

No. 18-1447

IN THE
Supreme Court of the United States

REPUBLIC OF HUNGARY, ET AL.,
Petitioners,

v.

ROSALIE SIMON, ET AL.,
Respondents.

**On Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit**

**BRIEF FOR *AMICI CURIAE*
RAOUL WALLENBERG CENTRE
FOR HUMAN RIGHTS AND
PROFESSOR IRWIN COTLER
IN SUPPORT OF RESPONDENTS**

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TABLE OF CONTENTS

	Page
INTEREST OF <i>AMICI CURIAE</i>	1
INTRODUCTION & SUMMARY OF ARGUMENT.....	3
I. PRIOR TO THE GERMAN OCCUPATION, HUNGARY SUBJECTED JEWS TO SIGNIFICANT HOSTILE TREATMENT AND SEIZURES OF PROPERTY.....	4
A. Anti-Jewish Legislation.....	5
B. Military Labor Service.....	9
C. Mass Deportations.....	10
II. FOLLOWING THE GERMAN OCCUPATION, HUNGARY JOINED WITH THE NAZIS TO ANNIHILATE THE JEWS	14
A. The Beginning of the End: Ghettoization.....	15
1. The Hungarian-German Relationship.....	15
2. The Reaction of Hungarian Jews.....	16
3. Eviction and Ghettoization	17
B. The End: The Final Deportation	24
1. Deportation and Concentration Camps	24
2. Arrow Cross Rule.....	29

TABLE OF CONTENTS
(continued)

	Page
III. FROM REMEMBRANCE TO REVISIONISM: HUNGARY STRUGGLES WITH THE LEGACY OF THE HOLOCAUST	30
CONCLUSION	33

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Simon v. Hungary</i> , 812 F.3d 127 (D.C. Cir. 2016)	3
OTHER AUTHORITIES	
Randolph L. Braham, <i>Hungary: The Assault On The Historical Memory Of The Holocaust</i> (2014).....	30, 31, 32, 33
CONFRONTING DEVASTATION: MEMOIRS OF HOLOCAUST SURVIVORS FROM HUNGARY (Ferenc Laczó ed., 2019).....	<i>passim</i>
Irwin Cotler, <i>The Holocaust, Thefticide, and Restitution: A Legal Perspective</i> , 20 CARDOZO L. REV. 601 (1998).....	3
Zoltán Vági et al., THE HOLOCAUST IN HUNGARY: EVOLUTION OF A GENOCIDE (2013)	<i>passim</i>
Eva Kahana et al., <i>Trauma and the Life Course in a Cross National Perspective: Focus on Holocaust Survivors Living in Hungary</i> 21 TRAUMATOLOGY, no. 4 (2015).....	31
Henriett Kovács & Ursula K. Mindler-Steiner, <i>Hungary and the Distortion of Holocaust History: The Hungarian Holocaust Memorial Year 2014</i> , 11 POLITICS IN CENTRAL EUROPE, No. 2 (2015)	<i>passim</i>

TABLE OF AUTHORITIES
(continued)

	Page(s)
LIFE IN THE GHETTOS DURING THE HOLOCAUST (Eric J. Sterling ed., 2005)	<i>passim</i>

INTEREST OF *AMICI CURIAE*¹

The Raoul Wallenberg Centre for Human Rights is an international consortium of parliamentarians, scholars, jurists, human rights defenders, NGOs, and students united in the pursuit of justice. The Centre is devoted to respecting the legacy of victims and survivors of the Holocaust, and it therefore has a strong interest in ensuring adherence to historical truth in cases such as this one.

As reflected in its very name, the Centre takes a special interest in the tragic history of the Holocaust in Hungary. The Centre is inspired by and anchored in the humanitarian legacy of Raoul Wallenberg, who is credited with the rescue of some 100,000 Jews in six months in Hungary in 1944.

Raoul Wallenberg was a Swedish diplomat who arrived in Budapest in July 1944, when hundreds of thousands of Hungarian Jews had already been deported to Auschwitz. Through extraordinary effort and heroism, Wallenberg was able to save many other Jews from the same fate. He distributed *schutzpasses*—diplomatic passports conferring protective immunity on their recipients—and he established safe houses conferring diplomatic sanctuary on their inhabitants. He organized hospitals, soup kitchens, and orphanages. And in his remarkable final rescue, as the Nazis were advancing on Budapest and threatening to blow up the city's

¹ No counsel for any party authored this brief in any part, and no person or entity other than *amici*, its members, or its counsel made a monetary contribution to fund its preparation or submission. Both parties have filed blanket consents to the filing of amicus briefs at the merits stage.

ghetto and liquidate the remaining Jews there, he had the Nazi generals put on notice that they would be held accountable and brought to justice, if not executed, for their war crimes and crimes against humanity. The Nazi generals desisted from their assault and some 70,000 Jews were saved.

The Centre honors the memory of Raoul Wallenberg by ensuring that the Holocaust in Hungary is remembered and understood accurately.

Professor Irwin Cotler is the Chair of the Centre, an Emeritus Professor of Law at McGill University, former Minister of Justice and Attorney General of Canada and longtime Member of Parliament, and an international human rights lawyer. Among his other work, he writes in the areas of freedom of religion, minority rights, peace law, state responsibility for criminal violations of human rights, and war crimes justice, and he has served as Counsel to numerous prisoners of conscience across the world. Both as the founder and Chair of the Raoul Wallenberg Centre for Human Rights and as a recognized legal scholar and advocate, Professor Cotler has a strong interest in preserving and sharing the narratives of Hungarian Holocaust survivors in the pursuit of truth, dignity, and international justice.

