Executive Summary

To Whom It May Concern,

SMUGGLED INTO EXILE:

Immigration and Customs Enforcement's Practice of Deporting Non-Citizens without Valid Travel Documents

[Signature]

[Logo: FFF for Freedom]
Human smuggling is the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents.

United States Department of State
http://www.state.gov/m/ds/hstcenter/90434.htm
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***Names have been changed in order to protect privacy of the individuals sharing their stories***
ACKNOWLEDGEMENTS

This report is dedicated to people who were deported by U.S. Immigration and Customs Enforcement without valid travel documents and to people everywhere who fight for their freedom.

The authors would like to thank Immigrant Defense Project, Professors Sherri Levine and Bruce A. Greene, Angel Sutjipto, John Bravo Demicoli as well as all of the Families for Freedom members and the people who shared their stories with us for this report.

Families for Freedom commissioned this report and we are grateful to Razeen, Rodrigo, Paz and Paulline!

Families for Freedom

Founded in September 2002, Families for Freedom is a New York-based multi-ethnic human rights organization by and for families facing and fighting deportation. We are current and former detainees, deportees and their loved ones. We come from dozens of countries, across continents. FFF seeks to repeal the laws that are tearing apart our homes and neighborhoods; and to build the power of immigrant communities as communities of color, to provide a guiding voice in the growing movement for immigrant rights as human rights. FFF has evolved into an organizing center against deportation. We are source of support, education, and campaigns for directly affected families and communities -- locally and nationally.

Stein Scholars, Advanced Seminar on Ethics and Public Interest Law

The Stein Scholars Program, in Fordham University School of Law, is a community of law students, Stein Scholars, who work in collaboration with the Public Interest Resource Center and the Stein Center. The program offers academic and service initiatives including the Advanced Seminar on Ethics and Public Interest Law. The seminar offers Stein Scholars the opportunity to work on projects different from externships and clinical work. Razeen Zaman and Rodrigo Bacus used the opportunity to work with directly impacted people by following a model of lawyering that recognized directly impacted people as experts and leaders in social change and not mere clients in pursuit of a legal solution.

1 The name of Fordham University School of Law is provided solely for purposes of identifying the program's affiliation. The views expressed in this report should not be regarded as the position of Fordham University School of Law.
Noah’s Story

“[Noah] is actually not a citizen of Cameroon. Our Cameroon Ambassador in the Ivory Coast attests to this fact. I wish that I had been in possession of this knowledge at the time I was asked [by ICE] to issue this Laissez-Passer in May of 2013.”

- Dr. Charles Greene

Noah was denied asylum and had no other pathway to pursue U.S. citizenship. However, an Immigration Judge granted him withholding of removal, which means that Noah cannot legally be returned to the country of his citizenship, the country he fled from, due to fear of persecution. Ordinarily, getting a withholding of removal allows a person to stay in the United States legally, even if they cannot ultimately become a U.S. citizen.

A withholding of removal, however, did not guarantee Noah any security. Immigration and Customs Enforcement (ICE) continued to pursue Noah’s deportation, and obtained a travel document for him to Cameroon, a country to which Noah has no ties, has never been to and is not a citizen of.

How did ICE end up with a travel document to Cameroon? Dr. Charles R. Greene, III, a full-time Methodist minister in Texas who is not a Cameroonian citizen and has spent less than a month in Cameroon, issued Noah’s travel document. Dr. Greene stated in federal court that the Cameroonian embassy appointed him as an “honorary consul of Cameroon” in 1986 after the Shell Petroleum Company and Lewis Hoffacker, a former U.S. ambassador to Cameroon and Equatorial Guinea, nominated Dr. Greene for the position.

Under oath, Dr. Greene explained the difference between an honorary consul and a consulate: “According to the Vienna code,...[honorary consuls] are limited by our scope of immunity, as well as our duties.” Dr. Greene stated that because his duties are restricted to Texas, he had no authority to issue travel documents for persons from outside of the state. Dr. Greene considers his primary duty as honorary counsel to involve issuing laissez-passers to Cameroonian citizens residing in Texas, who need to return to Cameroon for pressing reasons, but who do not have travel documents.

