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**20TH SESSION OF THE HUMAN RIGHTS COUNCIL
ORAL STATEMENT REGARDING THE
REPORT OF THE INDEPENDENT EXPERT ON THE SITUATION OF
HUMAN RIGHTS IN HAITI, MICHEL FORST, CONCERNING
FORCED RETURNS OF HAITIANS FROM THIRD STATES**

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DELIVERED BY:

American Civil Liberties Union, University Of Miami School Of Law Human Rights Clinic and Immigration Clinic, Famn/Haitian Women of Miami, Alternative Chance, The Center for Constitutional Rights, Americans for Immigrant Justice, The Loyola University New Orleans College of Law Stuart H. Smith Law Clinic and Center For Social Justice, & Yale Law School Allard K. Lowenstein International Human Rights Clinic

The American Civil Liberties Union, on behalf of the above-mentioned institutions, thanks the Independent Expert on Haiti, Michel Forst, for his excellent and timely report on forced returns of Haitians from third states following the catastrophic earthquake of 2010 (A/HRC/20/35/Add.1).

We are especially concerned about forced returns to Haiti from the United States. Haiti remains in shambles following the earthquake, facing rampant disease (including a cholera epidemic), poverty, malnourishment, and a surge in violent crime. Nevertheless, the U.S. has deported more than 500 individuals to Haiti since the earthquake, sending approximately 40 to 50 Haitians per month on regularly scheduled flights. Once arriving in Haiti, deportees are illegally held in local jail cells that contain human excrement, blood, and vomit, have few or no working toilets, and have no or poor ventilation systems. The Haitian government does not provide deportees with food, treated water, or medical or mental health care.

Following the first post-earthquake flight to Haiti in January 2011, one U.S. deportee, Wildrick Guerrier, died with cholera-like symptoms after being held for more than one week in a Haitian jail. Many other deportees have fallen ill with similar conditions. Once released into Haitian society, most deportees from the U.S. confront language and cultural barriers, social stigma, homelessness, and little or no family support in Haiti. Many end up living in tent camps, where gender-based violence is of particular concern.¹

Most deportees from the United States are legal permanent residents who have lived in the U.S. for many years. Most have U.S. citizen children or spouses who depend on them for emotional and financial support. Many deportees have no family ties in Haiti; some were born in the Bahamas, Cuba, or elsewhere and have never set foot in Haiti. Also, individuals with severe medical and mental health conditions – including HIV, schizophrenia, diabetes, asthma, severe injuries, and heart conditions – have been deported to Haiti with no access to medicine or medical care. The policy of U.S. Immigration and Customs Enforcement (ICE) on deportations to Haiti, which purports to address such humanitarian factors, provides no systematic review process, independent adjudicator, judicial review, or even notice to the individuals whose cases are to be reviewed. ICE’s policy has not prevented deportation of individuals with serious illnesses and with strong family ties in the U.S.

Last year, the Inter-American Commission on Human Rights (IACHR) recognized that the U.S. government’s deportation policy raises serious human rights concerns and granted “precautionary measures” to dozens of Haitian petitioners as well as urged the U.S. to refrain from deporting them. The United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees (UNHCR), in addition to the UN Independent Expert on Haiti, have issued emergency appeals for UN Member States to suspend all forced returns to Haiti because of the ongoing humanitarian crisis.²

We are deeply concerned that the United States has failed to comply with its human rights obligations and the calls of international human rights bodies to halt all forced returns to Haiti. Returning individuals to Haiti places them in a vulnerable, life-threatening position and places an unacceptable burden on an already-fragile country. We call on the U.S. government to heed the recommendations of the UN Independent Expert to refrain from forcibly returning individuals to Haiti under any and all circumstances.

¹ For information concerning the experience of U.S. deportees upon return to Haiti, *see* UN Independent Expert on Haiti, Forced Returns of Haitians from Third States (June 2012), A/HRC/20/35/Add.1, ¶¶8-11, 69-72; Petition to the Inter-American Commission on Human Rights for Precautionary Measures on Behalf of Haitian Nationals Subject To Immediate Deportation By The United States (Jan. 2011) (“IACHR Petition”) at 15-22, available at <http://www.law.miami.edu/clinics/pdf/InterAmerican%20Commission%20Petition%20for%20Haitians%20Facing%20Deportation.pdf>; Declaration of Michelle Karshan, (Jan. 5, 2011), IACHR Petition Ex. A-3; Declaration of Dr. Arthur Fournier (Jan. 5, 2011), IACHR Petition Ex. A-4.

² OHCHR/UNHCR urge extending suspension of returns to Haiti, UNHCR Briefing Notes, 12 February 2010, <http://www.unhcr.org/4b7543026.html>; OHCHR/UNHCR Return Advisory Update on Haiti, United Nations High Commissioner for Refugees and Office of the High Commissioner for Human Rights, 9 June 2011, <http://www.unhcr.org/4e0071429.html>; *see also* UN Independent Expert on Haiti, A/HRC/14/44/Add.1 (May 31, 2010); A/HRC/17/42 (April 4, 2011).