

December 22, 2010

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

Dear Secretary Napolitano:

As national immigration advocacy, humanitarian, and faith-based organizations, we write to express our concern regarding the Department of Homeland Security's (DHS) decision to resume deportations to Haiti. We request that DHS reconsider its decision until conditions in Haiti improve substantially. While our groups recognize the importance of immigration enforcement, we are concerned that DHS has not provided written information that describes this change in policy and explains how it will be implemented consistently and in a way that protects public safety in the United States and Haiti.

On January 12, Haiti experienced a catastrophic earthquake that killed 250,000 people, displaced 1.3 million people—over one-tenth of its population—and caused an estimated \$14 billion in economic damage. In the face of such devastation, the U.S. government acted swiftly to protect Haitian nationals residing in the United States, including granting Temporary Protected Status and suspending all deportations.

Since the earthquake, conditions in Haiti have shown little improvement—and by some measures have grown worse. Reconstruction has progressed slowly and much of the foreign aid that was initially pledged has failed to materialize. Haiti is in the midst of a virulent cholera outbreak that has sickened 100,000 Haitians and killed 2,500. Disputed results from the November 28 election have brought conflict and renewed violence to the country. More violence will likely come after the January election run-off. On December 9, the Department of State renewed its warning against travel to Haiti, referencing continued high rates of violence, the cholera outbreak, and violent disturbances in Port-au-Prince, combined with limited police capacity and medical care.

Haiti remains a country in crisis, and the humanitarian concerns that motivated President Obama to suspend deportations are just as dire now as they were in January. The resumption of deportations at this time would be premature and would place at risk the lives of those being returned.

DHS has not issued any written guidance explaining this new policy on Haitian deportations. Instead it has given verbal briefings to a limited group of stakeholders, beginning on or around December 8, about its plans, stating that the U.S. government will initially detain and deport individuals with such serious criminal convictions that they pose

a grave risk to public safety in the United States, with an ultimate expectation of removing 700 individuals, out of a population of about 2,000, by the end of 2011. We support the enforcement of immigration laws and the prioritization of those who are a threat to public safety. But details about this plan have not been divulged, and we are concerned by the lack of clarity and transparency. At this point, DHS has not explained how it will choose those slated for removal, creating an atmosphere of uncertainty for Haitians and their attorneys alike. Even more troubling, we have heard reports of statements by DHS officials that DHS plans to "balance planes" by sending back individuals DHS believes pose a grave public safety risk together with those who do not, contradicting statements that this policy is being implemented for reasons of public safety. There have also been no statements by the U.S. government that explain this abrupt change in policy.

These are indications that DHS may ultimately deport a broader population of individuals than it initially announced. Even if DHS leadership does not intend the policy to encompass a broader population, there is a significant risk that practices on the ground will diverge from the announced policy—especially given the apparent lack of written guidance to the field.

In light of the grave situation in Haiti and the lack of clear written guidance on this new deportation policy, we ask you to halt its implementation. In the interest of clarifying the policy to the public, we ask you to do the following:

- Provide a written statement describing the new policy with respect to deportation of Haitians, including an explanation of how conditions have materially changed in Haiti that would justify a change in policy. The statement should set forth the expected number of removals and the schedule anticipated for those removals. It should also describe how Haitians will be selected for removal, including how the crimes that would make one subject to removal are defined.
- Provide statistical information regarding the population of individuals that fit the established criteria for removal, including the nature of their offenses and their immigration status. On a periodic basis, DHS should issue a public report—or at least a report to the relevant congressional bodies—with statistical and anecdotal information about who was deported.
- Explain what steps are being taken in Haiti to prepare for the returns and what agreements have been reached with the Haitian government regarding the treatment of those returned.
- Describe the protocols that DHS will use to train any officers that will be executing this policy. Provide copies of instructions that will be given to field officers. Explain what considerations will be given to individuals with medical conditions or other vulnerabilities.

Finally we ask that you arrange a time to meet with our organizations as soon as practically convenient. Please contact Gregory Chen at 202/507-7615 or [gchen@aila.org](mailto:gchen@aila.org). Thank you for your prompt attention to this matter.

Sincerely,

American Immigration Lawyers Association  
American Jewish World Service  
Hebrew Immigrant Aid Society  
Human Rights Watch  
Jesuit Refugee Service/USA  
Lutheran Immigration and Refugee Service  
National Immigration Forum  
Physicians for Human Rights

cc: Cecilia Munoz, Director of Intergovernmental Affairs, White House  
Felicia Escobar, Senior Policy Advisor, Domestic Policy Council, White House  
Esther Olavarria, Senior Counsel, DHS  
Kelly Ryan, Deputy Assistant Secretary for Policy, DHS  
John Morton, Director, ICE  
Beth Gibson, Assistant Deputy Director, ICE  
John F. Kerry, Chair, Senate Foreign Relations Committee  
Patrick J. Leahy, Chair, Senate Judiciary Committee  
Charles E. Schumer, Chair, Senate Immigration, Refugees, and Border Security Subcommittee  
Howard L. Berman, Chair, House Foreign Affairs Committee  
John Conyers, Jr., Chair, House Judiciary Committee  
Zoe Lofgren, Chair, House Immigration, Citizenship, Refugees, Border Security, and International Law Subcommittee  
Michael M. Honda, Chair, Congressional Asian Pacific American Caucus  
Barbara Lee, Chair, Congressional Black Caucus  
Nydia M. Velazquez, Chair, Congressional Hispanic Caucus