

**Annex C:**

**Fact Sheets re Haitian Deportations**

## REQUEST FOR PRECAUTIONARY MEASURES BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

*On behalf of:* Gary Resil, Harry Mocombe, Roland Joseph, Evel Camelien, Pierre Louis *and* Other Similarly Situated Haitian Nationals Subject to Immediate Deportation by the United States

*Against:* the United States of America

*Filed on Jan. 6, 2011 by Advocates of the Petitioners:* University of Miami Human Rights Clinic, University of Miami Immigration Clinic, The Florida Immigrant Advocacy Center, Alternative Chance, The Center for Constitutional Rights, and Loyola Law Clinic & Center for Social Justice

### **Overview: Background and Historical, Legal, and Political Context**

After the devastating January 12, 2010 earthquake, the United States government stayed deportations to Haiti on humanitarian grounds. However, just before the one-year anniversary of the earthquake, the United States Immigration and Customs Enforcement (ICE) announced it was lifting the stay and resuming deportations, while releasing no other public information about the planned removals. Resuming deportations at this time would result in serious human rights violations. Haiti is still reeling from the aftermath of the earthquake and is now additionally facing a massive cholera epidemic, political unrest, and rampant street violence. If history is any guide, the Petitioners will likely be detained in Haitian police station holding cells in unsanitary, overcrowded conditions where cholera and other diseases run rampant. Additionally, the Haitian government does not generally provide food or medical care; thus the Petitioners need to rely on relatives, if available, for basic needs. For many deportees, this situation is tantamount to a death sentence.

### **The Five Named Petitioners, Their Families, and the Larger Group They Represent**

- **Gary Resil** – He is a 61-year-old, legal permanent resident of the U.S. since 1967, who has five U.S. citizen children of which he is the primary caretaker. He suffers from diabetes and other illnesses. His removal order was based on theft and racketeering offenses related to his business. He has no family in Haiti.
- **Harry Mocombe** – He is a 30-year-old, legal permanent resident since 1999, who has a U.S. citizen six-year-old son who suffers from a rare leukodystrophy disease, which has no cure. His removal order concerns convictions for burglary of an unoccupied dwelling and an offense involving theft. He lost his last remaining relatives in Haiti in the earthquake.
- **Roland Joseph** – He is a 43-year-old, legal permanent resident since 1999. He is the single father of four children and has two grandchildren, all of whom are legal permanent residents or U.S. citizens. His removal order is based on two counts of drug possession with the intent to sell, for which he completed a six-month jail sentence. He has no family in Haiti.
- **Evel Camelien** – He is a 53-year-old who came to the U.S. by boat in 1980. He has four children: three U.S. citizens and one legal permanent resident. He supports his young children, holds a steady job, and owns a house. His removal order is based on one drug conviction. His three other children in Haiti, his mother, his father, and sister-in-law all perished in the earthquake.
- **Pierre Louis** – He is a 27-year-old who has been a legal permanent resident since 2001. He is the sole support of his U.S. citizen son and legal permanent resident father. He suffers from schizophrenia and needs specific medical treatment. His removal order is based on a conviction for falsely claiming to be a U.S. citizen, when he tried to register to vote. His only relative in Haiti died in the earthquake.
- **Unnamed Petitioners** – These include men and women, individuals with acute and chronic illnesses, elderly, and former asylum seekers. The majority have lived as legal permanent residents for many years and possess extensive family, economic, and community ties to the United States.

## Petitioners Face Imminent and Irreparable Harm as a Result of their Deportations

Petitioners request *immediate* intervention of the Commission to order precautionary measures to stop deportations to Haiti. The standard for such measures is irreparable harm.

- *Right to Life; Security of Person; and Freedom from Cruel, Infamous or Unusual Punishment*
  - The deportation of the Petitioners to Haiti, where they will be placed in cholera-infested police station holding cells, exposes them to foreseeable risk of death. The extreme hardship of these conditions is contrary to the inherent dignity of human person and amounts to a death sentence. This is a violation of Articles I and XXVI of the American Declaration on the Rights and Duties of Man (American Declaration).
- *Right to family life; Special protections for children*
  - Taken together, Articles V, VI, “prohibit arbitrary or illegal interference with family life”<sup>1</sup> by the state. Additionally, the state must take “the best interests of the minor child ... into consideration in a parent’s removal proceeding.”<sup>2</sup> Petitioners and their families will be negatively impacted by deportation. In many cases primary breadwinners will lose their ability to financially provide for their families and communication will be compromised. The prospect of being torn apart by the deportations has created a sense of panic for the Petitioners and their families. Here, the removal violates the rights of the Petitioners and their families under Articles V, VI, and VII of the American Declaration.
- *Rights to fair trial and due process*
  - The failure of the U.S. government to provide Petitioners with the opportunity to present humanitarian defenses to deportation or to provide them with an opportunity to have their due process rights meaningfully considered prior to deportation violates their rights to due process and fair trial under Articles XVII and XXVI of the American Declaration.

