



## CHURCH WORLD SERVICE

### Comments on the "Policy for Resumed Removals to Haiti" Submitted to U.S. Immigration and Customs Enforcement March 11, 2011

Church World Service urges U.S. Immigration and Customs Enforcement to halt implementation of the proposed policy and conduct a more thorough review, in recognition of the reality that conditions do not exist at this time to guarantee "safe, humane and minimally disruptive" deportations and reintegration of Haitian nationals from the United States. Rather, implementation of the policy in its current form would constitute a threat to the very survival of Haitian deportees; could impede other U.S. government agencies as well as the Government of Haiti in accomplishing pre-established goals of relief and reconstruction in Haiti by unnecessarily diverting critical resources; and ignores more humane alternatives to deportation that have been developed and implemented in the U.S. for other foreign nationals convicted of criminal offenses who cannot be deported to their countries of origin, including Cubans.

Church World Service is the global humanitarian and development agency of 37 member Protestant, Anglican and Orthodox denominations in the United States. As a cooperative agency of both the U.S. Refugee Program and the U.S. Cuban Haitian Entrant Program, leveraging private funds together with support received from the Bureau of Population, Refugees and Migration of the Department of State and U.S. Citizenship and Immigration Services, Church World Service's network of service providers in the United States spans 21 states with 34 offices and affiliates. For more than 50 years, CWS in Miami has provided legal, employment and integration services to members of the Cuban and Haitian diasporas as well as other refugees and immigrant communities in Florida.

CWS also has decades of experience working with ecumenical and secular partners in Haiti to support long-term development as well as emergency humanitarian assistance in times of crisis. CWS and partners responded to the devastating earthquake of January 2010 in Haiti with emergency assistance in shelter, food, water and sanitation, livelihoods and more for the survivors of Haiti's deadliest and most destructive disaster in decades.

Because of our years of work with Haitians both in the United States and in Haiti, CWS has first-hand experience of the inter-relationship of U.S. migration and foreign policy. Our concerns with the stated policy include:

- **Conditions in Haiti have not changed significantly to justify recommending deportations.** Fourteen months after the January 12, 2010 earthquake, Haiti continues to struggle with a humanitarian crisis that has engulfed the entire country, undermining its stability and security. The outbreak of cholera in the months following has cost 4,627 Haitians their lives. In Port-au-Prince, approximately 1.3 million continue to live in makeshift tents, dependent on humanitarian agencies for water, food, medicines and basic supplies. Access to public services, including toilets, is exceedingly poor in both urban and

rural areas. In Port-au-Prince, conditions are exacerbated by the only partial removal of rubble which still blocks roads and buildings. Medical facilities exist to hospitalize only just over half the total cholera-affected population. Cholera caseloads are expected to increase around the rainy and hurricane seasons, which will start in June. Already at least one Haitian national deported from the U.S. has died in Haiti, reportedly from cholera. The Government of Haiti and U.S. agencies focused on relief and reconstruction in Haiti, including the Department of State and USAID, face a myriad of challenges in improving conditions in that country. Diverting their attention and resources from these fundamental issues at this time undermines efforts to improve conditions and fundamental human security for all Haitians.

