S. asylum law, which states that people may apply for asylum "whether or not at a designated port of arrival," and will undoubtedly be challenged in court.

REFUGEES DENIED ENTRY

In addition to these border practices, the Trump administration has instituted a range of policies to deny access to refugees. Most of the refugees impacted by these policies are people who have already undergone a multi-year refugee resettlement application including ample vetting and are simply waiting for transport and admittance into the United States.[30] Most infamous of these policies is the "Muslim Ban" in its various forms, which denies access to the United States for any travelers from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—all majority-Muslim countries. The order specifically suspended the U.S. refugee program for 120 days and the admission of Syrian refugees indefinitely. In a controversial split decision, on June 26, 2018, the U.S. Supreme Court upheld the ban, ruling that it was within presidential power to exclude immigrants based on nationality.[31]

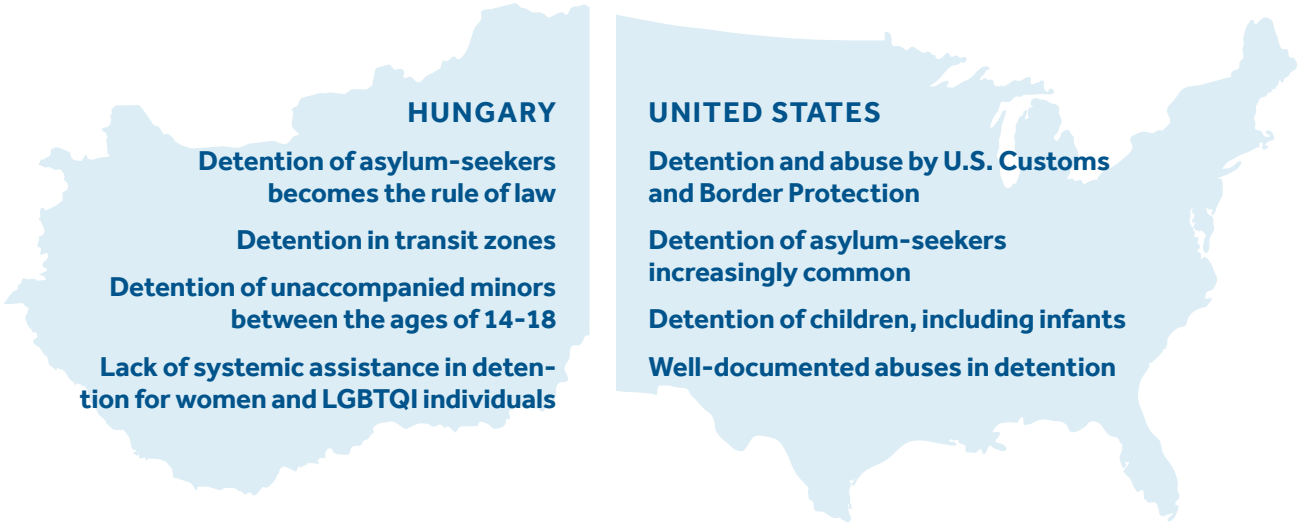
In addition to the highly-publicized executive order, the Trump administration has taken a more bureaucratic route to drastically limiting refugee admissions to the United States.[32] Only 13,501 refugees were admitted to the United States during the first seven and a half months of fiscal year 2018. In 2016, the Obama administration admitted some 84,000 refugees. The Trump administration has accomplished this quiet stalling of refugee admissions largely through bureaucratic means—not employing enough refugee officers, requiring re-screening of applicants, and other policies seeking to obstruct successful immigrant efforts. These procedures, paired with the disputed "Muslim Ban" have resulted in a drastic reduction in the number of Muslim refugees—in FY2016, 38,900 Muslim refugees entered the United States; as of April in FY2018, only 2,107 Muslim refugees have been admitted—a 95% decrease.

FIGURE 4
MUSLIM REFUGEES ENTERING THE U.S.

*As of May 2018 Source: New York Times

These procedures, paired with the disputed "Muslim Ban" have resulted in a drastic reduction in the number of Muslim refugees.

2 ASYLUM-SEEKERS FACE HOSTILE CONDITIONS WHEN THEY ARRIVE



IN HUNGARY

POOR CONDITIONS IN TRANSIT CAMPS

Beginning in 2016, detention of asylum-seekers became the rule in Hungary, rather than a "last resort." By 2017, 96% of all asylum-seekers were held in detention.[33] Asylum-seekers are detained in transit zones indefinitely until they receive asylum or subsidiary protections and are only then permitted to cross into Hungary.

The Hungarian Hensinki Committee notes that there is systemic neglect in the transit zones—especially gender-based vulnerabilities.[34] Asylum-seekers are held in shipping containers with five beds to a room. There are no special accommodations for vulnerable individuals including women, gay, or trans asylum-seekers. Specialized medical care is not available. Two to three police officers escort pregnant women to nearby hospitals and stay during examinations. Psychosocial support is insufficient, especially considering many women and girls are torture and trauma survivors. There is insufficient language interpretation services that make it difficult for vulnerable groups to access care. Finally, children between 14 and 18 are detained in the transit zones in violation of international law.

