



Threats to Asylum at the Border

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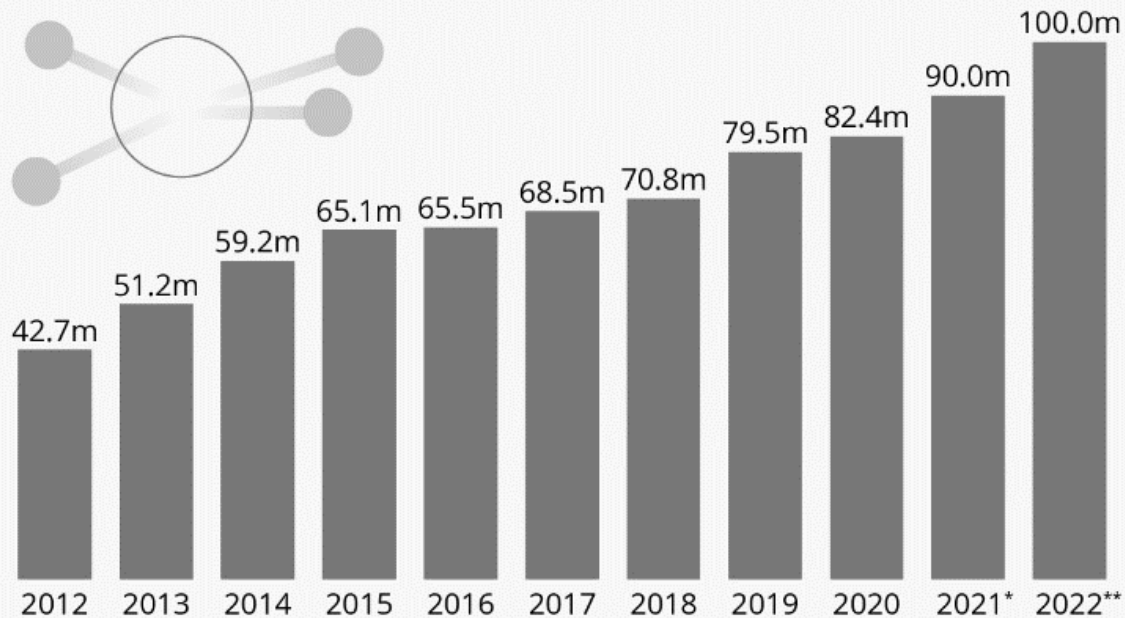
President, League of Women Voters
of the San Juans

The Global Situation



Number of Forcibly Displaced People Reaches 100 Million

Number of forcibly displaced people worldwide by year



Internally displaced, refugees and asylum seekers.

