# Domestic Violence Asylum Negative

## Immigration Court Clog DA

### Uniqueness – Backlog Manageable Now – Judge Hiring

#### The immigration courts are clogged, but proposals such as rehiring retired immigration courts judges to fix the backlog are coming now.

Sanchez, Mercury News Race and Demographics Reporter, 7/13/18

[Tatiana, July 13th, 2018, Mercury News, “As immigration courts battle record backlog, retired Bay Area judges offer solution,” https://www.mercurynews.com/2018/07/13/retired-bay-area-judges-look-to-help-with-immigration-court-backlog/, 7/14/18, KC]

Spurred into action by the country’s overwhelming immigration court backlog, two retired Bay Area federal judges have asked Attorney General Jeff Sessions to appoint retired judges to help clear the more than 700,000 open immigration cases in the United States.

In a letter sent Thursday to Sessions and Executive Office for Immigration Review Director James McHenry, retired U.S. District Court judges Marilyn Hall Patel and Lowell Jensen urged the pair to use this “considerable resource” to alleviate the “crushing burden of pending and new cases.”

“We are aware that at this time there are extraordinary burdens and backlogs faced every day by the country’s immigration judges, particularly along the southern border,” the letter said. “We believe retired federal judges are a valuable untapped resource who could be called into service to assist in handling the immigration caseload fairly and efficiently.”

The backlog of immigration cases — which includes deportation hearings and asylum claims — increased by almost one-third under the Trump administration, with 171,656 cases added since the president took office, according to a June report by the Transactional Records Access Clearinghouse, or TRAC, at Syracuse University. The number of cases awaiting decision reached an all-time high of 714,067 at the end of May, TRAC data shows. The group analyzes and publishes data it collects on the activities of the U.S. federal government.

That number is likely to grow, as thousands of undocumented immigrants have been seeking asylum at the U.S.-Mexico border with their children in recent weeks. Decisions on granting asylum or another type of relief now take more than twice as long as removal decisions, according to TRAC data. Relief decisions this year on average took 1,064 days — up 17 percent — from last year.

Patel said long immigration backlogs are harmful to the cases themselves because it means judges are spread so thin that they don’t have sufficient time to devote to each case, no matter how complex.

“It means that not enough time is given to each case that is required,” she said. “That’s the problem. You can’t handle these things in-and-out.”

The Department of Justice’s Executive Office for Immigration Review, which oversees U.S. immigration court, declined to comment on Patel’s letter Thursday because the agency hasn’t received it yet but said it’s in the process of hiring more judges. There are currently 332 immigration judges nationwide, up from 273 in September 2016, according to spokeswoman Kathryn Mattingly.

In March, Trump signed a spending bill allocating an additional 100 immigration judge positions.

The efforts are part of the Trump administration’s push to slash the backlog in immigration cases in half by 2020. Aside from hiring more judges, the Department of Justice plans to use new technology — such as videoconferencing — and increase judge productivity by setting case-completion quotas, according to a 2017 Washington Post report. The agency also planned to tap retired judges to fill in on days when certain courts would be empty, the report said.

This week, Operation Streamline — a controversial federal program that orchestrates expedited deportation hearings for undocumented border crossers — arrived in California.

Patel, who retired in 2012, said retired judges are the best fit because they’ve already been vetted and have the security clearance and experience to take on the cases.

“The attorney general has the authority to appoint immigration judges,” she said. “Why not appoint some of the retired federal judges for a limited period of time to clear out this backlog?”

Patel was nominated to the U.S. District Court for the Northern District of California by President Jimmy Carter in 1980, becoming the first woman judge in the history of the district. She served as chief judge of the district between 1997–2004 — also the first woman to hold that post.

In one of her most notable civil rights cases, Patel in 1983 overturned Japanese-American Fred Korematsu’s criminal conviction for disobeying government orders to leave his Bay Area home and enter an internment camp during World War II.

Jensen, who also spent decades on the bench, was a deputy U.S. attorney general during the Reagan administration in the 1980s and a former Alameda County District Attorney. He retired in 2014

### Uniqueness and Link – Backlog Manageable Now – Sessions Decision Key

#### Uniqueness and Link: High backlog now because of domestic violence claims—Sessions’ decision and policies will solve

Rose, National Desk Correspondent at NPR, 2018

[Joel, 03/12/2018, WAMU, “Trump Administration Moves To Reshape Who Qualifies For Asylum,”<https://wamu.org/story/18/03/12/attorney-general-sessions-reshapes-who-qualifies-for-asylum/>, accessed 07/13/2018, AMS]

To Attorney General Sessions, the outrage is that immigrants are gumming up the courts with false claims.

“The system is being gamed, there’s no doubt about it,” Sessions said in October of last year, in [a speech to the Executive Office for Immigration Review](https://www.c-span.org/video/?435666-1/attorney-general-urges-congress-crack-broken-asylum-policies) in Virginia. Back then, he was asking Congress to tighten asylum rules. Last week, he acted on this own.

In one case, the attorney general vacated a precedent-setting ruling that said most asylum seekers have a right to a hearing in front of a judge before their claim could be rejected. In a second case, Sessions is reviewing whether victims of “private crime” should qualify for asylum.

These moves come as no surprise to anyone who’s followed Sessions’s positions on immigration and asylum.

“We can close loopholes and clarify our asylum laws to ensure that they help those they were intended to help,” Sessions said in his October speech. “As this system becomes overloaded with fake claims, it cannot deal effectively with just claims.”

Immigration courts do face a huge backlog — upwards of 600,000 cases, more than triple the number in 2009.

One factor driving that growing backlog is constant stream of women and children from Central America. Many of these migrants claim they’re eligible for asylum because they’ve been the victims of gangs, or domestic violence, in their home countries.

But some, like former immigration judge Andrew Arthur, are skeptical about this kind of claim.

“It’s actually become sort of a catchall for truly inventive lawyers,” said Arthur, who is now a fellow at the Center for Immigration studies, which advocates for lower levels of immigration.

Immigration courts work differently than regular courts. They’re part of the Justice Department, so the attorney general has the power to personally overturn decisions by immigration courts.

Arthur, the former immigration judge, applauds the recent moves by Sessions. “One, it is going to streamline the system,” Arthur said. “Two, it’s going to cut down on the number of claims that are inevitably going to be found to be invalid.”

#### Session’s decision is key to reduce the backlog of asylum claims

Re, editor for Fox News, Associated Press, 06/11/2018

[Gregg, 06/11/2018, Fox News, “Sessions limits asylum claims, citing federal law, widespread fraud, 'unacceptable' backlog of cases,”<http://www.foxnews.com/politics/2018/06/11/sessions-limits-asylum-claims-citing-federal-law-widespread-fraud-unacceptable-backlog-cases.html>, accessed 07/13/2018, AMS]

But, not all forms of persecution are relevant for asylum consideration. Under federal law, applicants must demonstrate that their risk for persecution is based on their national origin, race, religion, political views or membership in a particularly vulnerable social class -- a category that was expanded in 2014, when the BIA ruled that domestic abuse could form the basis for an asylum claim.

Declaring that his decision "restores sound principles of asylum and long-standing principles of immigration law," Sessions indicated that the move would help reduce the [backlog of asylum claims](https://www.wola.org/analysis/fact-sheet-united-states-immigration-central-american-asylum-seekers/) that has risen sharply in recent years -- with many of the claims illegitimate.

"The vast majority of the current asylum claims are not valid," Sessions said in remarks Monday. "For the last five years, only 20 percent of claims have been found to be meritorious after a hearing before an immigration judge."

Sessions added that the system is simply overwhelmed with claims, and that bogus applications are crowding out legitimate ones.

"In 2009, DHS conducted more than 5,000 credible fear reviews," he said. "By 2016, only seven years later, that number had increased to 94,000. The number of these aliens placed in immigration court proceedings went from fewer than 4,000 to more than 73,000 by 2016."

But Manhattan District Attorney Cyrus Vance, Jr. sharply rebuked Sessions in a statement Monday, saying his decision to "block tens of thousands of asylees from seeking refuge in our nation represents another triumph of ideology over morality – one that sets back the global fight against domestic violence and sex trafficking, and America’s standing in the world.”

Sessions' move was widely expected after he announced his decision to intervene in the case three months ago. He and other top White House officials have said repeatedly in recent months that the asylum process has been dysfunctional.

Senior White House adviser Stephen Miller charged in May that the immigration system, including the asylum process, has been "completely shattered" in recent years, and that finding legitimate asylum cases is like spotting "a needle in a haystack."

## Case

### Revictimization/psychological trauma

#### The threat of incredibility and forced return revictimize asylum seekers

Mosley 18 (Alana, .D. Candidate 2018, University of Minnesota Law School, “Re-Victimization and the Asylum Process: Jiminez Ferreira v. Lunch: Re-Assessing the Weight Placed on Credible Fear Interviews in Determining Credibility,” 36 Law & Ineq. 315 (2018))//jjh

III. Re-victimization and the Impact of Past Trauma The impact of past trauma can affect a survivor's conduct and memory.5 1 Symptoms of trauma may be categorized into three types: hyperarousal, intrusion, and constriction. 52 Hyperarousal symptoms may cause one to be easily startled, go into permanent states of alert, or struggle to sleep; 53 intrusion symptoms may cause survivors to have flashbacks or to "relive" both the traumatic event and the emotional intensity of that event, over and over again;54 constriction symptoms may cause survivors to respond or behave with emotional detachment or indifference, and they may be so numb to reality that events may be altered to seem as if they happened to someone else.55 A critical piece of the healing process for many survivors of past trauma is the act of repeatedly telling their story.5 6 The ability to describe a traumatic event often relies on memories of specific sensations and images, so it can be difficult to describe the event in a linear narrative or with everyday descriptors.5 7 Due to this difficulty of (1) reconciling the event for themselves and (2) conveying this trauma to someone who may have never experienced something similar, a survivor's story may tend to shift or be revised with each narration as they attempt to compile all of the images and sensations into their own linear narrative of 58 the event. This shifting narrative can be problematic in the asylum context since an immigration judge will likely be focused on determining whether the asylum seeker is credible.59 Thus, any inconsistencies between the narrative told during the credible fear interview and the court hearing could pose a threat to the asylum seeker's claim. This idea of re-victimization, or re-traumatization, is based on the reality that asylum applicants are faced both with the uncertainty of whether they will be believed by others and the fear for their future due to the possibility of being forced to return to the persecution in their homeland.

### Circumvention

#### Alt causes circumvent asylum guarantees—trauma symptoms, backlog, judge bias and inexperience, unreliable interview

Mosley 18 (Alana, .D. Candidate 2018, University of Minnesota Law School, “Re-Victimization and the Asylum Process: Jiminez Ferreira v. Lunch: Re-Assessing the Weight Placed on Credible Fear Interviews in Determining Credibility,” 36 Law & Ineq. 315 (2018))//jjh

VI. Analysis of the Jimenez Ferreira v. Lynch Decision

Asylum seekers often arrive with little to no corroborating evidence to support their asylum petition.87 Therefore, their narrative of the traumatic event, or events, is often their main evidence of the past persecution that they have suffered. However, in Ms. Jimenez's case, she provided "over 400 pages of documentary evidence" with her petition for asylum, including the police complaint from her 2007 sexual assault, a doctor's report, and a psychologist's report.8 8 The doctor's report stated that Ms. Jimenez had 'visible signs and marks of a strangulation attempt' and a 'torn inner and outer labia of the vagina, evidencing penetration by force or with resistance on the part of the victim."'89 Similarly, the psychologist's report mentioned that she showed "signs and symptoms of tension, worry, fear for her life and the lives of her family[,]" and recommended that Ms. Jimenez 'be referred immediately to group therapy' to 'help her overcome the trauma."' 90 Despite having material evidence that corroborated her story, Ms. Jimenez's testimony was still not accepted as credible. This is a reality that many asylum seekers face. Despite their best efforts, their traumatic experiences "may not be accurately legitimated and accepted by outsiders," such as asylum officers or immigration judges. 91 One must consider whether it is possible to effectively judge the credibility of a person coping with trauma within an adversarial system. Judges use factors such as demeanor, candor, and the internal consistency of each statement to determine an applicant's credibility.92 However, these factors can be poor gauges when considering the difficulty many survivors of abuse or persecution have in articulating a linear narrative that effectively summarizes their experiences. 93 Similarly, the applicant may feel shame or embarrassment in disclosing the abuse they suffered.94 MS. Jimenez personally felt this: she testified "that she was ashamed and 'embarrassed' to discuss Holguin's abuse."95 Similarly, a shifting narrative may very well be an applicant's attempt to grapple with the extent of the trauma they have suffered, and thus, they may still be trying to reconcile their situation for themselves. In addition to having to accept the facts of their claim for themselves, applicants must also persuade outsiders that they can, and should, be believed. As previously mentioned, the impact of past trauma can affect a survivor's conduct and memory.96 While in detention, Ms. Jimenez did not immediately disclose to her detaining officers that she feared having to return to the Dominican Republic, "because she was nervous, afraid and ashamed to tell the male officer conducting the interview about her ex-husband's abuse."97 Upon expressing her fear of returning, she was given a credible fear interview.98 "Ms. Jimenez was confused and nervous during her credible fear interview, and embarrassed to be telling the intimate details of her relationship with Holguin to a complete stranger and an unknown telephonic interpreter."99 However, despite these barriers, the asylum officer found Ms. Jimenez to have a credible fear of persecution and, thus, she was released. 100 In contrast, the immigration judge was not similarly persuaded and found Ms. Jimenez incredible based on "glaring inconsistencies."101 The issue with the current state of determining credibility within the immigration court setting is that the focus is not actually on the facts of the case, but instead the applicant's unwavering consistency in relaying traumatic details.102 Note that in Jimenez, the immigration judge overlooked the medical report, which noted the injuries Ms. Jimenez suffered due to the 2007 Christmas Eve attack 03 and instead focused on her timeline of those events-i.e., whether Mr. Holguin beat and raped her before or after the party on Christmas Eve.104 Thus, the immigration judge placed the emphasis on the time of the attack, rather than the actual attack. The persecution suffered was the attack itself, which could be corroborated with the medical report, psychologist's report, and police complaint. The technical issues should not be completely ignored, because finding material inconsistencies may be a sign of a fraudulent asylum claim. At the same time, minor technical issues should not be the basis of an immigration judge's determination, especially where corroborating evidence exists. The Fifth Amendment guarantees asylum seekers, and more generally "person[s],"1O5 a due process "right to have a claim heard by a neutral, impartial arbiter."106 The importance of impartiality is reaffirmed in the Ethics and Professionalism Guide for Immigration Judges, which states that judges should perform their responsibilities without showing prejudice.10 7 However, an asylum seeker's fate will be greatly impacted by which judge presides over his or her case, as well as the region of the United States where the case is heard.108 While the national average asylum grant rate was 48% in 2015, many regions had much lower grant rates: Atlanta, Georgia (2%), Las Vegas, Nevada (7%), Dallas, Texas (9%), Houston, Texas (9%), Charlotte, North Carolina (13%), and Detroit, Michigan (14%).109 Similarly, the United States Government Accountability Office (GAO) noted significant variations in asylum outcomes depending on the court's region and the judge hearing the case.110 For instance, "affirmative applicants in San Francisco were .. . 12 times more likely than those in Atlanta to be granted asylum."111 Some blame judicial bias and the role of politics in appointing immigration judges;112 others blame a backlogged and broken system.113 "Weighed down by a backlog of more than 520,000 cases, the United States immigration courts are foundering, increasingly failing to deliver timely, fair decisions to people fighting deportation 11 or asking for refuge.. . ." 4 This overwhelming case load also undermines the gravity of the decisions that immigration judges are being asked to make. 115 The years of waiting injure asylum seekers because they face the reality that their evidence may become stale and their memory of past events will decay. For Ms. Jimenez, her hearing occurred in 2013, but many of the relevant events that she was expected to relay in detail occurred between 2007 and 2009.116 There was an expectation that Ms. Jimenez be able to remember and articulate, in a linear narrative, specific details of events that had happened nearly four to six years prior.117 In her case, the immigration judge was concerned about discrepancies as to details, such as what time of day she was raped on Christmas Eve in 2007, the exact date she was last raped, the location she was last raped, and whether Mr. Holguin had hit her son.118 There are general issues confronting a survivor's ability to articulate a linear narrative regarding traumatic events, but these issues may also be compounded by the long length of time it takes to get a hearing. Aside from the problems created by the backlog of cases, there are also disparities in denial rates within jurisdictions that make judicial bias, political sway, and general inexperience more likely culprits. For instance, in July 2006, Transactional Records Access Clearinghouse, a research organization associated with Syracuse University, released a study stating that Chinese immigrants make up almost twenty-two percent of asylum seekers in the United States.119 The study found that in New York there was a grave disparity in the grant rates for Chinese asylees represented by lawyers-one judge denied almost seven percent of petitions, while another denied ninety-four percent. 120 Circuit courts have questioned the skill and temperament of some immigration judges, mainly those who have been repeatedly appealed.121 Note that "[a]bout half of the judges appointed in [the] 2004-2007 period had no experience with immigration law."122 The purpose of the credible fear interview is to "identify potentially meritorious claims to protection."1 23 Similarly, USCIS training materials describe the credible fear interview as simply a "screening process,"1 24 yet in Ms. Jimenez's case, the notes from her credible fear interview held substantial weight before the immigration judge.125 The inconsistencies between these notes and the applicant's testimony often serve as the basis for adverse credibility findings without much concern about the reliability of those notes.126 In Jimenez, the Seventh Circuit found that Ms. Jimenez had consistently maintained that Mr. Holguin raped her on Christmas Eve and that the medical report corroborated her claim.127 Thus, the possible discrepancies-regarding the precise time of day that the violence occurred-between the interview notes and Ms. Jimenez's testimony, asylum application, and corroborating evidence was found to be a trivial discrepancy for the immigration judge to use as the basis for an adverse credibility finding. 1 28 More than that, the Seventh Circuit was concerned by how much weight was placed on Ms. Jimenez's credible fear interview, since it was not a verbatim transcript, and because it should not have been given more weight than all of the supporting 129 evidence she provided. Courts should question the reliability of credible fear interview notes due to the nature of those interviews. 130 The asylum officer's notes are the only record of the interview. 131 A verbatim transcript would provide a judge with more insight into the nature of the questions and answers, rather than a simple summary of the dialogue. 132 Similarly, a verbatim transcript would allow the judge to see whether the asylum officer asked relevant follow-up questions to seek more details and information from the applicant. 133 For instance, Ms. Jimenez's responses to some of the asylum officer's questions give the impression that she either "did not understand [the] question[] .. . or that the interpretation was unclear to her." 134 If the notes are only a summary, then the judge has no way of knowing whether the applicant's answers were evasive and vague, or whether the asylum officer failed to ask the appropriate follow-up questions to gain more insight into, and details from, the applicant's story. 135 Moreover, a verbatim record would allow the judge to interpret the nature of the interaction between the officer and the applicant. For example, the applicant may indicate reluctance in terms of talking to government officials based on negative experiences in his or her homeland. In Ms. Jimenez's case, she had filed a complaint with the police in the Dominican Republic, and based on this, Mr. Holguin was arrested- but he was released from jail four days later.136 Ms. Jimenez had voiced a distrust of law enforcement in the Dominican Republic.137 Thus, it would not be difficult to understand that she may similarly have been reluctant to speak to the United States asylum officer 138 regarding a topic as sensitive as past physical and sexual abuse. In general, these factors come down to verifying that the asylum officer's notes serve as a reliable record of the credible fear interview and, thus, a reliable tool to use in determining an applicant's overall credibility. This approach seems to look at decisions based primarily on credible fear interview notes as being a red flag, therefore, the Seventh Circuit stresses the importance of assessing the reliability of these notes before using them as the basis for an adverse credibility determination. 139

