

The Honorable Janet Napolitano, Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

July 15, 2011

Re: Deportations to Haiti

Dear Secretary Napolitano:

We, the undersigned non-governmental organizations (NGOs), write to request an immediate halt to U.S. deportations to Haiti unless and until conditions in Haiti have significantly improved and the U.S. government can ensure that removals are conducted in a manner that is safe, humane, and consistent with international law.

On June 9, 2011, the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees issued a joint return advisory specifically instructing governments to “refrain from conducting returns to Haiti” in light of the “existing protection gaps and unmet basic humanitarian needs” that have persisted since the January 2010 earthquake.¹ Moreover, when countries elect to deport Haitian nationals, and are not barred from doing so by international law, they must at least “refrain from returning to Haiti persons with special protection needs,” including individuals with disabilities or severe medical conditions, or individuals with family ties in the sending country.²

The U.S. has ignored this advisory. Indeed, on July 12, 2011, the Department of Homeland Security (DHS) deported an undisclosed number of individuals to Haiti, bringing the total number of Haitians removed since January 2011 to at least 75. Moreover, although DHS’s official policy purports to limit removals to dangerous individuals with “significant criminal records,” and requires DHS to consider individual equities in effectuating removal,³ DHS continues to have no procedure to assess whether Haitian nationals have special protection needs that warrant the deprioritization of their deportation. Nor has DHS been willing to provide NGOs with the information they would need to assist individual Haitians in presenting their equities for consideration. As a result, DHS has already removed several Haitian nationals with minor criminal convictions, family ties in the United States, medical conditions that cannot be adequately treated in Haiti, and other equities in disregard of the joint advisory of the UNHCR.

¹ Navanethem Pillay, High Commissioner for Human Rights and Antonio Guterres, High Commissioner for Refugees, Letter to All Permanent Representatives to the United Nations Office at Geneva, re: Return Advisory on Haiti, June 9, 2011.

² *Id.*

³ See ICE, News Release: Policy for resumed removals to Haiti, April 1, 2011.

The consequences of the U.S. deportation policy are dire. Already the cholera outbreak in Haiti has sickened a quarter of a million Haitians and killed more than 5,300 people, and, according to recent epidemiological studies, could infect around 780,000 Haitians and kill more than 11,000 people before the end of this year.⁴ Deportees are particularly vulnerable to infection because, as the Administration is aware, individuals with criminal records are routinely detained in police station holding cells or prisons with abysmal conditions upon arrival.⁵ Indeed, at least one Haitian deportee died in detention from cholera-like symptoms in January of this year, and several other deportees have become ill with cholera-like symptoms as well.⁶

The harmful implications of these deportations have not gone unnoticed. A recent report by the U.N. Independent Expert on the Situation of Human Rights in Haiti emphasized the human rights concerns raised by resuming deportations in the midst of Haiti's public health crisis, including the health problems linked to the cholera epidemic in Haitian prisons.⁷ Moreover, in February and May 2011, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures to 38 named Haitian nationals facing deportation from the U.S.⁸ The IACHR urged the U.S. government to suspend its deportations until (1) Haiti can guarantee that detention conditions and access to medical treatment in custody comport with the applicable minimal standards, and (2) the United States can demonstrate meaningful procedures that adequately take family ties into account in deportation determinations. There is no indication that the U.S. has complied with these recommendations.

In the meantime, a significant number of Haitian nationals who are post-final order of removal were first detained by ICE in December 2010, when ICE decided to resume deportations to

⁴ Transmission dynamics and control of cholera in Haiti: an epidemic model, *The Lancet*, Vol. 377, Issue 9773, April 9, 2011, p. 1248 - 1255.

⁵ See e.g. International Committee of the Red Cross, Haiti: fight against cholera is priority, Operational Update, Jan. 11, 2011 at <http://www.icrc.org/eng/resources/documents/update/2011/haiti-update-2011-01-11.htm>; International Committee of the Red Cross, Haiti: taking precautions against a new flare-up of cholera, Operational Update, May 5, 2011 at <http://www.icrc.org/eng/resources/documents/update/2011/haiti-update-2011-04-21.htm>.