ICE officers called Dr. Greene and asked him to issue Noah a travel document, informing him that Noah was located “to the north of here.” Dr. Greene interpreted to mean “north of here” to mean Texas State Penitentiary, located to the north of Houston, where Dr. Greene was residing. Under this assumption, Dr. Greene issued Noah a Cameroonian laissez-passers on May 21, 2013. ICE failed to inform Dr. Greene that Noah was actually detained in York County, Pennsylvania, during this time.

Dr. Green’s travel document issue to Noah included inaccurate information about Noah. The travel document inaccurately stated that Noah was a “citizen of Cameroon,” who was born in 2013. Noah is not a citizen of Cameroon and was not born in 2013 – in fact, if he was, Dr. Greene would be issuing travel documents to deport a toddler. Dr. Greene’s travel document for Noah included a photograph of someone other than Noah.

Noah contacted many organizations to contest the validity of the travel document Dr. Greene had issued him. Families for Freedom wrote to the Cameroonian Embassy to inquire about the
validity of Dr. Greene’s travel document but did not hear back. The U.S. Department of State, Bureau of Human Rights, Democracy, and Labor also conducted an investigation of the travel document. On October 24, 2013, Joseph Bienvenu Charles Foe-Atangana, the Cameroonian Ambassador to the U.S., wrote to Dr. Greene stating, “Please be advised that [Noah] and his associates are making too much noise about this matter, claiming that [Noah] is not a citizen of Cameroon.”

Months later, Dr. Greene wrote a letter to the Cameroonian embassy stating, “[Noah] is actually not a citizen of Cameroon. Our Cameroon Ambassador in the Ivory Coast attests to this fact. I wish that I had been in possession of this knowledge at the time I was asked [by ICE] to issue this Laissez-Passer in May of 2013. [Noah] therefore is to return to the Ivory Coast.”

Dr. Greene’s rescindment of the travel document he had issued to ICE came too late. Noah had already been deported to Cameroon. His current whereabouts are unknown. If he is still in Cameroon, he is likely facing significant barriers to accessing basic rights and services, since he entered the country without valid travel documents.

1 Letter from Dr. Charles Greene, Honorary Consul of Cameroon, to Jerry Lynch, Esq. (May 14, 2014) (on file with author).
Families for Freedom is a membership-based human rights organization by current/former detainees and deportees and the people that love them. We understand our stories through a systems lens – and it is by learning one another’s stories that we are able to uncover systemic injustices. Through courageous acts of sharing our experiences, we discovered that people we love were not only being separated from us by the draconian U.S. deportation machine, but that their deportations were occurring in a manner that violates the very same policies that the machine draws its strengths from. We had always heard “rumors” of people being deported without valid travel documents or no travel documents at all. However, in a society that demands documents to acknowledge our sufferings, we knew our stories were not enough. We have lost contact with many of the members that aggressively pushed us to document and research the travel document “rumors” and we dedicate this project to them. We hope you are well, wherever you are.

Our analysis of the separation of our families is based on a human rights framework. This framework adds value to our work in two ways: First, in the principle that all people everywhere have rights and second that our rights are rooted in humanity. A human rights framework also provides space for a perspective that is not preoccupied with processes that threaten our fundamental rights such as criminalization or by conceptual structures such as borders. We are born with human rights -- these must not be denied or bestowed upon people by nations under the guise of enforcing domestic laws to only then disrupt international laws.

