

EXTERNAL

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To: Medical and legal professionals
From: Medical Office / Research Department - Americas
Date: 25 March 1993

LETTER WRITING ACTION

Further information on Haitian asylum seekers USA (Guantánamo)

See AMR 51/05/93, 2 February 1993

Keywords

Theme: AIDS / HIV / medical care / refugees / asylum-seekers

Summary

In February 1993, Amnesty International appealed for Haitian asylum-seekers held at Guantánamo Bay Naval Base to be given the right to enter the USA to pursue their asylum claims. Thousands of people fled Haiti after the October 1991 coup which replaced President Jean-Bertrand Aristide with a military government. While most of the those found by US authorities to have a "plausible claim" were permitted to travel on to the US mainland to pursue their asylum claim, those found to be infected with human immunodeficiency virus (HIV) were denied leave to travel to the United States thus requiring them to pursue their claim from Guantánamo.

The conditions for the more than 250 asylum-seekers currently held at Guantánamo are poor and medical facilities are basic. Amnesty International remains concerned that several of those who have already developed AIDS are at significant risk of serious complications due to the conditions at Guantánamo and the lack of adequate medical care. For six weeks from 28 January 1993, the Haitians at Guantánamo undertook a hunger strike. Shortly after it ended in mid-March, there was a brief disturbance at the camp during which 12 camp huts were burned by camp residents protesting at the entry of a large number of soldiers into the camp. Amnesty International is renewing its appeal to the US authorities to reverse its current policy of excluding the Haitians at Guantánamo.

Recommended Actions

Letters from medical and legal professionals, preferably written in English, otherwise your own language, should be sent to the addresses overleaf.

If you are writing for the first time:

- express concern about the conditions prevailing at the Guantánamo camp for asylum-seekers who are HIV-positive and for their dependants;

- note that US public health officials have drawn attention to the particularly vulnerable state they are in, the unsuitability of Guantánamo for holding a large number of HIV-positive people, and the urgent need of certain of the asylum-seekers for special medical care on the mainland;
- urge that the asylum-seekers at Guantánamo, particularly those needing AIDS-related medical care, are guaranteed immediate access to appropriate medical attention and to appropriately hygienic conditions which are not available at Guantánamo;
- express your concern at the effect of the six week hunger strike on the health of the asylum-seekers at Guantánamo;
- express concern that the asylum-seekers have been given no guarantee that they will not be forcibly returned to Haiti and that they are not being allowed to proceed to the USA (where adequate legal advice would be available) for a full hearing of their asylum claims;
- urge that they be allowed to proceed to the USA under a parole program so that they may pursue their asylum claims with adequate legal advice and so that they may receive proper medical care.

If you wrote previously, you should mention this fact and renew your appeal for the Haitian asylum seekers to be given the chance to pursue their legal claims for asylum on US soil. You should express grave concern at the effect of the prolonged hunger strike and urge the US administration to act promptly to reverse the current policy of exclusion and thus to save the lives of those currently at risk, both of HIV-related illness and hunger-strike-related malnutrition and other problems. You could refer to the possibility of admission by humanitarian parole which is within the power of the administration to grant. If you raised the cases of the four men reported to have T-4 cell counts below $60 \mu\text{l}^{-1}$, you could repeat your expression of concern and widen it to cover all those having full-blown AIDS.

Addresses

President Bill Clinton
The White House
Office of the President
1600 Pennsylvania Avenue
Washington D.C. 20500
USA

(Dear Mr President)

Tel: +1.202. 456 1414
Fax: +1.202. 456 2461
Telex: ITT 440074

The Hon. Warren Christopher
Secretary of State
2201 C Street, N.W.,
Washington D.C. 20520
USA

(Dear Secretary of State)

Tel: +1.202. 647 4910
Telex: ITT 440080 SECSTATE

COPIES to any of the following addresses:

Janet Reno
Attorney General
Department of Justice
10th Street & Constitution Ave., N.W. Tel: +1.202. 514 2000
Washington D.C. 20530 Fax: +1.202. 514 4699
USA Telex: TWX 710 822 1907

