

The United States of America's Compliance with the  
Convention on the Elimination of All Forms of Racial Discrimination

Submitted by the Southeastern Immigrant Freedom Initiative  
of the Southern Poverty Law Center

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**The Southeastern Immigrant Freedom Initiative** (SIFI) has provided representation for detained immigrants in the Southeastern United States since 2017. Since its' creation, SIFI has provided advice and counsel to thousands of immigrants and direct representation to hundreds in administrative proceedings in immigration court, at the Board of Immigration Appeals (BIA), and in judicial proceedings before federal district and appellate and courts.

## **I. The Work of SIFI.**

The Southeast Immigrant Freedom Initiative of the Southern Poverty Law Center (SIFI) represents immigrants detained in facilities in the southeastern United States, most often in Georgia and Louisiana, where eleven detention facilities are located. The United States government does not provide representation to immigrants facing proceedings to deport them or determine their eligibility for immigration status, and indeed often impedes access to counsel.<sup>1</sup> Since its creation in 2017, SIFI has provided legal advice, counsel, and representation to thousands of immigrants in a variety of cases, both in administrative proceedings in immigration court and the Board of Immigration Appeals (BIA), and 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. Nationally, average daily detention figures rose from 7,000 in 1994 to more than 50,000 in 2019. After the Trump administration closed the border during the pandemic, the number of detained immigrants fell to about 15,000 in January of 2021 but had risen to more than 20,000 by the end of 2021.<sup>2</sup> In July 2002, the US Immigration and Customs Enforcement agency (ICE) reported more a daily average figure of more than 21,000.<sup>3</sup>

In response to the huge need for legal help, since January 2022, SIFI has greatly diversified its docket and expanded 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 difficult jurisdictions in the country. SIFI also assisted with more than 30 immigration trial cases, including direct representation and placement of matters with pro bono attorneys. Sadly, the region of the country in which a migrant's case is heard can make a dramatic difference. Immigration courts in SIFI's region are extremely hostile to asylum seekers. In Atlanta, Georgia, judges denied between 91 and 99% of asylum petitions from 2016 to 2021. In New Orleans, Louisiana, the denial rate was between 82 and 96%. Courts in some other parts of the country are more hospitable. In Chicago, for example, 40-60% of asylum petitions were granted.<sup>4</sup>

SIFI expects to place even more release cases through our pro bono program thanks to our new partnership with the Pro Bono Project in New Orleans. Despite challenges, in the past six months SIFI successfully conducted more than 600 legal visits with detained individuals, including telephone calls, video teleconferences, 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

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<sup>1</sup> See [No Fighting Chance: ICE's Denial of Access to Counsel in US Immigration Detention Centers](#), ACLU, June 2022.

<sup>2</sup> [Detention Watch Network](#).

<sup>3</sup> [Detention Statistics](#), US Immigration and Customs Enforcement, 8 July 2022 (downloadable spreadsheet).

<sup>4</sup> [Judge-by-Judge Asylum Decisions in Immigration Courts FY 2016-2021](#), Syracuse University.

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 on 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, if confirmed is contracted to become one of the largest detention facilities in the nation. 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 in Georgia. This facility is approximately 100 miles from Irwin County Detention Center, where ICE recently discontinued its contract. 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.<sup>5</sup>

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.

## **II. Discrimination and abusive treatment of Black immigrants in the United States**

For decades, Black migrants have disproportionately faced abuse and discrimination in the US. A February 2022 letter to President Biden from over 100 lawmakers<sup>6</sup> outlined the issues and called for a thorough investigation and response. 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

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<sup>5</sup> [Letter to Secretary Alejandro Mayorkas](#), US Department of Homeland Security, 20 December 2021.

<sup>6</sup> [Congressional Democrats Ask Biden to Review Treatment of Black Migrants](#), New York Times, 16 February 2022.

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.”

Black-led groups such as Haitian Bridge Alliance, UndocuBlack, and Black Alliance for Just Immigration also have been pushing civil society organization in the immigrants’ rights space to center these issues more in our overall racial justice framework and advocacy.