FIGURE 5
RECEPTION CONDITIONS FOR ASYLUM-SEEKERS IN HUNGARY

Source: Hungarian Helsinki Committee

IN THE UNITED STATES

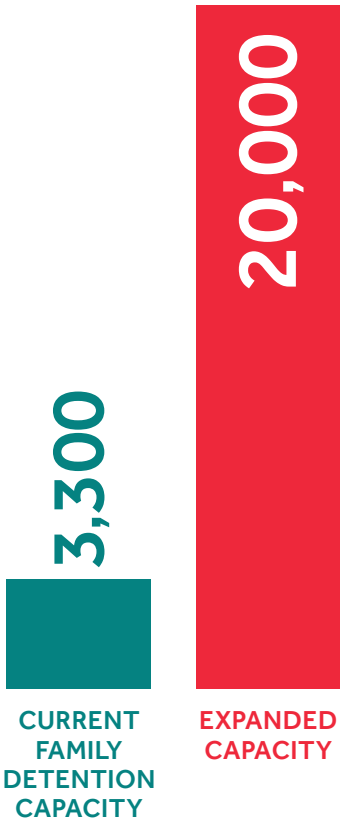
CUSTOMS AND BORDER PROTECTION ABUSES

While we have not witnessed violent pushbacks of immigrants in an organized way, there is ample evidence of deadly systemic practices by CBP, including a recent

fatal shooting.[35] On May 23, 2018, a young Guatemalan immigrant woman, Claudia Gomez Gonzales, was gunned down by a CBP officer near the U.S.-Mexico border in the United States.[36] No More Deaths, a faith-based humanitarian aid organization in Arizona devoted to ending the senseless deaths of migrants along the U.S.-Mexico border, has documented CBP practices including deadly chase tactics and the destruction of humanitarian aid that point to a willingness to cause harm to immigrants attempting to cross the border.[37]

After they are arrested by CBP, immigrants are brought to short term detention centers that have been called *"hieleras"* or "iceboxes," due to their frigid temperatures. Families are often separated in these facilities, immigrants are held in dirty, cold group cells. A recent report by the American Civil Liberties Union and the International Human Rights Clinic at the University of Chicago Law School, based on 30,000 pages of documents obtained through Freedom of Information Act requests, exposes abuse and neglect of detained children by CBP.[38]

FIGURE 6
EXPANSION OF FAMILY DETENTION CAPACITY REQUESTED BY TRUMP ADMINISTRATION, JUNE 2018



Sources: U.S. Immigration and Customs Enforcement; National Public Radio

ABUSE IN IMMIGRATION DETENTION

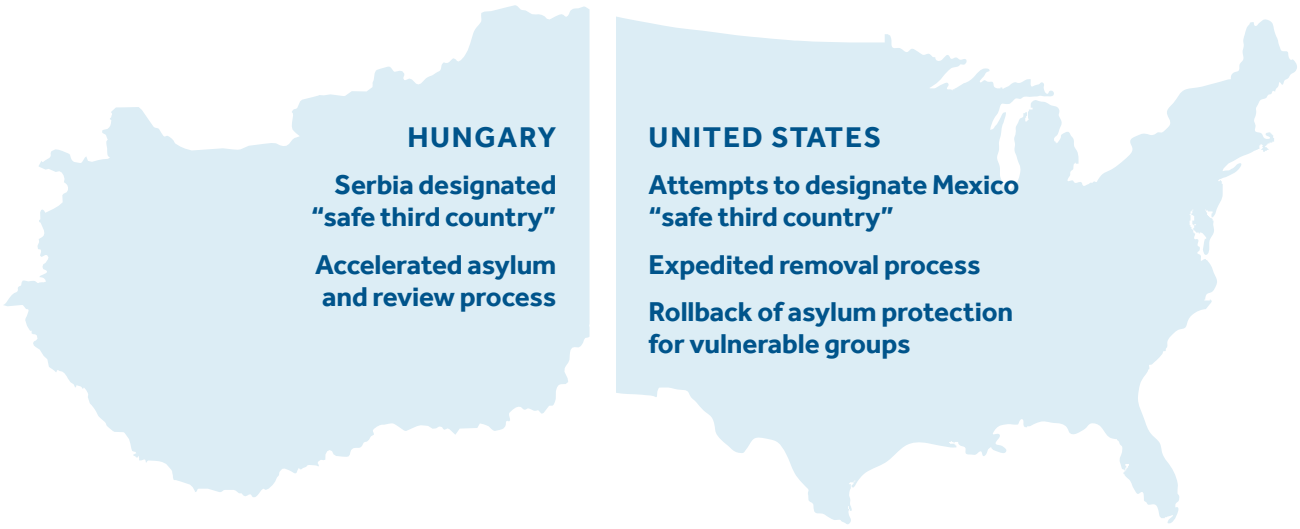
The United States has the largest immigration detention regime in the world.[39] At any time, approximately 40,000 immigrants, including families and children, are held in immigration detention in the United States. Detained immigrants face widespread and systemic abuse, including well-documented sexual abuse, medical abuse and neglect, labor exploitation, and a host of humiliating practices.[40]

DETENTION OF FAMILIES AND CHILDREN

In the summer of 2014, news media reported on a so-called "surge" of asylum-seekers at the U.S.-Mexico border, many of them from the Northern Triangle. That year saw a 77% increase in apprehensions of unaccompanied minors and a 361% increase in apprehensions of family units along the southern U.S. border.[41] Soon after the 2014 "surge," the Obama administration revived and then expanded a defunct George W. Bush-era program of family detention with the specific intention of warehousing Central American mothers and children. The federal courts have consistently found the practice of family detention to be in violation of the 1997 *Flores* settlement, which disallows the detention of immigrant children for more than 20 days,[42] and Obama himself halted the practice in 2009. Still, the administration chose to reintroduce family detention in 2014.

