

BEHIND CLOSED DOORS

Black Migrants
and the Hidden
Injustices of U.S.
Immigration
Courts



OHIO IMMIGRANT
ALLIANCE

Behind Closed Doors: Black Migrants and the Hidden Injustices of U.S. Immigration Courts

Ohio Immigrant Alliance

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About the Ohio Immigrant Alliance

The Ohio Immigrant Alliance is a group of immigrants and citizens working to protect the dignity and rights of all individuals who choose to make Ohio their home, regardless of race, religion, sexual orientation, gender identity and expression, age, ability, and citizenship status. We engage in activism and volunteerism that connect communities across the state — as well as Ohioans who have been deported — to expand our voices and power, and build the world we want to live in.

"Behind Closed Doors: Black Migrants and the Hidden Injustices of U.S. Immigration Courts," commissioned by the Ohio Immigrant Alliance, explores the systemic biases and pervasive injustices faced by Black migrants within the U.S. immigration court system. The report draws on qualitative and quantitative data, including interviews with migrants and immigration attorneys, to uncover how anti-Black biases, lack of legal representation, and procedural flaws prevent Black migrants from obtaining fair and just outcomes in immigration court, including immigration status to which they are entitled under law. It details the emotional and material toll this system visits upon migrants, highlighting dehumanizing experiences in detention centers and courtrooms that compound existing traumas.

The report emphasizes the need for structural and systemic change and transformation, including enhanced cultural competence training, improved legal representation, and greater transparency and accountability within the immigration system. The findings serve as a call to action for policymakers, lawyers, philanthropy, and the public to address these inequities and foster a more just and humane immigration system.

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Maryam's Preface

Could you share a brief overview of your journey into community organizing, highlighting key moments that shaped your path?

I became a community organizer after Lynn Tramonte spoke to me about #ReuniteUS. I was so surprised and amazed by the work she was doing with Mauritanian people and immigrants/people seeking asylum in general.

How has your multicultural and multilingual background enriched your perspective as a community organizer?

I think it helps a lot that I am an immigrant and a daughter of immigrants. About 75% of the people interviewed for #ReuniteUS, for example, are Halpulaar people (Fulani) and I think it helped that I speak the language fluently. My parents immigrated from Senegal to France in the 1960s for economic reasons and I was lucky that they taught me their language, Pulaar (Fulani), and of course I speak French because I was born there. When he retired, my father decided to take all his family back to Senegal and so I spent ten years there, therefore I also learned Wolof.

Reflecting on your time with the Ohio Immigrant Alliance, could you narrate an experience that stands out to you, either as a significant achievement or a valuable lesson learned?

I think that the highlight of my time was when we were able to bring a woman back to the U.S. All credit goes to Melissa, an organizer who was working with us. She did her humanitarian parole and with the help of a very small group, [the woman] came back to the U.S. and was reunited with her family after many years.

As someone who wears both the organizer and translator hats, how do these roles intersect, and how do they inform your approach to advocacy?

It is very hard to be an organizer and a translator, and on top of everything an empath. I can feel someone's energy from several feet away, even before the person speaks to me. It is weird. I cannot explain it. I spoke to over 250 people and I could feel everyone's energy over the phone. I would feel it under my skin. Their anxiety, their fear, their shame. But I would also feel the hope they had and the relief after talking to them. An interpreter is taught to be objective and impartial. Feelings cannot be involved when you translate. But with this particular group it was very hard. I met with family members of deported people. The wives and children would talk about how they missed their father and husbands. It was difficult to go from organizer to translator. I often wonder if people thought that I was too sensitive or too insensitive depending on the hats I was wearing.

Translating involves not only words but also cultural context. How do you approach translating phrases or concepts that don't have direct equivalents in the target language?

In Pulaar and Wolof, you have to change some of the wordings in order to make sense. Pulaar is a very “pictured language.” But I speak Pulaar as well as I speak French, so for me it is very easy.

Developing a connection with interviewees is vital for honest storytelling. Could you explain how you establish trust and rapport with individuals, especially when discussing sensitive topics?

I am a good listener and I care. I think if your interlocutor understands that you are there to listen to them and not to just collect information, it builds a trusting relationship. African men do not talk about feelings. I remember speaking to a man who was having health issues and who was forced to wear a diaper during his deportation trip. It was the ultimate humiliation for him; he was so ashamed and I think that part hurt him more than anything. He spoke to me about it but was not afraid to say it. He was angry, but he trusted that he could tell me about it. And I listened, and I was also angry because Fulani people express compassion by showing that they share the same feelings as you. “If you’re angry and tell me about it, I show compassion by being angry.”

Are there any memorable instances where your approach to building trust led to a particularly profound interview that might not have been possible otherwise?

I interviewed a man who was deported while his wife was pregnant. But I spoke to the wife prior to speaking to him. I called her sister and expressed how I felt her pain. I gave her mental and emotional support. She is younger than me, so she has lots of respect for me. She would call me late to cry and I would just listen to her. We became good friends. I think that created trust in the relationship.

Translating interviews involving personal and emotional narratives can be emotionally intense. Could you describe how you manage to convey the emotions and meanings accurately while maintaining a professional role?

I am not going to lie. I cried a lot during interviews. I had many sleepless nights thinking that it could’ve happened to my husband or my son. I called so many people to check on them after the interviews. I spoke to people who ended up having mental health issues after their deportations. I remember interviewing a man for seven hours because he could not stop crying. We cried together; we stopped and we kept on going. It was intense. It was like I knew him and I could understand his pain. He is one of my people. Now, keep in mind that we were the first people who ever called these men and women to ask them about what happened during their deportations. It was hard. I would work on art projects to decompress after interviews. I was afraid that I was on the phone too long with them. But at the end of the day, we developed beautiful friendships with them.

What personal values or beliefs drive your dedication to supporting immigrants and people seeking asylum?

I am African. I am an immigrant and I came to America to be with my husband and

build a family. I came by plane; I was not asked to apply for a visa, or to go to court for years, because I had a French passport. My parents went to France the same way as I did. Why does it have to be hard for some people who are seeking asylum in America? Is it because they are Black or stateless or because they crossed a border by foot ? I feel privileged and I feel like I need to help. Growing up in a Senegalese Muslim environment, we were always told that girls, women should not speak loudly, or express their minds or feelings, but it is not me. I will always say what I think and be as loud as I can for those who can't speak out for themselves.

Lynn's Preface

At an asylum hearing in the Cleveland Immigration Court, a Black Mauritanian man offered to remove his shirt to show the scars and burn marks across his torso. He could tell the hearing was not going well; it was a moment of desperation. Judge Teresa Riley told him no, the photos she had in front of her were sufficient.

Make no mistake, Judge Riley was not worried about insulting this man's dignity. Indignities are part of the strategy for immigration judges and Department of Homeland Security lawyers in immigration court, every day. They are tests the immigrant will most likely fail. In this case, Judge Riley told the man that he must have the "type of skin that scars easily," and ordered his deportation.

What is racism? As a white person, it's not an experience I've had. But I'm trying to learn about it. Over the last six years I have gotten to know many Black Mauritians who were denied safety in U.S. immigration courts — despite fleeing genocide and apartheid; despite the scars on their bodies and in their minds. I've spoken to middle-aged men locked inside U.S. immigration jails, or hiding from Immigration and Customs Enforcement (ICE), their voices trembling as they whispered that they cannot go back to Mauritania.

Some were forced onto deportation planes. Some refused, and were beaten up in the parking lot of the Columbus International Airport. Others refused and were bound and immobilized by WRAP restraint devices, which the government calls a "humane" alternative to hogtying. They were thrown onto planes like FedEx packages, but in five-point shackles.

Back in Mauritania, many of the men who were deported were immediately arrested and held in torturous conditions for days or weeks, until a friend or relative paid for their release. The reason they left Mauritania was because of a race-based genocide. And the U.S. government sent them back to the very people they fled.

Witnessing the rude skepticism with which immigration judges treat immigrants seeking asylum; the fraud narratives pushed by government prosecutors and judges; and the way incarceration is used to destabilize immigrants and get them to stop fighting their cases, the racial power dynamic is clear. Mostly white judges and prosecutors, who are tasked with implementing immigration laws that were crafted to preserve white privilege, are making grave decisions about Black people's lives — and largely ruling for their deportation.

Judges' ignorant comments about people's bodies and behavior under stress; attacks on the legitimacy of their identity documents; statements about the "safety" of a country they do not know; it all reads as racism. It is racism. And while discussion about the racist origins and underpinnings of the criminal legal system is starting in

this country, no one is talking about the illusion of justice in immigration courts, which currently number 72 across the nation.

I am so grateful to Nana Afua Yeboah, PhD for taking on this project, which got bigger and more important with every conversation she and the team had. Immigration lawyers and immigrants who sat in those courtrooms, often before multiple judges across years or even decades, shared their experiences. The conversations were brutal. And many immigrants said they were surprised at the way the U.S. immigration courts work, having been told a different story about “justice” in the United States.

Interviewing immigrants about these experiences in court, years and even decades later, re-traumatizes them. Collecting and reading these examples is secondary trauma. But the people we talked to for this report want to be heard. They want the world to know how they have been treated, and that they know their lives matter and this system is a fraud. They are brave, strong, and loving. Generous, funny, and sad. Sometimes happy. They speak multiple languages; survived physical and mental torture; experienced atrocities and witnessed atrocities committed on people they love. They have also fallen in love and raised children; been the favorite uncle and trusted teacher; contributed to their communities; and tried to leave the world a better place.

There are so many relationships I developed between 2018 and today that I treasure. So many men and women I have gotten the privilege to know. Unfortunately, it's during one of the darkest moments of their lives. I've seen many marital relationships fail, many kids who miss their dads and dads who miss their kids. Uncles who miss their nieces and nephews. A Columbus community that misses their Quran teacher. All because a process that was supposed to protect them, was actually designed to fail.

Sometimes, kids stop talking to their parents who were deported because of the trauma. Some people have died without a chance to be together again. Why is the U.S. government fracturing these relationships? It's so cruel. These are human-made decisions and humans have the power to reverse them.

I want to share one story from a friend. It may seem like a simple story, but to me it is profound. Saidu was incarcerated in immigration jail for three years, and forced to participate in his deportation hearings over a video screen, rather than in the actual room with the judge. He was denied asylum. The judge said his testimony was not “credible.” Credibility determinations are the trump card for immigration judges, a feature in the immigration judicial process where racism reigns.

My friend Saidu was deported, and after his deportation he brought up a memory from inside immigration jail, something he hadn't wanted to talk about before. He said it was “like a shame.”

I was inside for Immigration for so long, I started losing my mind. One time I went to the nurse because I was having nightmares and she tried to give me medication. I was like, no. That's the last thing you are going to do to me. Nope. Because I know me. I came from a family where we don't believe in medications and stuff like that, unless we're sick. And I know I'm not crazy. I went to the mental health nurse because I started having nightmares in jail and I just wanted to talk to someone. Because I'd been incarcerated in that room for so long.

He didn't want a pill to feel better; he wanted to talk to someone. And the system wouldn't even give him that. Saidu couldn't get talk therapy inside immigration jail, but he found resiliency another way. He and others incarcerated for ICE spoke out about abuses in Ohio immigration jails. They spoke out multiple times, as months turned to years. They talked to the media and provided evidence for lawsuits. Even when it was dangerous, when officers retaliated and put them in solitary confinement, or pushed them down the stairs.

Although many people were deported during this time, they left a legacy that meant less pain for the people coming behind them. They closed two ICE jails in Ohio. When there are fewer immigration jails, there are fewer injustices in court, and fewer dangerous deportations. They closed two jails; there's two more to go in Ohio, and hundreds across the United States.

With the dawn of a second Trump administration, these stories about what happened the first time around — and how the immigration court has been deliberately designed to fail, not to provide justice — need to be heard.

Introduction

This report delves into the profound challenges faced by Black people seeking asylum within the United States' deliberately complex, confounding immigration enforcement system. It intertwines first-hand testimonies from people seeking asylum with insights from legal practitioners, revealing a disturbing mosaic that illustrates how purportedly neutral bureaucratic processes systematically disadvantage Black migrants. Identity markers such as race, religion, ethnicity, nationality, and language proficiency are weaponized to frustrate refuge pathways, perpetuating xenophobic narratives that underlie exclusionary reforms. These attributes are frequently hidden from available government data, in order to undermine exposure of a clear, discernible bias.

By foregrounding lived perspectives often excluded from policy and legislative debates, the report aims to counter xenophobic narratives and inject overlooked experiential evidence into discussions surrounding legal immigration frameworks.

Objectives of the Report

This report pursues three interrelated objectives:

1. Document the specific bureaucratic obstacles and tangible harms inflicted through immigration restrictions, deportability constructs, detention expansions, and asylum hostility, based on the real experiences of Black immigrants.
2. Propose structural changes, policy recommendations, and oversight mechanisms to mitigate identified injustices and foster a compassion-centered legal compliance model.
3. Amplify marginalized voices through consciousness-raising, first-hand narratives that humanize the problems and challenge exclusionary cultural attitudes on immigration.

Methodology

The report employs an innovative mixed methods approach, combining empirical immigration court and enforcement data analysis with semi-structured practitioner and migrant interviews and asynchronous voice interviews with people who have sought asylum in the United States. By showcasing convergent statistical and experiential patterns from distinct expert angles, the report constructs a multidimensional perspective on the immigration apparatus, unmasking its deeper procedural contours that are often invisible to outsiders.

Significance

Amplifying attorney and migrant voices and perspectives holds immense significance for individual cases and the broader policy dialogue. These narratives inject overlooked insights, challenge prejudiced rhetoric dehumanizing displaced people,

nurture empathy, and can catalyze structural reforms. Without including these experiences, just resolutions remain elusive.

Report Contributions

By foregrounding largely invisible realities endangering minorities caught within failing systems, this report sounds an urgent alarm. It serves as a clarion call for stakeholders to enact rights-centered reforms reflecting shared moral values of compassion and human dignity. The report's legal and policy recommendations provide a roadmap for transformative change, seeking to reshape the immigration landscape to align with principles of justice, empathy, and collective care.

Study Methodology

Research Design Overview

"Behind Closed Doors" draws from nine semi-structured interviews with immigration attorneys and three Black migrants residing in, or deported from, the United States. Demographic information on attorneys and advocates was also collected via survey. Another twelve Black migrants with experience in U.S. immigration courts were interviewed asynchronously. Migrant interview participants received compensation for their participation.

Data Collection and Analysis

This report employs a mixed methods approach, integrating both qualitative and quantitative data to provide a comprehensive understanding of the systemic biases and pervasive injustices faced by Black migrants within the U.S. immigration court system. The mixed methods approach was chosen to triangulate findings, ensuring a more robust and nuanced analysis.

Qualitative Data Collection

Semi-Structured Interviews: We conducted nine semi-structured interviews with immigration attorneys and three with Black migrants. These interviews were designed to capture in-depth perspectives and experiences. Participants were selected using purposive sampling to ensure a diverse representation of views and experiences.

Asynchronous Voice Message Recordings: We also conducted twelve asynchronous voice message interviews¹ via a secure communication app with people who were ordered deported, most of whom now reside outside of the United States. This innovative method allowed us to include voices from migrants currently residing in Africa, ensuring that geographical and mobility restrictions did not limit our data collection.

Quantitative Data Collection

Federal Government Data: We analyzed data from the U.S. Executive Office for Immigration Review (EOIR) focusing on key statistics and trends related to the immigration court system. This included descriptive analysis of claimants of African and African Diaspora origin.

¹ See Barbosa and Milan (2019); Chen and Neo (2019); Gruber, Eberl, Lind, and Boomgaarden (2021); Ndashimye, Hebie, and Tjaden (2024).

Significance of Mixed Methods Approach

The rationale for using a mixed methods approach lies in its ability to capture both the breadth and depth of the issues at hand:

- **Breadth:** Quantitative data provides a broad overview of trends and patterns within the immigration court system, highlighting systemic disparities.
- **Depth:** Qualitative data offers rich, detailed accounts of individual experiences, providing context and deeper insights into the lived realities of Black migrants.

By integrating these methods, this report not only identifies statistical trends but adds a humanizing dimension, ensuring that policy recommendations are grounded in both empirical evidence and personal narratives.

Sampling Methods

To ensure diverse perspectives, we employed two main sampling methods:

1. **Purposive Sampling:** We selected attorneys and advocates with expertise in immigration courts using the EOIR List of Pro Bono Legal Providers and through independent research of publicly available information. This allowed us to focus on individuals with specialized knowledge in the field.
2. **Convenience Sampling:** Community members and clients who have engaged with the Ohio Immigrant Alliance in various projects were recruited through outreach efforts, allowing us to access readily available participants and capture a broader range of experiences.

Data Collection Timeline

The qualitative data collection phase took place between January and July 2023. Post-deportation interviews, sampling, recruitment, and data collection occurred concurrently to accommodate specific circumstances.

Data Analysis Approach

For qualitative data analysis, we utilized a combination of Open, Axial, Selective, and Theoretical Coding. This approach, guided by Grounded Theory, allowed us to identify patterns, themes, and emerging theories in the data. Through rigorous analysis, we aimed to uncover new knowledge and insights to inform our findings.

Ethical Considerations

Throughout this research, we adhered to rigorous ethical standards to ensure the integrity of the study and the protection of participants' rights and well-being.

1. **Informed Consent:** All participants were provided with detailed information about the study's purpose, methods, potential risks, and benefits before their

participation. Informed consent was obtained in writing, ensuring that participants understood their involvement was voluntary and that they could withdraw at any time, without consequence.

2. **Confidentiality:** To protect participants' privacy, all data was anonymized. Personal identifiers were removed, and pseudonyms used in place of real names in the report. Data was securely stored and access limited to the research team.
3. **Anonymity:** Given the sensitive nature of the topics discussed, special care was taken to preserve the anonymity of participants. This included not only the removal of legal names but also other identifying information that could potentially be traced back to individuals.
4. **Data Protection:** All data collected was encrypted and stored in secure, password-protected databases. Only authorized personnel had access to the data, ensuring its protection from unauthorized access or breaches.
5. **Principal Investigator Certifications:** The Principal Investigator (PI) for this study holds the following certifications from the CITI Program, which underscore their commitment to ethical research practices:
 - Social & Behavioral Research Basic/Refresher
 - Conflicts of Interest
 - Humanities Responsible Conduct of Research
 - Social and Behavioral Responsible Conduct of Research
 - GCP – Social and Behavioral Research Best Practices for Clinical Research

By adhering to these ethical principles, the study aims to respect and protect the dignity, rights, and welfare of all participants, ensuring that their contributions are honored and their privacy safeguarded.

Limitations

We acknowledge certain limitations, including the small sample size of interview participants and the potential bias introduced by convenience sampling. We are transparent about these limitations and have carefully considered their potential impact on the study's findings.

Contributions

This research sheds light on the administrative, legal, and systemic barriers that Black migrants face in the immigration legal system, and contributes to the documentation of anti-Black racism in immigration policy and practice, with a focus on anti-Black ideology in the U.S. immigration courts.

Coding Matters: Our Approach to Coding Qualitative Data

The thorough coding of qualitative data is essential for uncovering rich themes and profound insights derived from the subjective perspectives shared in research interviews. A systematic and meticulous approach was critical for extracting and interpreting the diverse narratives from advocates, attorneys, and migrants directly affected by anti-Black racism and biases within U.S. immigration courts. The coding process was designed not only to identify common themes, but capture diverse and nuanced experiences, highlighting both prevalent and rare instances of discrimination across the system.

Methodology Overview

We employed a hybrid approach that combined inductive and deductive qualitative coding. Initial codes were informed by preliminary literature reviews, providing a structured analysis framework. Subsequent open coding cycles uncovered unforeseen themes. A diverse research team supported reflexivity in the coding process, mitigating individual assumptions and encouraging collaborative deliberation to achieve consensus interpretations.

Data Preparation

The interview recordings were systematically prepared to generate verified transcripts suitable for coding using Microsoft Excel and Word. These transcripts were meticulously cleaned, removing verbal fillers, correcting errors, and de-identifying participant information to maintain anonymity. Consistent formatting with standardized tables containing background variables facilitated subgroup analysis.

Codebook Development and Process

An evolving codebook was crafted, initially reflecting anticipated themes and continuously refined through an inductive process applied to transcripts. Through numerous cycles of comparison and refinement, the codebook evolved to cover critical domains, ensuring clear definitions, inclusion/exclusion rules, and illustrative examples for enhanced intercoder reliability.

The finalized codebook facilitated systematic coding of the remaining interview documents. Challenges around complex identity intersections or procedural barriers were addressed through reflective dialogue and descriptive memos attached to illustrative quotations.

Intercoder Reliability

Formal assessments of intercoder agreement were conducted using Microsoft Excel. Calibration meetings increased alignment, particularly on more complex codes,

achieving over 80% consensus through code definition clarification and joint review of disagreement passages.

Themes and Patterns

Analyzed data revealed hierarchies of major themes and granular patterns, showcasing entrenched anti-Black biases across decision points within immigration proceedings. Themes were nuanced, capturing variations based on demographic factors and diverse immigrant experiences, presenting a multifaceted narrative resistant to singular portrayals.

Validation

Themes were validated through triangulation with legal case files, academic studies, community discussions, and member-checking interviews. This comprehensive convergence of data sources bolstered the credibility of identified themes and conclusions.

Reflexivity

Regular coding debriefs encouraged introspection among researchers, addressing positionality concerns, and fostering transparent, ethical representations aligned with community priorities. Ongoing reflexivity improved contextual interpretations and participant engagement.

