

PUBLIC

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Foreible Return

29 November 2002

JAMAICA

Six Haitian nationals (names unknown)

Six Haitian nationals, understood to be seeking political asylum, are at risk of being forcibly returned to Haiti without proper examination of their asylum claims. If returned, their lives may be in danger.

They were reportedly among a group of some 100 Haitians who arrived in Jamaica by boat on 20 November. Newspaper reports indicated that many of the group wished to apply for political asylum. On 28 November, a representative from the Haitian Embassy stated that 94 Haitians had been returned over the previous two days.

The remaining six are reportedly still in Jamaica because of a lack of available aircraft space, and are understood to be staying at Falmouth Hospital. The Haitian Embassy announced that they would be returned before the end of the week. However, according to media reports, an immigration officer indicated that the six are currently being evaluated to ascertain whether they qualify as refugees.

BACKGROUND INFORMATION

Jamaica has ratified the 1951 UN Convention relating to the Status of Refugees, and is therefore obliged to ensure that no person is returned, directly or indirectly, to a country where "...his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion" (Article 33). This is known as the principle of *non-refoulement*.

It is implicit in this principle that states must establish a satisfactory asylum procedure or identify those who would be at risk. The Jamaican authorities must make sure that the six remaining Haitian nationals are provided with a meaningful opportunity to apply for asylum, which must include the right to legal assistance, independent interpretation and appeal.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern that 94 Haitian nationals appear to have been forcibly returned without proper examination of their asylum claims, in violation of international law;
- urging the authorities to ensure that the six remaining Haitian nationals are granted immediate access to a full and fair procedure, with access to legal assistance, interpreters and an effective appeals process, and that none of them are returned to Haiti until any asylum claims have been fully examined;
- asking the authorities to respect their international obligations as a state party to the 1951 UN Convention relating to the Status of Refugees, in particular the principle of *non-refoulement*;
- urging the authorities to ensure that the asylum-seekers are treated humanely throughout the process of determining their asylum claims, and that they are given adequate medical care.

APPEALS TO:

Minister of National Security
The Honourable Dr. Peter Philipps
Ministry of National Security
Mutual Life Building
North Tower
2 Oxford Road
Kingston 5
Jamaica

Telegram: Minister of National Security, Kingston, Jamaica

Fax: +1 876 906 1712

Salutation: Dear Minister

Minister of Foreign Affairs and Trade

The Honourable R.D. Knight

Ministry of Foreign Affairs and Trade

21 Dominica Drive

P.O. Box 624

Kingston 5

Jamaica

Telegram: Minister of Foreign Affairs, Kingston, Jamaica

Fax: +1 876 929 5112 / 6733

Salutation: Dear Minister

COPIES TO: Diplomatic representatives of Jamaica accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 January 2003.