* preliminary figure ** preliminary figure as of May

Source: UNHCR



Distribution
of Refugees
and
Displaced
Persons

Internally displaced persons
53.2 million

Refugees under UNHCR
21.3 million

Palestinian Refugees
5.8 million

Asylum Seekers
4.6 million

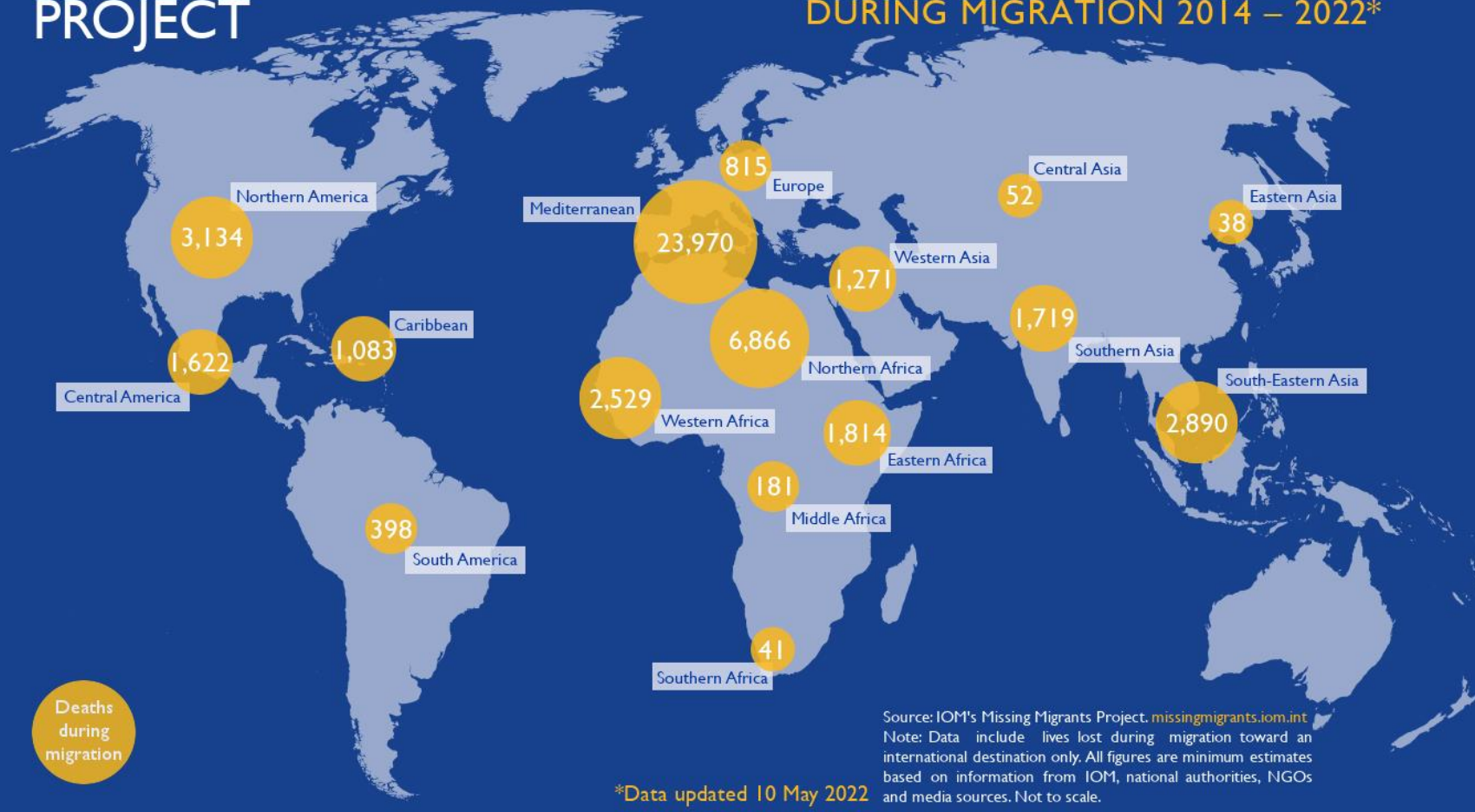
Displaced Venezuelans
4.1 million

Reasons to Curb Irregular Migration through Borders

- Undermines rule of law
 - Smuggling and trafficking flourish
- Undermines support for legal immigration systems and humane asylum policies
- Puts pressure on border communities
 - Many are poorest in the country
- Human toll on the migrants
 - Difficult to maintain contacts with families
 - Without rights in destination country
 - Dangerous to migrate clandestinely

MISSING MIGRANTS PROJECT

48,423 DEATHS RECORDED DURING MIGRATION 2014 – 2022*



Deaths
during
migration

Source: IOM's Missing Migrants Project. missingmigrants.iom.int
Note: Data include lives lost during migration toward an international destination only. All figures are minimum estimates based on information from IOM, national authorities, NGOs and media sources. Not to scale.

*Data updated 10 May 2022

Balancing border and human security

- International and US law make an exception in border enforcement for refugees and those at risk of torture via a principle called non-refoulement (forcible return)
 - UN Convention on the Status of Refugees:
“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.”
 - UN Convention against Torture (CAT): “No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”
 - US Law (INA section 243(h): “The Attorney General shall not deport or return any alien . . . to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.”
 - 8 C.F.R. §§ [1]208.16 to [1]208.18. Regulations affecting non-return under CAT

Current Legislative Framework

❑ Refugee Act of 1980

- ❑ Universal definition of a refugee and asylee
 - ❑ A person with a **well-founded fear** of **persecution** on the **basis of race, religion, nationality, membership in a particular group, or political opinion**
- ❑ Annual consultations on refugee resettlement admissions with variable number
- ❑ Funding and organizational structure for domestic assistance
- ❑ Policies on asylum for those arriving in the US outside of the resettlement program