The deportation of a person from the United States is a process that requires international cooperation and coordination between the U.S. and receiving countries. Various laws layer the policies and practices that determine when, where and under what circumstances a person may be deported. At the heart of this process is a travel document that the U.S. government needs to secure from the receiving country. A travel document is a piece of paper that includes details regarding the identity of the person carrying the document. It is issued by a government or an international treaty organization to allow the movement of individuals across international boundaries. However, what makes this piece of paper important is not the information that it presents, but rather the liberty that is gained or lost with or without its possession. To us, a travel document is much more than a piece of paper. It is the weight that determines our freedom or imprisonment, health or harm, family unity or separation, or injustice and rights. We hope that this issue compels the U.S. government, embassies/consulates, and receiving countries to take our recommendations seriously. We also hope that the international community recognizes the humanity of those deported and promotes policies that are based on the principle that all people everywhere, regardless of immigration status and national origin, have rights.

Sincerely,

[Signature]

Abraham Paulos
Executive Director
Families for Freedom
A. The Issue

Families for Freedom (FFF) has encountered other stories, aside from Noah’s, where individuals have been deported without valid travel documents. This report highlights a few stories of individuals have been deported with invalid travel documents or no travel documents at all. There are probably many more. The Immigration and Customs Enforcement (ICE) agency has deported people without valid travel documents, which violates international customary law.

A government or an international treaty organization issues travel documents to allow the movement of individuals across international boundaries. ICE’s Detention and Removal Operations Policy and Procedure Manual\(^1\) (DROPPM) explicitly states that deportation officers “must” obtain a valid travel document from the receiving country’s consulate before removing the person from the U.S. This report highlights that ICE violates its own internal policies.

People who are mandatorily detained are vulnerable to prolonged and indefinite incarceration due to ICE’s disregard of domestic and international law. Non-citizens are subjected to mandatory detention when they have been convicted of crimes that fit into particular categories designated in immigration law statutes to be “aggravated felonies” or “crimes involving moral turpitude.”\(^2\) In \textit{Zadvydas v. Davis}, 533 U.S. 678 (2001), the U.S. Supreme Court created rules designed to prevent indefinite detention of non-citizens, but stopped short of holding indefinite detention unconstitutional. The Court held that a detainee should be released within six months, particularly when ICE is unable to deport the detainee within the reasonably foreseeable future. Although the Court took a strong stance against indefinite detention and created a mechanism for preventing it, it left open to debate what a reasonable length of detention is. The court’s vagueness as to what a reasonable length of detention is empowers ICE to indefinitely detain non-citizens beyond six months.

This report further shows that ICE denies individuals access to medical care and prioritizes the removal of people who have been injured in detention facilities. Mandatorily detained non-citizens depend on ICE to attend to their medical concerns, a responsibility that ICE hesitates to shoulder. This is a violation of international human rights law.\(^3\) Deporting people without valid travel documents reduces the person’s ability to access medical care upon arrival to the receiving country.

Recent changes in U.S domestic law conflicts with the U.S.’s international legal obligations. The Immigration and Nationality Act (INA) confers to the Secretary of the Department of Homeland Security (DHS) broad discretion to deport someone if ICE is unable to obtain travel documents. The U.S. has created a double standard: on the one hand, the U.S. requires valid travel documents such as passports and visas for everyone entering its borders; yet, it allows the Secretary of DHS to disregard international customary law by deporting people without valid travel documents.

People deported without valid travel documents are at immediate risk of becoming undocumented, regardless of whether they are deported to their country of citizenship or a third country. These individuals are vulnerable to abuses and are deprived of their fundamental human rights.

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2. See 8 U.S.C. 1226 (c).
3. See infra Ch. III. A.
B. Key Report Findings

1. Although ICE’s own policy requires deportation officers to obtain valid travel documents before deporting someone, ICE deports people without travel documents or with invalid travel documents, violating its own internal policy.

2. Non-citizens who are mandatorily detained are vulnerable to prolonged and indefinite incarceration, particularly when ICE is unable obtain travel documents in the “reasonably foreseeable future.”

3. Instead of treating people who have been injured in detention facilities, ICE prioritizes obtaining travel documents and opts to deport such injured persons, thereby violating international human rights law.