The June 2018 executive order purportedly ending family separation also signaled the administration's next move, in particular, a policy of indefinitely detaining immigrant families, including asylum-seekers, in family detention facilities and exemption from the *Flores* settlement. The administration appears poised to imprison immigrant families and unaccompanied minors in tent camps housing between 12,000-20,000 on military bases along the southern U.S. border.[43]

3 GOVERNMENT REMOVES LEGAL SAFEGUARDS FOR ASYLUM-SEEKERS



IN HUNGARY

REMOVAL OF SAFEGUARDS

Hungary designated Serbia a "safe third country," meaning that asylum-seekers who pass through Serbia could be returned there to seek asylum. This resulted in quasi-automatic rejection of more than 99% of asylum claims from fall 2015 until May 2016. Human rights groups and UNHCR have censured Hungary for this designation, warning that Serbia is not a safe country.[44]

Hungary's 2015 asylum law set out a new accelerated procedure for asylum claims that calls upon the Immigration and Asylum Office to pass an asylum decision within 15 days.[45] The asylum-seeker then has only three days to appeal that decision and the onus is on them to show that protections were not available in that country.

IN THE UNITED STATES

ATTEMPTS TO DESIGNATE MEXICO "SAFE THIRD COUNTRY"

In the spring of 2018, Mexico and the United States were in the process of discussing an agreement that would [formally or informally] designate Mexico a safe third country—allowing the United States to deny asylum to those who crossed through Mexico on their journey to the border.[46] Human rights groups warn that Mexico should not be considered a safe third country and that such a designation could leave asylum-seekers victims of kidnapping, sexual assault, disappearance, and other grave threats.[47]

EXPEDITED REMOVAL, ROCKET DOCKETS, AND LIMITS TO ASYLUM APPEALS

Increasingly over the last decade, asylum-seekers from Central America have been placed in "expedited removal" proceedings that prioritize their cases and their deportation.[48] After the creation of "expedited removal," all immigrants apprehended within certain parameters can be summarily deported to their country of origin, without any court proceeding. The only exception is for those who express fear of persecution to CBP, or who qualify for a handful of similar protections.[49] Unfortunately, CBP's failure to adequately screen apprehended individuals who legitimately fear persecution in their home countries is well-documented.[50] Furthermore, in March 2018, Attorney General Jeff Sessions vacated a 2014 precedent that had entitled asylum-seekers to an appeal hearing or the right to clarify aspects of a case. This might allow judges to deport asylum-seekers without a court hearing.[51]

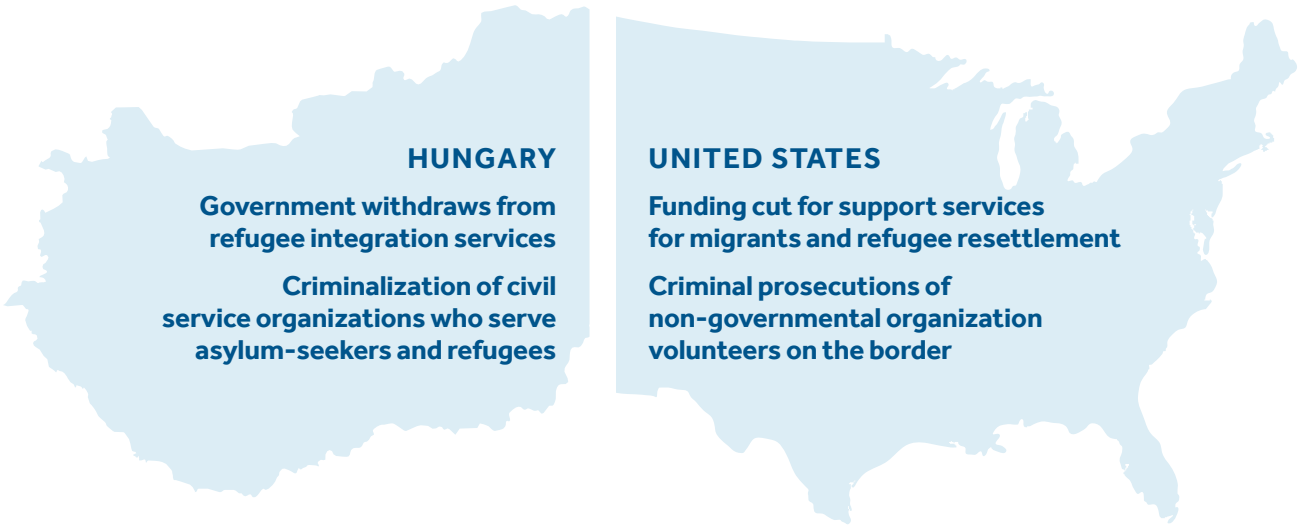
The U.S. government signaled its intention to carry out the near-summary removal of Central American arrivals in the summer of 2014 by placing Central American mothers and children onto priority dockets in removal proceedings. Termed "rocket dockets" by concerned advocates, these fast-track proceedings leave asylum-seekers, especially unaccompanied children, without sufficient time to prepare their cases, process the traumatic experiences they were fleeing, or acquire pro bono counsel. In some cases, hearings are scheduled so hastily that families do not receive notice of their court dates until after the date has passed.[52] Central American mothers and children are still placed ahead of other individuals on the hearing calendar and the Trump administration has further expedited asylum hearings by prioritizing asylum applications filed in the past 21 days and requiring asylum judges to resolve 700 cases per year (three per day).[53]