Integration with Findings

Qualitative themes expanded beyond initial study questions, incorporating unexpected insights into economic dimensions and societal responsibilities. The integration of statistical trends and compelling quotes from the coding process enriched the findings, highlighting discriminatory procedures and their humanitarian costs.

The meticulous and iterative qualitative coding methodology enabled the extraction of meaningful insights from a multitude of firsthand immigration court accounts. Triangulation and participant validation affirmed the accuracy of the identified themes, illuminating the challenges faced at the intersection of Black identity, immigration status, and legal institutions. These perspectives serve as a powerful catalyst for consciousness and action toward justice and reform.

Migrants' Experiences in Immigration Court

In-Depth Interviews

Migrant interviews involved three people born in Africa who sought asylum in the United States — two men and one woman — who have received support from the Ohio Immigrant Alliance. Originally from Mauritania and migrating to the United States during the early 2000s, they pursued permanent legal relief to escape unstable conditions in their native country, marked by ethnic conflict, political repression, slavery, and systemic racism against minority groups.² Despite well-documented fears of persecution upon deportation, their asylum applications encountered significant delays amidst escalating immigration restrictions.

Enduring the trauma of periodic detention and persistent threats of deportation for years, they navigated the complexities of the immigration system while raising and supporting families and participating in their communities in the United States. One interview participant was formally deported at the time of the interview. Their journeys exemplify the routine injustices perpetuated through enforcement tactics and status adjudication processes, often hidden from public awareness.

Understanding and Amplifying Migrant Experiences

Immigration courts play a pivotal role in determining refuge, detention, employment authorization, and even physical expulsion for millions entangled in their administrative machinery, annually. However, rather than serving as bastions of humanitarian commitment, these spaces appear governed by a culture of skepticism, as reported by participants. Petitioners described grappling with unreasonable evidentiary burdens, attempting to overcome inherent doubts from judges regarding their credibility, often without comprehensive engagement with the unique intricacies of their home countries. African immigrants, in particular, seem to trigger habitual skepticism from government bureaucrats. Additionally, lengthy procedural delays perpetuate indefinite limbo, depriving individuals of clear resolution for years.

Amplifying migrant voices holds profound significance, both in individual cases and in broader immigration debates. Their narratives inject critical but often overlooked perspectives and nuances into policy, resource, and legislative discussions that commonly rely on prejudiced narratives about refugees and people seeking asylum. While legal status assigns degrees of societal acceptance, it frequently disregards the deep roots established through familial ties, economic integration, or social capital built over years of striving for citizenship pathways. Moreover, exclusionary

² See Freedom House (2024).

laws disproportionately target marginalized and vulnerable populations, obscuring the multifaceted drivers compelling human mobility, ranging from conflict to limited opportunities.

While the reasons for leaving one's birth country are multifaceted, the reception upon arrival often reduces individuals to bureaucratic classifications in court hearings, overlooking the complexities of their lives. Public perceptions significantly shape preferences in immigration policy, highlighting the need for richer narratives that unveil shared humanity, fostering empathy, and challenging exclusionary cultural attitudes toward newcomers. Participants emphasized that few would willingly leave stable existences without compelling reasons, countering the rhetoric that maligns displaced people as “invasive threats.” Their accounts advocate for viewing migration governance through rehabilitative justice frameworks, rather than perpetuating criminalization and carceral systems.

Biases and Discrimination

Courtroom Experiences

Systemic racism within the courtroom is evident in several aspects of the judicial process affecting Black migrants. Participants reported experiences where their racial identity seemed to influence not only the treatment they received from court personnel, but also the judicial decisions in their cases. This bias manifests in various forms, including dismissive attitudes from judges and prosecutors, assumptions of guilt or deception, and less consideration given to their testimonies and legal arguments. These perceptions are often reinforced by the lack of cultural competence among those handling the cases, leading to misunderstandings and misjudgments based on racial stereotypes.³

All participants recounted experiencing distinct biases rooted in racial, ethnic, religious, and linguistic identities that significantly influenced credibility assessments and caused substantial delays in their cases. Officials and judges approached complex asylum claims rooted in fear of persecution with marked skepticism, compared to the assessment of petitions from other regions. One participant highlighted how authorities perceived people seeking asylum from his country: **“If the individuals are Black and seek asylum, they are repeatedly told that nothing happened in their country of origin.”**

Another participant bluntly remarked, **“I can swear, I can put my hand on the Quran and swear that if I were white, my case would be different.”** Another emphasized how the refusal to consider the political dynamics central to his asylum claim led to decisions made under false pretexts: **“They did not allow me to explain anything**

³ See Amnesty International (2022); Human Rights Watch (2022).

about the political issue...they didn't allow me to explain." Consequently, outcomes seemed less influenced by substantive merits and more by biases entrenched in identities shaping "assessments of worthiness" across enforcement actions. One participant highlighted, **"My boss, my in-laws, my wife...testifying still doesn't help me... I lost the case."** Another noted the government lawyer insisted their story was **"not true,"** despite extensive documentation.

The government does not report, and does not even appear to track, racial and ethnic data of asylum claimants, nor outcomes. While this lack of transparency makes it challenging to prove differential treatment, participants sensed that immigration officials prejudicially weaponized minor legal issues that others of different ethnic profiles managed to avoid. Judges and prosecutors citing irrelevant records from years past undermined present character claims, unjustly assuming guilt in ways that surpassed reasonable credibility tests based on current evidence. One participant noted how prosecutors **"resurrected my asylum file from 2016 that had nothing to do with my marriage case...because I am a Black man."** Consequently, officials seemed to deny African immigrants dignity, humanity, and refuge by exploiting legal technicalities, burdening them disproportionately due to implicit biases influencing detention and deportation tactics.

Assumptions rooted in racial and religious identity markers significantly influenced the legal outcomes of participants before immigration judges, asylum officers, and in detention determinations. One participant highlighted how cultural nuances got "lost in translation" when recounting traumatic experiences within legal frameworks: **"The translation...the way I speak and the way they interpret it is a little bit different."** Another emphasized that filters imposed by skeptical decision-makers, influenced by unconscious biases, materially undermined their petitions: **"Perhaps it was my race, my religion, or my country of origin."** Prolonged uncertainties resulting from delays plunged families into financial and emotional turmoil for years: **"It's devastating to make someone wait this long, only to be denied in the end."**

The decision to issue a removal (deportation) order, which carries with it lifetime banishment, compounds community costs that are rarely taken into consideration. As another participant expressed, **going to court was the "...worst day. I will not eat all that night. I will not eat. I will be crying, praying, crying."** Locked in perpetual limbo for years, people await decisions from a U.S. immigration court while constantly facing the threat of detention and sudden deportation, lacking clear protections, pathways forward, or formal refuge.

Contesting systemic biases proves extraordinarily challenging for migrants, given their reliance on the discretion of a judicial or other government officer with the authority to determine their right to work legally or remain in the same country as their family. With few transparency measures governing decision rationales or structures for holding misconduct accountable, migrants have minimal leverage to

seek redress against arbitrary denials, evidence dismissals, or credibility rejections without jeopardizing delicate cases. Those denied refuge are left in perpetual probation, detained, or concealed while awaiting repeated rehearings and ultimately, deportation.

The enduring legacy for individuals navigating the grinding uncertainty of immigration appeals lies in the profound loss of hope and faith after years spent pleading within deeply flawed systems. As one participant resignedly remarked, **"They hold the power...They can do whatever they want."** Another participant poignantly said, **"When I think about those things, I cry, you know."** Another expressed the emotional devastation of a decade-long fight resulting in deportation back to danger rather than refuge: **"I realized that this is not going to work."** The emotional toll of wasted years resigning to a present devoid of dreams for the future has left lasting scars.

Consequences Beyond The Courts

Participants' testimonies revealed how systemic racism and discrimination exacerbate the challenges they faced in detention and during their court proceedings. These experiences highlight a pattern of unfair treatment and bias that not only undermines the principles of justice but also inflicts significant psychological and social harm on affected individuals.

Discriminatory treatment in detention centers is another profound issue highlighted by participants who were formerly detained. Reports include harsher punishments, more frequent use of solitary confinement, and discriminatory comments from guards. Participants also reported neglect in medical and mental health care, with a significant disparity in the care received by Black immigrants compared to others. This neglect is part of a broader pattern of dehumanization faced by Black people who are incarcerated, an existence often described as being treated less like humans deserving of respect and more like "criminals."

Two participants endured severe restrictions on liberty and movement under widened custody powers, subjected to months-long detentions without individualized liberty assessments. Guards in detention controlled access to essential needs like nutrition, hygiene, communications, and recreation, using disciplinary tools akin to those in prison settings, including solitary confinement. Detainees faced isolation from legal resources, and swift deportations without due process protections or avenues to contest rights deprivations.

One participant's testimony vividly illustrates such treatment; he describes witnessing a Black migrant being physically restrained and having his belongings discarded as part of his intake into a detention facility, actions that reflect both a literal and symbolic stripping away of dignity. **"They threw everything away... He was handcuffed like a criminal and they put handcuffs on him and then threw all his stuff."**

Detaining people who qualify for asylum compounds the trauma they originally fled. Some felt compelled to endure the distress of indefinite detention, having **“no choice but to be patient,” when the only alternative would be abandoning their case and agreeing to be deported.** The perpetual uncertainty amplified anxieties, fracturing individuals’ conceptions of a knowable future. Temporary status freezes lives, obstructing financial security and forward momentum. Incarcerated people faced few opportunities to contest credibility rejections or unreasonable documentary expectations. Even their very participation in hearings about their own cases was hindered by the use of remote video terminals with poor audio quality, instead of the right to appear in court in person, inhibiting clear discussion.

Procedural rules received minimal explanations, leaving detainees confused and unable to fully participate in proceedings determining their fates. One participant noted the judge **“didn’t give me room” to contextualize fear claims,** partly because video screens hindered reading nonverbal cues. Without ample evidence or representation, applicants struggled to navigate hearings centered on cultural nuances that judges, holding unreviewable power, scarcely comprehended.

Beyond immediate liberty restrictions imposed by detention systems, participants lost stable employment, professional credentials, and assets due to years of carceral migrant detention, depriving households of vital income streams essential for daily survival—including households with minor children. Frequent relocations between detention sites separated family units, disrupting breadwinner earnings while in custody.

The economic instability caused by incarceration shattered fragile household economies and interpersonal relationships, tearing apart communities built over decades. Even extensive professional expertise went unrecognized, as credentials expired after years of incarceration. Economic violence inflicted opportunity costs, compounding detainees’ wider stresses around social isolation, medical neglect, and psychological torture from unchecked authoritarian power over captive populations treated as disposable resources.

One participant emphasized how deportation to their long-fled countries, now governed by legal documents rather than recognized human rights, shattered economic hopes. Another observed that accumulated debts, manageable before detention, overwhelmed them upon release, even after restarting employment: **“Now I lose that car, and I owe them.”** Their testimony exposes alienation not only from sacred human liberties every person deserves, but also from financial stability nurtured for years through diligent, yet undercompensated, labor.

Summary of Migrants' Narratives - In-Depth Interviews

Interviews with people seeking asylum from Mauritania reveal their journey navigating immigration courts after escaping ethnic conflict and political repression. Despite fears of persecution, their asylum applications faced significant delays amidst escalating immigration restrictions. Enduring detention and threats of deportation for years, the people we interviewed eventually secured some form of protection, shedding light on hidden injustices in the system.

Immigration courts, instead of being bastions of humanitarianism, were characterized by skepticism, especially towards African immigrants. Years spent navigating flawed systems have led to a profound loss of hope and faith among migrants, leaving lasting scars. Their experiences underscore the need for systemic changes that prioritize fairness, dignity, and compassion, while addressing biases and inequalities embedded within the system.

Biases and Discrimination: Participants recounted facing biases rooted in racial, ethnic, and religious identities, leading to credibility assessments influenced by implicit biases. Immigration officials exploit legal technicalities, denying African immigrants dignity and refuge while perpetuating systemic injustices.

Impact on Cases: Racial and religious assumptions significantly influence legal outcomes, leading to traumatic detention experiences and economic exploitation. Detainees faced obstacles in securing legal representation and navigating convoluted proceedings, resulting in loss of hope and faith in the system.

Criminalization and Consequences: Punitive detentions were co-located within facilities housing individuals facing criminal charges or serving sentences for criminal convictions, with immigration detainees enduring abusive conditions as well as additional forms of racism and discrimination. Representation gaps and procedural barriers exacerbate vulnerability, hindering access to justice and perpetuating systemic injustices. Economic instability upon release was also a common, devastating outcome.

Systems Change Needs: Meaningful policy changes require dismantling disproportionate procedural barriers and promoting cultural fluency within immigration courts. Transparency, accountability, and guaranteeing procedural safeguards are essential for restoring dignity and fairness in the immigration process.

Visionary Alternatives: The structure of immigration courts, immigration jails, and the adversarial processes they implement are based on the assumption that an individual does not qualify for the immigration status they seek, and has to prove — to the satisfaction of a practically-unchecked government bureaucrat — that they do. Centering lived expertise and promoting solidarity can lead to radical transformation centered on dignity, family unity, and welcoming those fleeing oppression. Urgent

decriminalization and promoting cultural competency are vital steps towards fostering a fair and just immigration system.

Most importantly, the immigration system must be fundamentally reoriented to begin with the assumption that individuals seeking refuge and protection in this country are in genuine need of it. Laws and structures should facilitate their access to safety and freedom as a primary objective, rather than treating these rights as a last resort, available only to those who manage to navigate and survive a series of bureaucratic and governmental barriers, often after enduring significant trauma.

Asynchronous Interviews

The Ohio Immigrant Alliance interviewed twelve individuals who were ordered deported by U.S. immigration judges, via asynchronous WhatsApp video messages in June 2023. All were ordered deported to countries in Africa and all but one are men; most identify as Black and ten are Muslim. Most had lived in the United States longer than a decade before being ordered deported — some for over thirty years. Several have U.S. citizen children, spouses, and other relatives in the United States.

The respondents resided in Ohio, California, and Pennsylvania before being ordered deported to Mauritania, Morocco, Cameroon, Somalia, Guinea-Conakry, and an unnamed country (to protect the participant's identity). Most had sought asylum in a U.S. immigration court and been denied; two reported being ordered deported in hearings they did not know about.

After their cases were denied in the immigration court, several were granted Orders of Supervision, an exercise of prosecutorial discretion by ICE. An Order of Supervision allowed them to obtain work permits and remain with their families and communities in the United States, as long as they followed the terms of their supervision — attending “check-in” meetings with ICE and not committing criminal acts. The Trump administration abruptly changed this policy in 2017, and ten of the respondents were deported between 2017 and 2021. Most of the interviewees had also been incarcerated in county or parish jails for ICE prior to their deportations, some for a year or more.

Interpreters assisted with communication when needed, but most individuals interviewed currently speak English fluently. The interviews focused on individuals' experiences in the immigration court system, although some respondents referenced inhumane conditions in ICE jail and the deportation process.⁴

There are several trends evident in these interviews, reflecting the systemic flaws that have been deliberately built into the U.S. immigration court process. Having heard

⁴ For reflections on ICE jail conditions and violence along the deportation journey, read “Broken Hope: Deportation and the Road Home” by Lynn Tramonte and Suma Setty, with research from Maryam Sy, reflecting the results of 255 post-deportation interviews. (reunite.us/read).

about the United States being a beacon of fairness and democracy, participants expressed disillusionment at the way the U.S. immigration courts, jails, and systems actually function. Said Abdul, **“I thought America was better than this.** I thought America was a country that respects human rights.”

Following are systemic weaknesses expressed by multiple interview participants.

Courtroom Experiences

Fraud Narratives

Many participants said judges and government prosecutors appeared to assume that they, the “respondents,” were lying before they spoke their first words in court. In the criminal legal system, this would be akin to assuming a defendant is guilty, rather than innocent, at the outset of a trial. Those interviewed said they were expected to disprove the assumption of deception, rather than the burden resting with prosecutors to prove untruthfulness. Bocar’s experience, that the judge and prosecutor “already had their minds setup before I entered the room,” was a common one articulated in the interviews.

Said Samba, “The judge didn't make me feel comfortable. He was not friendly at all... I was scared to even look at him in the face.... **I lost my, um, a lot of words. I was not even comfortable being around him, 'cause ... the way he was just looking at me and not trusting nothing I was saying.**”

Offering a specific example, Morrison said, “I don't think I was believed in court because when I told the judge my younger brother was killed during a peaceful protest, the prosecutor actually asked me what means I used to communicate with him. So I said it was, through Facebook, and she said my younger brother ... had been online, uh, some few days before the hearing. **And what the prosecutor did not understand [is that] in Africa or Cameroon, we are prone to have so many people with the same, uh, family names and all that.** Like, it happens, you know, to find somebody with the same family name like you, but you guys are not related. So that's actually what happened. And she was like, [not] understanding that.”

Judicial Misconduct, Ignorance, and Bias

Rather than serving as an impartial adjudicator, respondents reported that immigration judges frequently accepted unsubstantiated claims made by the government prosecutors as fact. In the example noted above, the judge did not require the government to prove that the person found online, with the same name as Morrison’s brother was, in fact, his brother.

George knew that the Scottsdale Immigration Court had a reputation for being punitive in its grants of asylum. He said that his immigration judge “seemed to be in a

hurry to go somewhere,” and imposed strict time limits on George’s responses to questions that were vital to understanding his qualifications for asylum.

Several respondents pointed to specific examples of judges’ and government prosecutors’ ignorance about their countries’ political situation, as well as their cultures, languages, and religion. They also expressed a feeling of “not being heard.”

Asked what could have been handled differently in court, George said, **“It would've been better if the judge had dug into my file, tried to be conversant with the issues and maybe done a bit of research on the consequences of what we were discussing in court to the larger spectrum of the political situation in REDACTED.** Unfortunately, the judge didn't have an idea. You know, even him saying I could have escaped from, uh, from one state to another, what he failed to understand was, unlike the U.S., my country's so small, it's an equivalent of one state, probably a state like Texas. And we have a centralized system of government. So him saying that I could have escaped to another state [in my country] didn't really make sense.”

Said Moussan, “I would say overall the judge understood the testimony. Yes, the judge actually believed my case. But the only reason [he denied it], and he kept repeating over and over again, was that he wasn't sure exactly how I entered the United States. And I fully explained it to him. My lawyer explained also, but the judge did not seem very ... like trying to understand exactly. That's the only reason [I lost].”

About his judge, Amadou said, “The rumor was that at the time, he was only approving one asylum case out of 30. I remember being scared because of the negative feedback people had about him. But I [had] no choice but to go face the judge.... I lost my case. The judge messed up my case in Cincinnati, the judge was mean. I have heard that people in DC complained about him because of his low approval numbers.”

In Abdul’s hearing, the judge compared his method of entry to that of the 9/11 terrorists. Said Abdul, **“At that moment, I knew he was going to deny my asylum case....** My attorney and the government attorney were laughing the whole time and making jokes.”

Like many, Samba reported open hostility from his immigration judge. “He is definitely a mean person and he didn't make me feel comfortable... And he ended up [being promoted] to the [Board of Immigration Appeals].”

Several Mauritians were denied asylum because, according to the judge and prosecutors, conditions had improved for Black people since the genocide in the late 1980s and early 1990s. This came as a shock to people who were born in the country and had been accused of being foreigners by the Mauritanian government, deported from to Senegal, and stripped of their citizenship. Several had been present during

family members' murders and seen their families' homes and land taken by the government. "We lived in that country. We were born in that country. We know better than the judge what's going on in our country," said Ousmane.

In every case, individuals' testimonies were not believed.

Impossible and Unfair Evidentiary Standards

Evidence — including evidence that could not be reasonably expected to exist — was required to disprove the default mindset, articulated by government prosecutors and accepted by judges, that respondents were lying. Even when evidence was proffered it was deemed insufficient. However, government attorneys (prosecutors) were not required to prove deception on the part of the respondent. As mentioned previously, their narratives of "fraud" were implicitly accepted by judges.

When asked why he lost his case, Mamadou responded, "It was because they [said] I couldn't prove any identity. I didn't have a Mauritanian ID. In Mauritania where I came from, like a birth certificate or I.D., I didn't have none of that. Mauritania took it from me."

Morrison sought asylum in the United States after his brother was killed in Cameroon. During his immigration hearing, the judge asked him to provide a death certificate for his brother. "I mean, it makes absolutely no sense," said Morrison. "I told him that my younger brother was killed during a peaceful protest in REDACTED. And they were asking me to provide a death certificate. But I'm like, **how can I provide a death certificate while it is the same government, which is responsible for providing those certificates?**" Persecution by a government qualifies someone for asylum. Yet immigration judges frequently require evidence that could only be provided by a persecuting government, without understanding why such evidence would be impossible to obtain.

Relatedly, torture by a government is a clear qualification for asylum. Respondents may submit photos of their physical scars as evidence, but some judges insist they provide additional records from a doctor or hospital.

Oumar had been tortured in Mauritania. He explained, "I have some scars and some, uh, I don't know how to explain it. You know, when they beat you up, you have some, uh, some stuff in your body [scars]. [My lawyer] explained [it] to the judge and so he was asking me for the medical records for that. The papers after I see the doctor. But **I told him that over there [in Mauritania], we didn't have anywhere [to get medical help], we didn't see any doctors to give us some paper.** And when you are on path for deportation [from Mauritania to Senegal, in this case] and they send you there, how you gonna see a doctor, how you gonna see anything? And we didn't know we were going to need all this in the future. It happened outside of the U.S., before I came to the U.S." Oumar's case was denied.

