



December 16, 2010

Via Facsimile Transmission

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

Re: Deporting People into Cholera Epidemic in Haiti

Dear President Obama,

The Center for Constitutional Rights is gravely concerned by the December 9 Immigration and Customs Enforcement announcement that it has lifted the ban on deportations to Haiti for persons with criminal convictions.

People deported from the US to Haiti end up in Haitian jails and prisons which are now gripped in a raging cholera epidemic. Sending people to Haiti under these circumstances will end up being a death sentence for many. Sending additional people from the US into the Haitian prison system will also further stress the resources available to the impoverished people who are in the system now.

We are asking you, in the name of human rights and human dignity, to immediately suspend deportations to Haiti.

We have attached two affidavits from US lawyers to this letter detailing the conditions at one of the many prisons where cholera is spreading. Please read the affidavits as they will help you and members of your administration understand what the situation on the ground actually is. No one should be subjected to this. Certainly the US should not be deporting anyone into these conditions.

Immigration attorneys and advocates reported to the Center for Constitutional Rights yesterday, December 15, 2010, that approximately 100 Haitians with final orders of removal have been rounded up and transferred to Louisiana in the last few days where they are awaiting deportation to Haiti.

The humanitarian situation in Haiti has not improved and may be even worse now than when deportations were halted in the weeks after the devastating earthquake of January 2010. Most significantly, the people of Haiti are now in the middle of a worsening cholera outbreak. As of December 15, 2010, 109,196 people have been infected by cholera and the 2,405 deaths have been recorded. The cholera outbreak has not peaked

yet in Haiti; the World Health Organization said in December that they expect 650,000 persons in Haiti to be sickened by cholera over this year.

The practice in Haiti, even before the earthquake, has been to detain many deportees from the United States in holding centers in Haiti with, as U.S. immigration judges have often noted, deplorable, substandard conditions and lack of medical care. The International Committee of the Red Cross in Haiti recently reported that the cholera epidemic is spreading through Haiti's crowded prisons, and numerous prisoners have already died. Our allies working on the ground in Haiti have also reported that untreated water is being given to detainees in prisons, which could further hasten the spread of cholera.

Forcibly sending Haitian nationals who will likely be detained in facilities deemed deplorable before the earthquake where exposure to cholera and lack of medical care could lead to death would be a violation of the U.S. government's obligations under the Convention against Torture (CAT). Under U.S. law codifying CAT, the U.S. is not permitted to remove anyone when it can be shown that it is "more likely than not that he or she would be tortured if removed to the proposed country of removal." U.S. courts have previously held that removing people who have serious medical needs, such as those with HIV/AIDS, or mental illnesses where they would be detained in deplorable conditions and unable to obtain necessary medical care is, in some circumstances, a violation under U.S. laws implementing CAT. Likewise, the Inter-American Commission on Human Rights has held that knowingly sending a person with HIV/AIDS to a country of origin with the knowledge that doing so would violate her right to health given her health care needs and the country's sub-standard access to similar health care "would constitute a *de facto* sentence to protracted suffering and unnecessarily premature death" and a form of cruel and unusual punishment.

The forced return of these persons to Haiti in such dire circumstances could also result in the violation of the right to life contained in Article 3 of the Universal Declaration of Human Rights ("UDHR"), Article 6 of the International Covenant of Civil and Political Rights ("ICCPR"), which the United States has ratified, and first enshrined in the United States Declaration of Independence. In addition, ICE's policy is undertaken with the knowledge that those facing removal are likely to be held in detention without due process once they arrive in Haiti, which would amount to arbitrary detention, a fundamental human rights violation unequivocally and universally prohibited as evidenced by, *inter alia*, the Fifth Amendment to the United States Constitution, and Article 9 of both the UDHR and ICCPR. In these circumstances, these actions also in many cases could amount to arbitrary interference with family in violation of Article 12 of the UDHR, as the forced removals serve in many cases to tear families apart.

It is ironic that on the same day ICE announced this change in policy, December 9, 2010, the U.S. State department issued a travel warning recommending against any non-essential travel to Haiti due to "continued high crime, the cholera outbreak, frequent disturbances in Port-au-Prince and in provincial cities, and limited police protection and access to medical care."

We ask that the White House:

- Instruct ICE to immediately halt roundups and detentions of Haitian nationals in the U.S.
- Continue or reinstate the stay on deportations.
- Release more information about this new policy.
- Explain what assessment was conducted of the circumstances in Haiti prior to the change in policy.

We appreciate your attention to this urgent matter.

Sincerely,



Vincent Warren
Executive Director
Center for Constitutional Rights



Bill Quigley
Legal Director
Center for Constitutional Rights

CC:

Secretary Janet Napolitano, Department of Homeland Security
Director John Morton, Immigration and Customs Enforcement
Secretary of State Hillary Clinton, State Department
Ambassador Thomas Adams, Office of Special Haiti Coordinator