- **There is no clearly articulated approach to how to protect the lives and fundamental rights of deportees before and after deportation.** The proposal for resumed deportation of Haitian nationals fails to articulate how, given these conditions, returnees will be assured of "safe" and "humane" conditions upon arrival in Haiti. It is well established that conditions in Haitian prisons were deplorably overcrowded and unsanitary even before the earthquake. Prisoners lack access to safe supplies of food, water and medical care, and cholera has spread to the cells. Just one month ago, 34-year-old Wildrick Guerrier died from cholera-like symptoms one week after his deportation from the U.S. to Haiti. U.S. policy should ensure that other deportees do not meet a similar fate. Yet the stated policy fails to acknowledge or articulate the necessary components or resource requirements of any reception, detention or reintegration plan for deportees. Furthermore, current Government policy in Haiti is to put deportees in jail upon arrival and not release them unless they are claimed by a family member. With both rural and urban families already struggling to host thousands of displaced relatives and finding their coping mechanisms severely stretched, it may take weeks or months for them to obtain the release of deported relatives. This is not a "safe" or "humane" manner in which to deport people.
- **There is lack of clarity on who will be subject to deportation.** The term "criminal," itself undefined, has been used in the policy to cover a very broad spectrum of equally poorly defined offences. The list provided by ICE is not exhaustive, as a result of which more petty offenses could be included. Some of the enumerated offenses, such as larceny, would not normally be considered "serious" or "dangerous" crimes. The policy in its current form allows DHS broad discretionary authority to designate minor offenders – or even those found innocent of any wrongdoing by U.S. courts – as threats to the public safety and subject them to removal. It is our understanding that Haitians deported in January 2011 included one individual who was a legal permanent resident of the U.S. for twenty years before being charged with and found not guilty of crimes related to terrorism by a U.S. court of law. Yet he was deemed to be a threat to the public safety and subsequently deported. Minor offenders or those found innocent of wrongdoing should not be lumped into the same category as violent criminals. Furthermore, ICE does not share the criteria for selecting those to be deported, nor is it clear who makes a final determination. The process is not clear nor is the method of review specifically spelled out. What is measured? How many people may be eligible for deportation under this policy?
- **Alternatives to deportation have not been fully explored for Haitians.** In other cases where foreign nationals are found guilty of criminal offenses or immigration law violations in the U.S. but cannot be deported to their countries of origin, alternatives to deportation have not only been explored but have in fact been implemented, including for Cubans. Given that Haitians currently face a very real threat of death upon return to Haiti, as demonstrated by the case of Wildrick Guerrier, we urge DHS and ICE in particular to conduct a more thorough exploration of alternatives to deportation available to Haitians in the U.S. There is precedent whereby the U.S. has, at minimal cost, monitored people in these circumstances by applying an Order of Supervision to allow the person to work and pay taxes. If

applied to Haitians, this would in turn allow them to send much needed remittances back to Haiti. The economic contributions made to the Haitian economy by its diaspora are in excess of US\$2 billion per year. Such temporary measures could be established until such time as Haiti is able to safely and humanely receive repatriated Haitians.

- **U.S. migration policy has a regional impact.** Not only does U.S. migration policy have a tangible impact in the U.S. and Haiti, it sets the example for other Caribbean governments hosting large Haitian populations. Already this year, the Dominican Republic re-commenced large-scale deportations of Haitian migrants shortly after the U.S. announced it would end its stay of deportations. While the "Policy for Resumed Removals to Haiti" states that deportations will be conducted "in a measured manner with a limited number of eligible aliens removed to Haiti each month," unfortunately the approach of the Dominican Republic to Haitian deportations reportedly involves hundreds or even thousands of deportees at a time. While this is not the immediate responsibility of the United States government, it must be acknowledged that U.S. migration policy will have an impact not only on Haitians in the U.S. but on migrants elsewhere in the Caribbean as other governments follow the U.S. lead. Returns to Haiti from multiple countries will make it even more difficult for the Government of Haiti to absorb and ensure the protection of their citizens.

United States policy towards Haiti and Haitians at this time should be guided by its publicly stated overarching concern for humanitarian principles, development, and respect for human rights. The U.S. response to the Haitian earthquake in terms of allocation of humanitarian aid, logistical support, designation of Temporary Protected Status (TPS) for Haitians in the U.S. and halting deportations to Haiti was highly commendable.

In contrast, this current policy fails to recognize current conditions prevailing in Haiti, is unclear in terms of legal process and procedure, ignores alternatives to deportation frequently offered to other migrants in the U.S., and, ultimately, is inimical to broader U.S. policy objectives in Haiti. The reality of conditions on the ground in Haiti makes it impossible to ensure that any deportations resumed at this time could be carried out in a "safe, humane and minimally disruptive" manner.

For this reason, we urge that the policy not be implemented at this time. Any policy governing treatment of Haitians with pending final orders of removal should necessarily take a thorough and well-coordinated approach to answer questions of how to ensure respect for Haitians' lives, involve more thorough review of alternatives to deportation, and consult with other relevant U.S. government agencies and the Government of Haiti on the best approach to respect the lives and dignity of those involved.

*Church World Service*  
*March 11, 2011*