Christine Sale
Acting Commissioner
Immigration & Naturalization Service
425 Eye Street, N.W.,
Washington D.C. 20536
USA

Senator George J. Mitchell (Senate Majority Leader)
176 Russell Senate Office Building
Washington, DC 20510-1902
USA

Congressman Thomas S. Foley (Speaker of the House)
1201 Longworth House Office Building
Washington, DC 20515-4705
USA

Congressman Kweisi Mfume (Chair of Congressional Black Caucus)
2419 Rayburn House Office Building
Washington, DC 20515
USA

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MEDICAL AND LEGAL CONCERN

Further information on Haitian asylum-seekers USA (Guantánamo)

[See AMR 51/02/93, 2 February 1993]

On 2 February 1993, Amnesty International published a statement of concern about some 230 HIV-positive asylum-seekers, together with more than 40 dependents (currently 213 HIV-positive and 39 dependents), fleeing possible political persecution in Haiti who were being kept at the US Naval Base at Guantánamo on the southeast coast of Cuba. Several of these had developed full-blown AIDS. The asylum-seekers, all of whom are accepted by US immigration authorities as having a plausible claim for refugee status, have received no assurances that they will not be sent back to Haiti and are being excluded from entry to mainland USA solely on the basis of their HIV status. Amnesty International believes that this exclusion is contrary to international standards dealing with the protection of asylum-seekers. The organization is also concerned that the conditions at Guantánamo, including the holding in close proximity of a large number of affected individuals, potential hygiene problems and the lack of adequate medical care, could constitute cruel, inhuman or degrading treatment, particularly in the case of those with AIDS.

The Haitian asylum-seekers undertook a hunger strike in support of their cause on 28 January 1993 and continued it for six weeks. On Wednesday 10 March 1993, 11 asylum-seekers reportedly "escaped" from the camp; they were caught the following morning and detained. The 11 detainees were returned to the camp after a protest by some of their compatriots. On Friday evening there were apparently further attempted escapes. The camp authorities then ordered a count of the Haitians which was attempted before dawn on the following morning, Saturday 13 March, by a large number of soldiers. This resulted in an angry response from the Haitians; reports suggest that 12 of the 47 camp huts were burned down and that at least 30 people were arrested and placed in a holding centre.

On 15 March 1993 in the East District Court in New York, a case being brought in support of the asylum-seekers heard evidence from Bob Begleiter, assistant US attorney, who told the court:

"These doctors [military doctors at Guantánamo] will testify that the medical facilities at Guantánamo are not presently sufficient to provide treatment for such AIDS patients under the medical care standard applicable within the United States itself." [*Miami Herald*, 16 March 1993]

The US President, Bill Clinton, has said that he is not in favour of maintaining HIV-positive status as an automatic bar to entry into the USA and, in late January, gave notice that he intended to remove HIV status and all other diseases apart from tuberculosis from the regulations defining exclusion criteria. The US Senate, however, voted on 18 February 1993 to impede this revision by attaching an immigration measure to a bill on funding for the National Institutes of Health which had the effect of requiring a change to the law to modify current immigration rules. On 11 March 1993, the House of Representatives voted by 356 votes to 58 to support maintaining the ban on the entry of HIV-positive people. The resolution, though non-binding, is probably a clear indicator of House sentiment against a change in policy. Although the administration's scope for action is limited by the Senate resolution and possible House approval of the Senate resolution, there remains the possibility for the President to admit the HIV-positive asylum-seekers through a "parole" measure. This allows for the admission of excluded individuals into the USA on humanitarian grounds.

Amnesty International is reiterating its appeal that the US administration permit the entry of the Haitian asylum-seekers held at Guantánamo onto the US mainland in order to pursue their asylum claims with effective legal advice and to obtain access to adequate specialist medical care.

The US authorities are reported to have admitted 22 Haitians with AIDS into the US for medical treatment over the last year on a case-by-case emergency basis though others regarded by doctors as seriously affected by AIDS have not been admitted.

(END)