

Organization of American States – Committee on Immigration Affairs  
*Comisión de Asuntos Migratorios, CAM*  
Thematic Hearing regarding Preventing Racism, Xenophobia, and Intersectional Discrimination  
against Migrants  
July 14, 2022, 2:30 pm EDT

### **Presentation by Southern Poverty Law Center**

The Southern Poverty Law Center (SPLC) respectfully submits the following testimony for the consideration of the Committee on Immigration Affairs (CAM) of the Organization of American States (OAS).

#### **I. Introduction**

Founded in 1971, SPLC is a civil rights organization dedicated to litigation and advocacy that make justice and equal opportunity a reality for all. Throughout most of its history, SPLC's work has focused on combatting hate and extremism by identifying and seeking to dismantle groups that promote white supremacy, white nationalism, and other similarly racist ideologies and movements. SPLC's Immigrant Justice Project ("IJP") provides legal representation and support to noncitizens in civil rights cases on issues of regional and national importance, including numerous class actions and complex litigation matters. In April 2017, IJP launched the Southeast Immigrant Freedom Initiative, which engages in advocacy and pro bono legal representation of immigrants confined in detention centers in Georgia, Louisiana, and Mississippi.

Lisa Borden is SPLC's Senior Policy Counsel for International Advocacy. She oversees SPLC's work to advance US implementation of its obligations under international human rights law in SPLC's focus areas of racial justice, decarceration, poverty eradication, and stamping out hate and extremism. Ms. Borden is a civil and human rights lawyer with more than thirty years of experience. Prior to joining SPLC, Lisa developed and led the pro bono practice at a large US law firm, where her own practice included representation of death row prisoners in post-conviction litigation, prison and detention conditions litigation, and representation of people experiencing homelessness or poverty in a wide variety of cases. She also worked extensively in international human rights, advocating for human rights treaty implementation before UN human rights mechanisms in Geneva.

Ms. Borden is a graduate of the Emory University School of Law and the Geneva Academy of International Humanitarian Law and Human Rights.

## **II. Description the work of the Southern Poverty Law Center on behalf of migrants though its Southeast Immigrant Freedom Initiative**

The Southeast Immigrant Freedom Initiative of the Southern Poverty Law Center (SIFI) represents immigrants detained in facilities in the southeastern United States, particularly the states of Georgia and Louisiana. Since its creation in 2017, SIFI has provided advice and counsel to thousands of immigrants and represented hundreds in a variety of cases both in administrative proceedings in immigration court and the Board of Immigration Appeals (BIA), as well as in judicial proceedings before federal courts of first instance and courts of appeals. As part of this work, SIFI has seen the myriad ways in which migrants suffer discrimination at the hands of state and federal agencies, because of their immigration status, because of race and, in particular, because of their sexual orientation or LGBTQ identity.

An alarming increase in immigration detention across the country, especially within the Southeast region, has resulted from xenophobic and anti-immigrant policies, with human rights abuses rampant in private prison facilities. In response, since January 2022, SIFI has greatly diversified its docket and expanded its access to legal education and referrals for those directly impacted. Through mid-June, SIFI filed more than 140 legal submissions including bond motions, parole applications, and other matters, reaching a positive grant rate of 51 percent in some of the most notoriously hostile jurisdictions in the country. SIFI also assisted with more than 30 immigration trial cases, including direct representation and placing matters with pro bono attorneys. We expect to place even more release cases through our pro bono program thanks to our new partnership with the Pro Bono Project in New Orleans. In the past six months, SIFI successfully conducted more than 600 legal visits with detained individuals that included telephone calls, video teleconference, and in-person meetings, while providing technical assistance to more than 140 individuals. The SIFI Helpline staff distributed referrals and other supportive resources to more than 1,000 individuals in detention or their family members. The SPLC's enhanced language access initiative enabled SIFI to serve a broad set of language speakers beyond English and Spanish, including, but not limited to, Wolof, Haitian Creole, Arabic, Bassa, Pulaar, and Twi.