Subsequent Legislation

- ❑ Immigration Act of 1990
 - ❑ Temporary Protected Status
- ❑ IIRIRA*
 - ❑ Expedited Removal (credible fear test)
- ❑ AEDPA, USA Patriot Act, etc.*
 - ❑ Toughen asylum and admissions processes
 - ❑ Make it easier to deport on terrorism and criminal grounds

* Illegal Immigration Reform and Immigrant Responsibility Act & Anti-terrorism and Effective Death Penalty Act

Administrative Asylum Reforms

- Reforms adopted in 1991 established a separate corps of asylum officers to hear claims for refugee status
- Further reforms in 1994 to address growing backlogs in asylum case
 - Establish a Last in/First out (LIFO) process for adjudication of new and pending asylum cases
 - All affirmative cases would be determined by asylum corps in first 90 days. If there was any uncertainty, cases would be referred to immigration judges
 - All defensive cases would be adjudicated within six months
 - Asylum seekers were not eligible for work permits unless the government did not fulfill responsibility to make decision in six months
- Effect of these reforms
 - Asylum applications reduced by half
 - Asylum approvals doubled

Expedited Removal/Credible Fear

Originally conceived as way to address large-scale migration emergencies on the border

1996 Immigration Act included all persons who attempted to cross without authorization

First interviewed by USCIS asylum officer and then an immigration judge

Standard of review differs from usual process

If do not meet credible fear determination can be deported with no access to federal courts

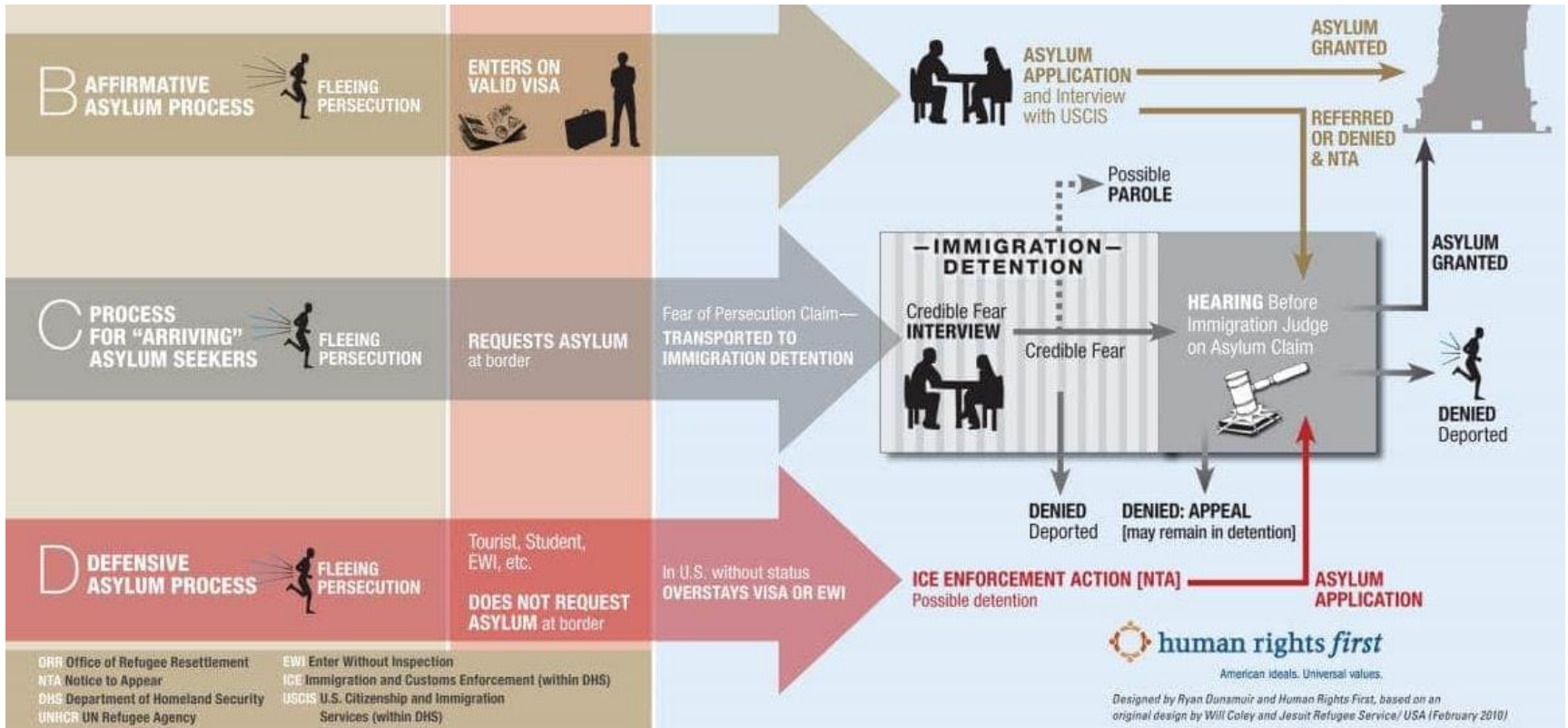
If meet credible fear, detained or admitted to have claim heard in immigration court