INTRODUCTION & SUMMARY OF ARGUMENT

This case arises out of one of the most tragic chapters in the grim story of the Holocaust: the extraordinarily rapid deportation and mass murder of hundreds of thousands of Hungarian Jews. “Nowhere was the Holocaust executed with such speed and ferocity as it was in Hungary.” *Simon v. Hungary*, 812 F.3d 127, 133 (D.C. Cir. 2016); see Pet. App. 2a. Hungary’s persecution of Jews began long before Germany’s occupation of Hungary, and long before the onset of World War II. Drawing from historical treatises, first person accounts of survivors, and official governmental records, this brief provides a high-level review of the most relevant historical periods, underscoring that Hungary, even before the German occupation in 1944, was actively engaged in oppressing its own Jewish citizens, including seizing the property of Jews. This plunder, in Hungary as in other countries, took place “in anticipation of the Holocaust, accompanying the Holocaust, or in consequence of it.” Irwin Cotler, *The Holocaust, Thefticide, and Restitution: A Legal Perspective*, 20 CARDOZO L. REV. 601, 602 (1998). Restitution for such plunder “is about the inherent dignity and worth of every human being—the inherent dignity and worth of an entire community. While restitution can never restore these lives, it can seek to restore their dignity.” *Id.* at 623.

Part I of the brief addresses the pre-war period and the early years of the war, prior to the German occupation of Hungary. Part II covers the brutal period in 1944 and 1945 when Hungarian authorities eagerly worked with the Nazis in seeking to implement the Final Solution in Hungary. And Part

III briefly touches on the post-war period, and Hungary's uneven efforts to reckon with its own role in the Holocaust.

**I. PRIOR TO THE GERMAN OCCUPATION, HUNGARY
SUBJECTED JEWS TO SIGNIFICANT HOSTILE
TREATMENT AND SEIZURES OF PROPERTY**

Anti-Jewish sentiment had long flourished in Hungary. By the 1920s, antisemitism was one of the pillars of Hungary's ruling ideology. *CONFRONTING DEVASTATION: MEMOIRS OF HOLOCAUST SURVIVORS FROM HUNGARY 4* (Ferenc Laczó ed., 2019) (hereinafter "Confronting Devastation"). In September 1920, the Hungarian national assembly passed the "numerus clausus law," limiting the number of Jews in higher education – "one of the first anti-Jewish laws of interwar Europe." Zoltán Vági, et al., *THE HOLOCAUST IN HUNGARY: EVOLUTION OF A GENOCIDE xxxix–xxxixi* (2013) (hereinafter "Holocaust in Hungary"); *see also* Henriett Kovács & Ursula K. Mindler-Steiner, *Hungary and the Distortion of Holocaust History: The Hungarian Holocaust Memorial Year 2014*, 11 *POLITICS IN CENTRAL EUROPE*, no. 2, at 49, 53 (2015). In 1928, however, elements of the law were repealed. Holocaust in Hungary xxxix. Alongside Regent Miklós Horthy,² then-prime minister Count István Bethlen sought "to drag Hungary out of political and economic isolation." *Id.* As the Hungarian leaders recognized, Jews in various industries had skills and capital that were valuable to the growth of the economy.

² Horthy would remain in power through much of the relevant period. Holocaust in Hungary lxii.

But the Great Depression led to renewed anti-Semitism, as “many on the right saw only one way to reduce social tensions” that had emerged with more than half of the Hungarian population living at or below the poverty line: “the expropriation of Jewish wealth.” *Id.* at xl. This shift to the right paralleled the rise of the German Nazis, and Hungary chose to adopt an “increasing German-Nazi orientation.” *Id.* at xli.

Hungary’s territorial ambitions were another factor that pushed toward aligning its policy goals with those of the Nazis. Following the signing of the Trianon Peace Treaty in June 1920, Hungary’s territory had been reduced by two-thirds and its population by more than half. *Id.* at xxxvi. “In the wake of the treaty, basically one goal drove Hungarian internal and foreign policy for the next two decades: to nullify or at least alter Trianon.” *Id.* at xxxviii. In the years leading to WWII, “Hungary regained about 40 percent of its territories lost after World War I.” *Id.* at xli. As Hungary’s territory expanded, “the authoritarian regime under Regent Miklós Horthy . . . radicalized its antisemitic agenda even further.” *Confronting Devastation* 4.

The increasing anti-Semitism of the Hungarian government manifested itself in a series of anti-Jewish laws, a requirement that Jews perform unarmed military labor, and mass deportations.

A. Anti-Jewish Legislation

From 1938 to 1941, Hungary continued to implement “ever-stricter anti-Jewish policies” and Hungarian troops “round[ed] up Jews” and “regularly beat up Jews, looted apartments, broke windows of houses, and even committed murders.” *Holocaust in*

Hungary at xliii. During this time, Hungarian leadership enacted a series of discriminatory laws referred to as “Jewish Laws.” *Id.* at xli–xliii; *see also* *Confronting Devastation* 4. This body of anti-Jewish legislation was not the result of pressure from Nazi Germany, but rather “an organic, essentially Hungarian development.” *Holocaust in Hungary* xliii.

The First Anti-Jewish Law was “designed to bring about ‘the more effective protection of the social and economic balance’ of the country” and saw “restriction of the Jews [as] a national duty.” *The Politics of Genocide, The Holocaust in Hungary, Vol. 1*, p. 142 (hereinafter “*Politics of Genocide*”) (quoting Jeño Lévai, *Zsiodósors Magyarorságon* 29, 31 (1948)). This law “discriminat[ed] against Jews in the professions, which, combined with a host of more specific restrictions, resulted in the forced economic pauperization of hundreds of thousands.” *Confronting Devastation* 4; *see also* *Politics of Genocide* 144. The impact was swift and significant. Yaffa (Sari/Sheindel) Propper Dascal, who submitted a declaration in this case, remembered the realities of such professional discrimination: “My father owned and operated a general store in Dolha/Dovhe. When the Hungarians took over our town in 1939 they forced my father to close the store.” JA 98.