Fatal Interpretation Problems

At the outset, many immigration judges do not take the time to establish whether a government-provided interpreter speaks the same dialect as the respondent, or can truly communicate with each other and the court. Incorrect interpreters were provided in Mauritanian and Somali cases, according to these interviews. Even when respondents identified the communication problem during the hearing process, they were not allowed to speak for themselves due to procedural restrictions.

Moussan explained, “There are two different types of Fulani... Senegal and Mauritania speak the same Fulani, but the Fulani from Guinea is not the same. And definitely, sometimes me and my interpreter, sometimes he kept telling me to repeat the answer, so **we do not speak the same Fulani. There are quite a few differences.**”

Mamadou, also a Black Mauritanian man, was new to the United States when he first began the court process. “At that time, I didn’t speak English that well, 'cause I had just got to the U.S.... I don't think [the court interpreter] was understanding what I was saying or the way he was translating me. That's why I think he was from Guinea.” He continued, “I mean, you gotta have somebody like who is really saying what you [are] saying, you know?”

During his immigration hearing, a couple decades ago, Amadou was able to bring his own interpreter to court, something that is not generally allowed today. But, said Amadou, “The whole process was too quick for him to translate everything. Everything was too fast. I only went to court one time.”

Said Liban, from Somalia, “**I was understanding more than [my interpreter] understood.**”

Poor (Or No) Immigration Legal Representation

In immigration court, respondents do not have the right to government-appointed counsel. However, the U.S. government is represented by trained lawyers every time.

Pro bono attorneys are difficult to come by, often overburdened, and may be under-prepared. Private attorneys charge high fees to immigrants, and many of those interviewed felt the service quality was sub-par. They pointed to their attorneys’ failure to object to incorrect statements made by judges or government prosecutors in court, as well as lack of time spent with clients to understand and prepare cases.

“[My lawyer] didn’t speak at all during the hearings,” said Oumar. “She never said anything to the judge.... That's why I think the judge would [not] deny the case, if she did a good job.”

Liban was unable to contract an immigration attorney to take his case, as he did not have means to pay for it and no pro bono attorneys were available. Even those who were able to pay lawyers, like Oumar, felt that their attorneys were primarily focused

on getting them to a point in the process where they could apply for work permits and be able to afford their legal fees. Preparation to win the asylum case seemed less important.

Said Oumar, “In the courtroom, when the judge denied, [my] lawyer never said anything, was just quiet. And after we got out, she told me, **‘Oh, we can get an appeal and then you're gonna get your work authorization,’ which is what she wants: to be able to make money from me if I get my work authorization.** I continue working and she gets paid. I wasn't happy with that case.”

Said Bocar, “I had a bad feeling before the hearing. I asked my lawyer to move my case from Cincinnati to Cleveland, Ohio. They did and [the court] said that they sent me a letter about the new court date, but I was never notified by my lawyer. His name was REDACTED. **I was never notified about the new hearing date and I missed my court date.** I lost my case because of my lawyer's negligence. He never gave me information or told me the exact court date. He is the reason why I lost the case.”

Aicha and her family worked with many immigration lawyers over the years. The first two lawyers, she said, gave her incorrect advice that harmed her case. “I’m not trying to be mean,” she said, “They didn’t do it on purpose. ... It looked like they had a lot of clients and stuff, [and] they didn’t focus well on each one and each situation or problem with immigration.... The second one told me, when they released me from jail, he said you are okay and stuff. He told me to apply for a work permit.” But when she went to apply for the work permit, she was arrested again.

A Kangaroo Court and Deportation Process

Many respondents were surprised that the U.S. immigration court system operates in a way that is far removed from traditional fairness standards.

Samba’s immigration judge cited provisions in the REAL ID Act that, he claimed, made him ineligible for asylum — despite having survived torture and persecution in Mauritania. When Samba attempted to appeal this denial, he was turned away by the appellate court. The court said it could not review key aspects of his case because they had not been raised by his attorney earlier. “They said that my lawyer did not object to certain things in order to appeal it.”

Some were forced to “participate” in hearings via video feed from inside jails, rather than appearing in person in the courtroom. In some cases judges, prosecutors, or interpreters “appeared” themselves through remote screens. Communication, already made difficult due to language constraints, proved nearly impossible when key participants did not share the same physical space or court room.

Said Abdul, “I didn’t feel respected. The government attorney was trying to scare me. **The hearing was in a video. The judge was in Washington and I was in Cincinnati. The interpreter and the government attorney were in Cincinnati.**”

When asked if he had an immigration lawyer in immigration court, Ousmane responded, “I never had no immigration lawyer. **I never been in immigration court.**” His hearing notice never came — a documented problem that has been the topic of litigation.

While in ICE custody, Ousmane told the officers, “‘I stayed there at the address for two years, you know, after when y'all arrest me. **So if y'all sent it to my address, you know, I would've got the paper. But I never received no court paper.** You know, I got witnesses and stuff.’ And that was it, you know, until I finally was back there in Africa and ... I'm over here struggling, and I don't have nobody over here.”

One respondent noted a judge’s incorrect understanding of asylum law led to his denial. Said George, “[the judge] found me credible. He found that I supported my case sufficiently enough. But then he said he didn't find a nexus simply because the person who was trying to persecute me, REDACTED, was someone I knew in person. And so he said that according to him, that sounded like a personal, um, disagreement between friends. Yet it was a case that involved, uh, which was a major case in REDACTED COUNTRY involving REDACTED in which I was a state witness. I was supposed to be a state witness until, uh, there were a number of attempts on my life. And two of the other state witnesses, unfortunately, were gunned down. So that was the reason why he denied. **He said he didn't find a nexus, uh, between politics and the case, yet the main culprit and my prosecutor ... was running for office.**” As a native English speaker with an advanced education, George was able to conduct his own research and get his case reopened by appealing to a higher court.

Aicha, and others, reported trying to follow the rules and do what they were supposed to do. But still, she was labeled a “fugitive.” “For me, I didn't know anything [about the existence of a final removal order]. I didn't receive [the notice]. We didn't have this [problem] before with my husband, and all the time we followed the rules. We [went] to the court and stuff. How come I received nothing? But anyways, I tried my best, and in the end, they reopened my case.” Most respondents were not so lucky.

Aicha also recalled an immigration officer telling her, “your place is in your country; your body's supposed to be there.”

“He put fear in my life,” she said. “This is the worst thing. But thank God, you know, I keep myself to stay strong, especially for my kids. **Because it's the worst thing when they take the mom from her kids.** No life. No life. But thank God I did fight. I did fight for the right thing.”

ICE deported Ousmane without any identity documents, leaving him undocumented in his native country — a place he left when he was a toddler. **“How you going to take somebody from some country and take them to another country with no document,**

no paperwork? Like, who does that? That's committing a crime, you know? But when [ICE] did that, everything got thrown under the rug and stuff. And you know, I really wish somebody could do something about that."

Lack of a "Whole Person" Standard, Including Failing to Consider Deportation Consequences

Several respondents reported that immigration judges, government prosecutors, and ICE agents were unconcerned about the consequences of their deportation — including removal to countries where they were likely to be persecuted, and the impact on their families in the United States.

"This experience changed my life," said Oumar. "These 20 years [living in the United States] gave me that experience. Wow. It's a lot of time. That's why I said the judge should be looking at it. **The people who live for a long time and have kids in this country spend all these years here, they consider the United States to be their hometown, it is their land right now, because we live in this country for a while and always do the right things, always no crime, just working to feed the family.** So they are supposed to give us a chance to have papers, whatever [the] cost, you know."

"This hearing changed my whole life, it even affected my health. Today I am a beggar. When I was in America I was able to do many things for people, I would buy food for people, I was helping at the mosque. Today I have to beg to survive." — Bocar, an Ohio man deported to Mauritania

Several argued that the U.S. immigration system should adopt a "whole person" standard when making decisions about whether to pursue or cancel deportation. Aicha, a mother of four, said the government should "just give us a chance to explain ourselves and to say why we came here, what we want to do in here. That's it."

Said Ousmane, "**I miss my daughter. I need to come back.** You know, this is not a life for me right here. No job for me, nothing. I'm struggling day by day. Every day is a struggle, you know, [a] struggle to eat."

Bocar added, "Life is hard in Africa. **I have four children in America and they are U.S. citizens.**"

Liban was transferred to ICE custody after serving time in prison for an act of self-defense. ICE and the immigration court, he said, "looked at me like a killer, you know? And I ain't kill nobody. All I did was defend myself and somebody got hurt, but no one died, you know? And the person who got hurt, that was his fault by trying to jump me. All I did was just defend myself." It was his first criminal case, and the state court judge showed him mercy in sentencing.

Liban was transferred to ICE custody, but could not find anyone to represent him before the immigration court. “One mistake can change all your life, from a good person to becoming the worst person ever,” he said. **“God forgive people, but humans won't forgive you.”**

Incarceration as a Weapon

ICE detention contributed to respondents' sense of destabilization and alienation from support systems. It also made it more difficult for them to hire and engage attorneys, consult with attorneys they had hired to prepare for their hearings, and track down evidence.

Upset because George helped others in ICE custody file stays of deportation, ICE retaliated by frequently transferring him to other facilities. “Here I was, filing appeals for guys and guys getting stays of their orders of removal in court. So ICE just could not deport them, and it was getting, I think, frustrating for them. **And so they just kept moving me around, so that I could not stay at one place long enough to build very strong ties.**”

“I'm not gonna lie, I experienced some racist stuff on the plane going to Louisiana. Yeah. This one guy telling us, ‘Yeah, y'all all going to get deported. All of y'all. What y'all doing in our country? Like, we don't want y'all here. Why wouldn't y'all just go?’ **You experience a lot of stuff, especially in Butler County, the jail, they just treat us like nothing. All of that 'cause of the Trump administration, you know, was just too hard on immigrants,**” said one respondent. Louisiana is a deportation staging ground for charter flights to Africa.

Speaking about the traumas of the entire process, Mamadou said, **“I ... just woke up and lost everything, you know, because of one morning when [ICE] was looking for me and come, they got me and took me to jail, you know, took me to one of the worst jails here in Cincinnati** to where you only come outside like sometime two ... it is not even outside because it's a jail, like two hours. Yeah. I got one of the worst experiences with U.S. Immigration because we was treated like we did a crime. Like it was just bad. Then we've been moving around from city to city, state to state.”

Aicha spent five months in U.S. immigration jail and, nearly two decades later, continues to experience trauma. “It was really bad. Really bad. **I [couldn't] even sleep at night. I screamed at night. It looked like I [had] fear inside my body and especially what [made] me hurt so bad.** When they took me to jail, I never knew all this stuff. When I was in jail [they would always] open the doors and stuff. I [couldn't] sleep. I was scared they were going to take me. They were going to take me on the plane. It was really, really bad, really crazy. You know? I couldn't sleep.”

She recalled one time especially vividly, when she experienced hallucinations in jail. “It was the time of Ramadan. I had taken fast and they gave me food. I [couldn't] eat. I [saw] the food on the ground. I fell to the ground. I [saw] my kids around it. I

[couldn't] eat it. I [couldn't] stop walking [around the room] because it [was like I had a] fire inside of me. I said, oh my God, I'm in jail. How come? What did I do? I did five months, I didn't deserve it. I didn't do anything to be in jail. In the end, you know, they know the truth. They know everything, but it's okay."

Consequences Beyond The Courts

Abrupt Change in Policy

Aicha's case was impacted by the government's response to the September 11th terrorist attacks. She recalled that her and her husband "were both okay, everything was going smoothly. Smoothly and stuff until 9/11, everything, you know, it's upside down." She was arrested while accompanying her husband to his "Special Registration" appointment under a program the Bush administration implemented to track non-citizen men from Arab and Muslim backgrounds. A particular immigration agent found something he didn't like about Aicha, who was only there to support her husband, and put her into deportation proceedings.

"But thank God we have God and we worked hard and stayed put and a lot of people [helped] because they know us. The schools, [her son's] doctors, the people [who] know us, the communities, the churches, all them [were] on our side because they [knew] us," she said. Aicha's son has life-threatening medical problems and requires specialized care. She was put into immigration jail and nearly deported, twice.

Many of the people interviewed had been residing in the United States with the government's full knowledge and permission even after being ordered deported by the courts, under Orders of Supervision that allowed them to obtain work permits, pay taxes, own homes, start businesses, and take care of their families.

After he lost his court case, ICE put Oumar and many others interviewed "in the supervision process." He said, "I think it started in 2009, or 2008, from 2008 to 2018 on supervision." But in 2017, the Trump administration changed policy overnight, turning many long-term U.S. residents with U.S. citizen kids into deportation priorities. They were detained at ICE check-in meetings and deported as quickly as possible. Several individuals we interviewed had this experience.

Recalled Oumar, "they put me in jail for nine months. After nine months I was deported to Mauritania. That happened."

ICE's "Anything Goes" Mentality

Many respondents reported physical and racial assaults by ICE agents and corrections facility staff, as well as health problems due to their incarceration and lack of access to medical care. Several who reported abuses in ICE facilities experienced retaliation by guards and ICE agents.

“They was chaining us with a big chain, like we killed somebody. It reminded me like slavery stuff. You can't even eat free. Your hand is chained and you still eating like that, like your bologna sandwich.”

— Mamadou, an Ohio father deported to Mauritania

Mamadou was deported on a charter flight to Mauritania. “All I ever did in this country was work, pay taxes, take care of my family. So, you know, I had a bad experience with U.S. Immigration,” he said. “It's like the day I got detained, the guy who detained me ... was just happy... He just told me that my background is clean so I wasn't a threat. **‘So why you so happy, man? Like, I just got up for work... I got a daughter and a wife.’**”

Ousmane, Samba, Liban, and others described speaking out publicly against ICE detention abuses and lack of medical care, including during the COVID pandemic. While in jail, an ICE officer told Ousmane, “Look, you know, they mad at you. You know, this time they are going to do whatever it takes. **They are going to try a hundred percent to get you out here.**”

Aicha experienced two types of immigration personnel. “I'm going to tell you the truth about some people over there. They are nice, but some people, and only two officers [are] like that, they make your life hard. They don't have [a] heart or don't show you mercy. But other than that, there are some people that even talk to you nice and stuff and make you, uh, to not get scared or something. Because I had anxiety. I had fear, I had a lot of problems with ... these things [that] happened to me because I felt it was not fair.”

She continued, “You know, you have your kids and you have one who's sick all the time. [You] take him to the doctor, take him to the hospital.... [and] they wanted to take me from him and stuff. It's really, really bad. Yeah. They [made] me sick. They [made] me [feel] like, you know, I lost my mind. But thank God. Like I said, I have God in my heart all the time. I'm looking for a better way to do stuff, to stay for my kids.”

Abuse after Deportation

Many respondents' fears of persecution after deportation — articulated but not believed, in court — were validated upon their removal from the United States. Post-deportation arrests and torture by persecuting governments have been documented in Mauritania, Cameroon, Somalia, and other nations.

Post-deportation abuse and torture is a sensitive topic, and not one the Ohio Immigrant Alliance asked about in these interviews. Some respondents shared such information, without prompting or details. Upon his deportation to Mauritania, Moussan said, “I was very, very, mistreated by the police officer and ... so he took us to the jail. I mean, he just beat us doing all this bad stuff to us. So it's kind of hard to

tell you exactly, but definitely, I was arrested.... **Once they arrest you, definitely they're gonna mistreat you.**"

Samba said, **"I told [the judge] I was scared to go home. He didn't believe me. So I got deported to Mauritania. And the police [in Mauritania] were arresting me all the time.** So I ended up leaving my own country. Now I don't even live in Mauritania. I'm in Senegal. I cannot even be at home because the police over there are killing people every day, beating up people. Nothing changed. They arrest you at night for no reason."

Solutions to Move Forward

What this Experience Says about the U.S.

Said Morrison, "This experience has given me a different impression about the U.S. and has made my life much more difficult because, **right now as I'm talking to you, I'm still suffering here in Cameroon, living in hiding, you know, I can't do things freely,** and it's kind of very, very frustrating. Frustrating. You can't, you just can't understand. I know. It's, I'm just, I'm sorry. It's so painful."

"How has this experience changed my life? Well, honestly speaking, I have a different perspective about the U.S., especially going through the whole immigration system, being detained for ... a year and a half. You know, being subjected to the criminal justice system despite being an immigrant, uh, and of course going before a judge who, technically, whose job is to fairly and blindly administer justice. But this particular one seemed to be an extension of the Department of Justice. And you know DHS' legal counsel. **[The whole experience] kinda shut my mind to, or maybe, uh, tainted the image ahead of the American justice system in totality,**" said George.

Heroic Attempts to Correct Injustices

Like others interviewed, Mamadou spent his time in jail helping others who were facing deportation. He continues to use his experience to benefit individuals navigating the asylum and immigration court process in the United States. "Whoever I give advice to, [I tell them to] **find a good lawyer and somebody who is going to interpret for you,** somebody who can understand you ... as the translator."

Said George, "During my time, I dealt with so many people who were going through the same process. I have a bit of a legal background, so while I was detained, I helped probably about 200 or so people appeal their cases. And **one thing I figured from all that was that the law as it is when it comes to immigration is so, or rather, the judges have so much discretion that the law lacks a foundation.** It's subject to interpretation of different judges in a different way for a particular political reason. So no one should expect fairness, justice, and impartiality when faced with the immigration system in the United States."

George and Ousmane also mentioned being involved in whistleblowing about abuses inside ICE detention during the COVID pandemic. George actually won his release due to a lawsuit he filed against ICE. Ousmane was deported.

Recommendations from Respondents

George suggests reforming asylum law and court practice to focus on whether “salient factors” exist to demonstrate that an individual qualifies for asylum, because of past persecution and/or fear of ongoing persecution. Put simply, he explained, if “someone ticks A, B, C, D boxes [regarding factors related to persecution], then there is no way you find them not eligible for asylum.” Instead, judges appear to be moving the goalposts, adding additional evidentiary requirements, injecting unresearched opinions about a country’s safety conditions, or accepting prosecutors’ narratives without corroboration of facts, before getting to the decision they were looking for — a denial of asylum.

“The fact that there's so much discretion given to the judge to decide whether to believe someone filing for asylum or not. The fact that the judge gets to decide on their own evaluation whether what you say makes sense, **even when they do not know the culture of the country, the stereotypes in the country, the basic living conditions and situations in a specific country, then that poses a danger to the execution of justice in migration courts,**” said George.

Ousmane and others say there should be a balancing test before carrying out a person’s deportation. “I think this is something people should take a look at. **The court's supposed to look at us in our cases, you know, to give us parents more of a chance to stay. We are a family, it's better to keep us as a family.** My family suffers to put food on the table, to pay the mortgage. All kinds of things they suffer, like having a car to drive or repair the car when there is no man in the house. I think this should not be happening in the United States. The biggest country in the world, the most powerful in the world.”

Liban would like to return to his family in California one day. “I wish they could just deport me [and have me stay] away for 10 years or five years.... On the whole [deportation] plane, I was the only person whose paper was saying he can never be back in the States. Because **I have kids over there... It's just confusing. I don't know ... you tell me, does it make sense?**”

Summary of Migrants’ Narratives - Asynchronous Interviews

When it comes to experiences in U.S. immigration courts, the people interviewed through asynchronous WhatsApp voice messages reported the following shared experiences:

- **Government prosecutors adopted the stance that respondents were lying from the start of a case.** Respondents felt they entered the courtroom “guilty until proven innocent” — i.e. their personal testimonies were assumed to be lies. This “fraud narrative” was accepted and even furthered by immigration judges, without requiring evidence to support accusations of deceit.
- **Judges exhibited ignorance, impatience, and bias instead of basic standards of professionalism and preparedness.** Some judges were ignorant of the law; many were ignorant about countries’ political situations, including persecution dynamics central to an individual’s case. Respondents reported feeling “rushed” in giving testimony, “unheard,” belittled, and scared.
- **Immigrants were held to unfair and even impossible evidentiary standards, while prosecutors were free to make accusations without corroboration.** Many individuals report that a judge denied their case due to their inability to produce documents that are impossible to obtain, like medical records from a government that engaged in one’s own torture. A prosecutor made an incorrect accusation about a respondent’s brother, referring to someone who has the same name but is not a relation. The respondent was not allowed to refute this false claim. This amounts to manufactured evidence by the government, being allowed by a judge.
- **Basic communication breakdowns poisoned understanding and lead to negative outcomes for immigrants.** Court-provided interpreters, speaking the incorrect language dialect, were a major barrier to understanding for Mauritanian and Somali respondents. Judges did not take the time to establish whether all parties could understand each other before proceeding. Individuals were not allowed to speak for themselves, in limited English, after electing to speak through an interpreter — even when the interpreter was not communicating their words sufficiently.
- **Lack of consistent access to high-quality legal representation put immigrant respondents at a disadvantage.** The government is represented by trained lawyers in every immigration court case. Respondents, however, must pay for their own attorney. There is limited pro bono immigration representation available, and many free legal service providers are overstretched. As evidenced in these interviews, immigrants are at a clear disadvantage without a guaranteed right to counsel.
- **Immigration courts operate more like “kangaroo” courts than arbiters of fairness and due process.** Multiple respondents were surprised at what passes for “justice” in U.S. immigration courts, having heard a different story about the country’s commitment to fairness and democracy.

- **Failure to consider broader consequences before making a life-altering decision like deportation.** Several participants had strong and compelling equities that, they feel, should have been weighed in a judge's decision before deciding to order their deportation.
- **The weaponization of ICE jail.** ICE detention made it more difficult for respondents to hire and engage attorneys, prepare for their hearings, and track down evidence. Some reported retaliation in custody for speaking out against abuses or filing lawsuits.

While the asynchronous interviews focused on immigration courtroom experiences, other trends emerged.