A credible fear of persecution is a “significant possibility” that one can establish before an asylum officer or in proceedings before an IJ, that you have been persecuted or have a well-founded fear of persecution on account of your race, religion, nationality, membership in a particular social group, or political opinion if returned to your country.

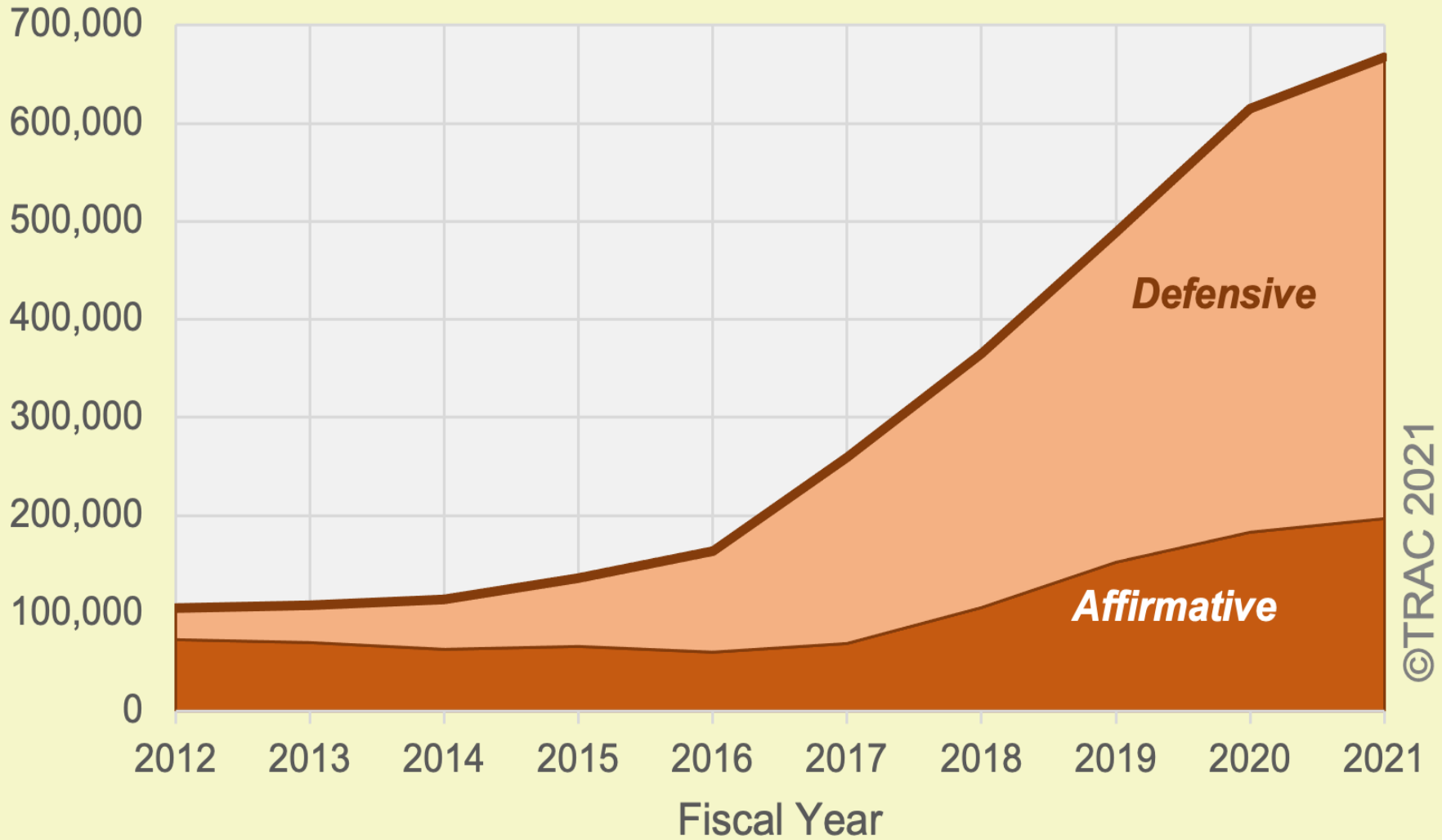
Obama and Trump Administrations

- Obama administration
 - 2014 saw large increase in unaccompanied minors and families, primarily from Central America
 - System could not address such movements effectively and humanely
 - “Humanitarian” emergency called; children and families put in harsh conditions
 - Asylum backlogs continued
 - Central American Minors humanitarian parole program instituted
- Trump administration
 - Situation worsened considerably
 - Zero tolerance on border increased number of asylum applicants prosecuted in federal court
 - Separation of children from parents
 - Heightened detention of families with children
 - Asylum backlogs grew even larger
 - Remain in Mexico and Title 42 barred most asylum seekers from entering country
 - CAM program discontinued