REMOVAL OF SAFEGUARDS FOR WOMEN AND CHILDREN

The administration is now implementing new policy shifts that would drastically restrict access to asylum, especially for women and children. Attorney General Sessions has personally intervened in an asylum case involving an El Salvadoran woman who was beaten and raped by her husband. On Monday, June 11, 2018, Sessions issued a decision in this case, *Matter of A-B-*, which overturned a precedent recognizing domestic violence as a legitimate basis for an asylum claim. This ruling is likely to have far-reaching implications for survivors of domestic abuse and other asylum-seekers fleeing persecution by non-state actors, such as armed groups and organized criminal networks.[54]

The White House is also considering changes in how it processes unaccompanied minors. The administration has expressed support for legislation that would eliminate provisions under the 2008 Trafficking Victims Protection Reauthorization Act (TVPRA), which are designed to protect children from human trafficking.[55] Currently under TVPRA, unaccompanied minors from non-contiguous countries are not vulnerable to expedited removal. The House SAFE Act of 2017-18 would eliminate these protections. The Trump administration has referred to these protections as a "loophole."[56]

4 GOVERNMENT OBSTRUCTS INTEGRATION OF REFUGEES



IN HUNGARY

Since June 2016, the Hungarian state has withdrawn all funding from refugee integration, leaving even those who do get refugee or subsidiary protection at great risk for destitution and homelessness.[57]

Now, civil service organizations (CSOs) are almost solely responsible for services like housing and employment assistance, language services, or family reunification.

This bill that criminalizes "facilitating illegal immigration" was passed into law on June 20, 2018 and went into effect July 1, 2018.

"STOP SOROS ACT"

In February 2018, the Hungarian parliament considered three related bills that would severely restrict the ability of CSOs to provide support to immigrants or to function independently from the government.[58] The bills proposed new regulations, including a national security clearance and a special government permit for organizations that "support migration."[59]

In May, this was revised into an even harsher bill that would threaten aid workers with jail time for acts as simple as offering legal advice leaflets or aid to asylum-seekers.[60] Parliamentarians claim that the law is limited to assisting migrants who

do not qualify for asylum, but this distinction cannot be implemented. As Timea Kovacs of the Hungarian Helsinki Committee notes, "Everybody has the right to seek asylum, it's for the courts to decide if their claim is valid. All I do is help people understand their rights."[61] On June 20, 2018, a bill that criminalizes "facilitating illegal immigration" was officially passed into law and went into effect on July 1, 2018. An upcoming tax law is expected to require organizations to pay a tax of 25% on any foreign funding that would "support migration." It may hobble not only the last remaining direct services to refugees, but also monitoring, advocacy, and legal support services.

IN THE UNITED STATES

CUTS TO ASYLUM AND REFUGEE SERVICES

In 2018, the federal government announced the suspension of a number of programs that provided legal support to immigrants. First, it defunded the Legal Orientation Program, a pilot program meant to provide immigrants in detention with access to information about their rights.[62] In May 2018, the administration informed legal services providers that it would no longer fund the program that had provided legal representation to unaccompanied minors released from ORR custody.[62] This is a clear attempt to make unaccompanied children more vulnerable to deportation.

In 2018, the administration announced that it would decrease State Department funding that goes to refugee resettlement agencies—CSOs that in the United States carry out the integration process and services for refugees. This cut was ostensibly in alignment with the drastic reduction of refugees admitted to the United States this fiscal year. If funding stays low or is completely cut, it will be increasingly difficult to rebuild the refugee support system even under a new administration.

CRIMINAL CHARGES AGAINST NON-GOVERNMENT ORGANIZATION (NGO) WORKERS

While no U.S. law has been proposed or passed that rises to the level of what the Hungarian parliament passed on June 20, 2018, there have been concerning prosecutions of humanitarian workers, who provide life-saving aid to undocumented migrants. In Tucson, Ariz., nine members of No More Deaths have been charged with various crimes and misdemeanors, primarily relating to leaving water out in the desert to ensure migrants do not die of thirst.[64] After exposing that members of CPB were slashing open the bottles and putting lives at risk, their volunteers were prosecuted. Charges include littering, abandonment of property, and bringing in and harboring undocumented immigrants.