István Domonkos recalled that the First Jewish Law was enacted shortly after his brother got his high school diploma. *Holocaust in Hungary* 17. “As a result,” István said, “no matter how talented [his brother] was, university studies were out of the question. . . . [I]t was hard to find a decent job in that world governed by the Jewish Law,” so he and his brother “learn[ed] an industrial trade” instead. *Id.*

The Second Anti-Jewish Law, “Concerning the Restriction of the Participation of Jews in Public and Economic Life,” *Politics of Genocide* 171, restricted Jews in obtaining Hungarian citizenship and accessing higher education, and precluded Jews from occupying leadership positions in publishing and the arts. *Id.* at 178. It withdrew licenses required for operating certain businesses and limited the right to buy and sell property. *Id.* László Láng recalled that his father sent him to Budapest “to learn a trade, because by that time boys of the Jewish faith were not easily accepted into institutions of higher learning due to antisemitism.” *Confronting Devastation* 43.

In 1941, Hungary enacted the Third Anti-Jewish Law, “bann[ing] intermarriage and sexual intercourse between ‘Jewish’ men and ‘non-Jewish’ (also referred to as ‘Christian’) women.” *Id.* at 4. Beyond these prohibitions, this law “prepared the ground for the acceptance by Hungarian public opinion of the draconic measures that were to be adopted during the German occupation.” *Politics of Genocide* 227. These enactments marked the beginning of “Hungary’s six years of persecution between 1938 and 1944.” *Confronting Devastation* 5. The changes in the early-war period were extensive and persistent: “[t]he snowball that had been created with the change of regimes and the official language of speech continued to grow and swept along with it additional changes.” ZVI ZELIKOVITCH, *THE FIRST TO THE SLAUGHTER AT ORANIA, UKRAINE* 27 (Marc Zell trans., 2005).³ “[T]he

³ Zvi Zelikovitch’s estate is a Respondent. Although his survivor testimony renders his first name as “Zvi,” the record

Hungarian government kept pronouncing anti-Jewish laws so quickly that people couldn't even keep up with reading them." *Confronting Devastation* 45.

As Veronika Schwartz, who lived with her family in northeastern Hungary, remembered, "[c]ruel laws and rules were forced upon us day after day. It was extremely painful to realize that we had been overly optimistic for too long." *Confronting Devastation* 169. "We were not even allowed to listen to the radio anymore." *Id.* Jews could no longer travel, rendering escape impossible. *Id.* With this realization, Veronika's family began to prepare for the inevitable orders of ghettoization and, later, deportation: "We carried home a lot of merchandise (furniture, yard goods) from our store. Our sheds were dug up and we buried the yard goods and clothes in wooden boxes." *Id.* at 169–70.

Eva Kahan recalled similarly in Budapest:

Among the first restrictions was that no Jewish household could own a radio. (Obviously the Germans didn't want us to know what was going on in the world.) This was hard on my father, because he liked to listen quietly, behind drawn curtains, to the BBC from London. We had a big radio that we buried in the rabbit house, thinking that we would take it out when possible. We also buried some of our jewellery in the cellar.

Id. at 249. These preparations would prove futile.

spells it "Tzvi." *See* Petition for Certiorari at ii. His affidavit is located at JA 112.

B. Military Labor Service

In addition to the enforcement of the “Jewish Laws,” the Hungarian government “required Jews to perform unarmed military labor service.” Holocaust in Hungary at xlv. Beginning in 1939, “individuals the regime deemed unreliable” were bound by law to compulsory labor service. *Confronting Devastation* 70. “By 1940, there were some sixty units consisting entirely of Jewish labour servicemen.” *Id.* Far from “soldiers,” the Hungarian Jews were instead “prisoners of forced labour,” *id.* at 113, who were not permitted “to carry weapons and worked mostly on construction sites and in mines,” *id.* at 70. After Hungary entered the war in 1941, the servicemen “often had to perform life-threatening tasks during combat, such as clearing minefields.” *Id.* Later, “the conscripted slaves of the Hungarian army were recurrently assigned dangerous or downright life-threatening tasks,” including “serv[ing] on the front lines of the aggressor armies without being in the possession of military equipment.” *Id.* at 70–71.

The compulsory labor service was a “specifically Hungarian institution” that “tended to result in the painful humiliation and general misery of the overwhelmingly Jewish” individuals enrolled. *Id.* at 70. Itzik Davidovits, “[s]entenced to hard labour by the Hungarians,” recalled from his unit’s time in Solvokia in 1942 that the head officer said “that it was our duty to obey orders, and that whoever did not follow orders would be punished or shot. He was speaking directly to us, the Jews.” *Id.* at 113–14. “He also told his officers that the sooner they kill all the Jews, the sooner they will return home to their families in Hungary.” *Id.* at 114. Imrich Vesely

described his work in the Carpathian Mountains as “strenuous and dangerous.” *Confronting Devastation* 74. He was later transferred to “the snow-covered fields of . . . Ukraine,” where the Hungarians would “chase [them] out to pick up landmines left by the Soviet army or the partisans.” *Id.* at 83. “Where were the mines? Simple! Wherever a Jew was being blown to bits.” *Id.* As Imrich recalled, only three of the eight hundred and fifty of his fellow servicemen on the Soviet front returned home. *Id.* at 84.

Across the units, tens of thousands of Jews died while in service. *Holocaust in Hungary* at xlvii; *see also* *Confronting Devastation* 4, 70. These anti-Jewish measures encountered little political opposition. During the early-war period, “[t]he liberal, social democratic, and agrarian smallholder anti-Nazi opposition held a mere 10 percent of seats in parliament.” *Holocaust in Hungary* xlvi.

C. Mass Deportations

Hungary also implemented mass deportations in the early-war years prior to the German occupation. As Zvi Zelikovitch remembered:

[I]n 1939 World War II broke out and disrupted our peaceful lives. The Germans invaded Poland and Czechoslovakia, our country, was doomed to a bitter fate. . . . The Carpathian district in which we lived was transferred to the Hungarians as a concession of gratitude by Hitler for the Hungarians service on the Eastern Front against the Russians.

Zelikovitch 26.