### Relief Requested

- Continue the stay of deportations to prevent irreparable harm and release the petitioners.
- Grant “deferred action” status to all people facing removal.
- Publicly release information concerning the decision to lift the stay.
- Publicly engage with the Haitian-American community during this continuing crisis.

### Post-Filing Updates

January 14, 2011: The IACHR requested the following information from the U.S. government:

1. Whether the United States has received any assurances from the Haitian State regarding medical care, food and clean drinking water in the place of detention to which deportees could be sent;
2. The status of the deportation proceedings with respect to the named petitioners; and
3. If there is a final resolution and a date set for the deportation of the proposed beneficiaries.

January 15, 2011: Deportations commenced, including that of Roland Joseph and 26 other Haitian nationals.

Roland Joseph’s whereabouts are still unknown. No information has been given as to where the deportees were taken in Haiti or whether there was an agreement between the Haitian and American governments regarding their processing and treatment. **On approximately Jan. 29, Wildrick Guerrier, one of the (unnamed) Petitioners died after being detained in a police station holding facility, after having presented cholera-like symptoms of vomiting, profuse diarrhea, and extreme weakness.**

January 24, 2011: The Petitioners’ advocates requested a hearing during the Commission’s late March period of sessions due to the serious and urgent nature of the situation. Petitioners will be notified in late February as to whether the hearing is granted.

### Media and Advocacy Coverage

- <http://www.nytimes.com/2010/12/20/nyregion/20haitians.html?ref=juliapreston>
- <http://www.npr.org/2011/01/13/132882265/U-S-To-Resume-Deporting-Haitians-With-Criminal-Records>
- <http://www.miamiherald.com/2011/01/20/v-fullstory/2025483/acquitted-haitian-in-liberty-city.html><http://www.nytimes.com/2010/12/20/nyregion/20haitians.html>
- <http://www.miamiherald.com/2011/02/01/2044410/haitian-deported-by-us-dies-in.html>
- <http://ccrjustice.org/files/IACHR%20Haitian%20Deportations%20FINAL%20Sign-on%20Ltr.pdf>
- <http://www.aclu.org/human-rights-immigrants-rights/us-resumes-deportations-haiti>
- <http://campaign.r20.constantcontact.com>

<sup>1</sup> Inter-Am. C.H.R., Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System, OEA/Ser.L/V/II.106, ¶162, (2000); See also *Wayne Smith & Hugo Armendariz, et al. v. U.S.*, Case 12.562, Inter-Am. C.H.R., Report No. 81/10, ¶ 48. (July 12, 2010).

<sup>2</sup> *Wayne Smith & Hugo Armendariz, et al. v. U.S.*, Case 12.562, Inter-Am. C.H.R., Report No. 80/10, ¶ 56. (July 12, 2010).

## **The Results of the Recent U.S. Decision to Resume Deportations to Haiti: Deportations, Detention and Death**

***Prepared on February 23, 2011 by the University of Miami Immigration and Human Rights Clinics, the Center for Constitutional Rights, and Alternative Chance.***

In the early morning hours of January 20, 2011, 27 Haitian nationals were flown against their will from Louisiana to Port-au-Prince, Haiti. Just a few days before these deportations, many of the Haitians had participated in a hunger strike to protest their ICE detention and looming deportation. Haiti is in the midst of a humanitarian crisis following the January 2010 earthquake, including a cholera epidemic that has infected 231,070 people and claimed approximately 4,500 lives so far.<sup>1</sup> For these reasons, these Haitian nationals feared for their lives should they be deported to Haiti.

Tragically, the deportees' worst fears came true; the 27 men were detained in horrific detention conditions upon arriving in Haiti and just over a week after arriving, one of them, Wildrick Guerrier, 34, died after suffering from cholera-like symptoms. Mr. Guerrier's death was preventable and a direct result of the U.S. Government's decision to resume deportations to Haiti.

The decision to resume deportations has had calamitous consequences for each one of these men and their families.

### **Recent Change in U.S. Policy**

After the earthquake in Haiti, the United States government promptly halted all deportations to Haiti. However, on December 10, 2010, less than one year later, the U.S. inexplicably told advocates that it would resume deportations and began rounding up Haitians with criminal convictions, detaining hundreds of individuals. Under the current policy, ICE has stated that it expects to deport about 700 Haitians this year.

### **The 27 Deportees: Arrival and Detention in Haiti**

Upon their arrival in Haiti in the dawn hours of January 20, the 27 men were held on a bus on the airport tarmac for five hours before being met by armed men, separated, and transferred to police holding facilities. Five men were taken to the Petionville police station and five to the Carrefour police station. Seventeen of them were sent to Direction Centrale de la Police Judiciaire ("DCPJ") the notorious police holding facility outside of Port-au-Prince. At the Petionville station the cells were reported as filthy and one of the five men had no family visiting him and therefore was not provided any food while detained. Interviews of those who were held in Carrefour revealed that they had witnessed brutal beatings by police of detainees and they themselves were subjected to harsh persecution by the police.