- **The destabilizing effects of an abrupt change in deportation policy.** Although they all had lost their immigration cases in court, many of the people interviewed had been residing in the United States under Orders of Supervision that allowed them to obtain work permits, pay taxes, own homes, start businesses, and take care of their families for years. This all changed in 2017, when the first Trump administration came to power and suddenly put them at the top of the list for deportation.
- **ICE has an “anything goes” mentality.** Respondents reported physical and racial assaults by ICE agents and corrections facility staff, as well as health problems due to their incarceration and lack of access to medical care.
- **Abuse and trauma in post-deportation experiences.** Many respondents' fears of persecution after deportation — articulated but not believed, in court — were validated upon their removal from the United States.

Respondents offered the following reflections and solutions to create a more equitable and fair immigration court system.

- **Reflect the United States' stated values of freedom, due process, fairness, and democracy.** Several interviewees reported surprise and shock that the immigration court process operates in such an unfair, unbalanced way, in a country they had long believed was democratic. In demonstration of these principles, some of the interviewees reported assisting others with their immigration cases, or helping to file class-based litigation to hold jailers and authorities accountable for abuses.
- **Introduce a “salient factors” qualification process for asylum, to limit judicial biases.** One respondent articulated a better approach for asylum adjudications that lays out clear qualification standards and facilitates grants of asylum absent evidence to the contrary.

- **Perform balancing tests and evaluate the “whole person” before ordering deportation.** Several respondents called for consideration of broader factors, including their ties to local communities, family relationships, and the potential consequences of deportation to countries known to violate international human rights standards before issuing a deportation order.

“We are a family, it’s better to keep us as a family. My family suffers to put food on the table, to pay the mortgage. All kinds of things they suffer, like having a car to drive or repair the car when there is no man in the house. I think this should not be happening in the United States. The biggest country in the world, the most powerful in the world.” – Ousmane, an Ohio father who was ordered deported to Mauritania

Policy and Systems Change Recommendations from Migrant Interviews

Black migrants' personal testimonies highlight significant anti-Black bias, racism, and discriminatory practices within the U.S. immigration system, particularly in courtroom proceedings and detention centers. These narratives underscore the urgent need for systemic reforms to address these inequities and ensure a fair, equitable, and humane immigration process for all individuals, regardless of their racial or ethnic backgrounds.

Enhanced Cultural Competence and Anti-Bias Training

Recommendation: Implement mandatory cultural competence and anti-bias training programs for all immigration officials, judges, attorneys, and detention center staff. These programs should include comprehensive modules on the history of racism, xenophobia, and Islamophobia; the impact of unconscious bias; and practical strategies for ensuring equitable treatment of all detainees and people seeking asylum.

Improved Legal Representation for Immigrants

Recommendation: Guarantee that all immigrants, especially those from marginalized communities, have access to quality legal representation. This can be achieved by increasing funding for public defenders specialized in immigration law and fostering partnerships with non-profit organizations that provide legal services to immigrants.

Strengthened Language Access and Translation Services

Recommendation: Significantly enhance the availability and quality of translation and interpretation services within the immigration system. This includes establishing stringent standards for translation accuracy, recruiting interpreters who are culturally

and linguistically competent, and verifying compatibility of interpreters with immigration applicants before commencing proceedings.

Oversight and Accountability Mechanisms

Recommendation: Establish independent oversight bodies with the authority to monitor, report, and address instances of racial bias, discrimination, and mistreatment in immigration proceedings and detention centers. These bodies should be empowered to investigate complaints, recommend corrective actions, and enforce compliance with anti-discrimination laws and policies, while ensuring the collection and sharing of disaggregated and intersectional data on race, religion, gender, and sexual orientation to accurately reflect diverse experiences and inform evidence-based policy interventions.

Reform Detention Practices and Conditions

Interim Recommendation: Overhaul detention center practices and conditions to align with international human rights standards. Prioritize alternatives to detention whenever possible, especially for vulnerable populations. Ensure that detention facilities provide adequate healthcare, mental health support, and access to outdoor and recreational activities.

Abolish the Immigration Detention System Practices and Conditions

Recommendation: Work towards the abolition of immigration detention centers, prioritizing community-based alternatives that uphold human dignity and align with international human rights standards. Immediately cease the use of incarceration of vulnerable populations and invest in systems of care that provide access to healthcare, mental health support, and community integration without confinement.

Fair and Transparent Case Processing

Recommendation: Allow more cases to start with USCIS' affirmative asylum process instead of referring them directly to the courts. This approach can ensure a less adversarial process for people seeking asylum, giving them the time and opportunity to find legal counsel and track down crucial evidence. Implement transparent procedures and criteria for case evaluations, including a "salient factors" process, to minimize the subjective influence of bias on decision-making. Regular audits should be conducted to review case outcomes for disparities that may indicate systemic bias. For those cases that remain in the courts, and to the extent that detention continues to be used as a tool in immigration enforcement, incarcerated immigrants should be given the opportunity to attend their hearings in person if they desire.

Adopting a "Whole Person" Standard Before Issuing a Deportation Order

Recommendation: Deportation is a serious act with life-altering, permanent consequences for both the individual who is deported and the people who rely on them for emotional and financial support. Adjudicators should consider factors arguing for and against deportation before making a final decision in an individual

case, including familial bonds and needs, community impact, and human rights violations in an individual's country of origin before they are deported.

Community Engagement and Feedback

Recommendation: Develop formal mechanisms for engaging immigrant communities in the development and evaluation of immigration policies and practices. This should include the establishment of advisory councils composed of community leaders and representatives from immigrant advocacy organizations.

The personal experiences shared by migrants highlight the critical need for comprehensive policy and systemic reforms within the U.S. immigration system. Implementing these recommendations requires a concerted effort from government agencies, the legal community, and civil society to ensure that the principles of fairness, justice, and human dignity are at the forefront of immigration policies and practices. By fostering an environment of transparency, accountability, and respect for all individuals, we can build an immigration system that truly reflects the values of equality and inclusion.

Attorneys' Experiences in Immigration Court

Overview of Attorney Interviews

This section provides an anonymized overview of information provided by nine immigration attorneys participating in the study, highlighting their diverse backgrounds and professional experiences. These attorneys represent Black migrants, and others, navigating the complex and often biased U.S. immigration system, with decades of combined experience in numerous immigration courts.

Demographic Breakdown

The study involved nine immigration attorneys operating in various legal environments across the United States. Their practices ranged from large metropolitan areas with well-established immigration infrastructures to rural regions with emerging migrant communities lacking specialized support. The participants included:

1. Gender: The group consists of slightly more women (5) than men (4). None of the participants are gender non-binary.
2. Race: There is a nearly equal representation of Black (4) and White (5) respondents. All Black respondents identify as immigrants or the children of immigrants.
3. Age: The respondents' ages ranged from 25 to 63 at the time of interview, with an average age of 39.
4. Location: The respondents are spread across several states, including Vermont, Ohio, Maryland, Washington DC, and California.
5. Types of Practice: The attorneys work in diverse settings, including non-profit organizations, private law firms, solo practices, and academia.

This demographic breakdown reflects the diversity of perspectives and experiences that the participating attorneys bring to their practice. Their varied backgrounds and specializations provide a comprehensive view of the systemic challenges faced by Black migrants within the U.S. immigration system.

Overview of Attorney Interviews

The practitioner interviews included nine attorneys operating in diverse settings, ranging from large metropolitan areas with well-established immigration infrastructures to rural regions with emerging migrant communities lacking specialized support. The interviewees represented immigration law firms, solo practices handling extensive caseloads, former clerks who reported to immigration judges, immigrant legal rights non-profits, and clinical professors training new attorneys. Several doubled as certified court interpreters, providing additional insights into language justice.

These practitioners possessed broad experience, handling various applications like asylum, cancellation of removal, family petitions, bond or merits hearings in regular removal proceedings, among others. Their diverse tenures span from eight years to over two decades of direct involvement in immigration and enforcement bureaucracies. Additionally, some represent newer voices and advocates within the broader migrant rights movement in the US. Collectively, they offer qualitative insights into substantive themes.

The semi-structured interviews aimed to uncover clear patterns regarding barriers to justice and equity for Black migrants, across key points in immigration enforcement. These points encompassed client preparation meetings, immigration court hearings, detention facility visits, and application processes. Questions delved into aspects ranging from language access to due process, and the influence of racism in court proceedings and outcomes.

Through structured coding, the interviews revealed substantive themes and facilitated a layered analysis of complex drivers, implications, and recommendations concerning racial injustice within America's immigration enforcement regime. The diverse accounts constructed an empirical mosaic highlighting the deeply corrosive impacts of historically embedded racism, now increasingly visible within the immigration apparatus following the election of Donald Trump as President in 2016. These insights suggest opportunities for innovative policy solutions centered on fairness and justice.

Significance of Attorneys' Perspectives

Immigration attorneys, positioned as intermediaries between migrant clients and complex enforcement bureaucracies, offer a unique view into the on-the-ground realities of these legal spaces. Their insights, often overlooked amid politicized immigration rhetoric, provide crucial observations. Empowered to interface with judges and officials, they discern patterns in barriers to substantive and procedural justice that detainees often face. Handling diverse dockets, sometimes pro bono, attorneys witness disparities — whether in bonds set, credibility assessments, or detention decisions across national, ethnic, and racial groups — that warrant further examination. Their experiences serve as a check against biases or lapses that threaten fair and just administration.

The insights gained from these interviews underscore the urgent need for systemic reforms to address inequities within the U.S. immigration system.

Recommendations include enhancing cultural competence training for immigration officials, improving access to legal representation, and establishing independent oversight bodies to monitor and address instances of racial bias and

discrimination. By amplifying the voices and experiences of these dedicated legal practitioners, this report aims to shed light on the hidden injustices faced by Black migrants and advocate for a more equitable and humane immigration system.

Key Insights from Attorney Interviews

The semi-structured interviews with the attorneys aimed to uncover patterns regarding barriers to justice and equity for Black migrants. Several key themes emerged from these discussions:

1. **Systemic Racism:** Many attorneys observed that Black migrants face heightened scrutiny and bias at multiple stages of the immigration process, from initial encounters with immigration enforcement to courtroom proceedings.
2. **Representation Gaps:** The lack of access to qualified legal representation was identified as a significant barrier for many Black migrants, often resulting in less favorable outcomes.
3. **Language Barriers:** Issues with interpretation services were frequently mentioned, with inadequate or inaccurate translation impacting the ability of migrants to effectively present their cases.
4. **Judicial Bias:** Concerns were raised about the potential biases of immigration judges, with some attorneys noting that judges often lacked cultural competence and offered comments and conclusions that were blatantly misinformed, discriminatory, and/or offensive.
5. **Procedural Challenges:** Attorneys highlighted the procedural hurdles faced by migrants, including rushed hearings, limited access to evidence, and a lack of time for proper case preparation.

Biases and Discrimination

Anti-Blackness and Racial Bias

“Black immigrants are not immune from anti-Black racial prejudice when it comes to who is considered dangerous and who is considered responsible enough to show up in court...it's not even so much what Black immigrants are doing, it's who is making these evaluations. And the pool that we're all living in is an anti-Black, white supremacist pool that...affects every stage of these types of decisions.” - Kerry

The accounts also revealed extensive evidence of bias toward Black migrants across multiple immigration enforcement chokepoints. In police encounters feeding the deportation pipeline, marginalized status elevates apprehension likelihood and perceived guilt, with even minor traffic incidents inflated as moral infractions within

this vested logic. Inside detention facilities, rigid communication restrictions impeding legal access reflect lack of cultural responsiveness.

Within courtrooms themselves, cultural ignorance frequently substitutes for adjudicative empathy, as judges swiftly brand African people seeking asylum as inherently less credible regarding persecution claims, despite exhibiting bodily scarring congruent with traumatic violence. As described by attorney Jennifer: **“There is no other answer than there’s racism.”** When compounded by factors like language barriers, dismissal is transformed into a tool used to undermine refuge.

Jennifer further elaborated: **“Every time I have an African case and I go before the court, I know that...there's a much more steep hill to climb to win the case.”**

Abel highlighted the discriminatory treatment: **“There is a lot of discrimination...[and] bias...against our people...in the courtroom. They face it...from security in the court [to] police officers...all the way to the judge. The way they treat you is completely different from other communities.”**

The profound impacts of racial bias on immigration proceedings and outcomes for Black migrants are undeniably severe and systemic. Substantive relief or mitigation crucially relies on testimonies, yet judges, already predisposed against the individuals, tend to exploit procedural technicalities as convenient shortcuts for denial, rather than genuinely evaluating the merits of asylum claims. Attorney Joyce astutely observed that, in court, **“there was bias shaping the assumptions that the judge was making and the standards...that the judge was holding us to in the case.”**

The influence of racial bias in immigration adjudication and enforcement outcomes predictably devastates the lives of those suspended in the system. Substantial relief predominantly depends on translating distressing traumatic testimonies, but judges often approach these narratives with skepticism. Asylum relief disproportionately hinges on navigating around incredulity-laden tripwires using procedural technicalities, rather than believing migrants have experienced harm.

The testimonies from attorneys and advocates underscore the need for systemic reforms to address and dismantle these ingrained biases. Comprehensive anti-bias training for judges and immigration officials, alongside efforts to increase diversity within the judiciary, are critical steps toward ensuring fairer, more equitable treatment of Black migrants. By acknowledging and addressing the pervasive anti-Blackness in the immigration system, it is possible to move toward a more just and humane approach to immigration adjudication.

Racial Proxies in Immigration Decisions

“I remember being warned about a particular judge's prejudice against Cameroonians specifically. I don't remember the exact wording, but it

was ‘Judge So-and-so does not like Cameroonian cases. He thinks that they’re all fraudulent’... I also remember being warned about needing to review more closely documentary evidence from African respondents in particular, not any country necessarily, but any documents from Africa, birth certificates, death certificates, all of that.” - Kerry

A notable theme that emerged pertains to the potential utilization of race, nationality, language proficiency, and other attributes as implicit proxies⁵ during immigration adjudication and enforcement decisions, particularly in situations where overt consideration of these factors is legally prohibited. Practitioners highlighted statistically disparate detention rates and durations affecting African people seeking asylum, which strongly indicate such discernible patterns — even when accounting for purported risk factors formally governing custody rules.

Kerry, in the quote above, recalled being directed by superiors, while serving as a law clerk, to approach documentary submissions from African countries with ingrained suspicion, a clear reflection of the expectation of fraudulence targeted specifically at these submissions. These instances underline how biases are deeply entrenched within the architecture of the system, rather than being mere isolated incidents of prejudice.

These attorneys’ narratives reveal inclinations among some immigration judges and officers to subject applicants from specific countries, continents, or racial backgrounds to heightened scrutiny, and impose higher evidentiary burdens in order to establish “credible fear” — a requirement for successful asylum applications. This implicit reasoning often operates on the assumption of higher “fraud” prevalence among Black and African applicants, leading to more intrusive questioning about political or factual nuances that a person seeking asylum might not reasonably be prepared to address. Collectively, these observations suggest that national origin serves as a convenient pretext within systemic processing, allowing for the circumvention of fair consideration in contexts where anti-Black biases are prevalent.

Consequences of Structural and Procedural Deficiencies

“I think there’s this fundamental unfairness built into the system...the entire immigration court system being part of the Justice Department is very politicized and a huge number of the judges are former, what you would call prosecutors. So the entire system is skewed toward denying people asylum. I joke with other lawyers and law students...if you were [an] evil genius and you wanted to design a system where it was almost

⁵ See Achiume (2022), Achiume, E. T. (2022), and Bashi, V. (2004).

impossible for anybody to win, this is pretty much what you would design...the entire system is just so heavily skewed towards asylum is not for anybody. It's this abstract concept that the U.S. as a country agreed to under international law, but we don't actually want to grant anybody asylum." - Bill

Participants exposed profound structural and procedural impediments to substantive justice within immigration hearings. As attorney Ron noted, **"the immigration system is very lopsided, in terms of the power dynamics between the immigrant and the court system. The system as a whole."** He went on further, stating, **"the vast majority of my clients are a part of marginalized groups and their involvement in the immigration justice system was primarily as a result of their involvement in the criminal justice system, which in my opinion, puts them in harm's way — both being picked on by the police and then being subject to immigration enforcement as a result of that, even for traffic offenses."**

The collective insights from all attorneys paint a stark picture of a U.S. immigration court system fraught with systemic racism, language barriers, unqualified judges, and subjective credibility assessments. These accounts not only corroborate the findings from Black migrant interviews, but also add depth to the understanding of how anti-Black racism and bias manifest in various facets of the immigration process. Together, they underscore the critical need for systemic reform — including the hiring of culturally competent judges, improvement of language access services, and the establishment of more objective criteria for credibility determinations — to ensure that the immigration court system is equitable, fair, and just for all, regardless of race, nationality, or language proficiency.

Representation Disparities

"I'm flooded with so many memories of times when my clients, who [are] already exponentially more likely to access their rights in court because I'm there with them...are facing barriers to justice before my eyes and with an advocate right there pulling for them, let alone the dozens and dozens and dozens of unrepresented respondents at removal proceedings who are...asking you questions, trying to understand the documents in their hands and what's about to happen to them and what they can expect." - Joyce

All attorneys emphasized the significant impact that representation carries in influencing immigration decisions, spanning from initial detention and bond hearings to motions and merits hearings. However, systemic barriers, ranging from exorbitant costs for private attorneys to the absence of government-appointed counsel, hinder access to legal assistance for most individuals. Many people seeking asylum find themselves relying on non-specialist groups to navigate the complex application process. This reliance severely disadvantages them in navigating the adversarial system alone. In contrast, the U.S. government is consistently represented by counsel in every immigration case, in every court, without exception.

The interviews with attorneys revealed significant disparities in the representation of immigrants, particularly Black migrants, within the U.S. immigration court system. Many attorneys highlighted the systemic lack of access to qualified legal representation for Black migrants, which often results in poorer outcomes compared to their counterparts. This disparity is exacerbated by economic barriers that prevent these migrants from securing competent legal counsel on their own, contributing to a cycle of disadvantage that affects their ability to successfully navigate complex immigration proceedings. The lack of representation is not just a legal failing but also a societal issue, reflecting broader inequalities in resource distribution and access to justice that disproportionately affect marginalized communities.

The representation deficit directly threatens the fairness and accuracy of adjudications by denying structural support needed to identify and argue legal exceptions or navigate opaque procedures. As Attorney Joyce observed, **"unrepresented respondents in removal proceedings face significant barriers to accessing justice."** Even slight language differences exponentially compound confusion. Quality counsel, well-versed in disability aids for trauma, sharpens self-corroborating testimony presentations and navigates accommodations to secure due process rights.

Attorneys expressed concerns about the long-term effects of these disparities on social cohesion, highlighting the need for structural reforms that ensure equitable access to legal resources. Addressing these disparities involves both increasing funding for public defense in immigration courts and broadening community-based legal aid initiatives that can provide targeted support to underrepresented groups.

Due Process Concerns and Erosion

Attorneys frequently cited due process concerns within the immigration court system, noting that procedural safeguards that are standard in other areas of U.S. law are often absent in immigration proceedings. This lack of due process manifests in rushed hearings, limited access to evidence, and a lack of time for proper preparation, which disproportionately impacts migrants with limited resources or language barriers. The erosion of due process is seen not just as a failure of the legal

system, but as indicative of broader societal trends toward curtailing the rights of non-citizens and other vulnerable groups. This systemic bias against migrants is reflective of a larger societal inclination to view them as undeserving of the same legal protections afforded to citizens.

Due process concerns were vividly illustrated in the interviews, with several attorneys noting how procedural shortcuts and inadequate time for case preparation disproportionately affect migrants. Jennifer stated, **"The system is a mess... Due process is not something to expect when you go to immigration court,"** emphasizing the systemic disarray and need for significant reform. She noted the prevalent bias and discrimination within the system, particularly towards Black immigrants, who face higher rates of credibility challenges, stating that **"Black immigrants...are found not credible when they should be found credible."**

The societal impact of due process erosion in immigration courts extends beyond individual cases, affecting the community's perception of justice and fairness. As due process is undermined, public confidence in the legal system erodes, leading to increased cynicism and decreased civic engagement. The interviews underscored the importance of restoring due process as a fundamental principle within immigration courts, to ensure that the courts serve as true arbiters of justice, rather than instruments of administrative malfeasance.

Bill highlighted the structural inequities, stating, **"The entire system is just so heavily skewed towards asylum is not for anybody...it colors...every step of the process."** This structural bias, combined with inadequate translation services and the inherent subjectivity in credibility determinations, further exacerbates the challenges faced by Black migrants. Bill shared an instance where a mistranslation was labeled as forgery, leading to a denial of asylum, underscoring the severe consequences of procedural flaws and bias.

Attorneys suggested several measures to address these issues, including providing free language services to people seeking asylum, in languages they understand; addressing the digital divide that hinders access to justice; and fundamentally reforming the court system to ensure it promotes the rights of people seeking asylum and adheres to both national and international human rights laws. **Abel emphasized the need for a community-based approach to adjudicate these cases, highlighting that the current system is fundamentally anti-Black and anti-immigrant.**

Addressing due process concerns in immigration courts requires systemic reform, improved language services, and a commitment to upholding the legal rights of all individuals, regardless of their citizenship status. These steps are crucial to finally building fairness and integrity into the immigration legal system.

Language Barriers and Interpretation Issues

Language barriers and the adequacy of interpretation services were recurrent themes in the interviews with attorneys, who pointed out that inadequate or incorrect interpretation can significantly impact the outcome of cases. Many attorneys described instances where the nuances of a migrant's testimony were lost or inaccurately translated, leading to misunderstandings that adversely affected their credibility and the overall decision in their cases. This issue is not only a reflection of the operational challenges within the immigration system, but also highlights broader societal issues related to language access and equity. The failure to provide competent interpreters is indicative of systemic neglect of non-English speakers' rights, reflecting broader societal attitudes towards immigrants and linguistic minorities.