Racially discriminatory immigration policies and enforcement in the US are part and parcel of the far-right’s demonization of Black and Brown migrants for political purposes. Fear of changes to the social status quo, in which white people hold a privileged place, has helped fuel the mainstreaming of the “great replacement” myth – a conspiracy theory in which white people are being systematically replaced by non-white immigrants at the hands of leftists, Democrats, “multiculturalists,” Jewish people and others. The myth is central to the white nationalist movement, which in 2021 included 98 hate groups in the US. As hard-right actors weaponize America’s demographic changes to instill fear and resentment, the myth has spread beyond terrorist manifestos and into American living rooms. Far-right media and politicians have openly promoted replacement theory, and the fear incited by it has been used to justify racially motivated immigration policy. This has been especially true in Southern states. After Fox News personality Tucker Carlson promoted the theory on-air in September 2021, saying that “legacy Americans” were being replaced with “more obedient” people from other countries,<sup>7</sup> Florida Congressional Representative Matt Gaetz tweeted that Carlson was correct.<sup>8</sup> Officials in border states, where white nationalist and antigovernment groups have “intercepted” and interrogated migrants <https://www.splcenter.org/hatewatch/2021/07/29/plain-sight-uncovering-border-patrols-relationship-far-right-militias-southern-border><sup>9</sup> (sometimes with the knowledge and acquiescence of Border Patrol agents), have especially tried to ramp up fear of white replacement to undercut their political opposition. Republican Texas Lt. Gov. Dan Patrick said on Fox News that Democrats are using immigration to “take over our country without firing a shot.”<sup>10</sup>

In March of 2022, DHS produced a report,<sup>11</sup> following an internal investigation, regarding extremism within the agency. The report calls for the development of policies and procedures to address the problem, including clear policies on what constitutes violent extremist behavior and guidance on how DHS officials should respond to it. Unfortunately, the report focuses narrowly on “violent domestic extremist” conduct, leaving open the potential for those who adhere to white

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<sup>7</sup> [How Republicans learned to stop worrying and embrace “replacement theory” – by name](#), Washington Post, 27 September 2021.

<sup>8</sup> [Tweet](#) by Rep. Matt Gaetz (R. – FL), 25 September 2021.

<sup>9</sup> [In Plain Sight: Uncovering Border Patrol’s Relationship with Far-Right Militias at the Southern Border](#), Southern Poverty Law Center, 29 July 2021.

<sup>10</sup> [Texas Lt. Gov Spews Racist “Great Replacement” Theory on Fox: “A Revolution Has Begun](#), The Daily Beast, 17 September 2021.

<sup>11</sup> [Report to the Secretary of Homeland Security, Domestic Violent Extremism Internal Review: Observations, Findings, and Recommendations](#), Office of the Chief Security Officer, Department of Homeland Security, 11 March 2022.

supremacist or other extremist ideologies may continue to be in positions in which they arrest, detain, interrogate, or otherwise interact with Black and Brown migrants in a harmful discriminatory manner. However, it does call for measures to reinforce and enhance compliance with the agency's ethics standards and code of conduct, and for education about the threat posed by extremism within the agency.

It is well established that the US criminal justice system disproportionately targets Black people, and this also leads to higher rates of detention and deportation for Black migrants. A 2020 report by the Black Alliance for Just Immigration & NYU School of Law Immigrant Rights Clinic provides an overview of "Black Immigrants in the Mass Criminalization System."<sup>12</sup> The authors found that Black immigrants are more likely to be detained for criminal convictions, and much more likely to be deported for criminal convictions than other immigrants.<sup>13</sup> Deportation proceedings stemming from criminal conviction often results in the immigrant being held in mandatory detention, with no right to a bond hearing, sometimes for prolonged periods.

SIFI's 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. Noel served a lengthy sentence on non-violent marijuana convictions in 2011. He completed his sentence with a perfect disciplinary record and participated in robust rehabilitation and education and was deemed fit for release by the criminal court and Bureau of Prisons. Nevertheless, ICE refuses to release Noel pending the outcome of his criminal case, claiming he is a danger to the community. During his detention, Noel has experienced explicit racial and racialized sexual harassment, denial of necessary medical care related to his sickle cell disease and overcrowded and unsanitary conditions.

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 against Black people. 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, as described in a recent ACLU report:<sup>14</sup>

[L]ike 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 .... 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.