#### Backlog and new proposals circumvent the plan—no ports of entry and credible fear test toughen restrictions

Dickerson 7/18 (Caitlin, national immigration reporter, “Trump Administration Considers Unprecedented Curbs on Asylum for Migrants,” New York Times, 7/18/18, https://www.nytimes.com/2018/07/18/us/immigration-asylum-children.html?ref=nyt-es&mcid=nyt-es&subid=article)//jjh

Mr. Trump has taken monumental steps to shrink the asylum system and discourage people from applying based on a belief that the United States is taking in too many foreigners. The moves are part of a larger plan developing in Washington to reshape the reputation of America as a safe haven, one that has inspired generations of people like Francisco and Miguel to journey here. The most extreme proposal yet would upend the system by eliminating the use of offices along the border, known as “ports of entry,” as asylum processing centers. Introduced this spring by members of the leadership of United States Customs and Border Protection, according to a government official with direct knowledge of the plan, it would allow hopeful refugees to apply for protection only from abroad, stranding them for much longer in the conditions they hope to escape. On Wednesday, the administration announced new guidance for asylum officers, who are the first to evaluate claims along the border, instructing them to scrutinize asylum applications according to stricter standards, and to weigh the applicants’ claims of fear against whether they have previously entered the United States illegally. “Asylum was never meant to alleviate all problems — even all serious problems — that people face every day all over the world,” Jeff Sessions, the attorney general, said last month in announcing a landmark decision to eliminate domestic and gang violence as grounds for asylum. Piggybacking on that announcement, Mr. Trump declared on Twitter that he wanted the power to immediately reject people who had no clear basis for asylum at the border, before they could plead their cases in front of immigration judges. “We cannot allow all of these people to invade our Country,” Mr. Trump wrote, “When somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came.” Taken together, the changes are meant to send a clear message to the world: As a place of refuge, America is largely closed for business. The modern asylum system was born during a time of clearly drawn political lines. After World War II, with the wounds of violent discrimination still fresh, the United States and its allies agreed at a United Nations convention in 1951 that accepting refugees was essential to preventing such atrocities in the future. Albert Einstein became one of the original poster children, literally, for refugee resettlement after he was banned, along with all Jews, from academic work in Germany. Mikhail Baryshnikov and other Russian ballet dancers followed decades later when they were famously offered protection from Soviet oppression in the United States and Canada. These cases were clear-cut in the public consciousness: These people were largely fleeing government persecution based on their race, religion, nationality or political views — four discrete categories for asylum under international law — and Republicans and Democrats mostly agreed on helping them. That consensus has dissolved more recently with the expansion of a fifth, much murkier, category of refugees, which has ballooned to protect victims of modern threats coming from nongovernmental entities such as gangs and terrorist organizations. Recently, claims have also been recognized from gay and transgender people in countries that persecute them and female victims of domestic violence in places where the government refuses to protect them. President Trump’s administration is in the midst of a targeted push to turn back the clock. “Asylum is for people fleeing persecution, not those searching for a better job, yet our broken system, with its debilitating court rulings, a crushing backlog and gaping loopholes, allows illegal migrants to get into our country anyway, and for whatever reason they want,” Kirstjen Nielsen, the homeland security secretary, told Congress in May. “This scamming of the system is unacceptable.” More than 700,000 cases are now pending in the American immigration courts, with the largest numbers of people waiting from Mexico and Central America. The growing backlog, plus a shortage of judges, has steadily increased the wait time for asylum and other types of immigration cases, which now take nearly two years on average to complete, according to data maintained by Syracuse University. One of the biggest blows to asylum petitions came last month, when Mr. Sessions overruled the case of Aminta Cifuentes, a Guatemalan woman who suffered a decade of abuse by her husband that included acid burns and punches to her stomach when she was eight months pregnant. Her baby was born prematurely and came into the world with bruises. Ms. Cifuentes’s lawyers argued that she was the victim of a larger crisis facing women in Central America. They presented a slew of reports by human rights groups as evidence that gender-based violence was a systemic problem that had been ignored by the police, and convinced a panel of judges that the existence of “a culture of machismo and family violence” in Guatemala meant that such women should be considered, for purposes of asylum claims, their own “particular social group.” Similar claims had been approved in the past, at the discretion of individual judges. But after the Board of Immigration Appeals laid down precedent by granting Ms. Cifuentes asylum, women from all over the world began to apply in droves using the same argument. Though the government does not track the grounds of asylum cases, lawyers and judges said that domestic violence had become one of the most common arguments heard in immigration court — until it became a useless one last month with Mr. Sessions’s new guidance to judges. “The mere fact that a country may have problems effectively policing certain crimes — such as domestic violence or gang violence — or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim,” said Mr. Sessions, who has the power to guide immigration judges on how to interpret the law. Mr. Trump and his allies are also concerned about asylum fraud, as well as the large numbers of people whose claims are denied but who stay in the United States anyway, slipping into an unauthorized life in the shadows. Of total asylum claims, which increased 1,700 percent between 2008 and 2016, Secretary Nielsen told Congress, only 20 percent of applications are finally approved by a judge. “So our concern is that there’s a lot of fraud,” she said. She pointed to the ever-growing number of people who journey to the United States because they believe wrongly that the doors of asylum are open to anyone. “It doesn’t mean that you made a fraudulent claim, it could just mean that you believe that you can seek asylum, for example, for family reunification,” she added. “But our laws don’t allow you to seek asylum for the sole purpose of family reunification.” At shelters along the southwest border, false hope is widespread, born of a combination of misinformation and wishful thinking. Asylum seekers have been sleeping curled around their belongings on a piece of ground in Nogales that marks the last patch of Mexico, waiting to be interviewed by American officials. In interviews with more than a dozen of these families over several days this month, most seemed to believe that if they attended their court hearings, they would be allowed to work and stay in the United States. Several people indicated that while Mr. Trump may have been separating families in recent weeks, they ultimately had faith that his administration would offer them protection. “This president is going to help me,” said one woman, Mary Montejo, 38, speaking from a shelter in Tucson. “He’s going to help me. I believe in my God, and I believe God has touched his heart.” In Nogales, Gilberto González, 63, a Mexican security guard, was keeping watch over asylum seekers. “This is painful to me,” he said. “They don’t know what faces them on the other side.” Other ideas for restricting asylum are being batted around Washington, according to officials at the Department of Homeland Security who spoke on the condition of anonymity because they were not authorized to discuss them. Beyond eliminating asylum at the border, proposals have been floated to further toughen the “credible fear” test, which is the first step to winning an asylum case. Another plan would keep applicants in detention, or take away their right to work, until their cases are resolved.

#### Credible fear screening and deportation prevent family reunification and asylum

Peñaloza 7/20 (Marisa, Senior Producer at the National Desk, “Denied Asylum, But Terrified To Return Home,” NPR, 7/20/18, https://www.npr.org/2018/07/20/630877498/denied-asylum-but-terrified-to-return-home)//jjh

Until recently, three out of four asylum-seekers were passing the credible fear screening. That's too many, according to the Trump administration. "The statutory standard for credible fear screenings at the border has been set so low that nearly everyone meets it," said L. Francis Cissna, the director of U.S. Citizenship and Immigration Services, which oversees asylum officers. USCIS declined our request for an interview. But Cissna testified before Congress in May that many immigrants are exploiting the asylum system to get into the U.S. And the backlog of more than 300,000 asylum cases means it's often years before they get to court. "Many of those seeking to enter this country illegally and the smuggling organizations who profit from them know that a few key words are all it takes to get an alien through this screening process," Cissna said at the hearing. Immigrant rights' advocates argue that the Trump administration's tougher guidelines means legitimate asylum-seekers are being rejected as well. They're also concerned that the new guidelines explicitly instruct asylum officers to consider whether an immigrant crossed the border illegally before making their asylum claim. That's likely to be challenged in court, said Eleanor Acer with Human Rights First. "But for people who are summarily deported," Acer said, "their fates will be sealed already." That may include many of the parents that the Trump administration separated from their children. A federal judge in California has ordered the government to reunite those families by July 26th. But immigration lawyers fear many of those families will be quickly deported back to their home countries. In its latest update to the court, the government said that 863 parents awaiting reunification already have a final order of removal. "The Trump administration is trying to send a message to asylum seekers," said Carlos Moctezuma Garcia, an immigration lawyer in McAllen, Texas. "Perhaps we will reunify you. But we'll reunify you on the plane back to your home country, without allowing you to present your full case before an immigration judge," Garcia said.

#### Backlog exacerbates psychological trauma and endangers family members left behind

Berthold & McPherson 16 (S. Megan, Ph.D., LCSW, is an Associate Professor and the Director of Field Education, Jane, PhD, MPH, LCSW, is Director of Global Engagement & Assistant Professor at the Social Work at the University of Georgia, “Commentary: Fractured Families: US Asylum Backlog Divides Parents and Children Worldwide,” Springer, 4/14/16, https://link.springer.com/content/pdf/10.1007%2Fs41134-016-0009-9.pdf)//jjh