CONCLUSION

When Prime Minister Orbán and the Fidesz ruling party began circulating anti-immigrant propaganda in Hungary some eight years ago, many did not take them seriously.[65] Yet, within a few years, the country has effectively dismantled its asylum system and criminalized humanitarian assistance. Even now, approximately 4,000 asylum-seekers wait outside two entry-points along Hungary's fenced border for permission to enter an asylum claim. Each week, only 10 individuals are allowed in. Once they pass into Hungary, almost all asylum-seekers, save children under 14, are held in detention while their asylum claims are processed so rapidly that claims are difficult to make. The vast majority are rejected. Even those fortunate enough to receive protection find that the government provides no services for integration into Hungarian society. And now, the government is threatening CSOs, the last bastion for legal, integration, or humanitarian support.

Hungary is a small country with a different geo-political position than the United States. As part of the EU, it has obligations which it is currently failing to meet. It is not upholding its own responsibilities to take in asylum-seekers, who then must move on to other member states. Hungary is in violation of not only EU law, but the solidarity mechanisms that bind the EU together. Additionally, its policies may lead to mimicry in other nations along the EU border, exacerbating the situation and further harming individuals fleeing violence. Other states have shown similar interest in limiting asylum. In Poland, for instance, asylum recognition rates are at an EU low of 12%, and nationalists in other EU countries seek to do what Hungary has done.[66]

The United States is making its way quite quickly along the path Hungary took to dismantling its asylum system. For example, in recent policy to separate families, the United States has shown itself willing to go to extreme lengths and dismiss international law and decency to deter asylum-seekers. As advocates for asylum-seeking families reported, hundreds of families had already been separated before the "zero tolerance" policy went into effect in May 2018. It then took weeks for attention and outrage to build, not reaching saturation until six weeks into the program. By that time 2,000 additional children had been separated.[67] Lawmakers, media, and the general public seemed unwilling to take the threat seriously until well after the damage was done.

Rather than a race to the bottom to see how harshly states can respond to the world refugee crisis, the United States should take the experience of Hungary as a cautionary tale to wake up, take anti-immigrant rhetoric and threats seriously, and stop the descent down the path to fully dismantling asylum.

RECOMMENDATIONS FOR THE UNITED STATES

In light of Hungary's example, it becomes clear that many of the policies described in this report cannot be understood as reforms or steps to close "loopholes." We must view these assaults on the asylum system as what they are: steps down a path that could holistically dismantle historic and well-established asylum law in the United States. We must rebuild our asylum system and uphold our responsibility as a place of refuge for those seeking protection.

We must view these assaults on
the asylum system as what they are:
steps down a path that could holistically dismantle
historic and well-established asylum law.

We offer the following recommendations for congressional action and grassroots advocacy efforts.

Remove barriers and deterrents to asylum-seeking and refugee resettlement

- ✔ Decriminalize unauthorized border crossing and the provision of humanitarian aid to immigrants
- ✔ End detention of asylum-seekers and utilize cost-effective, community-based alternatives to detention, in accordance with the *Flores* Settlement
- ✔ Ensure the integrity of the asylum process, regardless of where an asylum-seeker enters the United States
- ✔ End U.S. Customs and Border Protection pushbacks of asylum-seekers
- ✔ Cease prosecutions and detention of asylum-seekers for illegal entry

Immediately rebuild and fully fund refugee resettlement programs

Provide robust asylum protections, especially for vulnerable groups including women, children, and lesbian, gay, bisexual, transgender, queer, and intersex individuals

- ✔ End expedited removal and ensure due-process protections for immigrants
- ✔ Establish broad, positive asylum protections for survivors of domestic violence and violence by non-state actors
- ✔ Fund legal services programs that support asylum-seekers, especially unaccompanied minors

Reject attempts to designate Mexico a "safe third country"

Congress must design and implement policies and practices requiring robust systems of reporting and oversight over the Departments of Homeland Security and Justice to combat abuse and pass into law solutions to protect immigrants' human rights.

NOTES

1 In this report, "refugee" is used to designate someone fleeing violence or persecution in their home country. It is also used to identify those who have undergone a refugee resettlement process and are awaiting resettlement. UN Refugee Agency, Figures at a Glance, http://www.unhcr.org/en-us/figures-at-a-glance.html; Mercy Corps, Quick Facts: What You Need to Know about the Syria Crisis, https://www.mercycorps.org/articles/iraq-jordan-lebanon-syria-turkey/quick-facts-what-you-need-know-about-syria-crisis.

2 In this report, asylum-seeker is used to describe someone fleeing persecution or violence in their home country who arrives at either the Hungarian or US border to seek protections. International, U.S., and E.U. laws all uphold the rights to come to the border to seek asylum.

3 Hungarian Helsinki Committee (HHC) phone interview, June 25, 2018.

4 Hungarian Parliament, *Government decree announcing mass crisis caused by mass immigration to the whole territory of Hungary* (2016), https://net.jogtar.hu/jogszabaly?docid=a1600041.kor.

5 HHC, *No Country for Refugees: New asylum rules deny protection to refugees and lead to unprecedented human rights violations in Hungary* (18 Sept 2015), https://helsinki.hu/wp-content/uploads/HHC_Hungary_Info_Note_Sept-2015_No_country_for_refugees.pdf; Amnesty International, Stranded Hope: Hungary's Sustained Attack on the Rights of Refugees and Migrants (27 Sept 2016), 8, https://www.amnesty.org/en/documents/eur27/4864/2016/en/.