At DCPJ the seventeen men were kept in a small cell approximately three by fifteen feet. The floors were covered with dirt, feces and vomit and the walls were blood-stained. The bathroom was filthy and "unbearable," littered with feces and vomit. The toilet did not flush and thus the men were forced to discard their excrement in trash bags which littered the floor of the cell and the bathroom. Additionally, as is the case in Haitian police detention facilities, the government did not provide food, water or medical care for detainees. The men thus had to quickly attempt to contact relatives within Haiti to help provide these necessities. One of the seventeen men has no family in Haiti and thus had no one to contact for food and water. Confronted with these shocking conditions, the men began to organize and to share the food, water, soap and other provisions that the relatives had brought. Led by Wildrick Guerrier, the men also began a clean-up effort of their cell. The men had no gloves and resorted to cleaning the cell with their bare hands, exposing themselves to disease.

Through these harrowing days in detention, Mr. Guerrier's selfless acts earned him the respect of this group of deportees. As one of the deportees, recounted, "He was a champion. You can ask everybody.

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<sup>1</sup> USAID Fact Sheet #20, February 18, 2011, Fiscal Year (FY) 2011

He helped everybody... He is the one that motivated me to start cleaning up the bathroom. He started this; he cleaned up on his own."

There were several such instances. Another detainee recounted witnessing the guards taking an inmate behind the facility and kicking and clubbing the individual with the butt of a rifle. The inmate then returned to the cell with feces on his clothing, vomiting profusely. Mr. Guerrier immediately cared for the Haitian inmate. In caring for the other Haitian deportees in the cell the men gained the trust of the local inmates. It is notable that U.S. deportees suffer severe social stigma in Haitian society.

#### **Wildrick Guerrier's Death**

Despite, or perhaps due to their efforts to clean the cell and maintain their dignity, some of the men became increasingly sick, suffering from vomiting and uncontrollable diarrhea. One detainee recounts a relief worker from an NGO visiting the facility, and confirming that they were indeed exhibiting classic symptoms of cholera. The relief worker left various cleaning and personal hygiene products to assist the group. However, all but one bar of soap was seized by the Haitian guards. Mr. Guerrier became seriously ill exhibiting severe cholera-like symptoms. His cell mates repeatedly made requests for medical aid from the guards which fell on deaf ears. It was not until Mr. Guerrier's aunt arrived from the United States and convinced the guards to let him go that he was able to receive any medical care. Mr. Guerrier died as a result of his uncontrollable vomiting and diarrhea on January 29, 2010, just two days after his release.

#### **Forging a New Life in a Devastated Land**

Upon their release the detainees face new and daunting challenges. Post-earthquake Haiti has provided an inhospitable and cruel climate for assimilation. Most of the men sent to Haiti have few if any family members, some of whom they have never met before and most of whom are themselves struggling to survive. Many of the deportees are living in tents, sharing what little food, water and shelter is available.

The men desperately want employment, though there is little work. To acquire employment in Haiti, you are often required to have a Haitian Identification card which can be extremely difficult, if not impossible, to acquire. One deportee spoke about the challenges he's facing: "It's crazy. I don't want to be in this country at all...[My aunt is] trying to leave herself. Now when she leaves I'm going to be here by myself...Now she has to take care of me. She barely can take care of herself over here. I feel like I was sent here to die or suffer." In addition, these men must also contend with leaving their lives in the U.S. behind; above all, their families consisting of mostly U.S. residents or citizens.

#### **Inter-American Commission on Human Rights Urges US Halt Deportations**

On January 6, 2011, The University of Miami Human Rights and Immigration Clinics, The Florida Immigrant Advocacy Center, Alternative Chance, The Center for Constitutional Rights, and Loyola Law Clinic & Center for Social Justice, filed a Request for Precautionary Measures with the Inter-American Commission on Human Rights (IACHR), alleging that the detention and deportation of the detainees was in violation of internationally recognized human rights. The petition alleged that returning the deportees to Haiti would expose them to a foreseeable risk of death as they would be placed in unsanitary and cholera-infested police holding cells, where they would be denied access to food, water and medical care. On February 1, 2011, the IACHR granted the request for precautionary measures, and requested that the U.S. suspend the deportations of the five named petitioners, until: (1) Haiti is able to guarantee that detention conditions and access to medical care for persons in custody comply with applicable minimum standards, and (2) the U.S. was able to put procedures in place to decide upon and review the deportation of the five beneficiaries and adequately take into account their right to family life and their family ties in the U.S.

#### **More Deportations to Come?**

After Mr. Guerrier's death, the U.S. has not deported anyone else. However, ICE has stated that despite Mr. Guerrier's death, they will continue with the deportations and that they intend to deport 700 Haitians this year.