While most Hungarian Jews were not forced by Hungarian authorities to leave their homes and cross the Hungarian border until after the German takeover of Hungary in 1944, some regions were targeted earlier. *See* Holocaust in Hungary xliii, xliv. Recalling the day of his family's exile from the Carpathian region in 1941, Zvi explained that his family's "home was taken over by the gendarmes along with most of [their] non-portable possessions. These were worth thousands of United States dollars at the time and today would have been worth a small fortune." JA 113. Upon their expulsion, the Jews in his area had "received permission to take clothes to wear and bread to eat." Zelikovitch 30. He went on:

We loaded up our belongings; each carrying his pack on his back and we left our home. All of our furniture stayed behind, of course. There are no words to describe the extent of shock that Father and Mother felt. They had to leave their home and property for which they had toiled all of their lives and go into the unknown with seven children.

Id. "Thousands of Jews from Carpatorus, including my family, were commanded to emigrate to the east into Ukrainian territory." *Id.* at 31; *see also* Joint Appendix 113 ("[T]he Hungarian government through its local gendarmerie expelled the entire Jewish population of Uglya, including my family and me."). To Zvi, "[t]he Hungarians with their anti-Semitism [were] no less responsible than the Germans for the murder of the nation's Jews." *Id.*

Zvi and his family were sent away from his home by train and truck, owned and operated by the Hungarian State Railways (or “MÁV”). JA 114. “Both at the Tecso/Tecevo train station and later at the Korosmezo station, I recall MÁV railroad workers taking possession of our personal belongings,” Zvi said. *Id.* “The property confiscated by the Hungarian gendarmes and MÁV was never returned to us[.]” *Id.*

Zvi’s experience was not isolated. The early-war years “saw repeated acts of mass violence, including, most infamously, deportations from Subcarpathia to the killing fields of Nazi-occupied Ukraine in the late summer of 1941” and “mass murder in the re-annexed Vojvodina . . . in January 1942.” *Confronting Devastation* 4. These “acts of mass violence” committed by the Hungarian authorities “resulted in the violent deaths of tens of thousands of Hungarian Jews *prior* to 1944.” *Id.* (emphasis added).

* * *

Despite the legal framework and the harsh and discriminatory treatment of Hungarian Jews by the Hungarian government, the Jewish community in Hungary, unlike those in many neighboring countries, nonetheless survived the first four and a half years of the war largely intact. *Holocaust in Hungary* xxvii; *see also id.* at xlvii, *Confronting Devastation* 5. Because “Hungary was surrounded by [then] even more murderously antisemitic regimes on all sides, such as Germany, Romania, Croatia and Slovakia,” it could “thus be perceived as a relatively safe haven for Jews” and it became “a source of last desperate hopes.” *Id.* at 6. Yet, even in those early years, before the German takeover of Hungary, Hungarian Jews “suffered under severe legal restrictions,

socioeconomic exclusion and repeated instances of mass violence.” *Confronting Devastation* 5. The Hungarian government routinely deprived its Jewish citizens of their property and even their lives.

“[B]y the spring of 1943,” Hungarian leaders were “aware that the Germans’ final goal was the destruction of the European Jews.” *Holocaust in Hungary* at xlvi. Nevertheless, the Hungarian government adhered to its strategic alliance with the Nazis. While maintaining their anti-Jewish position and desiring to maintain the territories re-gained with the help of the Germans, Hungarian leaders also wanted to “leave open the possibility of switching sides in the event that the war’s outcome was unfavorable for the Axis powers.” *Id.*

After a “crushing defeat of the Hungarian forces near Voronezh in January 1943,” their strategy shifted. *Id.* at xviii. Hungarian leaders now “aimed to surrender exclusively to the western Allies.” *Id.* They “hoped not only to avoid a Soviet occupation,” “but also to retain the territories they had acquired with the support of the Third Reich.” *Id.* This shift in strategy led directly to the occupation of Hungary by Nazi Germany. After Hungary began to “establish[] ‘secret’ contacts with several military and diplomatic representatives of the western Allies in Turkey and liberated Italy,” Hitler “decided to protect the Reich’s national interests by occupying Hungary.” *Id.* The anti-Semitism long embedded in Hungarian culture and present among Hungarian authorities, the “Jewish Laws” already in place, and Hungary’s labor-service regime made Germany’s move an easy one.

II. FOLLOWING THE GERMAN OCCUPATION, HUNGARY JOINED WITH THE NAZIS TO ANNIHILATE THE JEWS

As of early March 1944, approximately eight hundred thousand Jews still lived in Hungary. Holocaust in Hungary xvii. That changed quickly. With “unprecedented speed and efficiency,” “[i]n what amounted to a virtual blitzkrieg against the Hungarian Jews,” they were disenfranchised, isolated, and murdered. *Id.* at xxvii–xxviii. “[T]he swift implementation of mass ghettoization and deportations in the spring and summer of 1944” was “the fastest large act of genocide committed under the Nazis and their collaborators.” Confronting Devastation 5. Significantly, “[t]he ghettoization and deportation of Hungarian Jews could only have been implemented because practically all relevant representatives of the Hungarian state altered their behavior after March 19, 1944, and started to actively participate in the German-led genocide.” *Id.* at 132.

The Germans invaded Hungary on March 19, 1944. Holocaust in Hungary xlvii. They met no resistance, pursuant to Miklós Horthy’s order. *Id.* “Beyond the Germans’ expectations,” Veronika Schwartz recalled, “the Hungarians welcomed them and fully cooperated with them.” Confronting Devastation 170; *see* Holocaust in Hungary xvii. Indeed, the Hungarians, “[i]n exchange for the appearance of sovereignty, guaranteed [to Hitler] the cooperation of the armed forces, law enforcement, and public administration.” *Id.* at xlviii. These were not mere promises: the Hungarian government affirmatively endorsed and actively participated in the implementation of the Final Solution in Hungary. As Sam Grad, who was

born in Hungary in 1931, remembered, “[t]he Germans entered Hungary in March 1944 as an ally. The Hungarian government almost immediately made policy changes to accommodate the German government’s plans for the Jews.” *Confronting Devastation* 159. “[R]epresentatives of the newly established government of Döme Sztójay—all constitutionally appointed by Miklós Horthy, the head of state—outdid the SS in their eagerness to ‘solve’ the ‘Jewish question.’” *Holocaust in Hungary* xviii.