Language barriers and interpretation issues are critical challenges in immigration courts, affecting the outcome of many cases. Ron shared his experiences with clients who primarily spoke indigenous languages: **“A good portion of folks that I've represented in immigration court have been indigenous Guatemalans [and Peruvians] who speak Spanish, but their primary language is an indigenous language...and without question, even when it's specifically requested and noted in the file, I've never had access to those specific languages... Those clients in particular were not able to access justice. It was very, very difficult for them, especially from the standpoint of not being able to understand the hearing and then having to have me explain in their second language.”**

Bill highlighted the inefficacy of relay interpreting: **“The immigration courts...use relay interpreting, which is like [interpreting] from one language to another to another... It really isn't investing in giving people a voice... If you really wanted someone to have a voice in immigration court, you would be spending... money on high-quality interpreters and contracting with the best companies... [with] quality control checks... But it just doesn't happen.”**

The societal implications of these language barriers are significant, as they reinforce cultural and linguistic divides. Effective communication is a foundational aspect of justice, and failures in this area not only undermine the fairness of immigration proceedings, but also contribute to the marginalization of non-English speaking communities. Attorneys emphasized the need for systemic reforms to improve the training and certification of interpreters and to integrate language access into broader civil rights frameworks to ensure that all individuals receive fair treatment in the legal system.

Individuals requiring relay interpretation are particularly disadvantaged, as mistakes compound quickly. Even Spanish language services exhibit gaps in capturing dialect nuances that can alter case meanings. This creates an invisible yet pivotal procedural

blockade intentionally excluding linguistic diversity, rather than being an accidental oversight.

Abel, speaking from his personal and professional connection to immigration, discussed the dire lack of language interpretation services in U.S. courts. This barrier is profoundly felt among community members from Africa and the Caribbean, significantly hindering their access to justice and fair treatment. Abel stated, **"You know, a lot of our community members do not speak English...and there is no service for interpretation or translation... Because of that...[there are] asylum seekers and refugees [who] have lost their status...[and] been deported because of these issues."**

When Black people seeking asylum struggle to articulate their stories coherently due to inadequate interpretation, judges often launch credibility attacks. Expression difficulty is classified as evasiveness and mendacity, rather than recognizing intersecting cultural factors that courts tend to discount.

The feedback from the attorneys underscores the critical need for immigration courts to prioritize accurate and culturally sensitive interpretation services. By addressing these language barriers, the legal system can move towards greater equity and fairness, ensuring that all individuals, regardless of their linguistic background, have a fair opportunity to present their cases. This requires not only improved interpreter training and certification but also a broader commitment to recognizing and accommodating the diverse cultural contexts of those appearing in immigration courts.

Qualifications and Bias of Immigration Judges

The lack of qualifications among immigration judges and the potential for bias in their decision-making were major concerns among the attorneys interviewed. Many expressed that some judges lack a deep understanding of immigration law, and the cultural contexts of the migrants they are evaluating, leading to decisions that may not take into account the complexities of the cases. This lack of specialization reflects a deeper issue within the system, where immigration law and enforcement have long been shaped by political agendas rather than by principles of fairness, legal integrity, or humanitarian standards. The interviews underscore that restrictive immigration policies, often driven by nativist sentiments, are not a recent development but part of a longstanding pattern that has consistently influenced the functioning of the system. Recognizing this is crucial for establishing a new, more just paradigm.

The lack of qualifications and potential biases of immigration judges are a recurrent theme. Jennifer noted, **"Some judges come into the courtroom with preconceived notions about certain countries or cultures, which can heavily influence their decisions."** This bias can skew the fairness of trials and reflects societal prejudices that seep into judicial proceedings.

Kadiatou emphasized the need for comprehensive training for judges: **“I think judges just need better training overall, and not just on how to be a good judge and not just like good training on immigration law, but literally how to be...anti-racist and...they need to understand the implicit biases that they have. Even if the judge is Black or the judge is Latinx or an immigrant themselves, I still think they could benefit from some of those trainings. And I feel like part of that...is a lot of unlearning of what we understand the U.S. legal system to be.”**

Ron expressed concerns about the general qualifications of immigration judges, particularly in the context of recent political changes: **“I feel that the immigration judges are, generally speaking, not qualified, especially during and post-Trump era... I have a number of different examples of times when I've been in front of judges who I literally had to explain standards to.”**

Abel pointed out the importance of cultural competency: **“It’s a cultural competency issue...even the way we greet people in the United States is different from our cultures...whether [you’re] from African or Caribbean countries... They are not culturally competent enough to be able to adjudicate these cases.”**

Attorneys argued for the need for more rigorous training and oversight for immigration judges, to reduce bias. They also highlighted the importance of increasing diversity within the judiciary to reflect the demographics of those appearing in immigration courts, which could help mitigate biases and ensure more culturally competent and empathetic adjudication.

The feedback from the attorneys underscores the critical need for immigration judges to receive training, not only in legal standards, but also in cultural awareness and anti-racist practices. Such training would help judges recognize and address their implicit biases, ensuring fairer and more humane treatment of migrants. Moreover, enhancing the diversity of immigration judges could bridge the cultural gap and foster greater understanding and empathy in the adjudication process.

Credibility Determinations and Racial Bias

“You can be in immigration court and the immigration judge might not understand that the culture where this particular Black immigrant comes from the word for ‘boat’ or ‘canoe’ are two different things or are actually the same thing, but English has differentiated them. So on paper, the person might have said, ‘I fled persecution by entering this boat.’ In court, they might use the word ‘canoe’ and the judge will take it to mean...there are discrepancies. Part of that, I think, is also just...implicit biases where instead of a presumption of innocence for

Black migrants, there's always a presumption of fraud. The slightest little mishap can get someone a denial." - Kadiatou

Kadiatou, an advocate for immigrant rights, expanded on the issue of credibility determinations. She illustrated how these determinations are often influenced by judges' personal biases and preconceived notions, particularly against Black immigrants, which can result in unjust denials of asylum claims. Her insights call for a more transparent and objective process in evaluating credibility, one that is free from racial bias and more reflective of the complexities of immigrants' experiences.

Credibility determinations are a critical aspect of immigration proceedings, and attorneys noted that these assessments are often influenced by racial bias. They shared observations that Black migrants and other racial minorities are frequently held to higher standards of proof and are more likely to be perceived as untruthful. This skepticism is not isolated to the courtroom, but is reflective of broader societal biases that negatively impact racial minorities. Such biases are entrenched in the larger cultural context, where stereotypes and misconceptions about certain groups persist and influence the perceptions and decisions of those in positions of authority, including judges.

Luisa provided a stark example: **"Some judges, ICE attorneys, immigration officers do not hide that. Certain countries are just considered red flags when it comes to credible paperwork and facts. They'll just say it point blank, country such-and-such is known for XYZ."**

Joyce provided additional insights into the bias and challenges within the system: **"Most judges make a lot of white-centric assumptions about people...what makes someone a credible person."** She emphasized that **"credibility is everything...because credibility is so culturally coded and racially coded and economically coded."** Joyce also noted the significant barriers faced by unrepresented respondents in removal proceedings, advocating for more resources, training, and oversight to address these inequities.

Kadiatou shared her perspective on the production of documents: **"You're talking about people who are fleeing dangerous conditions oftentimes, who...aren't just deciding to take a vacation to the U.S. but oftentimes have had to leave abruptly under various, very scary circumstances. And the U.S. wants them to have a neatly packaged file of original documents, in order from dates received."**

She suggested that these judgments are influenced by societal tendencies to stereotype and mistrust certain racial groups, which can lead to disproportionately negative outcomes for those migrants.

Attorneys emphasized the need for systemic approaches to training and oversight to counteract these biases and to foster a more inclusive and equitable legal system. By addressing these issues, the legal community can not only improve the fairness of immigration proceedings, but also challenge and potentially change societal attitudes towards race and credibility. Implementing anti-bias training and promoting cultural competency among immigration judges are essential steps in mitigating the impact of these biases. Additionally, increasing the diversity within the judiciary can help ensure that a broader range of perspectives is considered, ultimately leading to more just and empathetic adjudications.

Summary of Attorneys' Narratives

Extensive practitioner interviews uncovered nuanced insights into the structural, procedural, and representational deficiencies that disproportionately affect this demographic group. The findings underscore the urgent need for systemic changes, policy adjustments, and a transformative approach to ensure fundamental fairness, justice, and compassion within the immigration apparatus.

Unveiling Systemic Injustice: The narratives vividly exposed deep-rooted biases, both explicit and implicit, embedded within critical decision points of the immigration legal system. From anti-Black biases shaping scrutiny of documents offered as evidence, to judges' dismissals of claims from African countries, systemic patterns reflect a cumulative impact that exacerbates the vulnerability of Black migrants. The impacts of racial bias on immigration proceedings are severe and systemic, hindering substantive relief and perpetuating injustices.

Structural and Procedural Impediments: Attorneys' assessment of inadequacies within immigration courts revealed multifaceted challenges. From language access deficiencies to compressed merits hearing schedules, the system's structural flaws contribute to an environment where procedural shortcuts are prioritized over compassionate credibility assessments, or simply believing the respondent is telling the truth rather than assuming they are lying.

Representation Disparities: This report underscores the critical role of representation in influencing judges' decisions in immigration cases. However, disparities in access, from exorbitant costs to the absence of federally-funded, government-appointed counsel, hinder marginalized individuals' ability to navigate the complex system. The impact of the representation deficit on fairness and accuracy in adjudications is profound, including the denial of cases for individuals who qualify for legal status under the law, but were not able to present their case without a legal guide. This highlights the urgency of addressing systemic barriers and ensuring universal representation in immigration court.

Imperatives for Reform: The identified systems change needs encompass a broad spectrum, from legislative interventions to address eligibility barriers and standards

for judicial review, to transformative approaches challenging the existing enforcement priorities and design of the immigration court system as a whole. Recommendations include creating an Article III immigration court, enhancing language access, and implementing extensive training for judges. An abolitionist framework envisions a paradigm shift toward whole community security, guaranteed representation, and restorative models of adjudication.

Policy and Systems Change Recommendations from Attorney Interviews

Attorneys' detailed accounts reveal systemic inequities, language and interpretation barriers, concerns regarding the qualifications and biases of immigration judges, and the complexities surrounding credibility determinations. Drawing from these insights, the following comprehensive set of recommendations are proposed to reform and enhance the fairness, transparency, and efficiency of the immigration court system.

Enhance Fairness and Equity

Recommendation: Congress should establish an independent immigration court system, moving the current apparatus out from under the Department of Justice to an independent structure similar to the federal judiciary, to insulate it from political pressures and enhance decision impartiality.

Congress and the Executive Branch should standardize procedures that guarantee due process rights for all immigrants, ensuring clear communication of rights, access to legal representation, and transparent court proceedings.

Address Language and Interpretation Barriers

Recommendation: The immigration courts should significantly enhance the availability and quality of language interpretation services, including hiring certified interpreters and improving access to interpreters for rare languages. The court should also implement a rigorous certification process for court interpreters across all languages, complemented by regular oversight to maintain high standards of accuracy and professionalism.

Improve Judge Qualifications and Reduce Bias

Recommendation: The federal government should introduce transparent, qualifications- and merit-based criteria for the appointment of immigration judges, emphasizing expertise in immigration law, cultural competency, and judicial impartiality. The court should require ongoing professional development for immigration judges focusing on cultural sensitivity, anti-bias training, and updates on immigration law, policy, and country conditions relevant to asylum claims.

Standardize Credibility Determinations

Recommendation: Congress and the Executive Branch should establish clear, transparent guidelines for assessing the credibility of immigrants' claims, aimed at reducing subjectivity and ensuring consistent application across cases. The government should also create a robust system for appealing credibility determinations, allowing for a thorough review of initial judgments to correct potential errors or biases in decision-making.

Attorney Praxis, Training, and Education

Recommendation: Comprehensive training and continued legal education in implicit bias, cultural competency, racial sensitivity, and trauma-informed practices should be promoted within the legal community for both immigration attorneys and judges. Expanding continuing education on immigration-related topics would help deepen understanding of migration dynamics. Immigration attorneys should also adopt best practices for compassionate client interaction, focusing on active listening and clear communication tailored to diverse audiences. Law offices should hire and make use of language, cultural, and historical experts when preparing and presenting cases, including submitting their testimonies to the court as affidavits.

International Human Rights Frameworks

Recommendation: The federal government should integrate international human rights laws and norms into domestic immigration jurisprudence to provide alternative advocacy angles and ensure compliance with global standards.

Admissions and Visa Policy

Recommendation: Congress should eliminate arbitrary caps and barriers to immigration that constrain human mobility, and expand lawful immigration opportunities for African diaspora migrants.

This set of policy recommendations aims to address the systemic flaws within the U.S. immigration court system as highlighted by the insights from attorney interviews, proposing a path towards a more just, fair, and humane immigration system that aligns with broader societal values and international standards.

Immigration Judge Complaint Data Overview and Analysis

Quantitative data is pivotal in uncovering the complexities and disparities in immigration court proceedings. This section delves into key findings from an analysis of data sourced from the Executive Office for Immigration Review (EOIR), with a focus on immigration court judges and the complaint process. Through examining trends, complaints, yearly comparisons, and outcomes, the analysis provides critical insights into the functioning of the immigration judiciary system and the challenges faced by migrants. This comprehensive overview underscores the need for continued scrutiny and improvements to ensure fairness and justice.

Judicial Complaint Process Overview

The Judicial Complaint Process⁶ is managed by the Executive Office for Immigration Review (EOIR), this process applies to all immigration judges, including those within the three key components of EOIR: the Office of the Chief Immigration Judge (OCIJ), the Board of Immigration Appeals (BIA), and the Office of the Chief Administrative Hearing Officer (OCAHO).

The complaint system is designed to address issues related to judicial misconduct that could affect the fairness and efficiency of immigration proceedings. Misconduct can involve any behavior that undermines the integrity of the judicial process, such as bias, improper conduct during hearings, or violations of due process.

Filing a Complaint

Any individual or group—whether a litigant, attorney, or observer—can file a complaint against an immigration judge. Complaints can be submitted by email or letter to the Judicial Conduct and Professionalism Unit (JCPU), which operates within EOIR.

Upon receiving a complaint, the JCPU assigns it a unique identifier and logs it into EOIR’s judicial complaint tracking system. This system ensures that complaints are tracked throughout the investigation and resolution process.

Once docketed, the JCPU conducts a preliminary review to determine whether the complaint falls within the jurisdiction of judicial misconduct. If the complaint concerns issues outside the scope of judicial misconduct (e.g., management issues or performance concerns unrelated to judicial behavior), it may be referred to another EOIR office for appropriate handling.

⁶ See U.S. Department of Justice, Executive Office for Immigration Review. (n.d.). *Summary of OCIJ procedure for handling complaints concerning immigration judges*. <https://www.justice.gov/eoir/page/file/1039481/dl>

In cases where the complaint contains allegations of judicial misconduct, the JCPU will forward the complaint to the appropriate supervisor of the judge in question.

Investigation Process

Once a complaint is assigned to a supervisor, an in-depth investigation begins. The supervisor may:

- Review relevant case records, including digital recordings of hearings, electronic docket entries, and written decisions
- Gather statements from the complainant, any witnesses, and the judge involved
- Analyze whether the judge's actions violated EOIR's standards of conduct

If the complaint includes allegations that fall under the jurisdiction of other investigative bodies, such as the Office of Professional Responsibility (OPR), the Office of the Inspector General (OIG), or the Office of the Special Counsel (OSC), the complaint may be referred to those offices for further investigation. These offices typically handle cases involving criminal activity, serious misconduct, or violations of federal personnel laws.

Resolution and Actions

Following the investigation, the supervisor determines the appropriate course of action. Complaints can result in several outcomes:

1. **Dismissal:** If the investigation finds that the complaint does not constitute judicial misconduct or lacks merit, the case is dismissed. Complaints may also be dismissed if they are frivolous, unsubstantiated, or related to the merits of a judge's legal decisions rather than their conduct.
2. **Conclusion:** If the judge retires or resigns, or if corrective action has already been taken, the case may be closed as concluded. In these cases, no further action is required.
3. **Corrective Action:** If the judge's behavior is deemed inappropriate but not warranting formal disciplinary measures, non-disciplinary corrective actions may be taken. These actions may include additional training, counseling, or performance management to ensure future compliance with EOIR's ethical standards.
4. **Disciplinary Action:** In cases where misconduct is severe, disciplinary action may be recommended. Disciplinary measures range from written reprimands to suspensions without pay or even removal from federal service. The disciplinary process is managed in accordance with federal employment laws and EOIR's internal policies.

EOIR periodically publishes statistics on the number of complaints filed and the actions taken in response. These reports provide insight into the volume of

complaints and the resolution outcomes. The publication of these statistics complies with privacy regulations and does not reveal the identities of the judges or complainants involved.

Key Findings from Immigration Court Data Analysis

Trend Analysis

- **Increasing Number of Judges:** The number of immigration judges increased from 253 in FY 2014 to 558 in FY 2022 — a 121% increase.
- **Variable Complaint Trends:** The percentage of judges receiving complaints fluctuate annually, ranging from 11% to 33%.

Complaint Analysis

- **Common Complaints:** Bias, due process violations, in-court and out-of-court conduct, and legal issues are among the most common causes for filing a complaint. *(Note that complaints can claim multiple types of misconduct)*
 - **Bias Complaints:** Complaints alleging bias peaked at 39% in FY 2018.
 - **Due Process:** Complaints regarding due process increased significantly, reaching 69% in FY 2018.
 - **In-Court Conduct:** There has been a steady increase in complaints about judges' behavior in court, peaking at 83% in FY 2020.
 - **Legal Issues:** Complaints citing legal issues varied, peaking at 51% in FY 2019.

Yearly Comparison

- **Complaint Types:** In-court conduct, due process, and bias are predominant areas of concern.
- **Complaint Outcomes:** A large proportion of complaints are dismissed, with corrective actions being more common than formal disciplinary measures.

Outcome Analysis

- **High Dismissal Rate:** A significant number of complaints are dismissed, ranging from 42% to 65%, indicating a high threshold for advancing complaints.
- **Corrective Actions vs. Discipline:** The system prefers corrective actions (training or counseling) over formal discipline, with disciplinary actions being relatively rare.

The data reveals an increase in the number of immigration judges alongside fluctuating trends in complaints. Common issues include bias, due process violations, and in-court conduct, with a high rate of complaint dismissals and a preference for corrective actions over disciplinary measures. These insights underscore the need for

continued scrutiny and improvements in the immigration court system to ensure fairness and justice.

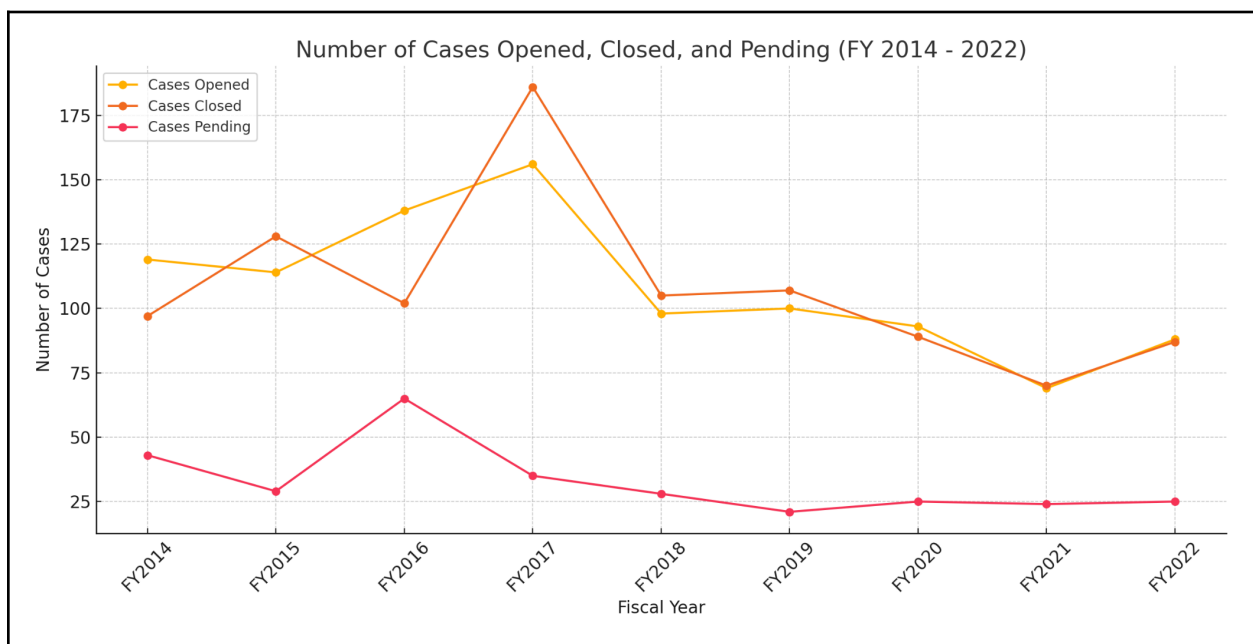
A. Trend Analysis

The number of complaints filed against immigration judges has shown variability over the past decade, indicating fluctuating concerns about the conduct and decisions of these officials.