⁶ E.g., Activists seek to stop US from deporting Haitians after deportee dies after being sent back, Associated Press, Feb. 1, 2011, available at http://article.wn.com/view/2011/02/01/Activists_seek_to_stop_US_from_deporting_Haitians_after_depo/; Halt Haitian Deportations: Our Opinion: Inhumane policy makes no sense, *Miami Herald*, Apr. 17, 2011; Melissa Sanchez and Marina Giovanelli, Activists Urge Halt to U.S. Deportations to Haiti: A recent deportee from South Florida to Haiti Died after suffering from cholera-like symptoms, *Miami Herald*, Feb. 3, 2011, available at <http://www.miamiherald.com/2011/02/03/2048004/halt-to-deportations-urged.html>; Allyn Gaestel, *Deportees from U.S. Face Bleak Prospects in Haiti*, *Los Angeles Times*, Apr. 24, 2011; Albor Ruiz, *Haitian Deportations Show U.S. Double-Talk*, *N.Y. Daily News*, Apr. 27, 2011.

⁷ Report of U.N. Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, Human Rights Council, 14th Sess., Agenda Item 10, at 10 ¶ 38, U.N. Doc. A/HRC/14/44 (2010), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/132/04/PDF/G1013204.pdf?OpenElement>.

⁸ See Inter-American Commission on Human Rights, Precautionary Measure PM 5/11 — Haitian Nationals in Process of Deportation, United States, May 31, 2011 <http://www.cidh.oas.org/medidas/2011.eng.htm>.

Haiti. These individuals have now been detained beyond the 6-month detention period permissible under *Zadvydas v. Davis*, resulting in an untenable detention situation in many U.S. jails and detention facilities.

Given the significant human rights concerns raised by the renewed deportations to Haiti, and the absence of adequate procedures for assessing the equities of potential deportees, we urge DHS to immediately:

- Halt all deportations to Haiti, grant deferred action to all Haitian nationals facing deportation, and release Haitian nationals facing deportation from detention on reasonable conditions of supervision until such time as conditions in Haiti have adequately changed and removals can be safely effectuated;
- Release information to advocates on where Haitian nationals facing deportation are being detained ;
- Ensure that Haitian nationals facing removal are not arrested, detained and transferred away from family and legal support and that they are afforded meaningful access to legal assistance; and
- Adopt a Haitian Family Reunification Parole Program, providing immediate parole to Haitians whose visa petitions to the U.S. have already been approved, which is widely viewed as the most significant, intelligent, and efficient form of assistance the U.S. could give to Haiti at this time.⁹

We urge you to adopt the above recommendations, and we look forward to your prompt response on this urgent matter.

⁹ Letter to DHS Secretary Janet Napolitano from U.S. House Foreign Affairs Chair Ileana Ros-Lehtinen and U.S. House Judiciary, Foreign Affairs, and Immigration Subcommittee Chairpersons John Conyers, Howard Berman, and Zoe Lofgren (March 8, 2010), available at <http://ijdh.org/archives/10251>; U.S. Conference of Mayors resolution in support of a Haitian Family Reunification Parole Program (June 14, 2010), available at http://www.usmayors.org/resolutions/78th_conference/AdoptedResolutionsFull.pdf ; See also "Migration as a Tool for Disaster Recovery: A Case Study on U.S. Policy Options for Post-Earthquake Haiti - Working Paper 255," by Royce Bernstein Murray and Sarah Petrin Williamson, Center for Global Development, June 2011, at 15-16, 4, available at <http://www.cgdev.org/content/publications/detail/1425143/> ; "Helping the Haitians," *Philadelphia Inquirer* editorial, July 2, 2010 available at http://www.philly.com/philly/blogs/inq_ed_board/97630409.html; "The U.S. Should Welcome Haitians In," *Washington Post* editorial, Jan. 29, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/28/AR2010012803513.html>; "Haiti: Expedite visas for family members," *Boston Globe* editorial, July 17, 2010, http://www.boston.com/bostonglobe/editorial_opinion/editorials/articles/2010/07/17/haiti_expedite_visas_for_family_members/; "Helping Haitians help themselves," *Los Angeles Times* editorial, July 21, 2010, <http://www.latimes.com/news/opinion/editorials/la-ed-haitians-20100721,0,3618364.story>; "President Obama Could Rapidly Aid Haitian Immigration Seekers," *Washington Post* editorial, June 26, 2010 <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/25/AR2010062504520.html>.