A. The Beginning of the End: Ghettoization

Under the “master plan,” the first of two phases designed to implement the “Final Solution” in Hungary would last fifty-four days. *Holocaust in Hungary* xx. “[F]rom the March 22 appointment of the Sztójay government until May 15, the victims were subjected to an avalanche of anti-Jewish laws and decrees.” *Id.* The Hungarian Jews were deprived of basic rights, prohibited from using means of transportation or communication, forced to wear the yellow star on their clothing, and “robbed of the remnant of their property.” *Id.* Even in the face of such restrictions, “[f]ew, if any, of the Jews had an inkling of the ultimate fate awaiting them.” *Id.*

1. The Hungarian-German Relationship

The Jews initially “found solace in the fact that Horthy had resolved to continue as head of state” after the German occupation. *Holocaust in Hungary* xix. “We also didn’t believe that Miklós Horthy, Hungary’s regent, would let us be taken away,” Helen Rodak-Izso recalled. *Confronting Devastation* 135. “We trusted [Horthy] naively.” *Id.* But Horthy “had not only committed Hungary to the delivery of three hundred

thousand Jewish ‘workers’ to Germany but also decided not to become involved in Jewish matters.” Holocaust in Hungary xix.

The new government installed after the German takeover consisted of both old and new faces and developed close ties to Nazi leaders. Horthy appointed Döme Sztójay, Hungary’s anti-Semitic ambassador to Berlin, prime minister. *Id.* at xlvi. And Hungarian László Endre, a “right-wing extremist” committed to “radical antisemitism,” was appointed state secretary in charge of the public administration. *Id.* at xlix. Even before the government’s official anti-Jewish actions, Endre began “a private anti-Jewish campaign.” *Id.* at l. Endre and Adolf Eichmann, who first met at the end of March 1944, became close friends. *Id.* Endre, who had “wait[ed] for years for the opportunity to finally get rid of the Jews,” was now in “charge of ghettoization in Hungary, as well as the supervision of the police and the gendarmerie carrying out the deportations.” *Id.*

2. The Reaction of Hungarian Jews

The Jews of Hungary were “[s]tunned and bewildered” by the German occupation of Hungary. Holocaust in Hungary xix. Having “survived the first four and a half years of the war,” they were “confident that they—proud citizens of Hungary—would continue to be protected.” *Id.* Instead, with the active and willing participation of Hungary’s own government, Hungarian Jews would soon be subjected to “the fastest but also the most barbaric process of destruction in the history of the Holocaust.” *Id.*; *Confronting Devastation* 132.

Helen Rodak-Izso described the arrival of the German troops in March 1944: “No words can describe the dead silence, the numbing fear that like a dark cloud descended on our homes and the whole city. We were panic-stricken. . . . Something terribly frightening was in the air. We didn’t have to wait long to find out what.” *Confronting Devastation* 136. In the first of many horrors to befall Helen’s family, her father’s cork factory—“the fruit of . . . many years of tireless work”—was burned, destroying the property. *Id.* After rushing to the scene of the fire, Helen’s father and uncle were taken hostage. “[T]here was no way to help them.” *Id.* at 137.

3. Eviction and Ghettoization

For the Jews, an early sign of the impending ghettoization was the inventorization of their property. One day, a “young man came to [Veronika Schwartz’s family’s] house and [her] grandparents’ home.” This young man, Veronika said, was a neighbor, he “lived on our street. . . . His name was Bajor and he was authorized to take inventory of our belongings. It did not take long to find out that we would have to leave our homes and move to the ghetto in Kisvárdá.” *Confronting Devastation* 170. This was one of “hundreds of thousands of inventories of property and assets” that were carried out “across Hungary.” *Holocaust in Hungary* 187. One such inventory reflected the property of Sándor Acél and listed items that included a saltshaker, a pasta strainer, and a nightstand lamp. *Id.* at 188–89.

Veronika’s parents, like others, “had bought precious jewels, diamonds and gold for [their three daughters] so that when [the daughters] eventually

got married [they] would have the means to start a new life.” *Confronting Devastation* 171. With transport to the ghetto impending, Veronika remembered, “my father called us and we all went down to the cellar. He removed some of the bricks from the wall, hid the jewels in a bottle and repaired the wall. So we all knew where they were.” *Id.* These efforts were quickly thwarted by orders of ghettoization and, eventually, of deportation.

Even before such official orders, Hungarian Jews were forced out of their homes by “unwelcome intruders.” *Id.* at 137. Helen Rodak-Izso recalled the Jews’ realization that these intruders “were taking Jewish homes, homes where people were still living. The owners of these houses had been given five minutes to get ready and were then forced to leave as soon as they were dressed. They left everything behind.” *Id.* Helen explained:

When people were forced to leave their villages, they tried to grab whatever they could carry. Everyone, young and old, sick or able, tried to save whatever was most important: medicine, clothing, toothbrush or hairbrush. With children, the situation was always more complicated. People who had kept a clean and comfortable home were suddenly thrown out. All their treasures were hurriedly packed in suitcases, rucksacks or bags.

Id. at 138.

Then the official orders came. A meeting of the Hungarian leaders on March 22 “trigger[ed] the

creation of anti-Jewish decrees and preparations for ghettoization.” Holocaust in Hungary li–lii. A plan developed by Endre and Eichmann, and approved by Andor Jaross, the new government’s minister of the interior, “included the concentration of all Hungarian Jews in ghettos and collection camps.” *Id.* at lii.

The Hungarian state, along with the general population, undertook a systematic campaign of plunder against the Jews. “Tens of thousands of Jews lost their jobs”; many thousands of businesses were seized, along with “bank accounts, cash, shares, bonds, insurance policies, and works of art”; “[g]hettoization and deportation deprived Jews of their apartments, houses, furniture, movable property, and livestock”; “[t]he authorities and the civil population plundered synagogues and community buildings”; and Jews were systematically tortured “so that they would surrender their hidden valuables.” *Id.* at 177.