Trend in the Number of Immigration Judges (FY 2014 - 2022): There has been a general upward trend in the number of immigration judges serving within EOIR, from 253 in FY 2014 to 558 in FY 2022 (a 121% increase). This indicates that the judiciary system has scaled up over the years, likely in response to increased caseloads and policy changes that increase the amount of work the immigration courts must complete.

Yearly Trend in the Percentage of Judges Whom Complaints Were Received (FY 2014 - 2022): The percentage of judges against whom complaints were received shows some fluctuation over the years, ranging from 11% to 33%, but does not depict a clear increasing or decreasing trend.

Immigration Judge Complaints (FY 2014 - 2022)



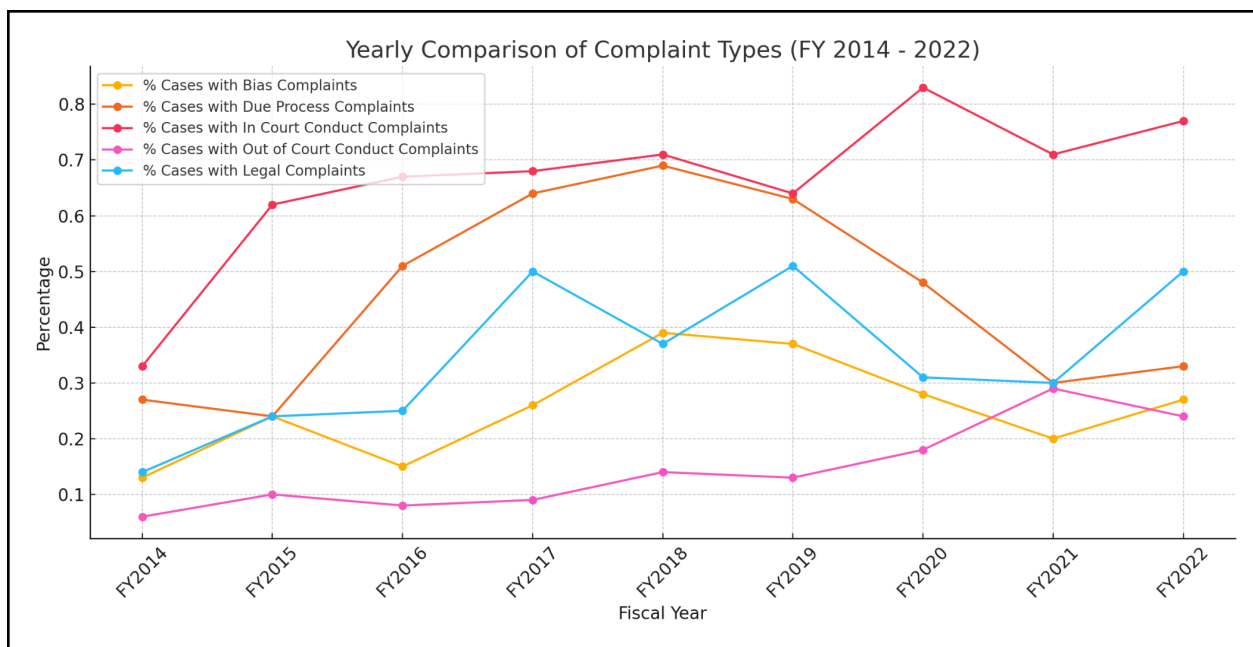
B. Complaint Analysis

The most common reasons for filing complaints include judges' conduct in court; due process violations; legal issues; bias; and out of court conduct.

- **In-Court Conduct:** Immigration judges' behavior and/or conduct within the courtroom is the number one problem cited in complaints, including 83% of all those filed in FY 2020. This points to serious, ongoing concerns about professionalism among judges in immigration court.
- **Due Process:** Complaints centered on due process issues have seen a significant increase, particularly in the latter years, reaching 69% in FY 2018. This highlights increased concerns about the procedural fairness of hearings.
- **Legal Issues:** Complaints citing legal issues — including legal misinterpretations or errors — have varied, but indicate ongoing concerns about immigration judges' legal acumen, peaking at 51% in FY 2019.
- **Bias:** Complaints alleging bias have generally increased over the years, peaking at 39% in FY 2018. This suggests growing concerns regarding the impartiality of judges in immigration cases.
- **Out-of-Court Conduct:** Complaints related to out-of-court conduct show a slight increase, indicating concerns about judges' actions and behavior outside the courtroom setting, peaking at 29% in FY 2021.

These trends indicate that while the judicial system has scaled up, as seen in the increasing number of judges, there are also increasing concerns about bias, due process, in-court conduct, out-of-court conduct, and legal issues among immigration judges.

Immigration Court Complaints Over the Years



C. Yearly Comparison

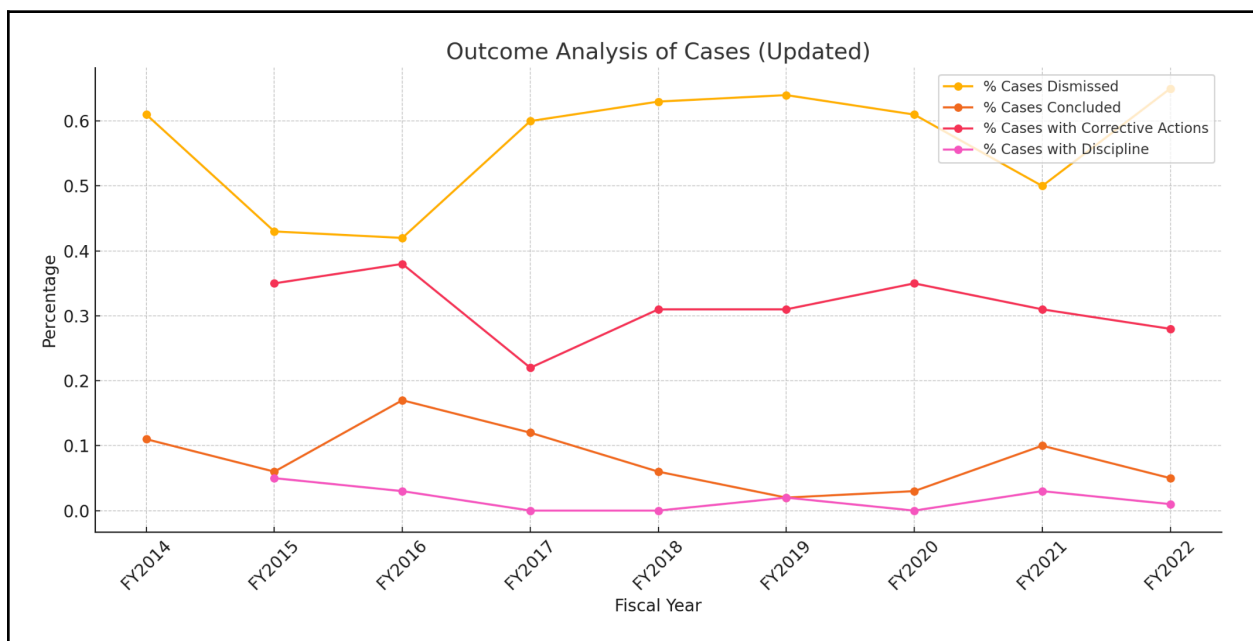
The analysis reveals significant year-to-year variations in the number and nature of complaints, suggesting that the complaint process is influenced by broader political and policy changes.

Comparison of Percentages Based on Complaint's Basis: The comparison reveals which areas have been more problematic over the years based on the average percentages of complaints. In-court conduct appears to be a significant area of concern, followed by due process and bias. This suggests that issues related to judges' behavior in the courtroom and procedural fairness are predominant areas where complaints are lodged.

Comparison of Outcomes of Complaints: When comparing the outcomes of complaints, it's evident that a large proportion of complaints are dismissed overall, indicating a highly restrictive process for advancing complaints toward consideration of corrective actions or discipline. Corrective actions are more common than formal disciplinary measures, reflecting the judiciary system's preference for addressing issues through training or counseling rather than imposing penalties.

These comparisons provide a broad overview of the judiciary system's areas of concern and its approach to handling complaints. While in-court conduct and due process emerge as primary areas of complaint, the system's response leans towards corrective actions, with a considerable number of complaints being dismissed outright.

Outcome Analysis of Complaints (FY 2014 - 2022)



D. Outcome Analysis

These analyses provide insights into the effectiveness of the system in addressing complaints. While a considerable number of complaints are dismissed, there's a varying degree of responsiveness in terms of corrective actions and discipline, reflecting the system's approach to managing judicial conduct issues.

Outcome of Complaints Over the Years: The comparison between the percentage of cases that were dismissed overall and those that concluded with either corrective actions or discipline shows that a significant proportion of complaints were dismissed, suggesting a high threshold for progressing complaints to corrective actions or discipline. The percentage of cases concluding with corrective actions or discipline varies, indicating fluctuations in the system's responsiveness to complaints over different fiscal years.

Trends in Corrective Actions and Discipline Over the Years: The trend in corrective actions shows some variation, with certain years witnessing a higher percentage of cases concluding with corrective actions. This reflects the system's efforts to address issues through training or counseling rather than formal discipline. The discipline trend remains relatively low, indicating that formal disciplinary actions against judges are less common. The discipline percentage is notably low or zero in several years, suggesting that while the system does take action against complaints, it often opts for corrective measures over formal discipline.

Conclusion

The analysis of immigration court judge complaints reveals crucial insights into the judiciary's functioning and the challenges faced by migrants. While there has been an increase in the number of judges, the rise in complaints related to bias, due process, in-court conduct, out-of-court conduct, and legal issues is troubling and seldom discussed.

The system's preference for corrective actions over disciplinary measures or changes to hiring practices — including requiring expertise in immigration law — suggests less seriousness in addressing the underlying issues prompting many of these complaints.

Government Accountability Office - Additional Findings and Recommendations

The U.S. Government Accountability Office reports highlight significant challenges and provide crucial recommendations for improving the U.S. immigration court system. The GAO-20-250⁷ report, "Immigration: Actions Needed to Strengthen

⁷ See U.S. Government Accountability Office (2020)

USCIS's Oversight and Data Quality of Credible and Reasonable Fear Screenings," focuses on the credible and reasonable fear screenings conducted by USCIS, noting a substantial increase in caseloads from FY 2014 to FY 2018, which doubled the referrals. It emphasizes the need for enhanced training and oversight mechanisms, with specific guidance for documenting quality assurance reviews to track trends and improve processes. Recommendations include developing detailed standard operating procedures for periodic reviews and improving data management systems to ensure accurate and efficient data collection and analysis.

Similarly, the GAO-23-105431⁸ report, "Immigration Courts: Actions Needed to Address Workforce, Performance, and Data Management Challenges," addresses EOIR's management practices, especially the significant backlog of immigration cases, which reached approximately 1.8 million by FY 2023. It underscores the need for better workforce planning, improved performance appraisal systems for judges, and updated guidelines to ensure data quality and reliability. The report provides six recommendations, focusing on enhancing workforce planning, judge performance appraisal, and data quality practices. These insights and recommendations from GAO reports underscore the critical need for ongoing improvements in training, oversight, and data management to ensure fairness and effectiveness in the immigration court system.

⁸ See U.S. Government Accountability Office (2023)

Legal and Policy Recommendations

The extensive findings presented in this report underscore the urgent need for a comprehensive overhaul of America's immigration enforcement regime. Deep-rooted biases and systemic deficiencies have been unveiled, demanding transformative legislative and regulatory changes. Incremental adjustments will not suffice; instead, bold and visionary reforms are essential to rectify the inherent injustices ingrained in the current system.

Comprehensive Immigration Reform

Achieving a just and ethical immigration system requires a sweeping statutory overhaul to address the exclusionary laws that perpetuate arbitrary visa caps, mobility bars, and constraints on family reunification. The following recommendations offer a strategic roadmap for dismantling these barriers, emphasizing a shift from numerical limitations to a humane and globally responsive approach.

Recommendations:

1. Eliminating per-country quota limitations and significantly increasing overall family-based visa approval levels to align with natural global migration trends.
2. Repealing the 3 and 10 year re-entry bars to foster family unification.
3. Ending ceilings on refugee and asylum admissions and shifting initial processing from immigration courts to a dedicated asylum officer corps.
4. Establishing fully independent Article III immigration courts at the federal level, with guaranteed access to appointed counsel.
5. Creating regional Immigrant Social Support Centers focused on human welfare, housing, healthcare, economic security, and community integration programming.

These recommendations advocate for structural and cultural shifts, envisioning a welcoming and compassionate immigration system. They emphasize collective responsibility over exclusionary systems, aligning with ideals of justice and fairness.

Guaranteed Representation Access through Public Funding

Ensuring universal access to appointed counsel in immigration proceedings is imperative, given the profound impacts on substantive life outcomes. The following recommendations outline strategies to guarantee representation access through public funding, recognizing immigration defense as intertwined with fundamental constitutional considerations.

Recommendations:

1. Statutorily guaranteeing government-funded public defenders for immigration cases.
2. Expanding overall funding for non-profit immigrant legal aid entities through dedicated budget set-asides.
3. Establishing public grant programs supporting law school immigration clinics.
4. Promoting hiring initiatives to increase representation within underserved regional immigration courts.
5. Rolling back restrictions on funding orientational programming and "unbundled" services.

These recommendations address the acute representation crisis within immigration courts, aiming to establish fairness across interconnected systems. By ensuring counsel access, the broader goal of justice can be achieved, catalyzing wider ripple effects within the immigration system.

International Framework Integration

Incorporating international human rights laws, norms, and multilateral agreements into domestic immigration jurisprudence offers alternative avenues to challenge violations within the existing restrictive infrastructure. The following recommendations outline specific international frameworks that can be creatively integrated into removal defense arguments by immigration attorneys.

Recommendations:

1. Convention on the Elimination of All Forms of Racial Discrimination (CERD): Use CERD to highlight and challenge racially discriminatory practices within immigration enforcement and adjudication processes.
2. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW): Leverage this convention to advocate for the rights and protections of migrant workers, ensuring their fair treatment and access to justice.
3. Geneva Conventions on the Status of Refugees and Enhanced Protections for Women/Children: Apply the Geneva Conventions to strengthen asylum claims, especially for women and children, emphasizing the need for protection against persecution.
4. UN Declarations on the Rights of Indigenous Peoples (UNDRIP): Integrate the rights outlined in these declarations to support indigenous migrants and challenge policies that disproportionately impact them.
5. Adopt a "salient factors" approach to asylum adjudications that limits the impact of judicial biases.

By litigating immigration cases grounded in universal human rights principles, these recommendations counterbalance exceptionalist tendencies, introduce extrajudicial

pressure, and isolate the country globally if flagrant contraventions continue unchecked domestically.

Procedural Justice Reforms

Myriad procedural reforms hold transformative potential in addressing systemic biases within critical immigration chokepoints. The following recommendations outline strategies to enhance procedural justice, emphasizing the importance of due process and fairness in immigration proceedings.

Recommendations:

1. Guaranteed video recording preservation for asylum interviews and hearings.
2. Guaranteed in-person immigration court hearings for all individuals who request them, including individuals who are incarcerated.
3. Expanded trauma-informed practice training and implicit bias mitigation for immigration judges.
4. Formal regulatory recognition of LGBTQ, gender, identity, and political activism-based asylum qualifications.
5. Judicial performance metrics emphasizing case depth, rather than speed.
6. Enabling administrative closure authority to promote docket flexibility.

These recommendations seek to instill fairness within the procedural aspects of immigration proceedings, preventing railroading and ensuring thorough inquiries before removal orders are issued.

Enhancing Linguistic Access

Guaranteeing equitable linguistic access is imperative yet deficient within the current immigration system. The following recommendations address the need for multifaceted enhancements, recognizing the pivotal role language plays in ensuring fair and just outcomes.

Recommendations:

1. Expanded interpreter services supporting indigenous and dialect languages.
2. Improving dialect translation capabilities through specialized equipment.
3. Increasing language provisions across print materials and digital interfaces.
4. Standardized translation accuracy assessments through community audits, as well individualized determinations of compatibility before every immigration hearings.
5. Funding immigration legal orientation programs providing multilingual assistance.

These recommendations underscore the importance of linguistic access in promoting engagement and understanding within the immigration system, contributing to fair outcomes for all individuals involved.

Economic Justice and Family Unity

Immigration enforcement exacerbates economic inequality through employment obstacles and family separation. The following recommendations propose countervailing reforms that aim to address economic injustices and promote family unity within the immigration context.

Recommendations:

1. Adopt a “whole person” review standard in immigration court before a deportation order can be issued.
2. Automatic provisional work authorization for asylum applicants.
3. Social safety net access for immigrants regardless of status.
4. Protected leave for undocumented laborers attending immigration hearings.
5. Prohibiting enforcement actions at sensitive locations to prevent fear-based disengagement.

These recommendations highlight the intersection of economic justice and family unity, proposing reforms to mitigate the impact of immigration enforcement on vulnerable populations.

Technology Rights and Protections

Digital infrastructure policy carries profound implications for immigration mechanisms increasingly reliant on virtual interfaces. The following recommendations address the need for technology rights and protections to ensure informed consent and guard against automated decisional opacity.

Recommendations:

1. Audit algorithms to evaluate biases within immigration predictive analytics tools.
2. Engage in participatory technology audits to oversee automation adoption.
3. Binding regulations to protect privacy within government surveillance technology acquisition.

These recommendations emphasize the importance of safeguarding individual rights within the realm of technology, ensuring transparency and accountability in immigration processes.

Pathway Expansion Beyond Exclusionary Frameworks

Moving toward an ethical and compassionate immigration system necessitates re-envisioning mobility beyond current exclusionary frameworks. The following recommendations propose pathways for expansion, aiming to restore visions that the present regime has extinguished.

Recommendations:

1. Eliminating per-country quotas and doubling family reunification approvals.
2. Shifting discourse toward a borderless human rights jurisprudence paradigm.

These recommendations envision a future where mobility is not limited by artificial constraints, emphasizing dignity and collective responsibility in migration policy.

Legal Training and Education

Improving cultural competency and dismantling unconscious bias within immigration jurisprudence requires prioritizing expanded attorney and judicial training. The following recommendations outline strategies to enhance legal training and education, empowering practitioners as institutional actors and fostering a balanced and fair legal system.

Recommendations:

1. Increased Continuing Legal Education (CLE) courses nationwide focused on socio-political complexities and implications of immigration.
2. Crafting specialized practice credentials around immigration law specialization.
3. Offering implicit bias trainings, racial equity seminars, migrant intersectionality workshops as staples of judicial training conferences.
4. Incorporating clinical rotations focused on immigration representation into law school experiential education curricula.
5. Expanding educational fellowships focused on targeted immigration topics.

These recommendations recognize the transformative potential of legal education in reshaping immigration jurisprudence, promoting fairness, and ensuring a balanced legal system that upholds the principles of justice and equity.

Beyond Reform, Radical Transformation

The immigration system in the United States is fundamentally flawed, perpetuating daily devastations through obscured administrative procedures that strip migrants of their dignity and humanity. The current report emphasizes the urgency of halting these devastations and calls for a radical reconstruction of the immigration system to align with ethical imperatives centered on dignity, family unity, welcoming refugees, collective responsibility, and restorative justice models.

Key Findings

Urgent Action Required: The daily devastations inflicted through the current immigration system's procedures demand immediate cessation. Administrative and legal processes that obscure and perpetuate harm must be dismantled to prevent further injustices.

Systemic Racism and Bias: The report highlights deep-seated systemic racism and bias within the immigration system, particularly against Black migrants. These biases are evident in the disproportionate denial rates, harsh credibility assessments, and discriminatory treatment faced by Black migrants in detention and court proceedings.

Prolonged Detention and Judicial Delays: Migrants experience prolonged detention and significant judicial delays, which exacerbate their suffering and uncertainty. The system's inefficiencies and lack of timely resolutions cause emotional and financial distress for migrants and their families.

Discrimination and Mistreatment: Migrants face discrimination and mistreatment based on race, religion, and nationality. This bias manifests in dismissive attitudes from court personnel, harsher scrutiny, and less consideration given to their testimonies and legal arguments.

Language and Cultural Barriers: Significant language and cultural barriers hinder migrants' access to justice. Inadequate translation services and cultural misunderstandings lead to critical miscommunications, adversely affecting the outcomes of their cases.

Lack of Qualified and Empathetic Judges: Many immigration judges lack the necessary qualifications and cultural competence to adjudicate cases fairly. This lack of expertise and empathy contributes to unjust decisions and further perpetuates systemic biases.

Recommendations for Radical Transformation

Reconstructing the Immigration System: The immigration system must be reconstructed to align with ethical imperatives that prioritize human dignity, family unity, and welcoming refugees. This reconstruction should focus on creating a system that fosters communities where all people are welcome and supported, and where individuals are empowered to be the experts in their own experiences.

Implementing Rights-Centered Reforms: Stakeholders must enact rights-centered reforms that reflect shared moral values of compassion and collective responsibility. These reforms should aim to reduce the scale and scope of policing, imprisonment, detention, deportation, and surveillance.

Investing in Restorative Justice Models: The report advocates for investing in restorative justice models that focus on healing and rehabilitation rather than punishment and exclusion. Community-based support systems should be developed to provide migrants with the resources and representation they need.

Ensuring Cultural Competence and Anti-Bias Training: Comprehensive cultural competence and anti-bias training should be mandatory for all immigration officials, judges, attorneys, and detention center staff. This training should include modules on the history of racism and xenophobia, the impact of unconscious bias, and strategies for ensuring equitable treatment.

Enhancing Legal Representation and Language Services: Guaranteeing access to quality legal representation and improving language services within the immigration system are crucial steps towards ensuring justice and fairness. High-quality translation and interpretation services must be provided to eliminate language barriers and ensure clear communication during legal proceedings.