The authors of the ACLU report found that more than one out of every five noncitizens facing deportation on criminal grounds before the Executive Office for Immigration Review is

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<sup>12</sup> [The State of Black Immigrants](#), NYU Law Immigrant Rights Clinic and Black Alliance for Immigrant Justice, 2020.

<sup>13</sup> *Id.*, Part II, at 7.

<sup>14</sup> [A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform](#), ACLU, 2020.

Black. They also noted that 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.

A newly issued and extensively researched report by Human Rights Watch explains the repressive and ongoing crackdown and persecution by Cameroonian authorities against anglophones, dissidents, and perceived dissidents, which has killed thousands of innocent people.<sup>15</sup> 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 Human Rights Watch 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. 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.

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. Cameroonian authorities detained or harmed at least 40 Cameroonians deported from the United States between 2019 and 2021. 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. Although the Biden administration eventually extended Temporary Protected Status to Cameroon in the Spring of 2022, TPS has been granted to immigrants from white majority countries like Ukraine without such unwarranted delays.

SIFI represented a number of Black immigrants from Cameroon and several other African countries who ICE refused to release despite their meeting the qualifications for release on parole. They suffered seriously abuse as they were detained for over a year by ICE in Louisiana, and SIFI filed several civil rights complaints on their behalf. In 2020, group of 45 African asylum seekers detained in Louisiana wrote letters protesting their treatment in immigration court.<sup>16</sup> Alongside

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<sup>15</sup> [How Can You Throw Us Back?](#), Human Rights Watch, 10 February 2022.

<sup>16</sup> [Tweets](#) reproducing handwritten letters, 17 March 2020.



other groups of Cameroonians detained by ICE, they organized protests across the US. The protests were met with 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. SIFI and other civil rights organizations submitted a complaint to the Department of Homeland Security seeking an end to these practices.<sup>17</sup> SIFI and other organizations also submitted another complaint regarding coerced signatures on deportation paperwork.<sup>18</sup> In 2021, complaints were also filed regarding racial discrimination and abuse against Black immigrants in Louisiana ICE facilities,<sup>19</sup> and describing horrific “WRAP” devices that strapped asylum seekers in torturous stress positions sometimes for hours at a time, as they were being forcibly deported back to Cameroon.<sup>20</sup>

### Suggested Recommendations:

- The US should adopt a comprehensive strategic plan to address the issues and needs of migrants who face additional discrimination based on their race, gender, gender identity, or sexual orientation, including the establishment of units dedicated implementing the plan within the relevant agencies, and should provide adequate monitoring, resources and training for full implementation.
- The administration should take steps to ensure that implementation of the goals of laid out in the DHS report on its internal extremism review are carried out promptly and transparently.
- DHS must implement transparent, meaningful and responsive procedures for migrants who face discrimination and abuse within the immigration detention system to allow them to report these issues and seek redress without fear of retaliation.
- DHS should develop and institute mandatory anti-racism training for all employees of immigration agencies, particularly those engaged in enforcement of immigration laws, processing of migrants (at the border and in the interior), or detention of migrants.
- DHS should institute a system of routine consultation with civil society organizations to provide input and technical expertise on all of these matters.

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<sup>17</sup> [\*Immigrant Rights Groups File Civil Rights Complaint Calling For a Halt and Investigation of Racist Practices at Louisiana ICE Prison\*](#), Southern Poverty Law Center, 26 August 2020.

<sup>18</sup> [\*“After About Five Minutes of Struggle, They Forced My Index Finger on the Paper:” ICE Forcing More Asylum Seekers to Sign Deportation Paperwork As Another Deportation Flight to Cameroon Looms\*](#), Southern Poverty Law Center, 29 November 2020.

<sup>19</sup> [\*Immigration Advocates Call to End Contracts and Shut Down Two Louisiana ICE Facilities Over Racial Discrimination and Abuse\*](#), Southern Poverty Law Center, 28 July 2021.

<sup>20</sup> [\*Civil Rights Complaint Reveals ICE Abuse of “The Wrap” Restraints to Facilitate Deportations to Cameroon\*](#), UndocuBlack Network, 13 October 2021.