Impact of Backlog on Asylum Applicants It is documented within the literature—as well as in our experience in working with hundreds of asylum applicants—that delays in processing asylum cases create serious problems for these individuals and their families, including personal suffering, family breakups, and sometimes physical harm to family members left behind (Hocking, Kennedy, and Sundram 2015; Silove et al. 2007). If we shift our gaze away from the crisis in Central America that has prompted the large number of children and families arriving at our southern border, we see that many times asylum-seekers arrive alone at an airport, in a port, or via a land border. These asylum seekers—who are claiming their rights to safety after political or personal persecution— must take their place in line as US asylum court dockets fill. These solitary asylum seekers are a very vulnerable population with high levels of psychiatric morbidity, especially depression, anxiety, and posttraumatic stress disorder (Hocking, Kennedy, and Sundram 2015; Quiroga and Jaranson 2005). Importantly, many of these single asylum seekers have left spouses and children behind, and even if they are successful in claiming asylum in the USA, they may spend 5 years or longer waiting for asylum and another year or more for permission to reunite with their families. The human cost to them—and to their children—of the extended asylum timeline includes lengthy separation from family (and delays in applying to sponsor one’s spouse and unmarried children who were under the age of 21 at the time the sponsor applied for asylum). We have seen this, in turn, contribute to the following: enormous stress on the family unit (e.g., emotional, financial, childrearing, forced separation of family unit), loved ones back in the homeland having difficulty understanding why there is a delay (and, in some cases, not believing that the applicant is really trying to sponsor them), break up of marriages, and persecution of family members (including children) of torture survivors who remain in the homeland (Berthold 2015). When asylum seekers flee their countries of origin, authorities may target their loved ones back home in an effort to find or punish the torture survivor who escaped (Berthold 2015). Sometimes such asylum seekers may not know if their loved ones are dead or alive (Akinsulure-Smith and O’Hara 2012). The persecution of family members left behind may take many forms including threats, intimidation, interrogation, torture, murder, abductions/disappearances, and being forced into hiding. In hiding, families typically do not feel safe engaging in normal activities such as working or allowing children to go to school. They may relocate to another part of the country and even sever contact with family and other support systems. In some countries, the authorities have extensive networks, making it hard to hide anywhere in the country. Knowing this risk to their family members, asylum-seekers in the USA may be left in a state of fear and guilt due to their sense of having made family members targets of persecution. The asylum-seeker carries this burden even if his or her family members remain safe because the vulnerability is everpresent. There are additional implications of the backlog, including a denial of a speedy resolution of the asylum seeker’s case. Asylum seekers are systematically denied the right to work (UDHR, Article 23(1)), at least for the first 6 months after applying for asylum. Without legal authorization to work, asylum applicants’ ability to support themselves and their family is jeopardized. If they do work under the table without a work permit, they can experience legal problems and may become increasingly vulnerable to exploitation and trafficking, including labor trafficking. Asylum seekers are also denied the right to access healthcare (including mental health care) until their asylum is granted. This deprives them of their right to the highest attainable standard of health (UN Committee on Economic, Social and Cultural Rights 2000). Few health providers currently extend health services to the undocumented, with the exception of some large community based clinics and county health facilities. Obtaining coverage for emergency care for children is sometimes possible (through emergency Medicaid/Medical). Those who flee from persecution are at risk of experiencing psychological distress, and the stress of being in limbo waiting for the adjudication of one’s immigration case may prolong the uncertainty of whether they will be deported back to where they are at risk of being tortured or killed. Such circumstances can exacerbate psychological conditions and lead to hopelessness and despair. Further, a long wait for asylum may compromise the psychological recovery process for trauma/torture survivors, thereby reducing their quality of life and well-being (Berthold 2015). Conclusions and Recommendations The USCIS change of policy that prioritized processing of cases of unaccompanied children and other Central American families has had the effect of slowing down the asylum process for all other asylum applicants. Of course, we agree that the US government must direct resources to these children and their families, but it is unfair and unethical to divert resources from other vulnerable children and their families. Who can say whether a Central American child waiting in detention in Texas is at greater or more urgent risk than a child of a political dissident waiting behind in Ethiopia or Iraq? It is inappropriate to compare trauma and hardship across groups. Instead, we are in favor of a speedy resolution to all asylum cases, especially if those cases involve children—and whether those children are present in this country or abroad. Although we do not see their faces because they are waiting in their home countries for their parent to receive asylum (and then apply for family reunification), the children of asylum-seekers also suffer when their parent’s asylum cases are put on hold or administratively closed, in effect delaying the parent’s eligibility to sponsor family members (Haile 2015). The US Department of Homeland Security has hired additional judges and asylum officers in recent months—but huge backlogs remain and some immigration judges have resigned or retired. In at least some of these retirement cases, vicarious trauma and/or burnout caused by large caseloads, the pressure to complete cases quickly, and having to hear case after case of human suffering with graphic violent details may be a contributing factor to a judge’s decision to step down (Lustig et al. 2008).

## Solvency AnswersTurn – Focus on “Cultural” Domestic Violence Bad

#### Emphasis on “cultural” gender violence hurts the overall movement against patriarchy

**Montoya, Professor, Department of Women and Gender Studies, University of Colorado Boulder, Agustín, Associate Professor in gender and diversity, Department of Culture and Global Studies, Aalborg University, 2013**

[Celeste, Lise, 2013, *Social Politics*, “The Othering of Domestic Violence: The EU and Cultural Framings of Violence against Women,” https://academic.oup.com/sp/article/20/4/534/1714604, accessed 07/14/2018, AMS]

We argue that the emphasis on “cultural” forms of violence is harmful in several ways. First, it obscures the degree to which gender-based violence is rooted in structural inequality. Whereas a common feminist frame for violence against women is that it is based on structural gender inequality, the shift to culture deemphasizes it as a root cause. In her analysis of national debates in Sweden, de los Reyes finds that violence against women is either explained as an expression of traditional cultural patterns within immigrant communities or as a result of universal, structurally unequal gender power relations (de los Reyes 2003). A dichotomy is created between us, i.e. the national culture, and them, the immigrant culture. This emphasis also overlooks other structural forces that shape women’s experiences with violence, including global inequality, religious fundamentalism as a legacy of colonialism and racism, and the flow of capital transnationally as well as domestically (Volpp 2001). Second, culturalization of violence serves to further marginalize an already vulnerable group. It posits “other” women as perennial victims and men as the “barbaric other.” Spivak (1988) aptly articulated the trope of the Western/ white need to “save brown women from brown men.” Kantola (2010) identifies “cultural blaming” in her study of the EU, whereby states blame violence on minority cultures and establish an inherent relation between culture and violence which is harmful to women. The risk of these articulations is that gender-based violence becomes a phenomenon related to the minority culture exclusively, constructing the immigrant male as inherently violent, and making violence within majority cultures invisible (de los Reyes 2003). Analyzing human rights processes at UN level, Merry (2003, 974; 2006) argues that transnational elites in these settings often locate culture at the local, rural level and not among themselves, as “out there, in the hinterland, with the minorities, while here there is law, with culture hiding from view, buried in the everyday practices of modernity.” From any perspective of “us”, minority groups tend to be viewed as more cultural (Phillips 2007). Third, the emphasis on particular forms of violence serves to undermine the seriousness of gender-based violence in all its forms and perpetuates its normalization. When certain forms of “cultural” violence are prioritized, the more commonplace brutality against women loses some immediacy as an issue needing to be taken seriously (Narayan 1997). Narayan argues that although domestic violence murders in the United States are as numerically significant as dowry deaths in India, only one is seen as cultural backwardness. In Europe, femicides resulting from domestic violence are more prevalent than honor killings; yet, the outrage for honor killings is much greater. There are specific laws being adopted for these “cultural” femicides, but those occurring in other “white European” domestic situations are usually handled under gender neutral laws on homicide.Turn – Speaking for Others Bad

#### The affirmative speaks for women who are beaten through domestic violence, depoliticizing gender inequality—only a reorientation of the public space can create an opportunity for political voice

**Lombardo, senior lecturer in Political Science, Department of Political Science and Administration, Madrid Complutense University, Verloo, Professor of Comparative Politics, Department of Political Science, Radboud University, 07**

[Emanuela, Mieke, affiliated with the Institute for Gender Studies, director of the multidisciplinary research hotspot Gender and Power in Politics and Management at January 2007, *Central European University Press*, “Contested Gender Equality and Policy Variety in Europe: Introducing a Critical Frame Analysis Approach,” accessed 07/14/2018, AMS]

Gender expertise is an important element for progressing in gender equality policies, both because policymaking is informed by gendered knowledge and because policy actors who share a higher gender awareness are more likely to effectively implement gender equality policies (Beveridge and Nott 2002; Verloo 2001; Walby 2005). However, the risks involved in the treatment of gender policy measures by technocrats have to do with the potential “depoliticization” of the issue of gender inequality altogether (Squires 1999; 2005). This could result both from the presentation of gender equality measures as technical procedures that include no political conflict and contestation, and from the exclusion of more radical feminist voices from the policymaking process (Squires 2005 and Verloo 2005a). A further aspect of the technocratic approach to gender equality policy that causes problems for democracy is the extent to which women’s wider concerns that are not part of the experts’ experiences might come to the fore only in a limited consultation. While this duality of directions is used to describe and criticize a signalled “technocratization” of gender mainstreaming, it also has been criticized as a false dichotomy (Walby 2005). In some cases, the two sides do not necessarily oppose one another as much as reveal the political experiences of the formation of “velvet triangles” among femocrats, academics, and the feminist movement (Woodward 2004). These include, for example, Northern Ireland’s “participatory-democratic” approach to mainstreaming, based on the participation of civic groups in the policymaking process through consultations and hearings (Barnett-Donaghy 2003), and practices like the UK Women’s Budget Group,2 in which a union of academics, civil society, and policymakers has contributed to progress in the gendering of the government budget (Walby 2005). These examples also point at some problems connected to more democratic approaches to gender mainstreaming, such as questions of resources and timing especially (Donaghy 2003). Contemporary struggles for recognition (Taylor 1992; Fraser 1997; and Young 1990, 1997) and political voice (Phillips 1998, 2003; Lister 2005) show how important it is for excluded policy actors to gain access to the definition of the public debate in order to have influence on the formation of public policy. The right to have a voice in the framing of a policy issue is connected strictly to matters of power, and related to the actual inclusion or exclusion of actors in/from the political debate (Phillips 2003; Marx Ferree and Gamson 2003; and Lister 2005). According to Fraser (1989, 1997), existing hegemonization can be challenged only if there is some space for “subaltern or non-hegemonic counterpublics” to participate in the debate. Otherwise, participation processes under the condition of inequality will tend to serve dominant groups and exclude subordinated groups from the opportunity to articulate their interests. Similarly, Benhabib (1992) argues that since the present public space does not encourage the development of democratic participatory structures of collective discussion and political activism, it is unlikely that the inclusion of more women in such a poor public space will make any considerable change. In such a context women will not be able to participate effectively in the public arena or contribute to the democratization of society.3 Thus, she calls feminists’ attention to the need for creating a critical theory of the public space, in order to reframe both the private and public spheres.

### No Solvency – Alt Barriers to Asylum

#### Alt barriers to asylum – Trump, inability to claim asylum from outside, and border agents

**Harris, University of the District of Columbia, law assistant professor, 7-1-2018**

(Lindsay M., 7-1-2018, Washington Post, “Seeking asylum isn't a crime. Why does Trump treat it as one?”, accessed via JCP ProQuest, accessed 7/14/18, GDI-JG)

Seeking asylum in the United States has never been easy, by design. **But under Trump, it's become arbitrarily harder - and impossible for some**. Even before the 2016 election, border officials claiming allegiance to Trump began turning back asylum seekers in greater numbers. I recall clients who said a border official told them: "There is no asylum. Trump is going to be president, and you'll all be sent home." **Since his inauguration, problems** in the asylum system **have only increased.**

The first challenge for asylum seekers is just being able to apply. They must either be at the border or within the United States to claim protection - **they cannot seek asylum from outside**. Some enter the country with a tourist, study or work visa, but these are difficult to obtain. Others approach the U.S. border and ask for protection, or cross the border without permission and are detained by immigration officials before filing their asylum applications.

Under international law and a Clinton-era U.S. law known as "expedited removal," officials must screen all individuals they encounter around the border for potential asylum claims. If someone indicates she is afraid to return to her home country, border officials must refer her to an asylum officer for a "credible fear" interview to decide whether she is eligible for asylum. Legally, the Border Patrol simply makes a referral for the interview; however, border agents without appropriate training are increasingly taking the law into their own hands. In early 2017, for example, Human Rights First documented 125 cases of Border Patrol agents unlawfully turning back asylum seekers. Lately, border officers tell asylum seekers to "come back later," turning away one family nine times. This violates our legal obligation under Article 33 of the Refugee Convention and under our own Refugee Act not to return an asylum seeker to a place where she faces a threat to her life or freedom.

### Link – Immigration Surges Increase Clog

#### Link - Surges of immigrants significantly contribute to court backlogs

Arthur, Resident Fellow in Law and Policy, 17

Andrew R. Arthur 6/24/17 CIS “The massive increase in the immigration court backlog”<https://cis.org/Report/Massive-Increase-Immigration-Court-Backlog> accessed: 7/13/18 M.S.

The "surge" in families across the southern border has also contributed to the backlogs and delays in completion of cases in the immigration courts.

The number of unaccompanied alien children apprehended along the border increased by 76 percent (to 68,541) between FY 2013 and FY 2014, while the number of "family units" increased by 360 percent (to 68,445) during the same period, according to U.S. Customs and Border Protection (CBP). EOIR responded on July 9, 2014, by "prioritizing" certain "cases involving migrants who have recently crossed the Southwest border and whom DHS has placed into removal proceedings" in order to ensure "that these cases are processed both quickly and fairly to enable prompt removal in appropriate cases, while ensuring the protection of asylum seekers and others." Those "new priority" cases consisted of "unaccompanied children who had recently crossed the Southwest border; families who had recently crossed the border and were held in detention; families who had recently crossed the border but were on 'alternatives to detention;' and other detained cases." Specifically, "to allocate resources with these priorities, EOIR reassigned immigration judges in immigration courts around the country from their current dockets to hear the cases of individuals falling in these four groups," and "rescheduled cases not falling into one of these groups ... to accommodate higher priority cases."

This is likely a major contributing factor for the 112 percent increase between FY 2006 (3,296 cases) and FY 2015 (6,983 cases) in continuances for "[u]nplanned immigration judge leave — detail or other assignment" identified by GAO.

### No Solvency – Expedited Removal

#### Alt cause – expedited removal increases undermines due process

**Hallman, Bipartisan Policy Center, project coordinator, and Ramón, Bipartisan Policy Center, Immigration Project, policy analyst, 2017**

(Hunter and Cristobal, 10-4-2017, Bipartisan Policy Center, “Record Number of Cases in Immigration Courts is Simmering Crisis”, <https://bipartisanpolicy.org/blog/record-number-of-cases-in-immigration-courts-is-simmering-crisis/>, accessed 7/13/18, GDI-JG)

Both immigrant advocates and enforcement hawks agree that the backlog status quo is unacceptable, but tackling it is far from simple. The administration has increased the use of expedited removal processes—procedures that do not require appearing in immigration court—which had already been increased under President Obama, and expanded the eligibility criteria for expedited removal. Advocates argue that this removes the already-limited due process granted to immigrants, but also risks returning some individuals to situations that could be dangerous to them.

### No Solvency – ICE Circumvents

#### ICE circumvents – disproportionate detention and denial of parole grants

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

In his January 25 executive order, President Trump directed DHS to detain immigrants for the “duration” of their proceedings, construct more detention facilities, and end “catch and release,” a phrase the President and his allies apply to virtually any process that allows some individuals to be released from immigration detention facilities.

The Department of Homeland Security, in a February 2017 implementing memorandum, stated that parole authority should be used “sparingly.”

In the wake of these pronouncements, Immigration and Customs Enforcement (ICE) officers are holding asylum seekers in detention facilities longer even in the many cases where detention is not needed to secure appearance for hearings.

As Human Rights First explained in a September 2017 report: In the wake of President Trump’s January 25 executive order, parole grants to asylum seekers appear to have plummeted at many detention facilities and jails—including in Illinois, Michigan, New York, the San Francisco Bay Area, Louisiana, and South Texas—with ICE now rarely, if ever, granting parole at these facilities.

At other detention facilities and jails where parole grants were already rare, including in Arizona, New Jersey, and the Northwest, pro bono attorneys report that parole releases continue to be rare to non-existent.

Asylum seekers eligible for parole consideration under ICE’s 2009 Asylum Parole Directive are often needlessly held in detention by ICE—for many months or longer—**despite meeting release criteria.**

Examples in the report include: a gay man detained for fourteen months after fleeing his West African country; a torture survivor from Burkina Faso detained for seventeen months; a Cuban political opposition activist detained for seven months; a political activist from Singapore detained for seven months; a Honduran grandmother with two U.S. citizen relatives who was denied parole; and a Venezuelan human rights lawyer detained for nearly six months as of release of this report.

In February 2018, the Trump Administration told Congress that ICE has “taken a more aggressive posture on parole.”

In other cases, ICE has refused to set bonds that could allow asylum seekers and other immigrants to secure release from immigration detention or demanded that they pay bonds too high for them to afford, leaving them languishing in detention for many months.

On March 15, 2018, Human Rights First, along with the ACLU, the Center for Gender and Refugee Studies and Covington & Burling LLP filed a federal lawsuit challenging the Trump Administration’s failure to release asylum seekers from detention even when they meet the parole criteria. Parole grant rates by the ICE offices named in the lawsuit dropped to nearly zero in 2017.

In addition to holding some families in detention facilities for weeks, U.S. immigration enforcement agencies are separating some children from their parents and then sending their parents to detention facilities where they are held for many months.