Sincerely,

African and Caribbean Network Limited
African Services Committee
Allard K. Lowenstein International Human Rights Clinic, Yale Law School
American Civil Liberties Union
American Civil Liberties Union of Florida
American Jewish World Service
Amigos Center
Amigos Multicultural Services Center
Association of Haitian Women
Black Alliance for Just Immigration
Brandworkers International
Capital Area Immigrants' Rights Coalition
Catholic Charities Immigration Legal Services
Catholic Legal Services, Archdiocese of Miami
Center for Gender & Refugee Studies, University of California, Hastings College of the Law
Cofman & Bolourtchi LLC
Council on American-Islamic Relations (CAIR-FL)
Defending Dissent Foundation
Fanm Ayisyen Nan Miyami, Inc.
Florida Coastal School of Law Immigrant Rights Clinic
Florida Immigrant Advocacy Center
Florida Immigrant Coalition, Inc.
Friends Committee on National Legislation
Georgia Rural Urban Summit
Gloria Dei Step Up Center
Grady Muhammad & Associates, Inc.
Grassroots International
Haiti Support Group, UK
Haitian-American Grassroots Coalition
Hebrew Immigrant Aid Society (HIAS)
Human Rights Advocates
Human Rights Center, University of California, Berkeley Law School
Immigrant Child Advocacy Project at the University of Chicago
Immigrant Legal Advocacy Project
Institute for Justice & Democracy in Haiti
Interfaith Immigration Coalition, MN (ICOM)
International Human Rights Clinic, Western New England University, School of Law
Irish International Immigrant Center of Boston
Judson Memorial Church, NYC
Justice and Witness Ministries, United Church of Christ,
Law Office of Gittel Gordon
Legal Aid Service of Broward County, Inc.
LULAC-Syracuse Chapter
Lutheran Immigration and Refugee Service
MADRE
Mandel Legal Aid Clinic of the University of Chicago Law School

Marin Interfaith Task Force on the Americas, CA, USA
Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts Law Reform Institute
Matthews, Campbell, Rhoads, McClure & Thompson, P.A.
Maurice & Jane Sugar Law Center for Economic & Social Justice
Mennonite Central Committee U.S. Washington Office
Mobilize For Haiti
Muslim Public Affairs Council
National Immigrant Justice Center
National Immigration Project, NLG
National Lawyers Guild International Committee
National Lawyers Guild Task Force on the Americas
National Lawyers Guild, New York City Chapter
National Network for Immigrant and Refugee Rights
New Jersey Forum for Human Rights
New Sanctuary Coalition of NYC
Nicaragua Center for Community Action (NICCA)
Pennsylvania Immigration Resource Center (PIRC)
Physicians for Haiti
Political Asylum/Immigration Representation (PAIR) Project
Political Asylum/Immigration Representation Project
Post-Deportation Human Rights Project, Center for Human Rights and International Justice,
Boston College
Progressive Democrats of America
Scott D. Pollock & Associates, P.C.
Sisters of Mercy South Central Community
Social Justice Guild of The First Existentialist Congregation of Atlanta
South Asian Americans Leading Together (SAALT)
University of California at Davis Immigration Law Clinic
UnityAyiti
University of Connecticut School of Law, Asylum and Human Rights Clinic
University of Virginia School of Law Human Rights Program and International Human Rights Law
Clinic
Urban Justice Center
Vermont Medical Response Team
WeCount!
Women Watch Afrika, Inc.
Worker Justice Center of NY

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