

EXTERNAL (for general distribution)

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Fear of Refoulement

13 January 1995

UNITED STATES OF AMERICA (USA): Haitian asylum-seekers held at the US naval base, Guantánamo, Cuba

Amnesty International is seriously concerned by the recent decision of the United States Government to forcibly repatriate all Haitian asylum-seekers remaining at the US naval base in Guantánamo, Cuba, without following internationally accepted procedures to ensure that they are able to present asylum claims should they wish to do so. So far, about a quarter of those remaining at the naval base have been forcibly returned to Haiti.

No government should forcibly send or return anyone, or require anyone to return, to a country where they fear human rights violations unless a thorough examination of their case establishes that they would not be at such risk. While there has been an undeniable improvement in conditions in Haiti since President Aristide returned, serious security concerns remain, particularly in some rural areas where both civilian and military officials associated with the former military government of General Raoul Cédras reportedly continue to hold positions of power.

On 29 December 1994 the US authorities told the 4,460 Haitians still at the Guantánamo base that if they opted to return before 5 January 1995 they would be given about 80 US dollars in cash plus a guarantee of a job for four months for one adult per family. Those who did not take up the offer by that date would be forcibly returned. Only 665 accepted the offer and on 6 January a first group of 53 of the remaining 3,900 or so were forcibly repatriated. Since then, well over 1,000 are believed to have been returned. As far as Amnesty International is aware, no procedures have been established in Haiti, either by the US or Haitian authorities, to monitor their safety upon return.

For those who still fear to return, the only option open to them is to request an interview with US officials to determine whether they may be temporarily exempted from repatriation and permitted to retain "safe haven" status at Guantánamo indefinitely. A statement issued to Haitians at the base on 30 December by the US authorities said that under no circumstances would those who refused to go back to Haiti voluntarily be admitted to the United States.

It is understood, however, that some 300 unaccompanied minors who remain in Guantánamo will not be forced to return to Haiti, at least for the time being.

On 10 January the representative of the UN High Commissioner for Refugees (UNHCR) to the US was quoted as saying that the agency would not be involved in the process of screening those Haitians at Guantánamo not wishing to return to Haiti because "it does not permit us to fulfil our mandate to protect people under internationally accepted procedures". However it is understood that UNHCR is still involved in interviewing Haitians who opt to return voluntarily.

BACKGROUND INFORMATION

Amnesty International has had serious concerns about the procedures followed by the US authorities in dealing with Haitian asylum-seekers for many years and particularly since the September 1991 military coup in which democratically-elected President Jean-Bertrand Aristide was overthrown. Although there have been several changes in policy over the past three years, at no time have Haitian asylum-seekers held at Guantánamo had full access to properly-established asylum procedures. Since President Aristide was

reinstated on 15 October 1994, with the assistance of US troops and a UN Multinational Force (MNF), thousands of refugees have returned to the country voluntarily, both from Guantánamo and elsewhere, and the US authorities argue that there is no longer any danger for those who do so. The government of President Aristide is gradually taking steps to reorganize the army, police and judiciary but many problems remain in the short term. There is at present no functioning judiciary and law enforcement, which is currently maintained by the MNF and an interim police force in urban areas, is said to be virtually non-existent in many areas of the countryside. Furthermore, there has been no serious attempt to disarm and bring to justice those connected with the military government who are believed to have been responsible for human rights violations.

RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters either in English or in your own language:

- calling for an immediate halt to the forcible repatriation of Haitians from the US Naval Base at Guantánamo, Cuba;
- urging the immediate implementation of a full and fair refugee determination procedure at Guantánamo in accordance with internationally accepted standards, including access to appropriate legal advice and an effective right to appeal a negative decision;
- requesting the implementation of appropriate procedures in Haiti to monitor the safety of those repatriated by the US authorities.

APPEALS TO

1) President

Bill Clinton
The White House
Office of the President
1600 Pennsylvania Ave
Washington DC 20500, USA
Faxes: (202) 456 2461
Telexes: ITT 440074
Telegrams: President Clinton, Washington, USA
Salutation: Dear Mr President

2) Secretary of State

Warren Christopher
2201 C Street, N.W.
Washington DC 20520, USA
Faxes: (202) 647 7120
Telexes: ITT 440080 secstate
Telegrams: Secretary of State, Washington, USA
Salutation: Dear Secretary of State

3) Commissioner, Immigration and Naturalization Service

Ms Doris Meissner
Commissioner
Immigration and Naturalization Service
425 Eye Street
Washington DC 20536, USA
Faxes: (202) 514 4623
Telegrams: Commissioner Meissner, INS, Washington, USA
Salutation: Dear Commissioner

COPIES OF YOUR APPEALS TO:

President of Haiti
M. Jean-Bertrand Aristide
Président de la République d'Haïti
Palais National
Port-au-Prince, Haiti
Fax: (509) 23 2121

New York Times
The New York Times Co
229 W 43 St
New York
NY 10036, USA

and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your Section office, if sending appeals after 28 February 1995.