4. Recent interpretations in United States law conflicts with the U.S.’s international legal obligations. The Immigration and Nationality Act confers to the Secretary of Department of Homeland Security broad discretion to deport a non-citizen to any country if the U.S. is unable to obtain travel documents.

5. ICE deports people even when embassies and consulates have issued official letters stating that they are unable to issue travel documents.

6. People who have been deported without travel documents are vulnerable to abuses and deprived of accessing fundamental rights and services.
Carlos arrived in the United States as a young boy on March 23, 1972. He migrated with his family, as lawful permanent residents. He lived in Brooklyn for thirty years before moving to Queens. Due to several drug convictions in the 1990’s, an immigration judge issued Carlos a deportation order in 2001. Because Carlos grew up in the U.S. and had no connection to Ecuador, he decided to stay in the country he considered to be home. In 2009, ICE apprehended Carlos at his home and placed him in mandatory detention. Determined to obtain his travel document in good faith, Carlos asked his family to speak with the Ecuadorian consulate in New York.

On August 21, 2013, Carlos received a letter from the consulate general of Ecuador in Atlanta, Georgia, which explained that the consulate could not find any documents confirming his Ecuadorian nationality. The Ecuadorian consulate explained that the only person named Carlos Flores that it could find in its records was born on August 17, 1905 – approximately 67 years before Carlos was born. As a result, the consulate was unable to issue a travel document.

ICE officers took matters into their own hands. On October 10, 2014, ICE officers deported Carlos using a sheet of paper, which looked like a copy of the ID page of a passport. When Carlos arrived in Guayaquil, Ecuador, the Ecuadorian officials confiscated the sheet of paper and told him that it was a false travel document. At that point, Carlos had no identity documents and only six dollars in his pocket.

Desperate to have some form of official ID, Carlos visited the Department of Registry regularly to acquire identity documents. The Registry, however, could not find his birth certificate. As a result, Carlos became undocumented and for five and a half months in Ecuador, with no official form of ID. As an undocumented man in Ecuador, Carlos’ freedom of movement was restricted. Without an official ID, he could not purchase food or water for himself, and could not work. After more than five months of living in this manner, Carlos was somehow able to obtain a cedula, an Ecuadorian ID that is utilized to receive services from the government. His freedom, however, was precarious because the cedula would be difficult to replace if lost. Moreover, because the cedula does not count as a travel document, Carlos is not able to migrate to any other country.

The United States is Carlos’ home. ICE deported him to Ecuador without a valid travel document. Carlos has a fifteen year old daughter and a thirty-five year old son in the United States and is depressed about being separated from them. Ecuadorian society is foreign to Carlos. Although Carlos understands some Spanish, he is not fluent in Spanish and is more comfortable speaking in English. He finds it difficult to reintegrate and has stated that not knowing Spanish fluently limits his social mobility. Carlos hopes that the U.S. government realizes that he was sent to Ecuador without a valid document and helps him return to his family in the U.S.
VI. RECOMMENDATIONS

1. The Office of Inspector General should follow up on its 2007 audit “ICE’s Compliance With Detention Limits for Aliens With a Final Order of Removal From the United States.” The audit should focus on the procedure that ICE officers use to obtain travel documents. It should investigate and publicize any cases of people that are deported without travel documents.

2. ICE should adhere to the Supreme Court’s rules limiting ICE’s ability to prolong detention as set forth in Zadvydas v. Davis, particularly for detainees who have:
   a. urgent medical needs;
   b. been detained for over six months; and/or
   c. for whom the relevant consulate/embassy is unable to issue travel documents.

3. U.S.C. § 1231 (b)(2)(E) should be challenged so that a receiving country’s sovereignty is respected and the provision becomes in line with U.S. international obligations.

4. Embassies and Consulates should make sure that ICE is honoring and not circumventing official letters and communications regarding travel documents, especially when the embassy or consulate is unable to issue travel documents.

5. Receiving countries should make sure that all persons deported by ICE have valid travel documents, and if not, receiving countries should return the person to the U.S.