Establishing Independent Oversight Bodies: Independent oversight bodies should be established to monitor, report, and address instances of racial bias, discrimination, and mistreatment in immigration proceedings and detention centers. These bodies should have the authority to investigate complaints, recommend corrective actions, and enforce compliance with anti-discrimination laws and policies.

By addressing these key areas, the immigration system can move towards a more equitable and just framework that aligns with the principles of abolition, ultimately fostering communities where all individuals are welcomed and supported. The findings serve as a clarion call for stakeholders to enact transformative changes that reflect our shared moral values of compassion, dignity, and justice.

Conclusion

The findings of this report illuminate the entrenched systemic biases and structural barriers that disproportionately affect Black migrants within the U.S. immigration system. Through detailed interviews and analysis, it is evident that anti-Black racism, inadequate legal representation, and procedural injustices are pervasive at every stage of the immigration process, specifically from initial detention through to final adjudication.

The documented experiences of Black migrants, along with their advocates and attorneys reveal a pattern of discriminatory practices that undermine the principles of justice and fairness. Racial biases influence credibility assessments, resulting in higher denial rates for people seeking asylum from African nations and the African diaspora⁹¹⁰. The lack of guaranteed legal representation for immigrants further exacerbates these challenges, leaving many to navigate a complex and adversarial system without adequate support.

Moreover, language barriers and insufficient interpretation services compromise the ability of migrants to effectively communicate their cases, leading to misunderstandings and unfavorable outcomes. The reliance on video hearings during the pandemic has further eroded procedural fairness, highlighting the need for comprehensive reforms to ensure that due process rights are upheld.

The recommendations presented in this report advocate for bold and transformative changes to the immigration system. These include eliminating per-country visa caps, repealing re-entry bars, ensuring universal access to appointed counsel through public funding, and replacing the current immigration court — housed within the political branch — with an independent judiciary. Additionally, enhancing cultural competence training for immigration officials and establishing independent oversight bodies are critical steps towards addressing the systemic inequities identified.

In conclusion, the findings underscore the urgent need for a compassionate and just immigration system that recognizes the inherent dignity and rights of all individuals. By implementing the proposed reforms, policymakers can take significant strides towards rectifying the deep-seated injustices within the current system and ensuring

⁹ National Immigrant Justice Center. (2023, May). *Locked away: The urgent need for immigration detention bond reform* [Policy brief]. <https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2023-06/NIJC-Policy-Brief-ICE-Bond-Reform-May-2023.pdf>

¹⁰ Black Alliance for Just Immigration, Haitian Bridge Alliance, Human Rights First, RAICES, & Robert F. Kennedy Human Rights. (2022, July). *Anti-Black discrimination in U.S. immigration: Shadow report to the Committee on the Elimination of Racial Discrimination* (CERD). <https://rfkhumanrights.org/report/shadow-report-to-the-committee-on-the-elimination-of-racial-discrimination-cerd/>

that the promise of refuge and protection is extended to all, regardless of race or ethnicity. The collective insights from migrants, attorneys, and advocates provide a roadmap for creating an immigration system that truly reflects the values of fairness, empathy, and justice.

Acronyms and Abbreviations

The following acronyms and abbreviations are used throughout the report to refer to various agencies, programs, surveys, and legal terms relevant to the discussion on immigration and the experiences of Black migrants in the U.S. immigration system.

A

- ACA: Affordable Care Act
- ACS: American Community Survey
- ADA: Americans with Disabilities Act

B

- BIA: Board of Immigration Appeals

C

- CERD: Convention on the Elimination of All Forms of Racial Discrimination
- CLE: Continuing Legal Education
- COI: Country of Origin Information

D

- DHS: U.S. Department of Homeland Security
- DOJ: U.S. Department of Justice
- DOL: U.S. Department of Labor

E

- EOIR: U.S. Executive Office for Immigration Review
- ESL: English as a Second Language

F

- FOIA: Freedom of Information Act
- FS/SNAP: Food Stamps/Supplemental Nutrition Assistance Program

G

- GAO: U.S. Government Accountability Office
- GCP: Good Clinical Practice
- Geneva Conventions: Geneva Conventions on the Status of Refugees and Enhanced Protections for Women/Children

H

- HUD: U.S. Department of Housing and Urban Development

I

- ICE: Immigration and Customs Enforcement
- IJ: Immigration Judge

- ICMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

L

- LGBTQ: Lesbian, Gay, Bisexual, Transgender, Queer/Questioning

M

- MPI: Migration Policy Institute

N

- NGO: Non-Governmental Organization

P

- PUMAs: Public Use Microdata Areas

S

- SIV: Special Immigrant Visa
- SSA: Social Security Administration

U

- UN: United Nations
- UNDRIP: UN Declarations on the Rights of Indigenous Peoples
- USCIS: United States Citizenship and Immigration Services

V

- VTC: Video Conferencing

Glossary

A

- **Abolition:** The movement to end systemic practices and institutions that perpetuate policing, imprisonment, detention, deportation, and surveillance, advocating for investment in systems that lead to inclusive and equitable communities.
- **ACA (Affordable Care Act):** The comprehensive healthcare reform law signed by President Barack Obama, which expanded insurance coverage through marketplaces and Medicaid.
- **ACS (American Community Survey):** A detailed population and housing dataset provided by the U.S. Census Bureau.
- **Asylum:** A legal process where non-citizens fleeing persecution or danger in their home countries can apply to stay, and receive protection in, another country. Applicants in the United States have to prove they have a "credible fear of persecution" and meet other criteria.
- **Asylum Seeker:** Someone fleeing persecution or danger in their home country who asks for protection in another country.

B

- **Bias:** Prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.
- **Black Migrants:** Immigrants and people seeking asylum, of African descent, who face unique challenges within the immigration system due to racism and other biases.

C

- **CERD (Convention on the Elimination of All Forms of Racial Discrimination):** A United Nations human rights treaty that condemns racial discrimination and hate speech.
- **CLE (Continuing Legal Education):** Ongoing educational requirements for lawyers to keep their legal knowledge and skills updated.
- **Community Bonds/Support Circles:** Grassroots groups that collectively fundraise to pay bonds so detained immigrants can be released from detention before their case concludes. This money is repaid if immigrants lose and are deported.
- **Cost-Burdened:** Households spending over 30% of their income on housing costs like rent or mortgage, experiencing significant financial strains.
- **Criminalization:** Treating civil immigration violations as crimes, leading to punitive measures like detention and solitary confinement, reminiscent of the prison system

D

- **Deportation:** The legal process of forcibly removing non-citizens from a country if their visa expires or asylum claim is denied. It can ban them for years or life.
- **Detention:** Jailing immigrants while their legal case proceeds, similar to pre-trial criminal incarceration. Used by immigration enforcement agencies.
- **Detention Facility:** Jail-like centers where immigrants await the outcome of their legal case. They face restrictions on freedom and communication, and are sometimes transferred between facilities.
- **Disability Rate:** The percentage of the Black immigrant population reporting some form of disability.
- **Due Process:** Legal doctrine requiring the government to respect all legal rights owed to a person and follow fair procedures before depriving them of life, liberty, or property. Violations occur frequently in detention centers and immigration courts.

E

- **EOIR (Executive Office for Immigration Review):** The government agency that oversees all U.S. immigration courts and appellate processes.
- **Evidentiary Burdens:** Legal requirements to provide documents, testimony, expert witnesses, etc., to prove your case to the court's satisfaction.

F

- **Foreign-Born Black Residents:** Black immigrants living in Ohio who were born outside the United States.
- **FS/SNAP (Food Stamps/Supplemental Nutrition Assistance Program):** A federal food assistance program to low-income households, providing benefits via electronic debit cards.

G

- **GAO (Government Accountability Office):** An independent, non-partisan agency that works for Congress, often called the "congressional watchdog." It investigates how the federal government spends taxpayer dollars.
- **Geneva Conventions on the Status of Refugees and Enhanced Protections for Women/Children:** International treaties that define the status and protections for refugees and provide additional protections for women and children during conflicts.
- **GCP (Good Clinical Practice):** A set of internationally recognized ethical and scientific quality requirements that must be followed during clinical research involving human subjects.

H

- **Heritage Language Schools:** Educational institutions that provide instruction in students' non-English ancestral or native languages. Help preserve linguistic diversity.
- **Housing Tenure:** Categories reflecting housing arrangements, like owning with/without mortgages or renting.
- **HUD (U.S. Department of Housing and Urban Development):** The federal department focused on housing assistance and development programs.
- **Humanitarian Parole:** Temporary legal status allowing entry for urgent humanitarian reasons. Used by some deported people seeking asylum to return to families in the U.S.

I

- **ICE (Immigration and Customs Enforcement):** The law enforcement agency under the U.S. Department of Homeland Security focuses on immigration law enforcement, including deportations.
- **Immigration Court:** A court that adjudicates immigration cases, including asylum claims, deportation proceedings, and other immigration-related matters.
- **Interpretation Services:** Providing oral translation between languages to facilitate communication. Important for equitable access to healthcare, legal, and other services.
- **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families:** A United Nations treaty that aims to protect the rights of migrant workers and their families.
- **UN Declaration on the Rights of Indigenous Peoples:** A United Nations declaration that establishes the rights of Indigenous peoples regarding culture, identity, language, employment, health, education, and other issues.

J

- **Judicial Bias:** Prejudice or predisposition by judges that can affect their impartiality in deciding cases.

L

- **Language Barriers:** Obstacles for immigrants in immigration court due to lack of interpretation services or cultural gaps in communicating details of their case effectively.
- **LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer/Questioning):** Terms referring to sexual orientation and gender identity minorities.

M

- **Merits Hearing:** A formal court proceeding where immigration judges decide if people seeking asylum or immigrants qualify to stay in the country or will be deported.
- **MPI (Migration Policy Institute):** An independent, nonpartisan research organization studying migration, refugee resettlement, etc.

N

- **Naturalization:** The legal process by which immigrants become U.S. citizens after meeting residency and other requirements.
- **Non-Citizens:** Immigrants who have not yet gone through the naturalization process to become U.S. citizens.

P

- **Persecution:** When a person is targeted and harmed repeatedly for their race, religion, nationality, politics, or membership in a marginalized social group. Grounds for an asylum claim.
- **Privatized Detention:** Immigrant jails and detention centers run by private, for-profit contractors instead of government agencies directly. This introduces perverse incentives that undermine welfare.
- **Public Use Microdata Areas (PUMAs):** Statistical geographic units used by the U.S. Census Bureau to publish data.

R

- **Racial Proxies:** Factors that are used to indirectly discriminate against individuals based on race without explicitly mentioning race.
- **Refugee:** A person who has been forced to leave their country in order to escape war, persecution, or natural disaster.
- **Removal Defense:** Legal efforts to prevent immigrants from being deported. Immigration attorneys provide this representation.
- **Representation Gaps:** Lack of affordable legal help and counsel for immigrants navigating complex asylum laws and court rules by themselves. Leads to more denials.

S

- **Systemic Bias:** The inherent tendency of an organization's rules, policies, and practices to perpetuate disadvantages for certain groups of people.

T

- **Trauma-Informed Practice:** An approach in human services that acknowledges the prevalence and impact of trauma and creates policies and practices that address its effects and support recovery.

U

- **Uninsured Rate:** The percentage of Ohio's Black immigrant population without health insurance coverage.
- **Universal Representation:** A policy advocating for the provision of legal representation to all individuals in immigration proceedings regardless of their ability to pay.

V

- **Video Teleconferencing (VTC):** A method of conducting court hearings where participants, including judges, attorneys, and clients, appear through video rather than in person.

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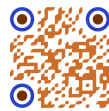
Executive Summaries

English



Executive Summary

bit.ly/3EA9mQn



The United States immigration court system serves as a critical arbiter within the nation's immigration enforcement apparatus, tasked with adjudicating cases that shape the lives of countless individuals seeking refuge, protection, or legal status in the country. These courts, which number over 70 across the nation, are overseen by immigration judges appointed by the U.S. Attorney General. They stand as gatekeepers to the promise of refuge, safety, and security for many, including Black migrants.

Within this system, asylum proceedings hold particular significance, offering a lifeline to those fleeing persecution or fear of persecution in their home countries. In countries around the world, Black people often face intersecting forms of oppression and discrimination. For them and others, asylum in the U.S. represents a beacon of hope amidst a sea of uncertainty and danger. The immigration court system, therefore, plays a pivotal role in determining the fate of Black migrants, ostensibly offering them the opportunity to find refuge and build a future free from persecution.

Insights from both Black migrants and attorneys reveal deep-seated biases within the immigration system, particularly anti-Black attitudes that shape unrealistic evidentiary expectations. Immigration judges' credibility assessments are often influenced by ignorance and prejudice, resulting in the denial of asylum to people who qualify for it under the law. This leaves individuals in a state of indefinite uncertainty, or facing deportation to countries where their lives are in danger.

Key findings from the report include:

- **Systemic Biases and Discrimination:** Firsthand accounts unveil explicit and implicit anti-Black biases ingrained within immigration system decision points. Racial and religious identity markers drive incorrect legal outcomes, detention rates, evidentiary burdens, and barriers to credibility. Evidence shows the weaponization of minor issues. Prosecutors rely on “fraud narratives” in court, based on stereotypes and bias, and judges accept them without corroborating evidence. Racialized minorities are particularly harmed by unsubstantiated accusations of lying, compared to European counterparts.
- **Representation Gaps:** Severe barriers to legal assistance, including complex statutes, scarce funding, and language and cultural gaps, amplify vulnerability for unrepresented immigrants. This results in the denial of refuge after years of

pleading within flawed asylum systems, causing profound emotional turmoil for those seeking protection.

- **Systemic Drivers:** The report highlights systemic drivers contributing to injustices within the immigration system. Case completion quantity imperatives for immigration judges, lack of accountability within appellate boards, and uncurtailed ICE attorney discretion collectively create an environment that enables procedural shortcuts and credibility denials without holistic inquiry.
- **Criminalization of Migration:** Expanded enforcement tactics and federal resources lead to growing carceral responses, imposing severe liberty curtailments as with other mass incarceration regimes. Immigrant prisons, which are technically civil in nature, are managed by county jails and private contractors. The scheme prioritizes profit over welfare, exploiting detained people as in historical convict leasing practices. Prolonged uncertainty, family separation, economic instability, and unaddressed medical needs impose steep emotional, physical, and financial costs to human dignity and life.

Recommendations (summarized below and later in greater detail) encompass investments in cultural fluency; dismantling disproportionate evidentiary burdens and binding case completion deadlines; full access to legal representation; ensuring transparency in detention facility operations; and dismantling the carceral response to a civil legal system. Advocates urge collaborative cross-sector efforts to comprehensively address multifaceted immigration challenges through structural overhaul, as well as radical transformation to create a system centered on dignity, family unity, welcoming refugees, collective responsibility, and restorative justice.

- **Dismantling Disproportionate Barriers:** Urgent reforms include guaranteeing universal legal representation for immigrants, improving court communication by implementing standards in language access, creating proportional oversight panels, and implementing automatic stays of removal orders during appeals.
- **Fostering a Compassion Paradigm:** Promoting multilingual attorney and interpreter cohorts focused on cultural fluency, embracing restorative adjudication models and “whole person” evaluation standards, establishing community-based support networks, expanding refugee resettlement, and building awareness contribute to a compassion-centered paradigm.
- **Building Cross-Movement Solidarity:** Constructing intersectional coalitions across racial justice, LGBTQ+, labor, and immigrant rights spheres is recommended to address multifaceted mobility factors, including conflict displacement, family reunification, compounded marginalization/criminalization, and livelihood precarity.
- **Beyond Reform - Radical Transformation:** The report urges urgent action to halt daily devastations inflicted through obscured administrative procedures. It calls for the reconstruction of the immigration system to align with ethical imperatives centered on dignity, family unity, welcoming refugees, collective responsibility, and restorative justice models. Immigrants — not lawyers,

judges, or prosecutors — are the true experts in their own experiences. The findings serve as a clarion call for stakeholders to enact rights-centered reforms, reflecting shared moral values of self-determination, compassion, and human dignity.

In the following sections of this report, we delve deeper into the study design, findings, implications, and conclusions, aiming to shed light on the lived realities of Black migrants — and the attorneys’ representing them — who are navigating the failed immigration court system.

Through a comprehensive analysis of empirical data, practitioner insights, and first-hand testimonies, we uncover the hidden contours of anti-Black racism, systemic biases, representation gaps, and the perpetuation of harm and violence within the immigration enforcement apparatus. By amplifying marginalized voices and interrogating prevailing narratives, this report aims to catalyze transformative change, and the creation of a more just and compassionate immigration system that upholds the dignity and rights of all individuals — including Black immigrants.

Immigrants are the true experts in their own experiences. They deserve to have their lived histories — the scars on their bodies and the scars in their minds — believed. All people should be able to move on from the worst experiences of their lives into stable, affirming, and welcoming new beginnings.

Many immigrants come to the United States — at great personal risk — because they expect that this country, with all of its flaws, will be more fair, democratic, and equitable than the places they are trying to leave. The experiences of Black immigrants, articulated in “Behind Closed Doors,” reflect the country we are today, but not the country we should strive to be.

French

Synthèse Exécutive



bit.ly/44EsAPg



Le système judiciaire de l'immigration des États-Unis joue un rôle crucial dans l'appareil d'application de la loi en matière d'immigration, chargé de juger des affaires qui façonnent la vie de nombreux individus cherchant refuge, protection ou statut juridique dans le pays. Ces tribunaux, qui sont plus de 70 à travers le pays, sont supervisés par des juges en immigration nommés par le procureur général des États-Unis. Ils se tiennent en tant que gardiens de la promesse de refuge, de sécurité et de sûreté pour beaucoup, y compris les migrants noirs.

Dans ce système, les procédures d'asile revêtent une importance particulière, offrant une bouée de sauvetage à ceux qui fuient la persécution ou la crainte de persécution dans leurs pays d'origine. Dans de nombreux pays à travers le monde, les Noirs font souvent face à des formes d'oppression et de discrimination croisées. Pour eux et pour d'autres, l'asile aux États-Unis représente un phare d'espoir dans une mer d'incertitude et de danger. Le système judiciaire de l'immigration joue donc un rôle central dans la détermination du sort des migrants noirs, leur offrant théoriquement la possibilité de trouver refuge et de construire un avenir à l'abri de la persécution.

Les témoignages de migrants noirs et d'avocats révèlent des biais profonds au sein du système d'immigration, notamment des attitudes anti-noires qui façonnent des attentes de preuve irréalistes. Les évaluations de crédibilité des juges d'immigration sont souvent influencées par l'ignorance et les préjugés, ce qui conduit au refus d'asile pour des personnes qui y ont droit en vertu de la loi. Cela laisse les individus dans un état d'incertitude indéfinie ou face à une déportation vers des pays où leur vie est en danger.

Les principales conclusions du rapport incluent :

Biais systémiques et discrimination : Les témoignages directs révèlent des biais explicites et implicites anti-noirs enracinés dans les points de décision du système d'immigration. Les marqueurs d'identité raciale et religieuse influencent les résultats juridiques incorrects, les taux de détention, les charges de preuve et les obstacles à la crédibilité. Les preuves montrent l'armement de questions mineures. Les procureurs s'appuient sur des « récits de fraude » devant le tribunal, basés sur des stéréotypes et des préjugés, et les juges les acceptent sans preuves corroborantes.

Les minorités racialisées sont particulièrement lésées par des accusations non fondées de mensonge, par rapport à leurs homologues européens.

Lacunes de représentation : Des obstacles importants à l'assistance juridique, notamment des lois complexes, des financements insuffisants, ainsi que des écarts linguistiques et culturels, amplifient la vulnérabilité des immigrants non représentés. Cela conduit au refus de refuge après des années de démarches dans des systèmes d'asile défailants, provoquant des tourments émotionnels profonds pour ceux qui cherchent une protection.

Facteurs systémiques : Le rapport met en lumière les facteurs systémiques qui contribuent aux injustices au sein du système d'immigration. Les impératifs de quantité d'affaires pour les juges d'immigration, l'absence de responsabilité au sein des conseils d'appel, et le pouvoir discrétionnaire illimité des avocats de l'ICE créent collectivement un environnement propice aux raccourcis procéduraux et aux refus de crédibilité sans examen global.

Criminalisation de la migration : L'élargissement des tactiques d'application et des ressources fédérales conduit à des réponses carcérales croissantes, imposant des restrictions sévères à la liberté, comme dans d'autres régimes d'incarcération de masse. Les prisons pour migrants, qui sont techniquement civiles, sont gérées par des prisons de comté et des sous-traitants privés. Ce système privilégie le profit au bien-être, exploitant les détenus de manière similaire aux pratiques historiques de location de condamnés. L'incertitude prolongée pendant des années, la séparation des familles, l'instabilité économique et les besoins médicaux non satisfaits imposent des coûts émotionnels, physiques et financiers considérables à la dignité et à la vie humaines.

Les recommandations (résumées ci-dessous et détaillées plus loin) comprennent des investissements dans la fluidité culturelle ; la démantèlement des charges de preuve disproportionnées et des délais de traitement des affaires ; un accès total à la représentation juridique ; l'assurance de la transparence des opérations des centres de détention ; et le démantèlement de la réponse carcérale à un système juridique civil. Les défenseurs appellent à des efforts collaboratifs intersectoriels pour aborder de manière globale les défis multiples de l'immigration par une révision structurelle, ainsi qu'une transformation radicale pour créer un système centré sur la dignité, l'unité familiale, l'accueil des réfugiés, la responsabilité collective et la justice réparatrice.