Yaffa (Sari/Sheindel) Propper Dascal was one victim of such plundering. Her family was “expelled from [their] home and sent to the ghetto in Beregszasz by gendarmes acting on behalf of the Hungarian government” in April 1944. JA 98. Yaffa explained:

We were not a wealthy family, but we had valuable possessions which my parents had saved for over the years. The gendarmes confiscated most of our family’s possessions, which included valuable items of judaica, jewelry, furniture and furnishings as well as other personal belongings.

JA 98. Menachem (Tivadar) Beck’s family suffered similarly. “Within a few days” after the Germans

arrived in Hungary, “the Hungarian authorities through the local gendarmerie forced us from our home.” *Id.* at 106. “All my famil[y’s] jewelry (except my mother’s wedding ring), gold cigarette case, his pocket watch and my mother’s gold watch, my mother’[s] earrings, and other items (like my bicycle and the family radio) were seized by Hungarian authorities.” *Id.* Menachem’s property was never returned. *Id.*

In April 1944, Veronika’s family was transported to the ghetto in Kisvárda. Below the single room which eight persons were to inhabit was the cellar:

That’s where people were brought to be interrogated, to find out where they had hidden their money and valuables. It was always the head of household who was interrogated. At first they tortured the very wealthy and later the members of the middle class. It was horrible to hear the screams.

Confronting Devastation 171. Others recalled similarly: Margot, who lived with her family in Debrecen, Hungary, explained that, “as in other provincial towns, the Jews of Debrecen were called to City Hall and ordered to hand over their valuables. Those who were known to be wealthy were beaten and tortured until they revealed the hiding places they used to save their valuables.” *LIFE IN THE GHETTOS DURING THE HOLOCAUST* 54 (Eric J. Sterling ed., 2005) (hereinafter “*Life in the Ghettos*”). Another survivor from the Debrecen ghetto in Budapest had similar recollections. In June 1944, Leslie Fazekas was sent to the Debrecen ghetto, then to a brick factory, and

eventually deported to Vienna. Confronting Devastation 179. Along the way, “[t]he wealthier citizens of Debrecen were taken to the Gendarmerie station and tortured until they disclosed where they had hidden their gold and jewellery, if they possessed any.” *Id.* at 180.

Helen Rodak-Izso’s family, too, was forced from its home. She recalled the “tragic day” when her family’s “life was . . . halted”:

We were being deported. We felt that we were looking around our home for the last time. We had to be ready to leave, since the Hungarian police were waiting for us. . . . We looked around to say goodbye to the familiar furniture, pictures, walls, and all of a sudden everything came alive and felt important. We discovered things that we hadn’t bothered to look at before. Oh, how it hurt to close the doors behind us! Once more we looked down at the garden, which was blooming in the usual spring colours. The sky was blue, but for us everything was grey.

Id. at 138–39. The Hungarian government thus forced the Jews to abandon their homes and property.

Sam Grad’s family suffered similarly: in April 1944, “two Hungarian police officers entered our home and told us to get ready to leave within two hours.” *Id.* at 159. Sam recalled that “[t]hey told us to bring only basic necessities. All valuables needed to be left behind. I put on several layers of clothing, and my family members—father, mother, David, Herschel,

and baby Irwin (born April 1943)—all tried to do the same to take as much as possible.” *Id.* at 159–60. Any efforts to bring valuables would be thwarted: people were searched upon arrival at the “designated gathering place” for the Jews. *Id.* at 160. And, Sam remembered, those who managed to elude such searches at the gathering places would soon be subjected to the most severe punishment:

Although we had been warned not to bring any valuables with us when we were removed from our homes, there were, of course, people who did bring valuables and tried to hide them from the authorities. One morning, the Nazis came to the factory [where we were being held] and announced that anyone still harbouring valuables or jewellery should deposit it in special barrels set up for collection. After this, they announced that they would do a person-by-person search, and anyone found still hiding valuables would be shot on sight. The barrels were filled up quickly and taken away.

Id. at 161. Others were subjected to “inspections” in the ghettos. An “inspector” would go through the Jews’ belongings, confiscating certain items. Life in the Ghettos 51. Again, “[t]he wealthy members of the community were taken back to their former homes and ordered to show where they had hidden their gold and money. If they did not produce hidden treasure, they were beaten savagely.” *Id.* This experience was typical: “gendarme investigative units conducted

brutal interrogations” “[i]n every single collection camp and most ghettos.” Holocaust in Hungary 191.

Elizabeth, who grew up in a working-class Orthodox Jewish family in Gyor, Hungary, recalled her family’s experience in a ghetto centered around the Orthodox synagogue in her town. Life in the Ghettos at 52–53. As she remembered:

The Germans and the local Hungarians in charge of deportation were interested primarily in the imagined or real wealth of the Jews. Threatening immediate death, they continually demanded that everything of value be turned over to them. At one point, everyone was marched to the school courtyard and ordered to strip—young and old, men and women—all out in the open and naked. Body searches followed. Midwives probed the women’s private parts, searching for hidden jewelry. The loss of dignity and privacy still makes me shudder.

Id. at 53; *see also* Holocaust in Hungary 195 (describing brutal and invasive body searches of even very young girls).

In a grim and cynical twist, the sale of Jewish assets was used to finance the Jews’ ghettoization and deportation. *Id.* at 190; *see id.* at 191 (reproducing a request for reimbursement by MÁV for “the transportation costs incurred when the Jews were deported”). “Hundreds of thousands of private individuals also sought to profit from the ghettoization and deportation of Jews” by filing petitions to acquire

Jewish property, or simply by stealing Jewish property from shops or abandoned homes. *Id.* at 200.