### No Solvency – Immigration Judge Biases

#### No solvency – immigration judge biases cause unjustified removals

**Savage, Los Angeles Times, 2018**

(David G., 5-6-2018, Los Angeles Times, “Asylum cases deeply split immigration court system; Those fleeing street crime and domestic violence find their fate depends on which judge hears their case.”, accessed via JCP ProQuest, accessed 7/14/18, GDI-JG)

Central Americans who travel north to plead for entry at the U.S. border are taking their chances on an immigration system that is deeply divided on whether they can qualify for asylum if they are fleeing domestic violence or street crime, rather than persecution from the government.

The law in this area remains unclear, and the outcome of an asylum claim depends to a remarkable degree on the immigration judge who decides it.

And sitting atop the immigration court system is Atty. Gen. Jeff Sessions, a longtime advocate of much stricter limits on immigration who has recently taken an interest in reviewing asylum cases.

Lawyers say they are troubled by a legal system in which decisions turn so much on the views of individual judges.

Among the 34 immigration judges in Los Angeles, two granted fewer than 3% of the hundreds of asylum claims that came before them in the last five years, while another judge granted 71% of them. The disparity is even greater in San Francisco, where the judge's rate of granting asylum claims ranged from 3% to 91%.

Overall, asylum seekers would do much better in San Francisco, where 32% were denied between 2012 and 2017, compared with a 68% denial rate in Los Angeles during the same period, according to data from the Transactional Records Access Clearinghouse at Syracuse University.

This is not news to immigration lawyers. A decade ago, several law professors published a study called "Refugee Roulette" that revealed how asylum cases depend heavily on the views of individual judges. "The level of variation was shocking. And it hasn't changed," said Georgetown University professor Philip Schrag.

Judge Ashley Tabaddor from Los Angeles, president of the National Assn. of Immigration Judges, discounts the statistics. "They're not reliable," she said, since judges may have very different caseloads. Some judges hear claims from people who have been detained for crimes, while others hear mostly claims from juveniles, she said.

"We are human. Different people can have different views about the same set of facts," she said.

Several Los Angeles lawyers who have won or lost asylum cases in recent months said the identity of the judges played an important role. "It's astounding how much variation there is from judge to judge. The system is in need of repair. It's an embarrassment," said Joseph D. Lee, a partner at Munger, Tolles & Olson.

He represented an El Salvador mother who fled north with her three children after gang members shot and killed her husband's brother in front of her family and then threatened to do the same to her relatives.

"The Central American cases can be difficult to win. Some judges are pretty hostile to gang-related claims," he said. His client's claim was denied, and he plans to appeal. "Your chance of winning an asylum claim shouldn't turn on the luck of the draw on which judge you get. **But that is exactly how it works,"** he said.

### No Solvency – Immigration Court Barriers

#### No solvency – asylum seekers face barriers in immigration court – backlog and lack of representation

**Harris, University of the District of Columbia, law assistant professor, 7-1-2018**

(Lindsay M., 7-1-2018, Washington Post, “Seeking asylum isn't a crime. Why does Trump treat it as one?”, accessed via JCP ProQuest, accessed 7/14/18, GDI-JG)

The credible-fear interview is only the first step for asylum seekers. Next, they must present their case before an immigration judge and face an experienced prosecutor on the other side. An asylum seeker will probably wait several years for that day in court, given the backlog of more than 700,000 cases pending before the approximately 350 immigration judges. **Most of the applicants won't have lawyers:** Immigrants in detention are represented only 14 percent of the time, and overall only 37 percent of immigrants have representation in their legal cases. Although asylum grant rates vary wildly depending on the judge or asylum officer, in the past decade, between 15 and 44 percent of claims were approved.

### No Solvency – LGBTQ Folks Don’t Access Equal Services

\*could also be utilized on the queerness k

#### Transgender people do not have equal access to domestic violence services- means the aff can’t solve it’s impacts.

**Seelman, University of Denver Graduate School of Social Work, 2015**

[Kristie, Social Work Faculty Publication, “Unequal Treatment of Transgender Individuals in Domestic Violence and Rape Crisis Programs,”, page 4, https://scholarworks.gsu.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1060&context=ssw\_facpub, 7/13/18, KC]

Transgender individuals in the U.S. often face heightened risks for violence, particularly sexual violence (Stotzer, 2009). While research about the transgender community is often beset by major methodological limitations—such as the use of convenience samples and varying definitions of transgender—information gathered to date indicates that transgender individuals are at high risk for experiencing domestic violence and sexual assault (Courvant & CookDaniels, n.d.; Grant et al., 2011; Greenberg, 2012; National Coalition of Anti-Violence Programs [NCAVP], 2013; Stotzer, 2009). There is a uniquely gendered nature to many domestic violence and rape crisis services owing to the relationship of gender with experiences of violence and to the role that the feminist movement has played in developing many of the community-based services on these issues. Yet, a growing body of research has indicated that transgender people face barriers in accessing domestic violence and sexual assault services, particularly due to a lack of cultural awareness and competence among providers and to practices and policies that make it difficult for trans clients to receive gender-specific services (Ford, Slavin, Hilton, & Holt, 2013; GLBT Domestic Violence Coalition & Jane Doe Inc., 2005; Greenberg, 2012; National Center for Victims of Crime & NCAVP, 2010; NCAVP, 2013; Nemoto, Operario, & Keatley, 2005). Few studies of service provision in these areas of practice have been national in scope or used quantitative data to study how subgroups of transgender people may experience differing risks for unequal treatment in domestic violence and rape crisis services. This paper intends to fill this gap in the literature in order to inform the work of practitioners in understanding the differential risks for discrimination in these settings for transgender and gender non-conforming clients.

### No Solvency – Sessions Circumvents

#### More Asylum seekers being turned away—new policy targets those who cite gangs or domestic violence.

**Bowden, The Hill reporter, 2018**

(John, July 12, 2018, The Hill, “Trump implementing new policy to turn away more asylum seekers at border,” <http://thehill.com/latino/396645-trump-implementing-new-policy-to-turn-away-many-more-asylum-seekers-at-border-report>, Date Accessed: 7/12/18, GDI-AA)

New guidance directs USCIS asylum adjudication officers to weigh a migrant's illegal entry into the U.S. against legitimate claims of asylum and instructs officers to turn away asylum seekers citing gangs or domestic violence as a reason for entry at the border.

The move comes after Attorney General Jeff Sessions used his authority to overturn a decision last month from an immigration court, ruling that claims of gang violence or domestic abuse no longer qualify potential asylum seekers for entry.

"Claims based on ... the members' vulnerability to harm of domestic violence or gang violence committed by non-government actors will not establish the basis for asylum, refugee status, or a credible or reasonable fear of persecution," according to the new guidance, which was first reported by CNN.

Authorities are also reportedly encouraged to use "an applicant's illegal entry, including any intentional evasion of US authorities, and including any conviction for illegal entry where the alien does not demonstrate good cause for the illegal entry, to weigh against a favorable exercise of discretion" during asylum applications.

The new decision reportedly places the burden of describing in correct legal terminology the reasoning behind an asylum claim on asylum seekers, and means that many more migrant families will be denied entry at the U.S.'s southern border with Mexico without ever seeing a judge.

#### No solvency—Sessions will circumvent the plan.

**Bowden, The Hill reporter, 2018**

(John, July 12, 2018, The Hill, “Trump implementing new policy to turn away more asylum seekers at border,” <http://thehill.com/latino/396645-trump-implementing-new-policy-to-turn-away-many-more-asylum-seekers-at-border-report>, Date Accessed: 7/12/18, GDI-AA)

"Many petitioners understand this, know how to exploit our system, and are able to enter the U.S., avoid removal, and remain in the country. They’re then referred to an immigration judge and released on a promise to appear for a court date weeks, months, or years down the line regardless of whether they plan to show up. This exacerbates delays and undermines those with legitimate claims," he added.

Immigration advocates, however, painted the plan as an attempt by Sessions to undercut legitimate claims of asylum by migrants.

"When you put it all together, this is his grand scheme to just close any possibility for people seeking protection -- legally — to claim that protection that they can under the law," Ur Jaddou, a representative for immigration advocacy group America's Voice, told CNN. "He's looking at every possible way to end it. And he's done it one after the other."

#### No solvency – Sessions circumvents – overrule immigration court decision and announce new binding rules

**Savage, Los Angeles Times, 2018**

(David G., 5-6-2018, Los Angeles Times, “Asylum cases deeply split immigration court system; Those fleeing street crime and domestic violence find their fate depends on which judge hears their case.”, accessed via JCP ProQuest, accessed 7/14/18, GDI-JG)

It may soon become much harder to win such claims. Under an unusual feature of the law, the attorney general, as the nation's top law enforcement officer, also oversees the immigration courts. **He can overrule their decisions and announce new rules that are binding on them.**

In March, Sessions announced he would review the question of whether women fleeing domestic violence or other "private criminal activity" can rely on this to win asylum.

Last fall, Sessions spoke to a meeting of immigration judges and complained America's "generous asylum" system has become "overloaded with fake claims.... The credible fear process was intended to be a lifeline for persons facing serious persecution. But it has become an easy ticket to illegal entry into the United States."

In the last week, the American Bar Assn., faith-based groups and a coalition of immigration law professors have submitted "friend of the court" briefs to Sessions urging him not to reverse years of precedent involving women fleeing abuse and terror.

But **veteran immigration judges are not optimistic**. Sessions "just wants more people to be removed," said Paul W. Schmidt, a retired immigration judge from Virginia and an outspoken critic of the attorney general. "He will make it a lot harder for Central Americans to get asylum."

### No Solvency – Trump Circumvents

#### Trump circumvents – his exclusionary rhetoric influences CBP agents

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

U.S. Customs and Border Protection officers have turned away many asylum seekers at the U.S. southern border, blocking them from access to asylum by refusing to process their protection requests in violation of U.S. law and treaty obligations. As detailed by Human Rights First in a report issued in 2017:

Numerous attorneys, non-profit and private legal service providers, humanitarian workers, and shelter staff reported that CBP and Mexican officials have told migrants that the United States is no longer accepting asylum claims at its borders.

One asylum seeker reported that a CBP agent told him, “Trump says we don’t have to let you in,” and another that he was told “[Christians] are the people we are giving asylum to, not people like you.”

Asylum seekers turned away by CBP agents, including Cubans and Central Americans, have been kidnapped, raped, and robbed upon return to Mexico, and some face continued risk of persecution.

CBP’s practice of turning away asylum seekers from established ports of entry leaves some with little choice but to attempt unauthorized and dangerous border crossings.

#### Trump circumvents the plan – increases criminal prosecutions for asylum seekers

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

Over the last year the Trump Administration has directed—and the Departments of Homeland Security and Justice are implementing—a barrage of policies and practices that punish those who seek U.S. refugee protection. The president’s January 25 executive order, and subsequent instructions from the attorney general and secretary of homeland security, directed CBP and DOJ to expand criminal prosecutions for migration violations. In the wake of these directions, CBP is sending people who do cross the border in search of refugee protection to be criminally prosecuted for “illegal entry” and “illegal re-entry” in violation of U.S. legal obligations under Article 31 of the Refugee Convention and its Protocol, and DOJ is conducting those prosecutions regardless of the defendants expressed fears of persecution.

As Human Rights First detailed in a January 2018 report:

Criminal prosecutions of vulnerable migrants and asylum seekers are increasing. Asylum seekers make up a significant portion of cases prosecuted for illegal entry or illegal reentry. In a survey, forty-eight percent of defense attorneys who practice along the southern border said that more than half of their clients are asylum seekers.

In some cases, CBP is separating children from their parents and then sending the parents to be criminally prosecuted. For example, the Houston Chronicle reported that CBP officers referred a mother and father fleeing political persecution in Venezuela for criminal prosecution for illegal entry and separated them from their fifteen-year-old daughter, who was sent into federal foster custody.

Some plea agreements force asylum seekers to forego their claims for refugee protection, violating not only Article 31 of the Refugee Convention, but also Article 33’s prohibitions against return to countries of persecution. For instance, not only was a Mexican seeking protection from persecution due to his sexual orientation referred for criminal prosecution by CBP, but DOJ told his lawyers it would increase its recommended criminal sentence if he refused to waive his right to seek asylum.

Criminal prosecutions thwart access to asylum, sending asylum seekers back to countries where they face persecution, in violation of treaty obligations. Numerous defense and immigration attorneys, as well as humanitarian organizations, reported instances when ICE and CBP failed to refer asylum seekers for credible fear interviews even after they completed their criminal sentence.

During Human Rights First court observations of over 700 cases, no CBP agents, DOJ prosecutors, or federal judges showed deference to the prohibition, under Article 31 of the Refugee Convention, on penalizing asylum seekers for illegal entry— even though DHS’s Office of Inspector General (OIG) raised a concern about DHS referring asylum seekers for prosecution in a 2015 report.

#### Trump administration initiatives undermine solvency – increase incarceration and decrease access to due process

**Werner, Southern Poverty Law Center, immigrant justice initiative, supervising attorney, 2018**

(Dan, 4-11-2018, Southern Poverty Law Center, “SPLC: Trump administration should help, not hinder detained immigrants’ access to legal information”, [https://www.splcenter.org/news/2018/04/11/splc-trump-administration-should-help-not-hinder-detained-immigrants’-access-legal](https://www.splcenter.org/news/2018/04/11/splc-trump-administration-should-help-not-hinder-detained-immigrants'-access-legal), accessed 7/13/18, GDI-JG)

The U.S. Department of Justice’s (DOJ’s) decision to halt a program that provides legal information to detained immigrants is just the latest attempt by the Trump administration to ramp up a draconian immigration enforcement regime and expand the mass incarceration of immigrants.

Though not a substitute for legal representation, legal orientation programs help to demystify murky and complex immigration laws. These programs have helped thousands of immigrants understand their rights and their eligibility, if any, for immigration relief.

It comes as no surprise that Trump has called for this. His immigration agenda is driven not by facts, but by the rhetoric of hate and fear. During his campaign, Trump described Mexican immigrants as “criminals” and “rapists.” Since taking office, he has described African nations and Haiti as “shithole countries,” and has said that the U.S. “should have more people from Norway.”

Trump has appointed individuals such as Attorney General Jeff Sessions and CIA Director Mike Pompeo, who maintain cozy relationships with America’s anti-immigrant movement. To make matters worse, Sessions has imposed a quota on immigration judges, pushing them to quickly clear 700 cases a year in order to receive a “satisfactory” rating, which will further subvert due process rights as judges place speed above accuracy and their own job security ahead of justice.

Even before the quotas were announced, U.S. Immigration and Customs Enforcement (ICE) was already violating immigrants’ due process rights by imposing barriers that prevent them from meeting with their attorneys or sitting with their attorneys when they appear in court. And many immigration judges, who are DOJ employees, intentionally intimidate detained immigrants and their family members and block language access for immigrants who have limited English proficiency, among other abuses.