6 UNHCR, *Hungary as a Country of Asylum: Observations on restrictive legal measures and subsequent practice implemented between July 2015 and March 2016* (May 2016), 72-79, http://www.refworld.org/docid/57319d514.html.

7 David Nakamura and Griff Witte, "'The Good Times for Illegals are Over': Trump Finds Allies in Europe's Anti-immigration Movement," *Washington Post*, Jun 20, 2018, https://www.washingtonpost.com/politics/the-good-times-for-illegals-is-over-trump-finds-allies-in-europes-anti-immigration-movement/2018/06/19/1a1da27a-73d5-11e8-805c-4b67019fcfe4_story.html.

8 Hungarian Helsinki Committee, https://www.helsinki.hu/en/.

9 HHC, *Country Report: Hungary* (Asylum Information Database, 2017), 7, http://www.asylumineurope.org/reports/country/hungary.

10 Leonid Bershidsky, "Hungary is Winning Its War on Muslim Immigrants," *Bloomberg*, Apr 13, 2018, https://www.bloomberg.com/view/articles/2018-04-13/hungary-is-winning-its-war-on-muslim-immigrants.

11 Migration Policy Institute, Asylum Recognition Rates in the EU/EFTA by Country, 2008-2017, https://www.migrationpolicy.org/programs/data-hub/charts/asylum-recognition-rates-euefta-country-2008-2017.

12 Amnesty, *Stranded Hope*, 9.

13 HHC, *Two Years After: What's Left of Refugee Protection in Hungary?* (Sept 2017), 5, https://www.helsinki.hu/wp-content/uploads/Two-years-after_2017.pdf.

14 Human Rights Watch, "Hungary: Migrants Abused at the Border," July 13, 2016, https://www.hrw.org/news/2016/07/13/hungary-migrants-abused-border

15 HHC, *Two Years After*, 3.

16 Julia Jacobo and Serena Marshall, "Nearly 700 Miles of Fencing at the US-Mexico Border Already Exist," *ABC News*, Jan 26, 2017, https://abcnews.go.com/US/700-miles-fencing-us-mexico-border-exist/story.

17 Ryan Devereaux, "US Illegally Denying Immigrants their Right to Seek Asylum at the Mexico Border, According to Lawsuit," *The Intercept*, Nov 16, 2017, https://theintercept.com/2017/11/16/immigration-asylum-seekers-denied-border-entry-lawsuit/; American Immigration Council, Challenging Customs and Border Protection's Unlawful Practice of Turing Away Asylum Seekers, https://www.americanimmigrationcouncil.org/litigation/challenging-customs-and-border-protections-unlawful-practice-turning-away-asylum-seekers; Human Rights First, *US Border Agents Illegally Reject Asylum Seekers* (May 2017), https://www.humanrightsfirst.org/sites/default/files/hrf-crossing-the-line-report.pdf.

18 Dara Lind, "Trump Keeps Making it Harder for People to Seek Asylum Legally," *Vox*, Jun 5, 2018, https://www.vox.com/policy-and-politics/2018/6/5/17428640/border-families-asylum-illegal.

19 Simon Romero and Miriam Jordan, "On the Border, a Discouraging New Message for Asylum Seekers: Wait," *New York Times*, Jun 12, 2018, https://www.nytimes.com/2018/06/12/us/asylum-seekers-mexico-border.html.

20 Chantal Da Silva, Migrant Caravan: Asylum Seekers Turned Away from U.S. Border, told Crossing 'Reached Capacity,'" *Newsweek*, Apr 30, 2018, http://www.newsweek.com/caravan-asylum-seekers-turned-away-us-border-told-crossing-full-905446.

21 Philip Rucker and David Weigel, Trump Advocates Depriving Undocumented Immigrants of Due-Process Rights," *Washington Post*, Jun 25, 2018, https://www.washingtonpost.com/powerpost/trump-advocates-depriving-undocumented-immigrants-of-due-process-rights/2018/06/24/dfa45d36-77bd-11e8-93cc-6d3beccdd7a3_story.html.

22 Tom Dart, "2000 Children Separated from Parents in Six Weeks of Trump Policy," *The Guardian*, Jun 16, 2018, https://www.theguardian.com/us-news/2018/jun/16/children-separated-parents-border-trump-administration.

23 Nick Cumming-Bruce, "Taking Migrant Children from Parents is Illegal, UN Tells US," *New York Times*, Jun 5, 2018, https://www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html.

24 U.S. President Donald Trump, Executive Order: Affording Congress an Opportunity to Address Family Separation, June 20, 2018, https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/.

25 John Kruzel, "There was No Plan for Reuniting Families Split at Border," *PolitiFacts*, Jun 29, 2018, http://www.politifact.com/punditfact/statements/2018/jun/29/rachel-maddow/rachel-maddow-right-there-was-no-plan-reuniting-fa/.

26 Meredith Hoffman, "Trump has Quietly Cut Legal Aid for Migrant Kids Separated from Parents," *Vice*, May 31, 2018, https://www.vice.com/en_us/article/a3a798/trump-has-quietly-cut-legal-aid-for-migrant-kids-separated-from-parents.