Démanteler les barrières disproportionnées : Des réformes urgentes incluent la garantie d'une représentation juridique universelle pour les immigrants, l'amélioration de la communication en justice en mettant en place des normes d'accès à la langue, la création de comités de surveillance proportionnels et la mise en œuvre d'interdictions automatiques des ordres de renvoi pendant les appels.

Favoriser un paradigme de compassion : Promouvoir des cohortes d'avocats et d'interprètes multilingues axées sur la fluidité culturelle, adopter des modèles de jugement réparateurs et des critères d'évaluation "de la personne entière", établir des réseaux de soutien communautaires, développer la réinstallation des réfugiés et renforcer la sensibilisation contribuent à un paradigme centré sur la compassion.

Construire la solidarité inter-mouvements : Il est recommandé de construire des coalitions intersectionnelles entre les sphères de la justice raciale, LGBTQ+, du travail et des droits des immigrants pour aborder les facteurs multiples de mobilité, y compris le déplacement lié aux conflits, la réunification familiale, la marginalisation/criminalisation accrue et la précarité de la vie.

Au-delà de la réforme - Transformation radicale : Le rapport appelle à une action urgente pour stopper les dévastations quotidiennes infligées par des procédures administratives obscures. Il plaide pour la reconstruction du système d'immigration pour qu'il soit aligné sur des impératifs éthiques centrés sur la dignité, l'unité familiale, l'accueil des réfugiés, la responsabilité collective et les modèles de justice réparatrice. Les immigrants — et non les avocats, juges ou procureurs — sont les véritables experts de leurs propres expériences. Les conclusions servent de signal d'alarme pour que les parties prenantes adoptent des réformes centrées sur les droits, reflétant des valeurs morales communes d'autodétermination, de compassion et de dignité humaine.

Dans les sections suivantes de ce rapport, nous plongeons plus profondément dans la conception de l'étude, les résultats, les implications et les conclusions, dans le but de mettre en lumière les réalités vécues des migrants noirs — et des avocats qui les représentent — naviguant dans le système judiciaire de l'immigration défaillant.

À travers une analyse complète des données empiriques, des aperçus de praticiens et des témoignages de première main, nous découvrons les contours cachés du racisme anti-noir, des biais systémiques, des lacunes de représentation et de la perpétuation du préjudice et de la violence au sein de l'appareil d'application de la loi en matière d'immigration. En amplifiant les voix marginalisées et en interrogeant les récits dominants, ce rapport vise à catalyser un changement transformateur et la création d'un système d'immigration plus juste et plus compatissant qui défend la dignité et les droits de tous les individus — y compris les immigrants noirs.

Les immigrants sont les véritables experts de leurs propres expériences. Ils méritent que leurs histoires vécues — les cicatrices sur leurs corps et celles dans leurs esprits — soient crues. Toute personne devrait pouvoir tourner la page sur les pires expériences de sa vie pour débiter de nouvelles étapes stables, affirmatives et accueillantes.

Beaucoup d'immigrants viennent aux États-Unis — à leurs propres risques — parce qu'ils s'attendent à ce que ce pays, avec tous ses défauts, soit plus juste, démocratique et équitable que les endroits qu'ils tentent de fuir. Les expériences des

immigrants noirs, exprimées dans “Behind Closed Doors”, reflètent le pays que nous sommes aujourd'hui, mais pas celui que nous devrions aspirer à être.

Spanish



Resumen Ejecutivo

bit.ly/4lBTJIH



El sistema de tribunales de inmigración de los Estados Unidos actúa como un árbitro crucial dentro del aparato nacional de control migratorio, encargado de juzgar casos que impactan la vida de innumerables personas que buscan refugio, protección o estatus legal en el país. Estos tribunales, que suman más de 70 en todo el país, son supervisados por jueces de inmigración designados por el Fiscal General de los Estados Unidos. Son los guardianes de la promesa de refugio, seguridad y protección para muchas personas, incluyendo a los migrantes negros.

Dentro de este sistema, los procedimientos de asilo tienen un significado particular, ofreciendo una línea de vida a quienes huyen de la persecución o del miedo a la persecución en sus países de origen. En países de todo el mundo, las personas negras a menudo enfrentan formas interrelacionadas de opresión y discriminación. Para ellas y para otros, el asilo en Estados Unidos representa una luz de esperanza en medio de un mar de incertidumbre y peligro. Por lo tanto, el sistema judicial de inmigración desempeña un papel crucial en la determinación del destino de los migrantes negros, ofreciéndoles aparentemente la oportunidad de encontrar refugio y construir un futuro libre de persecución.

Las perspectivas tanto de migrantes negros como de abogados revelan prejuicios profundamente arraigados en el sistema migratorio, en particular actitudes anti-negras que generan expectativas probatorias poco realistas. Las evaluaciones de credibilidad de los jueces de inmigración suelen estar influenciadas por la ignorancia y los prejuicios, lo que resulta en la denegación de asilo a quienes cumplen los requisitos legales. Esto deja a las personas en un estado de incertidumbre indefinida o en riesgo de ser deportadas a países donde sus vidas corren peligro.

Las principales conclusiones del informe incluyen:

- **Sesgos sistémicos y Discriminación:** Relatos de primera mano revelan prejuicios explícitos e implícitos contra las personas negras arraigados en los puntos de decisión del sistema migratorio. Los marcadores de identidad racial y religiosa impulsan resultados legales incorrectos, tasas de detención, cargas probatorias y barreras a la credibilidad. La evidencia muestra la instrumentalización de asuntos menores. Los fiscales se basan en "narrativas

de fraude" en los tribunales, basadas en estereotipos y sesgos, y los jueces las aceptan sin corroborar las pruebas. Las minorías racializadas se ven particularmente perjudicadas por acusaciones de mentira sin fundamento, en comparación con sus contrapartes europeas.

- **Brechas de Representación:** Las graves barreras a la asistencia legal, como la complejidad de los estatutos, la escasez de fondos y las brechas lingüísticas y culturales, agravan la vulnerabilidad de los inmigrantes sin representación. Esto resulta en la denegación de refugio tras años de solicitar asilo en sistemas de asilo deficientes, lo que causa un profundo trastorno emocional a quienes buscan protección.
- **Factores Sistémicos:** El informe destaca los factores sistémicos que contribuyen a las injusticias dentro del sistema de inmigración. La exigencia de que los jueces de inmigración completen la cantidad de casos, la falta de rendición de cuentas en las juntas de apelación y la discreción ilimitada de los abogados del ICE crean un entorno que permite atajos procesales y negaciones de credibilidad sin una investigación integral.
- **Criminalización de la Migración:** La intensificación de las tácticas de control y los recursos federales conduce a crecientes respuestas carcelarias, imponiendo severas restricciones a la libertad, al igual que otros regímenes de encarcelamiento masivo. Las cárceles para inmigrantes, que técnicamente son de naturaleza civil, son administradas por cárceles del condado y contratistas privados. Este sistema prioriza el lucro sobre la asistencia social, explotando a los detenidos de forma similar a las prácticas históricas de arrendamiento de convictos. La incertidumbre prolongada durante años, la separación familiar, la inestabilidad económica y las necesidades médicas desatendidas imponen un alto costo emocional, físico y financiero a la dignidad humana y a la vida.

Las recomendaciones (resumidas a continuación y posteriormente con mayor detalle) abarcan inversiones en fluidez cultural; la eliminación de las cargas probatorias desproporcionadas y los plazos vinculantes para la resolución de casos; el pleno acceso a representación legal; la transparencia en las operaciones de los centros de detención; y el desmantelamiento de la respuesta carcelaria a un sistema legal civil. Los defensores instan a la colaboración intersectorial para abordar integralmente los múltiples desafíos de la inmigración mediante una reforma estructural, así como una transformación radical para crear un sistema centrado en la dignidad, la unidad familiar, acogida a los refugiados, la responsabilidad colectiva y la justicia restaurativa.

- **Desmantelar las barreras desproporcionadas:** Las reformas urgentes incluyen garantizar la representación legal universal para los inmigrantes, mejorar la comunicación judicial mediante la implementación de normas de acceso al

idioma, crear paneles de supervisión proporcionales e implementar suspensiones automáticas de las órdenes de expulsión durante las apelaciones.

- **Fomentar un paradigma de compasión:** promover cohortes de abogados e intérpretes multilingües centradas en la fluidez cultural, adoptar modelos de adjudicación restaurativa y estándares de evaluación de la “persona completa”, establecer redes de apoyo basadas en la comunidad, expandir el reasentamiento de refugiados y generar conciencia contribuyen a un paradigma centrado en la compasión.
- **Construir solidaridad entre movimientos :** Se recomienda construir coaliciones interseccionales en las esferas de la justicia racial, LGBTQ+, trabajo y derechos de los inmigrantes para abordar factores de movilidad multifacéticos, incluidos el desplazamiento por conflictos, la reunificación familiar, la marginación/criminalización agravada y la precariedad de los medios de vida.
- **Más allá de la reforma: Transformación radical :** El informe insta a tomar medidas urgentes para detener la devastación diaria causada por procedimientos administrativos poco transparentes. Exige la reconstrucción del sistema migratorio para que se ajuste a los imperativos éticos centrados en la dignidad, la unidad familiar, la acogida de refugiados, la responsabilidad colectiva y los modelos de justicia restaurativa. Los inmigrantes —no abogados, jueces ni fiscales— son los verdaderos expertos en sus propias experiencias. Las conclusiones constituyen un claro llamado a las partes interesadas para que implementen reformas centradas en los derechos, que reflejen los valores morales compartidos de autodeterminación, compasión y dignidad humana.

En las siguientes secciones de este informe, profundizamos en el diseño del estudio, los hallazgos, las implicaciones y las conclusiones, con el objetivo de arrojar luz sobre las realidades vividas por los inmigrantes negros (y los abogados que los representan) que navegan por el fallido sistema judicial de inmigración.

Mediante un análisis exhaustivo de datos empíricos, perspectivas de profesionales y testimonios directos, develamos los contornos ocultos del racismo anti-negro, los sesgos sistémicos, las brechas de representación y la perpetuación del daño y la violencia dentro del aparato migratorio. Al amplificar las voces marginadas e interrogar las narrativas predominantes, este informe busca impulsar un cambio transformador y la creación de un sistema migratorio más justo y compasivo que defienda la dignidad y los derechos de todas las personas, incluyendo a los inmigrantes negros.

Los inmigrantes son los verdaderos expertos en sus propias experiencias. Merecen que se crea en sus historias vividas —las cicatrices en sus cuerpos y en sus mentes—.

Todas las personas deberían poder superar las peores experiencias de sus vidas y alcanzar nuevos comienzos estables, afirmativos y acogedores.

Muchos inmigrantes llegan a Estados Unidos —con gran riesgo personal— porque esperan que este país, con todas sus deficiencias, sea más justo, democrático y equitativo que los lugares que intentan abandonar. Las experiencias de los inmigrantes negros, plasmadas en "A puerta cerrada", reflejan el país que somos hoy, pero no el país que deberíamos aspirar a ser.

Fulani



Ciimtol Kuubtodinngol

bit.ly/4jhl5Cn



No leydi amerik sifori to bate ɗanngal ha teenj ti njubudi kuule tambidi ɗanngal ngal ena yubi no feewi sabu kañum renat kala jilotoodo do o moli wola ɗabo kisal e ndeenka ha jomum ɗaɗa no surori .

Kena abo e 70 cudi ñawobe, andube kala ko yowti e ɗanngal , ngone e leydi he. Kañum en mbalat ɗabobe kayit molar ha teenjti ɗaniyankoobe balebe be. Sifa nobe ngolor to woni sababu ha ɗaniyankoobe heewbe tampinaabe e noku mumen ndogi toon ,mbaawi ɗaɗe ndeenka e kisal do be cubi wonde ɗo Teskama aduna o taam no o didori nguru balejo koko tampins sabu fitnaaji mpaweteedi e dow mum.Ko dum saabi leydele USA ngoni nokuji dobe ɗaɗat nafoore .Dum ko hunde wande nafoore e nguurndam mabe sabu ngonka mabe toon ena telbina nguurndam mabe to bate mojere.

Sen kedima ko ɗaniyankoobe be ceedto e ko e yoga awokaji keewi jantude ,tuuma keewdi ɗi ngona gonga ena mpawe dow ɗaniyankoobe baleebe taw kadi sabi diin doon tumaji ko leɗam leɗagu.

Wiyeteebe Prokireur en be, ebe tooɗa no feewi ɗaniyankoobe balebe be sabu takude be kala saha gede debe mbadani taw bee don njidno fan ko tampine debe.

Ñawoobe to bate ɗaniyankagal won yitere mabe mpawi balebe ɗaniyankoobe. Ko dum saabi ebe calanoobe kayit molar ha soko tawi sardiji leydi ndi ena fodani be

Dum ko jumre mawdo.

Hande ɗaniyankoobe heewbe ndiwa ma USA sabou doum

Been doon ɗaniyankoobe ,wasde be faamde lelngo kuule de ,wasde be aldude telbini no feewi ngonka mabe.

To dumbirdu to ne ,ɗaniyankoobe be ena ɗaɗa toon lor mawdo.

Doum saabi ngam riwtude ɗiin doon cadele ,ena haandi taabande nawde mbade to bate aada ,tuumamuaji paweteedi e dow baleebe be ite ha laaba .

Kala ko faate e kaytaaji ɗaniyankoobe waasa tardude.Pelle waloobe ɗaniyankoobe ntafe kono kadi awokaaji di e nantinoobe be kebele no hanirini .Fotani haad de toon tan sabu wayla waylo keerido ena foti wadeede to bate topit gol gede imigreji e kuule mum .

Ciimtol mo mi mbadi o ko ni o lelori:

heewbe ceetima wonde nguurndam baleebe hande ena haamni sabou leñam leñaagu ko kadi diine mobe cubi o.

Porokirer di ko e fennde e tuumde ngam ha jooni tampinnde daniyankoobe baleebe be.

Been doon daniyankoobe wasde debe jogaade awokaaji timude, wasde jogaade ngalu keerido telbini ngurnam mabe no feewi ,ha to dumbirdu do.

Ko dum saabi e ciimtol he emina njidi holirde cadele daniyankoobe gila e leñam leñaagu ha e kala kena telbini ngonka mabe mbela diin doon cadele ngiwa do ha laaba sabu imigere ena jogi fode kadi eba foti jagireede no hanirini .

Ɗaniyankoobe heewbe cubi USA ngam moloyaade toon sabu jogaade yakaare to bate demokarasi e to bate jeytaare .

Ndekete noon ena yida hoto yakaare mabe firto .

Ko tonga do e ciimtol he inira "A huit clos"holirto ko leydi ndi ngonden hande kona wona ndi njiden wuurde jango.

Wolof



Tënk

bit.ly/4cYzMIx



Jàmm ci Xibaar bu Tàmm Sistemu dëgg du dëgg yu Amerik laay juróomi ñaari fànn (Immigration Courts) mooy xam-xam bu ëpp solo ci wetu jëfandikukat yi ci Amerik, di amal ay dëgg ci suñuy doxalin, caat, ak ndaje yi ñu defar ngir nangu ci réew mi. Ay kàddu gu mat sëkk, yi nekk ci réew mi, ñu weesu juróomi fanweer, ñuy jëfandikoo ay jëfandikukat yu tudd ndax U.S. Attorney General. Ñoom moo fi nekk ay bant boo amee jàmm, musiba ak sèggetu gaal yi, bu yagg, ñoom ñi ñew ci Amerik ngir aar seen bopp.

Ci biir sistemu bii, jëfandikukat yi ñuy taxawal asilemu, mooy toolu jàmm ju gën a am solo ngir ñi di daw ci dutor walla ragal dutor ci seen réew. Ci réew yu bare, ñi ñuul dañuy misaal ci ñu mēna jàppoo ak sàcc ak mere. Asilemu ci Amerik dafay doon leeru jàmm ci diggante ndogal ak daraja. Sistem bu dëgg du dëgg bii, mooy moom a gēna am solo ci ñu ñu ñew ci Amerik ngir noppalu seen bopp ak sosol seen juteg ak jamm.

Ay léebu ak jëfandikukat yi mooy wone ne loolu day am loxo ci danaka jàmm, ak mbooloo ju gën a ñuul yi, gën a wone ne ñu bokk ci njaxlaf, ci xel ak ci yoonu dëgg. Ba tax, am na ñu bare ñuy gën a ame masla, waaye ñuy fàttalikoo asilemu, ndax seen dëgg ñu dul koy gēm. Ñoom ñi dañuy fekk ci lu dul wér, walla dañuy gēnn ci réew mi ngir dellu ci réewam, fa mooy jàmm di amul.

Bokk na ci mbind mi:

1. Jafe-jafe ak Ñaawté ci Yoonu Dëgg Dëgg

Bokk na ci ay xam-xam ñeel soppeekat yi, yeneen ña gën a gis ci yoonu dëgg dëgg yi ñuy am jafe-jafe ci ña ñu ñuul. Su fekke ne sa seen nattu am ci sēriñ ak sa xel, dina xam ne gēnoo fanaan ndax yenn jafe-jafe.

2. Mbindu jëfandikukat Yoonu Dëgg

Bokk na ci seen njàng mi ci tēggin nit ñi ñu ñew, su fekke amul jëfandikukat, dëgg dëgg du gën a wér. Ndax ay mbir yu metti, xale yi dañuy dēkkoon ci mbirum yitteel, waxe, ak seetaanu kër.

3. Ñaawté ci Jàmm Ak Dencukaay

Mbind mi wone na ne ay jëfandikukat dañuy amal ndimbal ci seen yaram ak seen bopp. Njaxlafu dëgg, amul lu leer ci seen jëfandikukat, ak seen itam xel ak luñuy wax ci dëgg. Ñi ñuy def mbir yu nattu am nañu loxo ci lu dul yoon.

4. **Jàmm Ak Fitna**

Nit ñi ñëw dañuy fay ay xoolukaay bu tar, jàmm ak xel. Nit ñi amul nattu, ñu dul dëgg luy wax, ñuy jëfandikoo ay jëfandikukat gu dul wax ci seen làng, ak ñi dul wax wolof. Ñu ngi di ñu tudd jaamu dëgg dëgg waaye laata ñu ci gëm, gën a ragal.

Ndax ñoom ñi, ñuy gën a gis ay loxo ci:

- **Rax ci yoonu dëgg**
- **Jëfandikoo ay doxalin yu ëpp xel**
- **Soslu mbirum asilemu ci seen làng ak seen cosaan**
- **Sàkku xam-xam ci yeneen ña**

Sama Njàng mi ñu may jàng ci:

- **Doxalin ci mbooloo ak nattu**
- **Teggin nit ku nekk ci dëggam**
- **Aar seen doole ci jàmm ak sàcc**
- **Sos yoon bu wér ngir jëfandikoo ay dëgg yu am solo ci nit ñi ñu ñëw**

Njàngum jamm:

Loolu moo tax mbind mi wone ni ñi ñu ñëw mooy ñiy xam lool ci seen xalis ak seen dund, ñuy gën a xam lool ci li ñu xam. Ñi ñu ñëw dañuy war a gëm ci seen yoon, ci seen jàmm, ak ci seen dund. Lu ko dale ci, ñuy ñëw Amerik ngir gëm ne réew mi dina xam dëgg, dëgg dëgg, ak jàmm, gën ci réewam.

Mbind mi ci tànk lu mat, dina jàngal ci jamono yi ñu tédde ci dëgg dëgg, ba tax ñi ñu ñëw gën a ame jàmm, ak gën a gëm ci dëgg nit ku nekk.

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The drawing on the back cover of this publication was created by Shema Asifiwe for his memoir, *Unexpected Change*. This was part of the Illustrated Memoirs Project by Maketank. Read about it at illustratedmemoirproject.org.

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All Publications in this Series

Read the entire series at bit.ly/ClosedDoorsOHIA.

“Dystopia, Then Deportation” summarizes insights and recommendations from a strategy session co-hosted by OHIA, the Mauritanian Network for Human Rights in US, and Cameroon Advocacy Network at the Ford Foundation Center for Social Justice.

“Diaspora Dynamics” is an annotated bibliography of over eighty studies into the lives of Black migrants in the U.S., published between 1925 and 2023.

“The System Works As Designed: Immigration Law, Courts, and Consequences” illuminates how the quasi-judicial structure of U.S. immigration courts, and the laws they implement, were built on a foundation of white supremacy, power imbalance, and coercive control.

“Scarred, Then Barred: U.S. Immigration Laws and Courts Harm Black Mauritanian Refugees” is a case study outlining specious reasons why Black Mauritanians, who meet the definition of a “refugee” under international and U.S. law, have been denied protection in the U.S. immigration courts. The experiences of Black Mauritanians and other African, Muslim, and Black immigrants are juxtaposed with solutions to construct a more equitable and protective system.

“Black Immigrants in Ohio: A Demographic Data Brief” illustrates how Black migration to Ohio, first led by African Americans, continued through international movements of people from Africa, the Caribbean, and other regions seeking the same things everyone needs — opportunities for education, jobs, and a safe place to raise their families. The report spotlights Black immigrants’ geographic distribution, contributions, and challenges in Ohio.

“Behind Closed Doors: Black Immigrants and the Hidden Injustices of U.S. Immigration Courts” documents Black migrants’ experiences in U.S. immigration courts, based on interviews with immigrants and attorneys as well as government data. The report shows how deliberate flaws in the system offer only the illusion of justice and includes recommendations for a more just system.

For further discussion about racism in immigration law, policy, and structures, as well as firsthand accounts, read or listen to **“Broken Hope: Deportation and the Road Home”** by Lynn Tramonte and Suma Setty, with research by Maryam Sy, available at reunite.us/read and on Bookshop.org.



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