### No Solvency – Trump and Sessions Circumvent

#### Trump and Sessions circumvent – encourage judges to deny hearings and due process

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

The Trump Administration is breaking with this proud tradition. Its rhetoric and actions are leading the United States to turn away, deny protection to, and punish refugees in violation of U.S. treaty obligations and American ideals. While its cutbacks to resettlement and its bans on refugees from majority-Muslim nations have received the most attention, **the administration is also targeting asylum.**

Refugees seeking asylum have been illegally turned away at U.S. borders, denied release from immigration jails even when they do not warrant continued detention, and criminally prosecuted for “illegal” entry despite U.S. treaty prohibitions on penalizing refugees. **Other Trump Administration actions undermine due process and fair asylum adjudications.**

Attorney General Jeff Sessions, for example, has taken steps to encourage immigration judges to deprive asylum seekers of asylum hearings and to potentially deny protection to some refugees—**including women who have suffered domestic violence.**

Spewing rhetoric that falsely paints asylum seekers as frauds, security threats, and dangerous criminals, administration officials tout extreme changes to U.S. laws as the answer to manufactured dangers and demand these changes as the price for legislation to help the Dreamers. Anti-refugee and anti-asylum rhetoric— often coming from political appointees heading the very agencies that adjudicate asylum claims— **sends a signal that agency leaders are attempting to influence adjudicators’ asylum decisions.**

#### Trump and Sessions undermine logistics for asylums – circumvent the plan

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

The U.S. immigration courts, which adjudicate many asylum cases, fall under the jurisdiction of the Department of Justice (DOJ). With Jeff Sessions at the helm at DOJ, **the Trump Administration has taken—and is taking—steps that threaten due process and access to asylum in the U.S. immigration courts.**

President Trump’s January 25, 2017 executive order stated that it was executive branch policy to “expedite” determinations regarding eligibility for individuals taken into immigration custody, raising concerns that **the administration planned to rush immigration court hearings.**

On July 31, 2017, the DOJ’s Executive Office for Immigration Review (EIOR) issued a memorandum discouraging immigration judges from granting adjournments, neglecting to mention the need to allow immigrants sufficient time to seek pro bono representation.

In its October 2017 list of “principles,” the White House revealed plans to impose “performance metrics” or numerical quotas on immigration judges, again raising concerns that **immigration judges may be pressured to rush cases through hearings without adequate time for asylum seekers** and others **to secure counsel or gather evidence**. The National Association of Immigration Judges said the approach constitutes a “huge encroachment on judicial independence.”

In his October 2017 speech at the headquarters of the immigration courts, Attorney General Session appeared to signal to immigration judges that they should deny more cases. Not only did he paint asylum cases as meritless and fraudulent, but he also inaccurately claimed asylum cases are “seldom” denied and said “we can do so much more,” and “you play akey role.”

Changes made by the Justice Department to the immigration judge hiring process raise concerns about safeguards against politicized hiring. Career immigration officials appear to have been removed from near-final immigration judge hiring panels.

In late 2017 and early 2018, the Trump Administration and its Congressional allies supported legislative proposals that would bar federal funding for legal counsel and curtail immigration court adjournments that are often necessary to allow asylum seekers and other representation. **Without legal representation**, immigrants to secure pro bono legal **only one out of every ten asylum seekers win their cases.** With counsel, nearly half succeed.

In March 2018, th**e Attorney General used his authority to** “certify” to himself, and potentially **overturn, several decisions of the Board of Immigration Appeals in ways that threaten due process and access to asylum**. In one case, Sessions encouraged immigration judges to deny applications for asylum without a hearing if they find that a written asylum submission does not evince prima facie eligibility for asylum. Such an approach would make a farce of due process. Many asylum seekers do not speak English, are unable to secure legal representation, and are not lawyers who can be expected to know which of the many facts relating to their histories of persecution are most relevant to highly complex U.S. legal standards regarding asylum eligibility.

In another case, Sessions certified a case to himself to issue a ruling on a question that he described as whether “being a victim of private criminal activity constitutes a cognizable ‘particular social group’’’ for purposes of asylum eligibility. Human Rights First and other groups immediately wrote to Sessions to complain about the DOJ’s failure to provide information necessary to allow potential amici to address the issues. Session’s certification in this case raises serious concerns that he may be seeking to block domestic violence survivors as well as other categories of refugees from U.S. asylum.

### No Solvency – Trump and USCIS

#### Trump rhetoric and USCIS processing changes hamper asylum seekers

**Human Rights First, non-profit, nonpartisan international human rights organization, 2018**

(Human Rights First, 3-19-2018, “Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum”, <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>, accessed 7/13/18, GDI-JG)

Asylum applications filed “affirmatively” with USCIS are adjudicated by trained asylum officers within USCIS, a component of DHS. The drumbeat of anti-refugee and anti-asylum rhetoric and policy announcements by administration officials— including those who head the agencies entrusted with adjudicating asylum applications—**sends a troubling signal to adjudicators.**

Over the last year, and in the midst of the Trump Administration’s anti-refugee and anti-asylum rhetoric, USCIS asylum approval rates have plummeted, and processing changes have raised concerns that some asylum adjudications may be rushed, while others will be delayed for years while refugee families face grave risks.

The asylum approval rate fell from 43.9 percent for calendar year 2016, down to 32.5 percent for calendar year 2017, a drop of 26 percent.

The asylum approval rate has, in addition, fallen sharply during the first year of the Trump administration—from 41 percent in January 2017 down to 26 to 28 percent during October through December 2017.

The sharp decline in asylum grant rates is particularly troubling given that many of those seeking U.S. protection have fled in response to a major regional refugee crisis. As the UN Refugee Agency has documented, the women and children fleeing Central America are in need of international protection.

**Other USCIS processing changes may overload adjudicators with too many cases, rush cases through adjudication, and leave others in limbo for years.**

For example, on January 31, 2018, USCIS announced asylum processing changes that prioritize the adjudication of new asylum applications, leaving earlier applications to wait years more, without including sufficient safeguards to assure timely adjudication of earlier applications in cases where children are stranded at risk abroad or where refugees face other urgent hardships.

Consistent with the Trump Administration’s talking points, USCIS’s announcement of this processing change cited the number of asylum applications as though it was evidence of fraud, ignoring the regional refugee crises chiefly responsible for increased filings. USCIS also failed to mention DHS’s decision in 2014 to expand its use of expedited removal against families seeking asylum along the southern border, a move that triggered the growth of the asylum office backlog by diverting asylum officers to conduct credible fear interviews, the protection component of expedited removal.

## Asylum K

### Link – Ignores Experiences of Women from 3rd World Countries

#### Turn- the aff doesn’t account for the differing experiences of women from 3rd world countries and means they can’t solve- ensures continuing gendered violence and obscures destruction of western hegemony.

Razack, Postcolonial feminist scholar, author, and activist, 1995

[Sherene, Canadian Journal of Women and the Law, “Domestic Violence as Gender Persecution: Policing the Borders of Nation, Race, and Gender,” Volume: 8, page 48, KC]

Precisely because of the overall significance of recognizing gender-based persecution, it is important to track how the idea of gender-based harm becomes visible within the racial text of the refugee hearing. I want to explore in this paper how gender persecution, as it is deployed in refugee discourse, can function as a deeply racialized concept in that it requires that Third World women speak of their realities of sexual violence at the expense of their realities as colonized peoples. It can therefore further First World interests by obscuring Western hegemony and its destructive impact on the Third World. More important, when the histories of imperialism, colonialism, and racism are left out of sexual violence, we are unable to see how these systems of domination produce and maintain violence against women. The focus on women in relation to men at a refugee hearing takes women out of their communities in ways that make it difficult to trace their persecution; that is, to evaluate an individual woman's chances for survival within her community when she flees from domestic violence. Emphatically I state at the outset that in recognising the limits of how gender persecution is utilized in law, I do not suggest that we abandon it. Instead, I want to explore ways in which we might talk about women and the violence they experience in their communities, about interlocking systems of oppression, and specifically, about the ways in which there is First World complicity in both the sexual and racial persecution of Third World women. We must talk about First World complicity if the lives of refugees are to make any sense to us as Western feminists; that is, if we are to make any sense of the interlocking systems of oppression that produce refugees. By complicity, I mean the West's implication in the contemporary patterns of global economic exploitation and the political contexts that produce the world's refugees. From imperialism and colonialism to neo-colonial dominance, the West is thoroughly implicated in the production of the world's refugees.

## Gender Adv Turns

### Excludes Discussion of LGBTQ Folks

#### LGBTQ individuals have a uniquely difficult time discussing and receiving support for intimate partner violence due to existing stigmas and stereotypes, an issue which the aff’s essentializing understanding of intimate partner violence ignores – turns gender violence advantage - LGBTQ individuals experience specific sorts of abusive behaviors which are not accounted for by the aff

Ristock, University of Manitoba Women’s and Gender Studies Program Provost and Vice-President, 2005

[Janice, July 2005, Violence Against Women Online Resources, “Relationship Violence in Lesbian/Gay/ Bisexual/Transgender/Queer [LGBTQ] Communities: Moving Beyond a Gender-Based Framework”, p. 4-5,<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.7282&rep=rep1&type=pdf>, accessed 7-13-18, DMH]

Although many of the tactics used in abusive relationships are the same as those used in abusive heterosexual relationships, there are some specific abusive behaviors that reflect the larger context of homophobia, biphobia, transphobia, and heterosexism surrounding lgbtq relationships. These 4 behaviors include threats to reveal the sexual or gender identity of a partner to one's boss, landlord, or family member; threats to jeopardize custody of children because of a person's sexual or gender identity; threats to jeopardize immigration because of sexual orientation, and/or threats to reveal the HIV/AIDS status of a partner. The above are examples of abusive tactics that are specific to lgbtq relationship violence (Cruz, 2003; Renzetti, 2001). A person who is acting abusively and who wishes to control the thoughts and actions of their intimate partner may try using these types of threats precisely because they are particularly effective in a society that does not fully support the rights of lgbtq people. Further, both survivors and perpetrators of lgbtq violence can be isolated from the wider, yet marginalized lgbtq communities. Many lgbtq survivors feel a great deal of shame and self-blame for being in an abusive relationship. People who are known to have been in abusive relationships may also be ostracized by members of lgbtq communities, which can lead to a loss of support that may negatively affect long-term recovery.

#### LGBTQ immigrants in particular have a difficult time escaping abusive relationships due to the fear-inducing combination of homophobia and racism – the aff ignores this

Ristock, University of Manitoba Women’s and Gender Studies Program Provost and Vice-President, 2005

[Janice, July 2005, Violence Against Women Online Resources, “Relationship Violence in Lesbian/Gay/ Bisexual/Transgender/Queer [LGBTQ] Communities: Moving Beyond a Gender-Based Framework”, p. 8,<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.7282&rep=rep1&type=pdf>, accessed 7-13-18, DMH]

A few studies suggest that for recent immigrants, facing cultural barriers and anti-immigrant attitudes can create social isolation that can contribute to domestic violence and make it very difficult for a victim to leave a relationship or find supportive services. As well, being from a small marginalized ethno-cultural community can create feelings of social vulnerability. Two lgbtq people in a relationship from the same cultural background may be the only support that they each have in their new country. Perpetrators can use this context to further threaten and control their partner while victims may feel that they must not betray their partners, or bring shame to their families, and therefore endure the abuse (Chung &Lee, 1999; Balsam, 2001). Further, an abusive partner who is a citizen or who is a legal permanent resident may use their partner's immigrant status, limited English, and/ or lack of knowledge of the legal system against them by threatening to have them deported or by leading them to believe they could be arrested or lose custody of their children if their same-gender relationship was revealed. Another related tactic is using someone's racial or cultural background to make the person being victimized feel inferior and/or using white privilege as a way for the abusive partner to feel "superior."

#### Transgender individuals confront higher rates of domestic violence but are often unable to access necessary crisis services due to transphobia - the aff doesn’t address thisSeelman, School of Social Work, Georgia State University, 15[Kristie, Social Work Faculty Publication, “Unequal Treatment of Transgender Individuals in Domestic Violence and Rape Crisis Programs,”, p. 10-12,<https://scholarworks.gsu.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1060&context=ssw_facpub>, 7/13/18, DMH]Despite evidence that transgender and gender non-conforming people likely have greater risks for experiencing domestic violence and sexual assault compared to the general U.S. population, transgender and gender non-conforming people often face significant challenges in trying to access domestic violence and rape crisis programs. One of the barriers is a lack of transgender competence among staff. In a national study of 648 service providers from a variety of social services and law enforcement settings (National Center for Victims of Crime & NCAVP, 2010), participants reported that their organizations did not ensure LGBT cultural competence among staff, were not adequately partnering with LGBT-focused providers, and did not have enough resources to address these disparities in competence. Among those in the sample recruited by the National Center for Victims of Crime, 51.3% said more training was needed in order to effectively help transgender clients; among those recruited by NCAVP, 93.3% said such training was needed (National Center for Victims of Crime & NCAVP, 2010). In a study of 54 IPV providers in Los Angeles (Ford, Slavin, Hilton, & Holt, 2013), about half said they were “at best, only minimally prepared” to serve FTM and MTF transgender clients. Among those working at IPV organizations not specific to LGBT clients, 22.6% of respondents had not received any training at their current agency related to serving LGBT survivors of IPV (Ford et al., 2013). Other problems occurring at an institutional level include a lack of funds and personnel for specifically offering services to transgender clients and a “one-size-fits-all” approach to services that ignores the unique needs of transgender survivors of domestic violence (National Center for Victims of Crime & NCAVP, 2010). In domestic violence shelters in particular, women-only services and spaces are often formed in an effort to comfort cisgender women, but can end up excluding and causing further harm to transgender survivors of violence (Greenberg, 2012). Reports from multiple community organizations suggest that trans people are frequently encountering mainstream service providers who rely on heteronormative and cissexist beliefs that are used to deny transgender survivors access to shelters and programs (GLBT Domestic Violence Coalition & Jane Doe Inc., 2005; NCAVP, 2013). In a study of MTF trans adults of color in San Francisco (Nemoto et al., 2005) 29% of those needing access to rape crisis services were unable to access them. In a report compiled about a public hearing in Massachusetts that studied the experiences of GLBT survivors of domestic violence (GLBT Domestic Violence Coalition & Jane Doe Inc., 2005), both institutional and individual discrimination based on gender identity were occurring. Additionally, using domestic violence services sometimes caused further harm for clients, such as when providers blamed the abuse on a client’s gender identity, used incorrect pronouns, asked inappropriate questions about a client’s body/genitals, “outed” clients to their families, or told them they should go back into the closet (GLBT Domestic Violence Coalition & Jane Doe Inc., 2005). Such experiences of discrimination, victim blaming, and rejection by service providers are reasons why intimate partner violence is likely underreported among LGBTQ people (National Center for Victims of Crime & NCAVP, 2010). While the existing knowledge base indicates significant need in terms of transcompetency for staff working in domestic violence shelters and rape crisis centers and a high risk for discrimination among transgender clients, most of these studies use regional convenience samples and qualitative or anecdotal approaches that make it difficult to generalize across the U.S. Additionally, a number of studies examine GLBT issues more broadly, rather than an exclusive focus on transgender people. There is a need for national studies that utilize a large sample of transgender and gender non-conforming people to look at these issues.

### Term “Domestic Violence” = Problematic

#### The aff’s use of the term “domestic violence” is rooted in a heteronormative understanding of relationship violence which excludes the experiences of LGBTQ individuals

Ristock, University of Manitoba Women’s and Gender Studies Program Provost and Vice-President, 2005

[Janice, July 2005, Violence Against Women Online Resources, “Relationship Violence in Lesbian/Gay/ Bisexual/Transgender/Queer [LGBTQ] Communities: Moving Beyond a Gender-Based Framework”, p. 3,<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.7282&rep=rep1&type=pdf>, accessed 7-13-18, DMH]

Violence in lgbtq relationships may be referred to as partner violence, relationship violence, or same-sex/same-gender domestic violence. The term "domestic violence," however, has been most strongly associated with heterosexual relationships and assumes certain gendered roles (male batterers, female victims); therefore it can work against acknowledging violence that occurs in samesex/same-gender relationships. It is a term that some members of lgbtq communities cannot relate to because of these assumptions (see for example Chung &Lee, 1999). However, some researchers and lgbtq groups continue to use the term "domestic violence" in order to draw parallels to and make comparisons with heterosexual domestic violence.