B. The End: The Final Deportation

Phase two of the “master plan” followed with chilling speed. “Unlike the more widely known case of occupied Poland, for example, where ghettos would survive for months and sometimes for years . . . , the ghettos that were established across Hungary in the spring and early summer of 1944 were quickly abolished, as their inhabitants were collectively deported.” *Confronting Devastation* 131. In less than eight weeks, “approximately 440,000 of the Jews of Hungary were deported,” the overwhelming majority to Auschwitz-Birkenau, “where most of them were murdered soon after their arrival.” *Holocaust in Hungary* xx; *Confronting Devastation* 132. “By the end of the war, the Jews of Hungary had suffered nearly 560,000 fatalities, approximately 70 percent of” Hungary’s pre-occupation Jewish population. *Holocaust in Hungary* xx. This horrifically swift and murderous outcome was only possible because of the complicity and affirmative participation of the Hungarian authorities. *Confronting Devastation* 132. “[T]here was no way the German occupiers could have implemented such a massive program on their own.” *Id.*

1. Deportation and Concentration Camps

Under the direction of Eichmann and Endre, “total, comprehensive deportation targeting every Hungarian Jew and designating Auschwitz as their destination” began. *Holocaust in Hungary* lii. Both the German and Hungarian authorities supported the

agreement in a broad consensus, “the final phase of the decision-making process regarding the fate of Hungary’s Jews.” *Id.* at liii; *see also* Kovács 53. The mass arrival of Hungarian Jews into Auschwitz beginning on May 16, 1944 overwhelmed the complex. Holocaust in Hungary lx–lxi.

The Hungarians transported the Jews by train. Yaffa (Sari/Sheindel) Propper Dascal and her family were “marched to the local railroad station that was owned and operated by” MÁV. JA 99. She recalls:

When we arrived at the MÁV train station, we were forced to leave some of our belongings at the station because the cattle car in which we were forced to ride had absolutely no room to hold anything other than people. My estimation is that there were between 80–90 people crammed into the MÁV cattle car. . . . We rode on the MÁV train for about three days before we reached our destination which turned out to be Birkenau in Auschwitz.

Id.

Veronika Schwartz’s family was taken from the ghetto in Kisvárda on May 31, 1944. *Confronting Devastation* 173. “We weren’t allowed to take anything,” Veronika remembered, “only the clothes we wore.” *Id.* at 173. Others recall being allowed to “carry only one small piece of baggage” and that they “had to be prepared to travel.” *Id.* at 150 (Yittel Nechumah Bineth). Although the destination was unknown to Veronika’s family at the time of its departure in cramped train cars, the family’s fate is all too familiar:

they were sent to Auschwitz-Birkenau, Poland. *Id.* at 173–74.

Helen Rodak-Izso and her family followed only a few days later. Upon their arrival in Auschwitz, Helen remembered:

We were not awake; we were in a daze, just moving about mechanically. We didn't grasp yet what was going on, that we had lost our family, our home and everything.

Even the little bag with our most cherished family pictures had been brutally and senselessly taken away from us. It dawned on us that we had no right to anything anymore. There was no way out, and it felt as if a dark curtain had descended in front of us, blocking the view to the outside world. The gnawing pain became unbearable, but this was not the place or time for emotion. We were deprived of everything that makes a human being a person.

Confronting Devastation 141. The Hungarian government denied Jews the ability even to maintain family photographs, which were of no value to anyone else. Stripping Hungarian Jews of their property was not merely a manifestation of greed on the part of the Hungarian authorities and the Nazis; rather, it was a means of depriving Hungarian Jews of basic human rights and dignity. Like Helen, Yittel Nechumah Bineth, who was fifteen years old when she was sent to Auschwitz, recalled the soldiers taking and never returning her family's "meagre possessions" after their

arrival. *Id.* at 153, 393. “The only things returned to us were our shoes.” *Id.* at 154.

Yittel remembered that, after her village’s deportation from the Csnora ghetto, the authorities “had the audacity” to take the ten wealthiest residents of the town “back home to Csorna so that they could force [the Jews] to reveal where [their] treasures were hidden.” *Id.* at 151. As Yittel explained, many of these treasures carried great emotional value as well:

After lining up the nine other people, the Germans ruthlessly beat up [the wealthiest man in town] in front of everybody. They did this to intimidate the others, so that they would offer no resistance. All the others, including our mother, instantly directed the soldiers to the relevant spots and handed over their treasures, which were not only very valuable but emotionally important beyond imagination too. These treasures had been saved from generation to generation, passed on from father to son and from mother to daughter throughout the ages.

Id. at 151. These incidents of interrogations and torture were not isolated. *See supra* II.A.3 (valuables stolen during ghettoization and deportation).

Although most who arrived at Auschwitz never left—300,000 to 345,000 of the 430,000 Hungarian Jews sent to Auschwitz were gassed upon arrival—some who had been assigned to the labor camps were later led on death marches to other camps. Holocaust in Hungary lxii. For Sam Grad, his “problems really

began when the Neu-Dachs camp,” a sub-camp of Auschwitz-Birkenau, “was evacuated in January 1945. The Soviets were coming, and the Nazis decided they had to take us further inland.” Confronting Devastation 164. Sam was subjected to multiple marches from location to location, one lasting “three and a half weeks.” *Id.* at 166. “[W]e walked,” Sam said, “and anyone who stopped walking was shot dead. While we walked, we could see the limbs and corpses of those who had been marching ahead of us. Feet, hands, heads . . . all sticking out from the snow.” *Id.*

Sam remembered a bit of “luck” on one trip:

Nobody had any food left, but I was still with my three friends. Unbeknownst to the rest of us, one of the brothers had managed to keep a plain wedding ring on him throughout our travels. On the third day of our journey, he showed it to the SS guard on our train, who miraculously took it in exchange for half of his sandwich. We split that sandwich. For the four of us, that piece of bread was a lifesaver.

Id. at 167.

In early July 1944, Horthy—facing a “deteriorat[ing] . . . military situation, increasing international protests,” “pressure from those around” him, “and the widely circulated documents describing the mass murder at Auschwitz”—stopped the deportations. Holocaust in Hungary lv; *see also* Kovács 54. In sum, close to 450,000 Jews were deported between May 15 and July 9 on 147 trains. Holocaust in Hungary liii. All but fifteen thousand

went to Auschwitz, *see id.*, and one of every three persons killed at Auschwitz was Hungarian, *see id.* at lxii.