This year, SIFI helped form or joined existing multiracial coalitions, advocating for legal issues as part of larger campaigns seeking the decarceration of migrants in the Southeast. In Georgia, we supported actions protesting the expansion of Folkston ICE Processing Center, which has contracted to become one of the largest detention facilities in the nation, if confirmed. Under SIFI's leadership, a coalition comprised of four women survivors, community partners, and SIFI team members working in partnership submitted an administrative complaint detailing human rights abuses and sexual assault at the Stewart Detention Center. This facility is approximately 100 miles from Irwin County Detention Center, where ICE recently discontinued its contract. This unprecedented coalition will continue its targeted responses. In Louisiana, where immigrant detention dramatically grew in the wake of ICE's massive expansion in 2019, SIFI collaborated with community groups to form a coalition [seeking to end](#) the authority of the New Orleans ICE Field Office to oversee immigrant detention within the Southeast region.

The SPLC team based in Louisiana also launched an inter-organizational project that created legal education programming focused on release advocacy and writs of habeas petitions challenging prolonged detention. This effort reached eight facilities and nearly 1,000 individuals, while distributing pro se guides translated into eight of the most common spoken languages in detention. To address the scarcity of habeas practitioners in the South, the committee developed and strengthened coalitions in Georgia and Louisiana to coordinate the provision of habeas services and broader legal strategy. The SPLC team also directly represented 11 people subject to prolonged and indefinite immigrant detention in the Southeast.

### **III. Discrimination and abusive treatment of Black immigrants in the United States – Racism, xenophobia, and other forms of discrimination**

It is well established under domestic and international law that discrimination on the basis of race or other immutable characteristic has no place in any public legal process or proceeding, including those pertaining to immigrants and asylum-seekers. As the Inter-American Commission on Human Rights (IACHR) and the United Nations’ Special Rapporteur on the human rights of migrants [have stated](#), immigration proceedings, any “measures and responses that are implemented [with respect to migrants] must integrate a gender perspective and differential treatment concerning age, race, and other factors.” And yet, the SPLC has seen first hand how Black migrants face racism and discrimination repeatedly.

For decades, [Black immigrants in the immigration and criminal legal systems have faced discrimination and abuse](#). This linked letter from over 100 lawmakers in February of 2022 outlines these issues well. Black-led civil society organizations such as Haitian Bridge Alliance, UndocuBlack, and Black Alliance for Just Immigration have been pushing civil society organization in the immigrants’ rights space to center these issues more in our overall racial justice framework and advocacy. Among points made in the letter:

“Our country has a long history of inhumane treatment of Black migrants, which is particularly evident in the historic mistreatment of Haitians. In 1981, the United States began interdicting Haitian refugees in the high seas and over the course of the next decade sent some 25,000 asylum seekers back to an island suffering under the rule of brutal U.S.-backed dictatorships. In 1991, the first Bush Administration opened a detention camp in Guantanamo Bay for over 300 HIV-positive Haitian men, women and children, including those who were possibly exposed to HIV/AIDS. This policy was challenged in court and resulted in a settlement requiring the resettlement of those detained in the United States.”

“Unfortunately, Black migrants continue to face disparate and often inhumane treatment at every stage of the immigration enforcement process. For example, although Black immigrants comprise just 5.4 percent of the unauthorized population in the United States, and 7.2 percent of the total noncitizen population, they were 10.6 percent of all immigrants in removal proceedings between 2003 and 2015. Similarly, a recent report from researchers at the University of California found that those detained from Africa and the Caribbean—predominantly Black regions—made up just 4 percent of those in U.S. Immigration and Customs Enforcement custody from 2012 to 2017, but 24 percent of all solitary confinement detentions. Black migrants are also likely to remain in detention longer than other migrants and pay significantly higher bonds for release.”

It is well established that the US criminal justice system disproportionately targets Black people, and this also leads to higher rates of deportation for Black migrants. A 2020 report by the Black Alliance for Just Immigration & NYU School of Law Immigrant Rights Clinic called [“The State of Black Immigrants”](#) provides an overview of “Black Immigrants in the Mass Criminalization System.” Citing to its own study and “The State of Black Immigrants,” a 2021 report from Tulane Law School notes, “Black immigrants are disproportionately likely to be facing deportation because of a criminal conviction. One common consequence of deportation stemming from criminal convictions is that those immigrants may be held in mandatory detention, with no right to a bond hearing, which could lead to prolonged detention.”