# Court Clog DA

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### Uniqueness – Backlog Manageable Now – Judge Hiring

#### The immigration courts are clogged, but proposals such as rehiring retired immigration courts judges to fix the backlog are coming now.

Sanchez, Mercury News Race and Demographics Reporter, 7/13/18

[Tatiana, July 13th, 2018, Mercury News, “As immigration courts battle record backlog, retired Bay Area judges offer solution,” https://www.mercurynews.com/2018/07/13/retired-bay-area-judges-look-to-help-with-immigration-court-backlog/, 7/14/18, KC]

Spurred into action by the country’s overwhelming immigration court backlog, two retired Bay Area federal judges have asked Attorney General Jeff Sessions to appoint retired judges to help clear the more than 700,000 open immigration cases in the United States.

In a letter sent Thursday to Sessions and Executive Office for Immigration Review Director James McHenry, retired U.S. District Court judges Marilyn Hall Patel and Lowell Jensen urged the pair to use this “considerable resource” to alleviate the “crushing burden of pending and new cases.”

“We are aware that at this time there are extraordinary burdens and backlogs faced every day by the country’s immigration judges, particularly along the southern border,” the letter said. “We believe retired federal judges are a valuable untapped resource who could be called into service to assist in handling the immigration caseload fairly and efficiently.”

The backlog of immigration cases — which includes deportation hearings and asylum claims — increased by almost one-third under the Trump administration, with 171,656 cases added since the president took office, according to a June report by the Transactional Records Access Clearinghouse, or TRAC, at Syracuse University. The number of cases awaiting decision reached an all-time high of 714,067 at the end of May, TRAC data shows. The group analyzes and publishes data it collects on the activities of the U.S. federal government.

That number is likely to grow, as thousands of undocumented immigrants have been seeking asylum at the U.S.-Mexico border with their children in recent weeks. Decisions on granting asylum or another type of relief now take more than twice as long as removal decisions, according to TRAC data. Relief decisions this year on average took 1,064 days — up 17 percent — from last year.

Patel said long immigration backlogs are harmful to the cases themselves because it means judges are spread so thin that they don’t have sufficient time to devote to each case, no matter how complex.

“It means that not enough time is given to each case that is required,” she said. “That’s the problem. You can’t handle these things in-and-out.”

The Department of Justice’s Executive Office for Immigration Review, which oversees U.S. immigration court, declined to comment on Patel’s letter Thursday because the agency hasn’t received it yet but said it’s in the process of hiring more judges. There are currently 332 immigration judges nationwide, up from 273 in September 2016, according to spokeswoman Kathryn Mattingly.

In March, Trump signed a spending bill allocating an additional 100 immigration judge positions.

The efforts are part of the Trump administration’s push to slash the backlog in immigration cases in half by 2020. Aside from hiring more judges, the Department of Justice plans to use new technology — such as videoconferencing — and increase judge productivity by setting case-completion quotas, according to a 2017 Washington Post report. The agency also planned to tap retired judges to fill in on days when certain courts would be empty, the report said.

This week, Operation Streamline — a controversial federal program that orchestrates expedited deportation hearings for undocumented border crossers — arrived in California.

Patel, who retired in 2012, said retired judges are the best fit because they’ve already been vetted and have the security clearance and experience to take on the cases.

“The attorney general has the authority to appoint immigration judges,” she said. “Why not appoint some of the retired federal judges for a limited period of time to clear out this backlog?”

Patel was nominated to the U.S. District Court for the Northern District of California by President Jimmy Carter in 1980, becoming the first woman judge in the history of the district. She served as chief judge of the district between 1997–2004 — also the first woman to hold that post.

In one of her most notable civil rights cases, Patel in 1983 overturned Japanese-American Fred Korematsu’s criminal conviction for disobeying government orders to leave his Bay Area home and enter an internment camp during World War II.

Jensen, who also spent decades on the bench, was a deputy U.S. attorney general during the Reagan administration in the 1980s and a former Alameda County District Attorney. He retired in 2014

### Uniqueness and Link – Backlog Manageable Now – Sessions Decision Key

#### Uniqueness and Link: High backlog now because of domestic violence claims—Sessions decision and policies solved

Rose, National Desk Correspondent at NPR, 2018

[Joel, 03/12/2018, WAMU, “Trump Administration Moves To Reshape Who Qualifies For Asylum,”<https://wamu.org/story/18/03/12/attorney-general-sessions-reshapes-who-qualifies-for-asylum/>, accessed 07/13/2018, AMS]

To Attorney General Sessions, the outrage is that immigrants are gumming up the courts with false claims.

“The system is being gamed, there’s no doubt about it,” Sessions said in October of last year, in [a speech to the Executive Office for Immigration Review](https://www.c-span.org/video/?435666-1/attorney-general-urges-congress-crack-broken-asylum-policies) in Virginia. Back then, he was asking Congress to tighten asylum rules. Last week, he acted on this own.

In one case, the attorney general vacated a precedent-setting ruling that said most asylum seekers have a right to a hearing in front of a judge before their claim could be rejected. In a second case, Sessions is reviewing whether victims of “private crime” should qualify for asylum.

These moves come as no surprise to anyone who’s followed Sessions’s positions on immigration and asylum.

“We can close loopholes and clarify our asylum laws to ensure that they help those they were intended to help,” Sessions said in his October speech. “As this system becomes overloaded with fake claims, it cannot deal effectively with just claims.”

Immigration courts do face a huge backlog — upwards of 600,000 cases, more than triple the number in 2009.

One factor driving that growing backlog is constant stream of women and children from Central America. Many of these migrants claim they’re eligible for asylum because they’ve been the victims of gangs, or domestic violence, in their home countries.

But some, like former immigration judge Andrew Arthur, are skeptical about this kind of claim.

“It’s actually become sort of a catchall for truly inventive lawyers,” said Arthur, who is now a fellow at the Center for Immigration studies, which advocates for lower levels of immigration.

Immigration courts work differently than regular courts. They’re part of the Justice Department, so the attorney general has the power to personally overturn decisions by immigration courts.

Arthur, the former immigration judge, applauds the recent moves by Sessions. “One, it is going to streamline the system,” Arthur said. “Two, it’s going to cut down on the number of claims that are inevitably going to be found to be invalid.”

#### Session’s decision is key to reduce the backlog of asylum claims

Re, editor for Fox News, Associated Press, 06/11/2018

[Gregg, 06/11/2018, Fox News, “Sessions limits asylum claims, citing federal law, widespread fraud, 'unacceptable' backlog of cases,”<http://www.foxnews.com/politics/2018/06/11/sessions-limits-asylum-claims-citing-federal-law-widespread-fraud-unacceptable-backlog-cases.html>, accessed 07/13/2018, AMS]

But, not all forms of persecution are relevant for asylum consideration. Under federal law, applicants must demonstrate that their risk for persecution is based on their national origin, race, religion, political views or membership in a particularly vulnerable social class -- a category that was expanded in 2014, when the BIA ruled that domestic abuse could form the basis for an asylum claim.

Declaring that his decision "restores sound principles of asylum and long-standing principles of immigration law," Sessions indicated that the move would help reduce the [backlog of asylum claims](https://www.wola.org/analysis/fact-sheet-united-states-immigration-central-american-asylum-seekers/) that has risen sharply in recent years -- with many of the claims illegitimate.

"The vast majority of the current asylum claims are not valid," Sessions said in remarks Monday. "For the last five years, only 20 percent of claims have been found to be meritorious after a hearing before an immigration judge."

Sessions added that the system is simply overwhelmed with claims, and that bogus applications are crowding out legitimate ones.

"In 2009, DHS conducted more than 5,000 credible fear reviews," he said. "By 2016, only seven years later, that number had increased to 94,000. The number of these aliens placed in immigration court proceedings went from fewer than 4,000 to more than 73,000 by 2016."

But Manhattan District Attorney Cyrus Vance, Jr. sharply rebuked Sessions in a statement Monday, saying his decision to "block tens of thousands of asylees from seeking refuge in our nation represents another triumph of ideology over morality – one that sets back the global fight against domestic violence and sex trafficking, and America’s standing in the world.”

Sessions' move was widely expected after he announced his decision to intervene in the case three months ago. He and other top White House officials have said repeatedly in recent months that the asylum process has been dysfunctional.

Senior White House adviser Stephen Miller charged in May that the immigration system, including the asylum process, has been "completely shattered" in recent years, and that finding legitimate asylum cases is like spotting "a needle in a haystack."

### Internal link + Impact (Read all of these)

#### Immigration court backlogs undermine U.S human rights obligations

Drake 16, (B. Shaw Drake, law degree, his work includes connecting Human Rights First’s extensive pro-bono representation program to advocacy efforts affecting Human Rights First clients, Human Rights First, April 2016, <https://www.gcir.org/sites/default/files/resources/HRF-In-The-Balance_Backlogs%20Delay%20Protection%20in%20the%20US%20Asylum%20and%20Immigration%20Court%20Systems.pdf>)

Article 14 (1) of the Universal Declaration of Human Rights states, “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”141 The cornerstone of the refugee protection regime is the principle of “nonrefoulement,” which prohibits the return of refugees to persecution. This obligation is contained in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The United States is a party to the Protocol and has committed to comply with the Convention’s protections for refugees.142 UNHCR has stated that asylum applications should be processed in a timely manner, condemning nations that do not have a just and efficient asylum processing system.143 The International Covenant on Civil and Political Rights (ICCPR), which the United States has signed and ratified, preserves the right of access to the court in Article 14. The United Nations Human Rights Committee (HRC), established to monitor implementation of the ICCPR, says, “an asylum seeker must be allowed sufficient time to lodge their claim and conversely access to asylum procedures must be granted within a reasonable time.”144 Relatedly, the committee also states, “An important aspect of the fairness of a hearing is its expeditiousness.”145 Applying the importance of expeditiousness to civil proceedings, which encompass civil immigration matters, the committee says, “delays in civil proceedings that cannot be justified by the complexity of the case or the behavior of the parties detract from the principle of a fair hearing.”146 It further clarified that where “delays [in civil cases] are caused by a lack of resources and chronic under-funding, to the extent possible supplementary budgetary resources should be allocated for the administration of justice.”147 The application of these principles is illustrated by the committee’s 2003 review of Russia, when it concluded that the two-year delays in asylum adjudications were of particular concern.148 Other countries that receive high numbers of asylum seekers have time limits to adjudicate claims. In 2013, the European Parliament and the Council of the European Union issued a directive of common procedures for granting and withdrawing international protection.149 Member states were instructed to “ensure that examination procedures are concluded within six months of the lodging of the application.”150 Under limited circumstances, the state is allowed to extend the processing time to “a period not exceeding a further nine months.”151 Furthermore, the directive sets an absolute maximum limit for adjudication of 21 months from the lodging of the application.152 U.S. asylum law developed from international law instruments, primarily the 1967 Protocol which the United States embraced in 1968. To fulfill its international obligations under the 1967 Protocol, Congress enacted the Refugee Act of 1980, which incorporated key provisions of the Refugee Convention into the Immigration and Nationality Act. Importantly, the Refugee Act incorporated the refugee definition from the Convention and established uniform procedures for the treatment of asylum claims in the United States.153 U.S. law provides two indications of time limitations on the initial adjudications of asylum claims. First, initial interviews or hearings on asylum applications “shall commence no later than 45 days after the date an application is filed,” in the absence of exceptional circumstances.154 Statute also dictates that in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed.”155 According to the U.S. Government Accountability Office (GAO), as of September 2015, 61 percent of the over 100,000 pending applications at the asylum office have exceeded the 180-day requirement.156 From 2010 to 2014 the number of affirmative asylum applications adjudicated past the 180-day requirement nearly doubled.157 For asylum cases adjudicated before the immigration courts, there is no statutorily imposed timeline. However, constitutional due process rights may demand the need for additional resources for the immigration courts, such that cases can be afforded adequate consideration by judges with caseloads that allow for fair and meaningful adjudication. The Immigration and Nationality Act includes a guarantee that “the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien’s own behalf, and to crossexamine witnesses presented by the Government.”158 The Seventh Circuit indicates that immigration court procedures “must satisfy currently prevailing notions of fairness.”159 That court has also characterized the due process rights of immigrants to include the right to “meaningfully present” evidence in a “meaningful way.”160 Scholars argue that in order for judicial fact-finding to be conducted in a meaningful way, immigration judges must have sufficient time to review documentation and access witnesses. In an interview conducted by Dr. Alicia Triche and published in 2015, Judge Dana Marks, president of the National Association of Immigration Judges, indicated the following: A typical workweek includes 36 hours on the bench and a meager four hours of time spent in chambers. That is four hours to review documentation for every individual case occurring that week—a total that, especially if a law school or large firm is involved, can span hundreds or even thousands of pages.161 Limited time to review complex cases with often life threatening implications leads Judge Marks to characterize immigration court as “death penalty cases in a traffic court setting.”162 Ballooning backlogs cause immigration judges to face a growing number of pending cases, and increased pressure to examine them as expeditiously as possible. The large caseloads threaten the fundamental fairness required by due process. Conclusion Protecting refugees is a core American ideal, central to the country’s identity and history. As the asylum and immigration court systems struggle with large backlogs, those who need America’s protection suffer in a state of perpetual limbo. For thousands of asylum seekers, permanent protection in the United States is key to security and freedom from future persecution—protection now on hold for hundreds of thousands. Uprooted by persecution, asylum seekers in the United States fully expect to struggle as they rebuild their lives. Yet extended delays in their cases make this struggle at times insurmountable. Unable to reunite with their family or work or pursue an education or overcome the trauma of their persecution, asylum seekers must simply subsist for years—their lives hanging in limbo. Continued and strengthened bipartisan support will be essential to secure the vital resources needed to reduce and ultimately eliminate the growing backlogs at the Asylum Division and immigration courts. The human rights of asylum seekers and the very integrity of the United States immigration system are at stake.

#### US human rights violations are modelled globally

HRF 6/27 (Human Rights First, "Top 10 Reasons Family Incarceration is Not a Solution," 6-27-2018, https://www.humanrightsfirst.org/resource/top-10-reasons-family-incarceration-not-solution)//Bennerz

Sets a Bad Example for Countries Hosting Most Refugees: The UN Refugee Agency has documented that families and children fleeing violence in Guatemala, Honduras, and El Salvador have urgent protection needs, reporting a significant increase in numbers fleeing to neighboring countries. If the United States continues using harsh policies, other nations that host many more refugees may follow suit, triggering additional displacement.