Asylum Processes

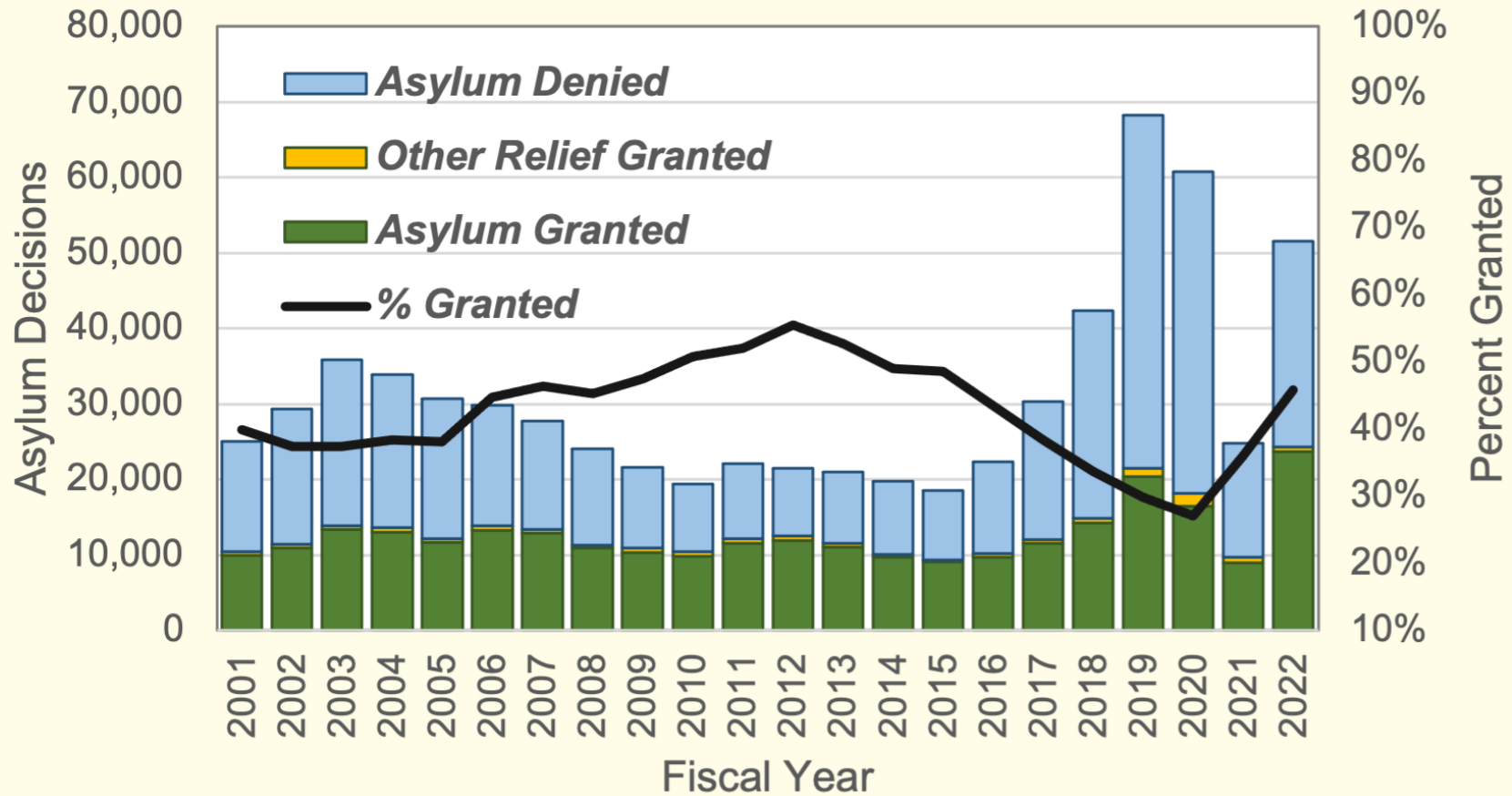


Immigration Court Asylum Backlog



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Immigration Court Asylum Decisions



Biden Administration

- Retained a number of Trump policies, willingly or as a result of court decisions
 - Remain in Mexico policy ended in August 2022
 - Title 42 bars on entry supposed to end in May 2023
- Recent deal with Mexico allowing US authorities to send up to 30,000 migrants per month from Cuba, Haiti, Nicaragua and Venezuela to Mexico
- Established programs for up to 30,000 Cubans, Haitians, Nicaraguans and Venezuelans to enter the US under humanitarian parole if they have a U.S. sponsor and apply through a mobile app.
- Will penalize asylum-seekers who cross the border illegally or fail to apply for protection in other nations they transit on their way to the United States
- NY Times expose of child labor abuses affecting unaccompanied minors released to sponsors in the US without adequate screening

Humanitarian Parole

- Had been the de fault method for refugee admissions before 1980 Act but mostly used for individuals thereafter
 - Now in use for admission of thousands of Central American minors, Afghans, Ukrainians, Cubans, Venezuelans, Nicaraguans and Haitians
- Constraints of humanitarian parole
 - Does not allow for family reunification
 - Limited access to refugee services