As an example of this racism and xenophobia, our Black Jamaican client, Noel, has been trapped in ICE detention for more than three years with no end in sight due to the intersection of these harmful systems. Despite having served a lengthy sentence on non-violent marijuana convictions in 2011 and having been deemed fit for release by the criminal court and Bureau of Prisons after having a completely perfect disciplinary record with no write-ups after 8 years of incarceration and robust rehabilitation, ICE refuses to release Noel pending the outcome of his criminal case, claiming he is a danger to the community. Meanwhile, marijuana has been decriminalized in many states, and many white, wealthy business owners now involved in the Cannabis “industry” are making a living from the very same conduct for which Noel was criminalized. Drug-related crimes are disparately enforced. Black individuals, like Noel, are 3.64 times more likely than white individuals to be arrested for marijuana possession, even though usage rates are comparable; and African Americans are more likely to be arrested for marijuana possession in every single state in the country. [A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform](#), ACLU Research Report, 2020.

“Black immigrants are one of the fastest growing demographics in the United States. Nonetheless, this group remains a novelty in the broader immigration discourse. This report aims to elevate the conditions facing Black immigrants in the United States, drawing particular attention to their experience in the criminal law and immigration systems. This report argues that like African-Americans, Black immigrants experience disparate, often negative, outcomes within various social and economic structures in the U.S., including the country’s mass criminalization and immigration enforcement regimes. This report focuses on policing, mass incarceration, immigrant detention, and deportations, as these issues are most pertinent in our current political and social context. Due to racial discrimination, over-policing of Black communities, and invisibility within the public consciousness, Black immigrants face egregious conditions in the U.S., particularly within the nation’s immigration enforcement system. Some of our key findings include:

- × More than one out of every five noncitizens facing deportation on criminal grounds before the Executive Office for Immigration Review is Black.
- × Black immigrants are more likely to be detained for criminal convictions than the immigrant population overall.
- × Black immigrants in removal proceedings for a criminal conviction often have lived in the U.S. for a long time and established strong community ties; many are apprehended and placed in deportation proceedings long after the triggering criminal conviction occurred.
- × Black immigrants are much more likely than nationals from other regions to be deported due to a criminal conviction. It is imperative that the U.S. adopt policies that end the mass criminalization

of Black and other marginalized communities, provide a safety net for Black immigrants, and address racial disparities in the immigration enforcement system.”

In the context of this abuse and mistreatment of Black migrants in the United States, a [recent poll](#) conducted by SPLC and Tulchin Research found that nearly 7 in 10 self-identified Republicans surveyed agree to at least some extent that demographic changes in the United States are deliberately driven by liberal and progressive politicians attempting to gain political power by “replacing more conservative white voters.” This view, often referred to as the “Great Replacement theory,” has been pushed by far-right politicians and media, and is in large part responsible for bias against Black and Brown immigrants that underlies harmful immigration policies as well as specific instances of abuse.

Similarly, a newly issued and extensively researched February 10, 2022 [Human Rights Watch report](#), “*How Can You Throw Us Back?*” explains the repressive and ongoing crackdown and persecution by Cameroonian authorities against anglophones, dissidents, and perceived dissidents, which has killed thousands of innocent people. It also chronicles the mistreatment and wrongful asylum denials of Cameroonians in the U.S. and calls for immediate Temporary Protected Status of Cameroonians and the return of 190 Cameroonians deported in 2020, including a SIFI client who was deported by New Orleans ICE in violation of a court stay of removal. Though conditions in Cameroon had not improved, the US immigration court grant rate for asylum or other relief to Cameroonians dropped by approximately 24 percent from fiscal year 2019 to 2020 – a substantial difference from the 6 percent drop in the overall rate. The US violates the non-refoulement requirements of the Refugee Convention and other international law when it returns Cameroonians to face these extreme dangers.