#### I-law and HR k2 natural disaster resilience

Ferris, 14 (Elizabeth Ferris, research professor with the Institute for the Study of International Migration at Georgetown University’s School of Foreign Service, nonresident senior fellow in Foreign Policy at the Brookings Institution, senior advisor to the U.N. General Assembly’s Summit for Refugees and Migrants in New York, 4-10-2014, "How Can International Human Rights Law Protect Us from Disasters?," Brookings, https://www.brookings.edu/research/how-can-international-human-rights-law-protect-us-from-disasters/)///PSC

People do not lose their rights when disasters strike. As climate change increases the likelihood that disasters will become both more intense and more unpredictable, it is time for the international human rights community to devote more attention to disasters and on the humanitarian community to incorporate a rights-based approach to disaster management. In the past decade, there has been growing awareness of the relevance of international human rights law to prevention, response and recovery from disasters. In many respects, the 2004 Indian Ocean tsunami marking a turning point in the international community’s perception of disasters. Before the 2004 tsunami, disasters were primarily seen in terms of the need to mobilize rapid humanitarian aid – an area in which logistical expertise was prioritized. After the tsunami, awareness grew that human rights had to be built into all phases of disaster management – prevention or risk reduction, response and recovery. While the Convention on the Protection of Persons with Disabilities is the only human rights treaty to explicitly reference disasters, the applicability of human rights law to disasters is receiving greater attention from both the scholarly community and intergovernmental bodies at the regional and international levels. The International Law Commission is working on Draft Articles on the Protection of persons in the event of disasters and affirms that “[p]ersons affected by disasters are entitled to respect for their human rights.” As Walter Kälin points out, UN treaty bodies are increasingly taking up issues related to disasters in carrying out their monitoring duties. The UN Human Rights Council, for the first time, devoted a special session to human rights issues arising from a natural disaster: the Haitian earthquake of 2010. Presently, the Human Rights Council is engaged in further work on the relationship between the promotion and protection of human rights in post-disaster and post-conflict situations. While there are many entry points to the issue of the relationship between human rights law and disasters, in this short paper, I would like to highlight four different ways that international human rights law is being used to strengthen efforts at prevention, response and recovery from disasters. • The use of legal remedies as a way of holding governments accountable when they fail to prevent or reduce the risk of disasters • The use of international human rights law relating to gender as a way of understanding how gender should be incorporated into all phases of disaster risk management. • The use of primarily ‘soft’ international law as reflected in the Guiding Principles on Internal Displacement, as a way of upholding the rights of those displaced by disasters International human rights law has much to offer those involved in disaster risk management – from governmental policy-makers to local first responders, from international agencies promoting disaster risk reduction to development organizations taking the lead in long-term preventive efforts.

#### Natural disaster leads to extinction – resistance strategies key

Sandberg, 18 (Anders Sandberg, researcher, science debater, futurist, transhumanist and author, Ph.D. in computational neuroscience from Stockholm University, James Martin Research Fellow at the Future of Humanity Institute at Oxford University, Feb 2018, "Human Extinction from Natural Hazard Events," Oxford Research Publications, http://naturalhazardscience.oxfordre.com/view/10.1093/acrefore/9780199389407.001.0001/acrefore-9780199389407-e-293)///PSC

Like any other species, Homo sapiens can potentially go extinct. This risk is an existential risk: a threat to the entire future of the species (and possible descendants). While anthropogenic risks may contribute the most to total extinction risk natural hazard events can plausibly cause extinction. Historically, end-of-the-world scenarios have been popular topics in most cultures. In the early modern period scientific discoveries of changes in the sky, meteors, past catastrophes, evolution and thermodynamics led to the understanding that Homo sapiens was a species among others and vulnerable to extinction. In the 20th century, anthropogenic risks from nuclear war and environmental degradation made extinction risks more salient and an issue of possible policy. Near the end of the century an interdisciplinary field of existential risk studies emerged. Human extinction requires a global hazard that either destroys the ecological niche of the species or harms enough individuals to reduce the population below a minimum viable size. Long-run fertility trends are highly uncertain and could potentially lead to overpopulation or demographic collapse, both contributors to extinction risk. Astronomical extinction risks include damage to the biosphere due to radiation from supernovas or gamma ray bursts, major asteroid or comet impacts, or hypothesized physical phenomena such as stable strange matter or vacuum decay. The most likely extinction pathway would be a disturbance reducing agricultural productivity due to ozone loss, low temperatures, or lack of sunlight over a long period. The return time of extinction-level impacts is reasonably well characterized and on the order of millions of years. Geophysical risks include supervolcanism and climate change that affects global food security. Multiyear periods of low or high temperature can impair agriculture enough to stress or threaten the species. Sufficiently radical environmental changes that lead to direct extinction are unlikely. Pandemics can cause species extinction, although historical human pandemics have merely killed a fraction of the species. Extinction risks are amplified by systemic effects, where multiple risk factors and events conspire to increase vulnerability and eventual damage. Human activity plays an important role in aggravating and mitigating these effects. Estimates from natural extinction rates in other species suggest an overall risk to the species from natural events smaller than 0.15% per century, likely orders of magnitude smaller. However, due to the current situation with an unusually numerous and widely dispersed population the actual probability is hard to estimate. The natural extinction risk is also likely dwarfed by the extinction risk from human activities. Many extinction hazards are at present impossible to prevent or even predict, requiring resilience strategies. Many risks have common pathways that are promising targets for mitigation. Endurance mechanisms against extinction may require creating refuges that can survive the disaster and rebuild. Because of the global public goods and transgenerational nature of extinction risks plus cognitive biases there is a large undersupply of mitigation effort despite strong arguments that it is morally imperative.

## 2NC Link Wall

#### Sessions’ decision unburdening the court now, plan reverses this by overturning his decision – asylum claims too hard to verify, only a few thousand cases

Re, 6/11 (Gregg Re, editor at Fox News, 6-11-2018, "Sessions limits asylum claims, citing federal law, widespread fraud, 'unacceptable' backlog of cases ," Fox News, http://www.foxnews.com/politics/2018/06/11/sessions-limits-asylum-claims-citing-federal-law-widespread-fraud-unacceptable-backlog-cases.html)///PSC

Crimes such as domestic violence and gang-related attacks, as "vile and reprehensible" as they are, don't automatically ensure their victims can obtain asylum in the United States, Attorney General Jeff Sessions told immigration judges Monday. Sessions' announcement, which came after he exercised his authority to intervene and issue a binding ruling in a 2016 Board of Immigration Appeals (BIA) case, provoked immediate backlash from politicians and activists who say that the U.S. must do more to protect vulnerable members of other nations. But Sessions made clear in his ruling that he did not believe the responsibility fell on the U.S. immigration system, echoing the White House's long-standing complaints that the asylum process is overburdened and prone to abuse. "The mere fact that a country may have problems effectively policing certain crimes — such as domestic violence or gang violence — or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim," Sessions wrote. "In reaching these conclusions, I do not minimize the vile abuse that the respondent reported she suffered at the hands of her ex-husband or the harrowing experiences of many other victims of domestic violence around the world," Sessions added. He said his ruling would be binding on immigration judges. SESSIONS SENDS MORE IMMIGRATION JUDGES, PROSECUTORS TO THE BORDER The legal standard for obtaining asylum in the U.S. is strict, and ordinarily requires that people from foreign countries demonstrate they face serious, legitimate risks of persecution by their government if they remain in their homeland. But, not all forms of persecution are relevant for asylum consideration. Under federal law, applicants must demonstrate that their risk for persecution is based on their national origin, race, religion, political views or membership in a particularly vulnerable social class -- a category that was expanded in 2014, when the BIA ruled that domestic abuse could form the basis for an asylum claim. Declaring that his decision "restores sound principles of asylum and long-standing principles of immigration law," Sessions indicated that the move would help reduce the backlog of asylum claims that has risen sharply in recent years -- with many of the claims illegitimate. "The vast majority of the current asylum claims are not valid," Sessions said in remarks Monday. "For the last five years, only 20 percent of claims have been found to be meritorious after a hearing before an immigration judge." Sessions added that the system is simply overwhelmed with claims, and that bogus applications are crowding out legitimate ones. U.S. border inspectors begin to process asylum-seekers from migrant caravan; William La Jeunesse reports from Tijuana, Mexico. "In 2009, DHS conducted more than 5,000 credible fear reviews," he said. "By 2016, only seven years later, that number had increased to 94,000. The number of these aliens placed in immigration court proceedings went from fewer than 4,000 to more than 73,000 by 2016." 1,000 ILLEGAL IMMIGRANTS SENT TO CALIFORNIA FEDERAL PRISON FOR DETENTION But Manhattan District Attorney Cyrus Vance, Jr. sharply rebuked Sessions in a statement Monday, saying his decision to "block tens of thousands of asylees from seeking refuge in our nation represents another triumph of ideology over morality – one that sets back the global fight against domestic violence and sex trafficking, and America’s standing in the world.” Sessions' move was widely expected after he announced his decision to intervene in the case three months ago. He and other top White House officials have said repeatedly in recent months that the asylum process has been dysfunctional. Senior White House adviser Stephen Miller charged in May that the immigration system, including the asylum process, has been "completely shattered" in recent years, and that finding legitimate asylum cases is like spotting "a needle in a haystack." Later Monday evening, U.S. Citizenship and Immigration Services (USCIS) Director L. Francis Cissna told The Associated Press that his office was preparing to look into immigrants who were ordered deported, but later may have cheated the system by obtaining green cards and becoming citizens using fake identities. USCIS is hiring dozens of lawyers and officials to assist in the effort, Cissna said, adding that cases would be referred to the Justice Department and could result in immigrants losing their citizenship or even facing criminal charges. "We finally have a process in place to get to the bottom of all these bad cases and start denaturalizing people who should not have been naturalized in the first place," Cissna said. "What we're looking at, when you boil it all down, is potentially a few thousand cases."

#### Aff asylum claims get evaluated first increasing the time older asylum seekers spend in detainment

Torbati 1/31 (Yeganeh Torbati, Yeganeh Torbati is a Washington, D.C.-based reporter for Reuters, covering the State Department and sanctions issues, received numerous awards including the Gerald Loeb Award, the Overseas Press Club Award, the European Press Prize in Investigative Reporting, the SABEW Best in Business International Investigative Award, and the Deadline Club's Daniel Pearl Award for Investigative Reporting, orted for the Baltimore Sun and interned at the New York Times, and received her bachelor's degree from Yale University, 1-31-2018, "U.S. immigration agency to review newest asylum cases first in bid...," U.S., https://www.reuters.com/article/us-usa-immigration-asylum/u-s-immigration-agency-to-review-newest-asylum-cases-first-in-bid-to-deter-fraud-idUSKBN1FK2Y5)///PSC

Asylum seekers regularly wait five years or more for their cases to be heard, and U.S. Citizenship and Immigration Services had a backlog of 311,000 pending asylum cases as of Jan. 21. This was in part a result of a surge of people in recent years claiming asylum at the U.S. southern border, starting in 2012. The asylum backlog has grown by 1750 percent over the last five years, according to USCIS. The agency will now schedule asylum interviews for more recent applicants ahead of older applications, returning to the system in place until December 2014, when the Obama administration decided to prioritize the oldest cases first. Trump administration officials contend that the years-long waits encourage fraudulent claims. By judging new claims first, officials want to discourage applications by people who have no legitimate claim but hope to take advantage of the backlog to work legally in the United States for a few years while their applications work their way through the system. “Delays in the timely processing of asylum applications are detrimental to legitimate asylum seekers,” said Francis Cissna, the USCIS director, in a statement. “Lingering backlogs can be exploited and used to undermine national security and the integrity of the asylum system.” Immigrant advocates agree that the asylum backlogs harm those seeking protection from persecution or violence abroad but said the Trump administration’s decision would push those people into an even longer wait. “Asylum seekers already waiting in the backlog will be severely disadvantaged - and even be sent wrongfully back to violent life-threatening conditions - because their cases will be further delayed and they will have even more difficulty getting witnesses and evidence to support their claims,” said Greg Chen, director of government relations at the American Immigration Lawyers Association. The Trump administration has sought to change the U.S. immigration system to limit both legal and illegal immigration, arguing that unfettered immigration to the United States presents both a national security and economic risk to the country.

#### SCOTUS ruling puts asylum seekers in private prisons now, plan forces more asylum claims, increases the time immigrants are detained

Rivas, 2/27 (Jorge Rivas, Senior Staff Writer, 2-27-2018, "The Supreme Court's Ruling on Immigrant Detention Is a Huge Win for Private Prisons," Splinter, https://splinternews.com/the-supreme-courts-ruling-on-immigrant-detention-is-a-h-1823367899)

The Supreme Court’s ruling on Tuesday that people in immigrant detention do not have a right to a periodic bond hearing is a major win for the for-profit prison industry, which can continue to be supplied by the federal government with immigrants to fill its empty beds. In its 5–3 opinion Tuesday, the court ruled that undocumented immigrants, asylum seekers, and permanent residents in immigrant detention have no inherent right to a bond hearing—meaning that they could be held indefinitely. The ruling reversed a decision by the Ninth Circuit Court of Appeals, which had ruled that immigrants had a right to a bond hearing every six months. The average daily population of people in immigration custody in 2017 was just over 38,000—with more than 70 percent of immigrants detained in private, for-profit jails. This means that any ruling or policy that prolongs the detention of immigrants is good for the corporations that run the jails. “The Supreme Court has effectively handed private prison companies a victory with this ruling,” said Christina Fialho, co-founder of the immigrant rights group CIVIC, which tracks conditions inside detention centers. (The non-profit group CIVIC has no relation to the private prison corporation CoreCivic.) “It signals to them that they can continue to profit off the misery of immigrants—indefinitely,” Fialho told Splinter via email. Two for-profit prison companies—the GEO Group and CoreCivic (formerly the Corrections Corporation of America) hold 72 percent of privately contracted immigration detention beds, according to a 2015 report from Grassroots Leadership, a non-profit whose mission is to shut down for-profit prison facilities. Both have seen their profits spike under Donald Trump’s presidency. And they could continue to benefit even more: Trump’s 2018 budget plan requested an increase in the number of available immigrant detention beds to over 48,000. ACLU attorney Ahilan Arulanantham, who argued the Supreme Court case, said in a statement that he looks forward to continuing to fight this case in lower courts. In the meantime, immigrants will stay in jails. Taxpayers will continue to foot the bill. And private prison companies will continue to thrive.