2. Arrow Cross Rule

The Germans removed Horthy from his role as regent on October 15, 1944, replacing him with Ferenc Szálasi, leader of the far-right Arrow Cross party. Holocaust in Hungary lxii. Largely because of his own political aspirations, Szálasi was “willing to make compromises on the Jewish question, hoping for international recognition of his government.” *Id.* at lxv. He “was far less enthusiastic about collaborating with the Germans on the Jewish question,” but he remained “a committed antisemite and envisioned the state he would create as free of Jews.” *Id.*

In October 1944, Agnes Kadar was still living in Budapest in a designated Jewish house with several family members. Although some, including her stepmother, were sent to labor camps in Germany at that time, Agnes remained in Budapest. *See Life in the Ghettos* 62–63. She “found [her] maternal grandmother living with her daughter-in-law and her family in a suburb of Budapest. Unfortunately, the Arrow Cross men had just ordered them to vacate the building before nightfall.” *Id.* at 63. Agnes wrote:

I still remember seeing those middle-aged ladies selecting the doodads they wanted to take with them. I told my grandmother that we could only take a small bundle because we had to climb out a basement window to avoid the Arrow Cross men. It made sense to her, but not to the other women. She was one of the

pluckiest women I ever knew. We walked away. The rest of the family was shot that night.

Id.

Eichmann and the new Arrow Cross Minister of the Interior resumed deportations, “handing over fifty thousand Jewish forced laborers.” Holocaust in Hungary lxii–lxiii. In total, fifty to sixty thousand Jews were deported to the Germans by Arrow Cross authorities. *Id.* The indiscriminate plunder of the Jews also continued during this time. Between October 1944 and March 1945, the authorities shipped *between 100,000 and 150,000 tons* of Jewish valuables out of the country. *Id.* at 178.

In early 1945, the remaining Jews were liberated by the Soviet army. Holocaust in Hungary lxv. A Communist regime gained power a few years later. *Id.* at xxi.

III. FROM REMEMBRANCE TO REVISIONISM: HUNGARY STRUGGLES WITH THE LEGACY OF THE HOLOCAUST

As a leading scholar of the Holocaust in Hungary has noted, “[t]he details of this apocalyptic chapter in the history of Hungary have not yet sunk into the national consciousness of the Hungarian people.” Randolph L. Braham, *Hungary: The Assault On The Historical Memory Of The Holocaust* at 7 (2014), available at <https://www.ushmm.org/information/exhibitions/online-exhibitions/special-focus/the-holocaust-in-hungary>. Instead, this “wartime history of Hungary, including the Holocaust, has been manipulated by the successive postwar regimes to serve their particular political interests.” *Id.*

Immediately following the end of WWII, “the Communist Party’s search for mass support” led to “anti-Semitic agitation” and “many ‘spontaneous’ anti-Jewish outbursts and pogroms.” Braham 8. The Party “urged Holocaust survivors to forget about their past suffering and to promote the new socialist society.” Eva Kahana et al., *Trauma and the Life Course in a Cross National Perspective: Focus on Holocaust Survivors Living in Hungary*, 21 *TRAUMATOLOGY*, no. 4, 311, 312 (2015); *see also* Braham 8. Even the Communist Party, which many Jewish survivors had supported because it was separate from Fascism, “was purged of its Jewish component” to garner the support of the ethnic Hungarians. Braham 7–8. During the communist era, “Holocaust survivors were subjected to many adversities, including persecution on both social and religious-political grounds.” Kahana 312.

Since the establishment of democracy in 1989, the series of “elected national leaders of the new democratic society have reacted to the Holocaust in a different manner.” Braham 9; *cf.* Kahana 312. On the whole, however, “the absence of unambiguous and unequivocal moral guidance on the Holocaust” has opened the door to an “offensive against the historical memory of the Holocaust” which seeks to “‘safeguard the national honor of Hungary’ by absolving that nation of any responsibility.” Braham 9–10.

Hungarian courts have reversed convictions of many Hungarian leaders “who had been involved in the roundup, expropriation, ghettoization, and deportation of the Jews.” *Id.* at 11. And while the post-Communist regimes have concerned themselves “with the compensation for the victims of Communism,” they have not done the same for those

of Nazism. *Id.* In fact, “an indeterminate number of the Christian victims who were compensated for properties nationalized by the Communist regime had, in fact, ‘legally’ or fraudulently acquired them from Jews during the Nazi era.” *Id.* at 11–12.

Recently, the Hungarian government has taken actions that have been interpreted by some as minimizing the responsibility of Hungary and Hungarians for the Holocaust in Hungary. For example, in April 2011, the government adopted a preamble to the new constitution of Hungary, “dat[ing] the restoration of [Hungary’s] self-determination, lost on the nineteenth day of March 1944, from the second day of May 1990.” *Id.* at 21. As Braham explains, this preamble seeks “to convince the world that Hungary had lost its sovereignty in the wake of the beginning of the German occupation.” *Id.* There has also been an effort to absolve of responsibility the Hungarian state security agencies that took part in the implementation of the Final Solution. *Id.* at 13. And the government has “consented to, if not actually encouraged, the renaming of streets and the erection of statues for Horthy in many parts of the country.” *Id.* at 24–25.

Some observers have also noted a tendency to minimize what happened to the Jews by portraying it as simply part of the general tragedy of the war. In response, a group of historians has “denounced the government’s distortion of history.” Kovács 57. They have demanded, for example, that the government not erect a monument designed to “present all Hungarians as victims of the Nazi regime.” *Id.*

As Professor Braham concluded, Hungarian leaders “so far have lacked the courage to confront the Holocaust openly and honestly.” Braham 26.

CONCLUSION

For the foregoing reasons, the Court should affirm the decision below.

October 29, 2020

Respectfully submitted,

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