27 Jay Root and Shannon Najmabadi, "Kids in Exchange for Deportation: Detained Migrants Say they were Told they could Get Kids back on Way out of U.S.," *Texas Tribune*, Jun 24, 2018, https://www.texastribune.org/2018/06/24/kids-exchange-deportation-migrants-claim-they-were-promised-they-could.

28 U.S. Department of Homeland Security, Fact Sheet: Zero-Tolerance Prosecutions and Family Reunification, Jun 23, 2018, https://content.govdelivery.com/accounts/USDHS/bulletins/1f98ad8.

29 Dara Lind, "Exclusive: Trump Administration Plan Would Bar People Who Enter Illegally from Getting Asylum," *Vox*, Jun 29, 2018, https://www.vox.com/policy-and-politics/2018/6/29/17514590/asylum-illegal-central-american-immigration-trump.

30 For refugee vetting procedures, see Haeyoun Park and Larry Buchanan, "Refugees Entering the U.S. Already Face a Rigorous Vetting Process," *New York Times*, Jan 29, 2017, https://www.nytimes.com/interactive/2017/01/29/us/refugee-vetting-process.html.

31 *Trump v Hawaii*, June 26, 2018, https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf.

32 Liz Robbins and Miriam Jordan, "Apartments are Stocked, Toys Donated. Only the Refugees are Missing," *New York Times*, May 16, 2018, https://www.nytimes.com/2018/05/16/us/refugee-admissions.html.

33 HHC, *Two Years After*, 8.

34 Aniko Bakonyi, *Safety-Net Torn Apart: Gender Based Vulnerability in the Hungarian Asylum System* (Hungarian Helsinki Committee: June 2018), 10, https://www.helsinki.hu/en/safety-net-torn-apart/.

35 No More Deaths, *The Disappeared: How the US Border Enforcement Agencies are Fueling a Missing Persons Crisis* (2016), http://www.thedisappearedreport.org/.

36 Daniel Altschuler and Natalia Aristizabal, "Claudia Gomez Gonzalez Wasn't Killed by a Rogue Border Agent–She was Killed by a Rogue Agency," *The Nation*, May 29, 2018, https://www.thenation.com/article/claudia-gomez-gonzalez-wasnt-killed-by-a-rogue-border-agent-she-was-killed-by-a-rogue-agency/.

37 No More Deaths, *The Disappeared*, Parts 1 and 2, http://www.thedisappearedreport.org/reports.html.

38 American Civil Liberties Union, *Neglect and Abuse of Unaccompanied Children by US Customs and Border Protection*, May 23, 2018, https://www.aclusandiego.org/civil-rights-civil-liberties/.

39 Freedom for Immigrants, https://www.freedomforimmigrants.org/.

40 See Freedom for Immigrants, Widespread Sexual Assault, https://www.freedomforimmigrants.org/sexual-assault; Freedom for Immigrants, Detention: A Death Sentence?, https://www.freedomforimmigrants.org/medical-neglect; UUSC, *No Safe Haven Here: Children and Families Face Trauma in the Hands of US Immigration* (October 2015), https://www.uusc.org/press_release/new-report-complex-trauma-disorder-in-detained-refugee-mothers-children/; Human Rights First, Family Detention: Still Happening, Still Damaging (October 2015), http://www.humanrightsfirst.org/sites/default/files/HRF-family-detention-still-happening.pdf; Women's Refugee Commission, Locking Up Family Values, Again (orig. pub. Oct 28, 2014, revised May 6, 2016), https://www.womensrefugeecommission.org/resources/document/1085-locking-up-family-values-again.

41 US Customs and Border Protection, Southwest Border Unaccompanied Alien Children FY 2014, https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2014.

42 Wil S. Hylton, "The Shame of America's Family Detention Camps," *New York Times Magazine*, Feb. 4, 2015, http://www.nytimes.com/2015/02/08/magazine/the-shame-of-americas-family-detention-camps.html.

43 Bill Chappell, "Pentagon to House Migrants at 2 Military Bases in Texas," *National Public Radio*, Jun 25, 2018, https://www.npr.org/2018/06/25/623143814/pentagon-will-build-2-more-temporary-camps-to-house-migrants-mattis-says; Joel Rose and Tom Bowman, "Military Bases to Start Building Tents after July 4 to House Migrant Families," NPR, Jun 28, 2018, https://www.npr.org/2018/06/28/624294618/military-bases-to-start-building-tents-after-july-4-to-house-migrant-families.

44 European Council on Refugees and Exiles, New country reports on asylum and integration of refugees in Europe, Feb 6, 2017, https://www.ecre.org/new-country-reports-on-asylum-and-integration-of-refugees/.

45 HHC, *Country Report: Hungary*, 45-46; HHC, Two Years After, 5.

46 Clark Mindock, "US and Mexico Negotiating New Deal to that could put Immigrants at 'risk of kidnapping, sexual assault, and trafficking,'" *The Independent*, May 17, 2018, https://www.independent.co.uk/news/world/americas/us-politics/us-mexico-immigration-deal-latest-safe-third-country-program-trump-refugees-asylum-a8356951.html.