#### New asylum claims get processed first, delaying court cases for previously detained immigrants

Kuang, 16 (Jeanne Kuang, journalist, 6-6-2016, "Backlogs in immigration courts keep asylum seekers in limbo for years," chicagotribune, http://www.chicagotribune.com/news/local/breaking/ct-immigration-cases-backlog-met-20160605-story.html)///PSC

Jaime said he had no future in El Salvador because of the rampant gang violence. So he fled to the U.S., like many others, hoping for a better life. But he said he doesn't know whether he has a future here either — and he won't know for years. His asylum case is among more than 20,000 deportation cases pending in Illinois immigration courts, a number almost five times higher than the number of cases a decade ago. This means the average wait time for a hearing date at the Chicago courthouse is now nearly three years. "I have to wait that long to know what's going to happen," Jaime said. "For me (it's) living like, what is going to be my future?" Jaime, 31, who left El Salvador in 2006 to escape the violence and discrimination against gay people, now lives in Evanston and is seeking asylum in the U.S. so he can stay with his American husband, Benjamin, 37. The pair, who asked to be identified only by their first names due to the pending case, said they expected the process to take a year, maybe a little more. Instead, the judge set Jaime's hearing date for April 2018 — over three years away at the time of their initial hearing. Jaime and Benjamin said they try to focus on day-to-day life, but they are constantly reminded of the uncertainty of Jaime's status. Having children, buying a house or even getting a pet doesn't make sense until they know whether Jaime will be able to stay in the U.S. Some citizens face immigration arrests because of weak legal protections, experts say "There's so many up-in-the-airs," Benjamin said. "I wonder, am I going to have a husband to live with me here? … Having that over your head every morning, you don't know." Jaime's attorney, Michael **Jarecki, second vice chairman of the** **A**merican **I**mmigration **L**awyers **A**ssociation's **C**hicago chapter, **said many of his clients,** including Jaime, **have strong cases and could get legal status in the U.S. but are instead "languishing as asylum applicants" due to the backlog in immigration courts**. The number of pending removal cases in the nation's immigration courts has steadily grown over the past 10 years, from about 170,000 in fiscal year 2006 to over 485,000 this fiscal year, according to records analysis by Syracuse University's Transactional Records Access Clearinghouse. About 20 percent of those cases, which are overseen by the Justice Department's Executive Office for Immigration Review, are applications for asylum, in which an immigrant has to prove he is subject to persecution or danger in his home country, according to a recent report published by the nonprofit Human Rights First. Other deportation cases involve defenses such as people who have children who are U.S. citizens or people who are victims of domestic violence. Legal experts say a combination of staffing shortages, a 2014 influx of Central American immigrants — their cases have been prioritized by the immigration review office to move ahead of others— and a global refugee crisis have created a perfect storm. The backlog has stretched out the wait times for immigrants hoping to stay in the country, leaving them in legal limbo for years as they await their day in court. At Chicago's courthouse, **the average case has a wait time of 1,046 days**, according to the Syracuse clearinghouse. "We've been dealing with backlogs here in Chicago for a number of years now, and we've just seen them get increasingly worse," attorney Ashley Huebner said. Huebner manages the National Immigrant Justice Center's Asylum Project, a legal clinic that handles many of Chicago's asylum cases. In Illinois, hearings are held at the main Chicago courthouse and several detention centers statewide. "Our court is basically grinding to a halt at this point," she said. At the end of fiscal year 2011, there were nine immigration judges in Chicago, according to Kathryn Mattingly, an immigration review office spokeswoman. That number had dropped to five by early 2016. A sixth judge was added in April. **Immigrants rush to apply for citizenship in last window before election** At any time, these judges can also be re-assigned from their regular court dockets to hear the cases of people who are being held in detention centers, lengthening the wait for people like Jaime. There are currently 259 immigration judges across the country's 57 courts. In its report, Human Rights First recommended there be a total of 524 judges to ease the backlog. According to the immigration review office, this fiscal year's budget includes funding to hire 55 new immigration judge teams. Immigrants can also apply for asylum through the Department of Homeland Security within a year of entering the country. But according to the Human Rights First report, the backlog in Homeland Security's eight asylum offices has increased fourfold since 2013. In March, interviews at the Chicago office were being scheduled for those who applied for asylum nearly three years ago. In Los Angeles, that office was scheduling interviews for applicants from 2011. The Human Rights report also recommended increasing the number of officers nationally who handle these asylum applications from 533 to over 700. If an applicant is denied asylum by the Homeland Security office, he can then pursue asylum in immigration court. Backlogs in both procedures mean the total wait time could add up to six years or more. "It's a ballooning problem in both systems," said Shaw Drake, principal researcher on the Human Rights First report. In addition to staffing shortages, the prioritization of Central American cases is contributing to delays in other deportation cases. These other cases are being assigned hearing dates several years in the future and are subject to change as the courts process the priority cases. "The vast majority will be rescheduled for another date, earlier or later, depending on docket availability," Mattingly said in a statement. "(The Executive Office for Immigration Review's) response to the evolving situation on the southern border will continue to adapt appropriately." An increase in immigrants applying for citizenship Many permanent residents, motivated by anti-immigrant campaign rhetoric, are hoping to be eligible to vote for the first time. In 2014, the U.S. saw a spike in illegal border crossings by immigrants from Guatemala, El Salvador and Honduras, including many families and over 50,000 unaccompanied minors. Additionally, asylum applications have increased as more people than ever worldwide are leaving their homes to seek safer conditions, fleeing conflict and instability in countries such as Syria, the Central African Republic, Afghanistan and Somalia, according to a United Nations report. Huebner said Chicago's asylum seekers are mainly from Mexico, Central America, and Central and East African countries. "The U.N. has counted the highest number of displaced persons around the world in recent history," Drake said. "It has caused, of course, an increase in the number of people seeking asylum around the world." All these factors have made a difficult process almost overwhelming, immigration attorneys said. "We see this very devastating impact on asylum seekers due to these delays**,**" Huebner said. "It's been a real devastating impact on the family, on the clients' ability to have a stable existence in the United States and a severe impact on their psyche." Although immigrants can get work authorization six months after applying for asylum, many of them have left children or other family members in dangerous situations and can't bring them to the U.S., Huebner said. Applicants won't be deported while their cases are pending, but they also don't have legal status. They can't apply for student loans if they want to pursue higher education or certain certifications for specialized work. "It's a frustrating process, and the emotions are quite high," Jarecki said. "They're not getting closure in their case and they have to think about the torture and harm (they experienced in their home countries), waiting for the day they can explain it in court. It takes its toll." Jaime said he left El Salvador to escape being recruited into a gang. "They want to make you become part of the gangs, and when you don't want to do it is when you pay the price," Jaime said. "All these things about gangs in El Salvador, you feel not safe. You can't go out at night." But the country is doubly dangerous for him because of his sexual orientation, which he hid before coming to the U.S. In El Salvador, Jaime said he saw gay people being beaten and targeted by the gangs. Now that people back home know he has come out of the closet and gotten married to a man, he said he especially fears being sent back. "I think probably if I was still living in El Salvador, I would be hiding," he said. "(In the U.S.) I wasn't afraid to go out and meet people. I never did in my country because of the discrimination." While Jaime awaits his chance to make his case to a judge, Benjamin has applied to sponsor him in the country through their marriage. They hope this will help Jaime get legal status faster. But this process is also lengthy and expensive, they said, and they are still waiting to be scheduled for an interview. "We're blessed we are here in this country where Jaime can come and has the opportunity to seek safety and to seek a better life," Benjamin said. "But the fact that it's going to take so long is just hanging over your head, always on your mind."

## 2NC New Impact

#### Detained immigrants get funneled into private prisons where they are used as free labor

Burnett, 17 (John Burnett, NPR’s Southwest correspondent and reporter, 11-21-2017, "Big Money As Private Immigrant Jails Boom," NPR.org, https://www.npr.org/2017/11/21/565318778/big-money-as-private-immigrant-jails-boom)///PSC

The Trump administration wants to expand its network of immigrant jails. In recent months, Immigration and Customs Enforcement has called for five new detention facilities to be built and operated by private prison corporations across the country. Critics are alarmed at the rising fortunes of an industry that had fallen out of favor with the previous administration. The Joe Corley Detention Facility is a sprawling complex surrounded by shiny concertina wire located in Conroe, Texas — about an hour north of Houston. ICE spends more than $2 billion a year on immigrant detention through private jails like this one. The Corley facility is owned by GEO Group, the nation's largest private prison company. ICE and the U.S. Marshals Service pay GEO $32 million a year to house, feed and provide medical care for a thousand detainees. Between 2013 and 2014, Douglas Menjivar was one of those ICE detainees. Menjivar says he was raped by gang members in his cell, and when he reported it to the medical staff they mocked him. ICE found the rape allegation to be unsubstantiated. His lawyer has filed a federal civil rights complaint. Menjivar also says he was forced to work for a dollar a day. "Lots of things happened to me in Conroe," he says. He is a 42-year-old Salvadoran who entered the country illegally and is charged with violating a prior deportation. He's out now, fighting to get legal status in immigration court. Menjivar has become a bitter critic of immigrant detention centers, which are supposed to be holding facilities for civil matters, not prisons for meting out punishment. The forced labor allegations are part of two class-action lawsuits in federal court. GEO "strongly refutes" these claims and plans to fight them. In an emailed statement, the company says detainee labor is voluntary and immigrant workers are paid a dollar a day because that's the rate set by ICE. GEO also says it provides "culturally responsive services in safe and humane environments," and that all of its facilities comply with national detention standards. Here's GEO's full statement defending its facilities: "GEO has a long history of providing culturally responsive services in safe and humane environments that meet the needs of individuals in the care and custody of federal immigration authorities as confirmed in the U.S. Department of Homeland Security Advisory Council report in 2016 on privately operated ICE facilities. As a matter of long-standing policy, GEO does not take a position on or advocate for or against any immigration policies, such as the basis for an individual's detention or the length of detention." GEO also rebuts the class-action lawsuit filed in Colorado: "GEO has consistently, strongly refuted the allegations made in this lawsuit, and we intend to continue to vigorously defend our company against these baseless claims. The volunteer work program at all immigration facilities as well as the minimum wage rates and standards associated with the program are set by the Federal government under mandated performance-based national detention standards. Our facilities, including the Aurora, Colo. Facility, are highly rated and provide high-quality services in safe, secure, and humane residential environments pursuant to the Federal Government's national standards." But these are just the latest grievances against the business of immigrant incarceration. Human rights groups, including Human Rights First, Human Rights Watch, Detention Watch Network and the Inter-American Commission on Human Rights have compiled reports of medical neglect and deaths in custody. They claim corporations skimp on detainee care in order to maximize profits. "I don't get the impression that the Trump administration has any interest in implementing new detention reforms. If anything it looks like they may be eliminating some safeguards," says Kevin Landy, who was director of the Office of Policy and Planning at ICE for six years. That office tried to reform federal oversight of immigrant jails during the Obama administration. He also advocated for raising the pay rate of a dollar a day, which was set in 1974. "I believe contractors save a lot of money by using detainee labor because they're performing work that would otherwise have to be performed by paid employees," Landy says. That work includes cooking and cleaning the facility. But now, ICE is shutting down Landy's old office and moving the functions elsewhere in the agency. "It is incredibly scary to contemplate the notion that ICE would be removing even the dysfunctional oversight that currently exists," says Carl Takei, senior staff attorney with the American Civil Liberties Union's National Prison Project. At the same time, immigration authorities want to increase detention space. In its latest budget request, ICE has asked for more than 51,000 detainee beds — a 25 percent increase over the last year. It's good business sense to have bed capacity in close proximity to where our operations are. Phillip Miller Immigrant advocates wish the agency would use more alternatives to detention, such as electronic ankle monitors. ICE, however, believes lockups are the surest way to get detainees to show up in immigration court. So ICE is turning once again to the private prison industry. "I think what's driving this is the administration wants to make a point that they're serious about immigration enforcement," says Lauren-Brooke Eisen of the New York University School of Law. She's author of a new book, Inside Private Prisons. "They're going to put their money where their mouths are and I think they're going to invest in more immigrant detention centers," she continues. The two largest private corrections corporations, GEO Group and CoreCivic, each gave $250,000 to Trump's inaugural festivities. The Obama administration took the extraordinary step of phasing out contracts with private prisons that house immigrants convicted of crimes committed in the U.S. The Justice Department found these prisons fall short on safety and security, and are no cheaper than those run by the federal government. Since Trump took office, the Bureau of Prisons has restored those contracts. And ICE is proposing five new private detention centers — in Detroit, Chicago, St. Paul, Salt Lake City and south Texas. Traditionally, ICE has put its jails in border states close to where most people were caught. But immigration agents under Trump have been much more aggressive in the interior. They're psychologically mistreating immigrants. Douglas Menjivar "As we continue to have increased operational control of the border, and the numbers of arrests on the border go down, at the same time our arrests in the interior are going up," says Phillip Miller, deputy executive associate director for ICE Enforcement and Removal Operations. "It's good business sense to have bed capacity in close proximity to where our operations are." The changing arrest pattern is good news for private prison companies. In a third-quarter earnings call last month, a GEO executive indicated that the government's need for additional detention space should benefit company revenues. Back in Conroe, Texas, a second GEO jail is now under construction. That facility will house 1,000 inmates at a cost to taxpayers of at least $44 million per year. "But what they're building is another prison," says Menjivar, the man who was detained there. "For me it's a bad idea. They're psychologically mistreating immigrants."

#### The impact is increased structural violence

Marguiles, 16 (Joseph Margulies, civil rights attorney, professor at Cornell University, August 24, 2016, 11-15-2013, "This Is the Real Reason Private Prisons Should Be Outlawed," Time, http://time.com/4461791/private-prisons-department-of-justice/)

The Department of Justice recently announced it would begin to phase out the use of private prisons for federal inmates. We should cheer, but less for the reasons given than those the DOJ left unsaid. In her memo announcing the change, Deputy Attorney General Sally Yates pointed out that private prisons “compare poorly” to facilities run by the federal Bureau of Prisons. The DOJ found that, in general, private prisons provide fewer correctional services at greater security and safety risk to inmates and staff, without producing substantial savings. These results are related. To achieve their modest savings, private prisons tend to cut back on staff costs and training. More than a decade ago, researchers found that private facilities pay their officers less, provide fewer hours of training and have higher inmate-to-staff ratios, a combination which may account for their much higher turnover rate among correctional officers, as well as the uptick in inmate assaults. This is the conventional critique of private prisons: They do not deliver on their promise of significant savings, and the greater risk far outweighs the small fiscal benefit they provide to those within the walls. But the evidence for this critique is mixed. As the legal scholar Sasha Volokh has pointed out, some studies have shown that public prisons are more cost-effective than their private counterparts, while others suggest the opposite. More importantly, Volokh argues that the private sector can be incentivized to improve—especially compared to the government—and that we should reform the model rather than end the experiment. If we accept the premise that private corporations should run prisons, Volokh’s argument has some force. The real reason we should end the use of private prisons is not the conventional one. The real reason is that justice should not be administered through the prism of profit. As a rule, we disfavor private prosecutors hired by the victim’s family, or judges who get paid when a defendant in her court is convicted but not when he is acquitted. In both cases, the concern is obvious: We mistrust arrangements that might lead actors in the system to stray from their duty to administer justice impartially. The problem with the private prison is analogous, though not identical. The companies that build and run private prisons have a financial interest in the continued growth of mass incarceration. That is why the two major players in this game—the Corrections Corporation of America and the GEO Group—invest heavily in lobbying for punitive criminal justice policies and make hefty contributions to political campaigns that will increase reliance on prisons. From 1999-2010, for instance, the Sentencing Project found that CCA spent on average $1.4 million per year on lobbying at the federal level and employed a yearly average of 70 lobbyists at the state level. In California, where state law requires lobbyists to disclose their contributions in detail, we know that CCA used its resources to support, among other things, additional adult and juvenile prisons and detention centers and to oppose a bill that would have outlawed private prisons entirely. These corporations have every legal right to shower money on friendly legislators. But the fact that they consider it in their interest to do so is exactly what exposes their troubling conflict. Especially today, when the systemic, deeply entrenched, racialized problems with the criminal justice system are increasingly apparent, we should not endorse strategies that encourage the expansion of the carceral state. Regrettably, this was not the explicit message in the DOJ’s announcement. But Yates at least hinted at it. Before pointing out that private prisons “compare poorly” to their public counterparts—that is, before making the conventional critique—Yates noted that the number of federal prisoners has begun to fall, in part because of a shift in law and policy away from incarceration, especially in drug cases. As a philosophical matter, the Obama Administration is trending—albeit haltingly—toward a default preference for non-carceral solutions to crime. The best evidence strongly supports their preference. The endless churning of the incarceration cycle—the thousands of young men and women repeatedly removed from their neighborhoods, returned and removed again—systematically destabilizes the very communities we are trying to save by disrupting the intricate but fragile webs of connection that hold them together. In fact, research has shown that high incarceration rates of the sort we have seen since the 1980s not only destabilize disadvantaged communities; they actually increase the incidence of crime. That is why former Attorney General Eric Holder recently argued that as a nation, we should aspire to send fewer people to prison for shorter periods. This is precisely the opposite of what the private prison industry wants. While you can perhaps incentivize it to improve, you cannot incentivize a private corporation to go out of business. As long as we have private prisons, their corporate leadership will support policies that fill every bed. There are roughly 115,000 people incarcerated in private prisons: 25,000 in the federal system and 90,000 in the states. A corporation’s bottom line should not determine their fate. The DOJ has done what it could. It is time for the states to follow the lead.