 - No pathway to permanent residence or citizenship unless applicants can meet the asylum standard or fit into another immigration category

Alternative to Parole: Refugee Resettlement

- ❑ Benefits of Resettlement:
 - ❑ Provides a permanent solution for refugees with no other alternatives
 - ❑ Tool to persuade countries of first asylum to allow refugees to enter their territories
 - ❑ Powerful tool in US foreign policy
- ❑ Current resettlement cap much higher than actual admissions
- ❑ Resettlement infrastructure
 - ❑ Still has not fully recovered from Trump administration gutting of resettlement
 - ❑ Success of humanitarian parole provides hope that resettlement can restart at historic levels
 - ❑ New private sponsorship system should help

What can LWV do now?

- ❑ Advocate for **protection** of refugees, asylum seekers and IDPs globally and in the U.S.
- ❑ Advocate an **end to barriers to asylum** at the border and in the interior
- ❑ Continue to **educate ourselves** and others about border and asylum issues
- ❑ Collaborate with **other organizations** concerned with current border policies
- ❑ Support **reforms in asylum** that include **reducing the backlog**, ensuring access to asylum for those facing **domestic and gang violence**, and providing **access to legal representation** for asylum seekers
- ❑ Advocate for easier **pathway to permanent residence** for humanitarian parole beneficiaries



Questions?