47 Human Rights First, *Mexico: Still Not Safe for Refugees and Migrants* (Mar 23, 2018), https://www.humanrightsfirst.org/resource/mexico-still-not-safe-refugees-and-migrants.

48 Human Rights First, *FAQ: Asylum-seekers and the Expedited Removal Process* (Nov 2015), http://www.humanrightsfirst.org/sites/default/files/FAQ-asylum-seekers-and-the-expedited-removal-process.pdf.

49 US Commission on Religious Freedom, *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal* (2016), https://www.uscirf.gov/sites/default/files/Barriers%20To%20Protection.pdf.

50 American Immigration Lawyers Association, *Due Process Denied: Central Americans Seeking Asylum and Legal Protection in the United States* (Jun 2016), 9, http://www.aila.org/infonet/report-due-process-denied.

51 Center for American Progress, *Asylum in the Trump Era: The Quiet Dismantling of National and International Norms* (Jun 13, 2018), https://www.americanprogress.org/issues/immigration/reports/2018/06/13/452025/asylum-trump-era/.

52 Kids in Need of Defense (KIND), *Improving the Protection and Fair Treatment of Unaccompanied Children* (September 2016), https://supportkind.org/resources/improving-protection-fair-treatment-unaccompanied-children/.

53 AILA, *Due Process Denied*, 18-19; https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-interview-scheduling; Center for American Progress, *Asylum in the Trump Era*, https://www.americanprogress.org/issues/immigration/reports/2018/06/13/452025/asylum-trump-era/.

54 UC Hastings College of the Law Center for Gender and Refugee Studies, "Attorney General Sessions Attempts to Close the Door on Women Refugees," Jun 11, 2018, https://cgrs.uchastings.edu/news/attorney-general-sessions-attempts-close-door-women-refugees.

55 Human Rights Watch, Q&A: White House Immigration Principles and Policies, Oct 13, 2017, https://www.hrw.org/news/2017/10/13/q-white-house-immigration-principles-and-policies.

56 For example: Sari Horowitz, "Sessions Calls on Congress to Tighten Rules for Asylum Seekers," *Washington Post*, Oct 12, 2017, https://www.washingtonpost.com/world/national-security/sessions-calls-on-congress-to-tighten-rules-for-people-seeking-asylum/2017/10/12/9a1c6c3e-af56-11e7-a908-a3470754bbb9_story.html.

57 HHC, *Two Years After*, 10.

58 UNHCR Press Release, Hungary: UNHCR Dismayed over Further Border Restrictions and Draft Law Targeting NGOS Working in the Asylum Seekers and Refugees, Feb 16, 2018, http://www.unhcr.org/en-us/news/press/2018/2/5a86dcff4/hungary-unhcr-dismayed-further-border-restrictions-draft-law-targeting.html.

59 Amnesty International, "New Law Poses Existential Threat to NGOs," Feb 14, 2018, https://www.amnesty.org/en/latest/news/2018/02/hungary-new-law-poses-existential-threat-to-ngos/

60 HHC, LEXNGO 2018, https://www.helsinki.hu/en/lexngo-2018/.

61 Shaun Walker, "No Entry: Hungary's Crackdown on Helping Refugees," *The Guardian*, Jun 4, 2018, https://www.theguardian.com/world/2018/jun/04/no-entry-hungarys-crackdown-on-helping-refugees.

62 National Immigrant Justice Center, Press Release: Trump Administration Ends Programs that Educate Immigrants in Detention About their Rights, April 10, 2018, https://www.immigrantjustice.org/press-releases/trump-administration-ends-programs-educate-immigrants-detention-about-their-rights

63 Meredith Hoffman, "Trump has Quietly Cut Legal Aid for Migrant Kids Separated from Parents," *Vice*, May 31, 2018, https://www.vice.com/en_us/article/a3a798/trump-has-quietly-cut-legal-aid-for-migrant-kids-separated-from-parents.

64 Ryan Devereaux, "Nine Humanitarian Activists Face Criminal Charges after Leaving Water for Migrants in the Arizona Desert," *The Intercept*, Jan 23, 2018. https://theintercept.com/2018/01/23/no-more-deaths-arizona-border-littering-charges-immigration/

65 See for examples, Griff Witte, "Once-fringe Soros Conspiracy Theory takes Center Stage in Hungarian Election," *Washington Post*, Mar 17, 2018, https://www.washingtonpost.com/world/europe/once-fringe-soros-conspiracy-theory-takes-center-stage-in-hungarian-election/2018/03/17/f0a1d5ae-2601-11e8-a227-fd2b009466bc_story.html.

66 Migration Policy Institute, Asylum Recognition Rates in the EU/EFTA by Country, 2008-2017, https://www.migrationpolicy.org/programs/data-hub/charts/asylum-recognition-rates-euefta-country-2008-2017.

67 Dara Lind, "New Statistics: The Government is Separating 65 Children a Day from their Parents," *Vox*, Jun 19, 2018, https://www.vox.com/2018/6/19/17479138/how-many-families-separated-border-immigration.

Unitarian Universalist Service Committee
689 Massachusetts Avenue
Cambridge, Massachusetts 02139
uusc.org