In late 2020, deportations surged. The report goes on to document serious flaws and misconduct by officials at all stages of the asylum process, some of which at least three SIFI clients experienced. **The report shows that US authorities not only sent Cameroonians back to harm, including a SIFI client, but also subjected them to serious human rights violations in US immigration detention, failed to fairly adjudicate many of their cases, and failed to protect confidential asylum documents, which were confiscated by their government.**

The report documents how Cameroonian authorities subjected dozens of asylum seekers deported by the United States to serious human rights violations between 2019 and 2021, including arbitrary arrest and detention; enforced disappearances; torture, rape, and other violence; extortion; unfair prosecutions; confiscation of their national documents; harassment and threats. The report states that Cameroonian authorities detained or harmed at least 40 Cameroonians deported from the United States between 2019 and 2021, noting that additional cases may have gone unreported. Human Rights Watch found that authorities detained deportees in jails, prisons, military camps, or other detention facilities, both legal and illegal, for periods ranging from days to months. In multiple cases, people were held without due process or in inhumane conditions. The report documents 13 cases of torture, other abuse, or assault of deportees by state agents. Perpetrators included Cameroonian police, gendarmes, military personnel, and other officials. Armed separatists also beat at least one deported person and threatened the relatives of others.

The report notes that **Cameroonian authorities targeted people in many cases because of their deportation from the United States and their assumed opposition to the government.** Authorities also targeted or harmed the families of deported people. In seven documented cases, state agents beat, abducted, detained, harassed, and in one case reportedly killed, relatives in connection with deportees’ returns. Approximately thirty of those removed cannot be located and are feared to be dead. For these reasons, U.S. deportations of Cameroonian asylum seekers violated US obligations under international human rights and refugee law and the U.S. should similarly commit, as it has just done for the Ukraine, to cease sending

Black immigrants back to harm's way.<sup>1</sup> SPLC staff and our work and analysis of these issues are mentioned in this report.

Many of the migrants and asylum-seekers featured in the HRW report also reported experiencing excessive force, medical neglect and other mistreatment in Immigration and Customs Enforcement (ICE) custody in the U.S. SPLC represented a number of Black Immigrants (from Cameroon and several other countries in Africa) who ICE refused to release despite their meeting the qualifications for release on parole and seriously abused as they were detained for over a year by ICE in Louisiana, and filed several civil rights complaints on their behalf. A group of 45 African asylum seekers detained in Louisiana, [wrote letters protesting their unfair treatment in immigration court](#), and alongside other groups of Cameroonians detained by ICE across the U.S., organized protests in [February](#), [March](#), [June](#), and [August](#) of 2020, met by brutal violence, repression, solitary confinement, deprivation of potable water, communication blackouts, and denial and cover up by ICE and the for-profit private prison operator, Geo Group. Civil rights complaints were filed in 2020 about the [protests](#) (August of 2020) and [deportation paperwork signatures forced by violence](#), in 2021 about the treatment of [Black immigrants in Louisiana immigration detention](#), and in 2021 describing [the horrific "WRAP" device that strapped these asylum seekers in a torturous stress position](#) as they were being forcibly deported to Cameroon.

#### IV. Conclusion and Recommendations

The discrimination that immigrants, refugees, asylum-seekers and other displaced individuals based on their immigration status is compounded by the racism, xenophobia and other discrimination at the hands of the very government agencies whose mission is to protect their rights. In light of the foregoing, SPLC makes the following recommendations:

- (i) Adopt a comprehensive strategic plan to address the issues and needs of migrants who face additional discrimination (e.g., Black migrants, LGBTQ migrants, women migrants, indigenous migrants, among others), including the establishment of units dedicated to its implementation within relevant agencies, and provide adequate monitoring, resources and training for full implementation;
- (ii) Enact, implement and enforce internal policies aimed at eradicating white supremacist views and practices within immigration agencies (including but not limited to the recommendations contained in the March 2022 [Report to the Secretary of Homeland Security Domestic Violent Extremism Internal Review: Observations, Findings, and Recommendations](#)) within the next fiscal year, and allow for a transparent reporting on progress, challenges, and consultation with civil society organizations;
- (iii) Implement transparent, meaningful and responsive procedures for migrants who face discrimination and abuse within the immigration system to report and seek redress for such abuse without fear of retaliation;
- (iv) Develop and institute mandatory [anti-racism training](#) for all employees of immigration agencies, particularly those engaged in enforcement or immigration laws, processing of migrants (at the border and in the interior), or detention of migrants; and
- (v) Institute a system to allow for civil society organizations to provide input and technical expertise on the recommendations listed above, and their implementation.

---

<sup>1</sup> In the spring of 2022, the United States government extended "Temporary Protected Status" (TPS) for Cameroonian nationals.

Respectfully submitted,

Southern Poverty Law Center