



December 29, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Secretary Janet Napolitano
Department of Homeland Security
3801 Nebraska Ave., NW
Washington, D.C. 20528

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TREASURER

Dear President Obama and Secretary Napolitano:

We write to express our opposition to your administration's plan to resume deportations of Haitian nationals with criminal records who have completed their sentences and have final removal orders.

As of December 15, 2010, approximately 100 Haitian nationals detained at the Krome Detention Center in Florida have been transferred to facilities in Louisiana and are awaiting final deportation to Haiti. We understand that there are at least an additional 400 Haitian nationals in other detention facilities who will be subject to immediate deportation in mid-January 2011.

Our government should not engage in the forced removal of people to any country when the consequences of such removal would be to subject them to persecution, torture, or cruel, inhuman, or degrading treatment. Such is the case at this moment in Haiti.

The concerns expressed in this letter also stem from the longstanding history of discriminatory treatment of Haitian nationals seeking asylum in the U.S. including:

- Interdiction of Haitians, denial of access to U.S. political asylum process, and detention of HIV-positive Haitians at Guantanamo Naval Base in the early 1990s;
- Slow basis with which the U.S. granted Temporary Protected Status to Haitian nationals, granted only after the catastrophic earthquake of January 2010;
- What one federal court referred to as the "scare tactics" employed in the INS' "Dimensions of the Haitian Threat" directive¹; and

¹ Haitian Refugee Center v. Smith, 676 F.2d 1023 (5th Cir. 1982).

- Systematic exclusion of Haitians from political asylum by labeling them "economic refugees" during a period in which masses of Haitians were attempting to flee gross human rights violations under the Duvalier regime

We implore restraint on the part of your administration in light of pressing human rights and humanitarian concerns. As you well know, a raging cholera epidemic has taken hold of Haiti. According to the Pan American Health Organization and the World Health Organization (WHO), as of December 23, 2010, "about 120,000 cases have been reported and 2,400 persons have died." WHO predicts an additional 650,000 cholera cases over the next year, with a large percentage to occur in early 2011.

There are also documented reports of deplorable conditions in Haitian jails and prisons, to which the repatriated nationals will be sent. It is the current practice in Haiti to detain those who have been deported from the U.S. in jails, prisons or similar holding facilities. In 2001 the U.S. State Department reported that "criminal deportees who already have served sentences outside [Haiti] are kept in jail, with no timetable for their eventual release."²

In light of this well-known Haitian government practice of detaining deportees, the U.S. government would be sanctioning a process devoid of any respect for due process of law -- namely deporting persons to their country of origin to be jailed and potentially abused and ill-treated, despite the fact that they have not committed a crime in violation of Haitian law.

Further, the Haitian jails and prisons in which deportees would be detained are facilities that some visiting U.S. immigration judges have described as "substandard and lacking medical care." According to eyewitness and media reports as well as the International Committee for the Red Cross, the cholera epidemic is spreading throughout Haiti's prison system. Numerous prisoners have already succumbed to the epidemic.

Current conditions in Haiti are simply too dangerous to allow for the safe return of Haitian nationals with final removal orders. If this administration resumes deportations to Haiti in mid-January, this administration will not only jeopardize the lives and safety of Haitian deportees, but will also violate international human rights and refugee laws.

Under U.S. human rights law, the U.S. is prohibited from deporting a person to another state where there are substantial grounds for believing that the person would be in danger of being subjected to torture or other cruel, inhuman, or degrading treatment or punishment.³

² United States Bureau of Citizenship and Immigration Services, *Haiti: Information on Conditions in Haitian Prisons and Treatment of Criminal Deportees*, 2 July 2001, HTI01001.ASM, available at: <http://www.unhcr.org/refworld/docid/3dece9f87.html> [accessed 28 December 2010]

³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (no. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, art. 3. ICCPR, art. 7.

International refugee law prohibits the return of refugees to a territory where the refugee's life or freedom may be threatened.⁴

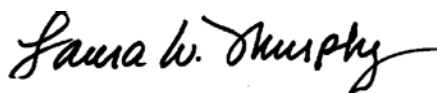
Earlier this year the United Nations High Commissioner for Refugees and the United Nations independent expert on the situation of human rights in Haiti recommended to all countries to "refrain from expelling Haitians and continue to provide decent temporary arrangements for their protections on humanitarian grounds" at least for the stabilization period and until these persons can return safely and permanently.

This administration has repeatedly and unequivocally expressed the U.S. government's sympathy and support for the Haitian people. Earlier this year, Mr. President, you pledged before the United Nations General Assembly "to commit ourselves to stand with the people of Haiti until they can stand on their own two feet." Secretary Clinton similarly stated last July that "our resolve to stand with the people of Haiti for the long term remains undiminished." Resuming deportations of Haitian nationals with final removal orders who are ineligible for TPS will not only fly in the face of U.S. continued humanitarian support, but will also undermine U.S. efforts to lead the international community in this critical rebuilding effort.

For the reasons stated above – namely, the human rights catastrophe that will be the consequence of forcibly deporting Haitian nationals to a country beset with a spreading cholera epidemic where they will face certain incarceration in substandard conditions, despite not having committed a crime in violation of Haitian law – we implore you not to resume deportations of Haitians with final removal orders who are ineligible for TPS.

We thank you for your thoughtful attention to this matter and look forward to your prompt response. Please direct any questions or responses to Joanne Lin, ACLU legislative counsel, at 202/675-2317 or jlin@dcaclu.org.

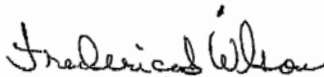
Sincerely,



Laura W. Murphy
Director
Washington Legislative Office



Howard Simon
Executive Director
American Civil Liberties Union of Florida



Frederica S. Wilson
Congresswoman- Elect
Florida's 17th Congressional District

⁴ Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954, art. 33. See also Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267, entered into force October 4, 1967.