

PUBLIC

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14 December 2001

Further information on UA 294/01 (AMR 38/026/2001, 26 November 2001) - Forcible return of asylum seekers

JAMAICA6 Haitian asylum seekers (one child, two women, three men)

The six Haitian nationals had their applications for asylum rejected by the Jamaican authorities on 7 December. They reportedly had no access to a full and fair refugee determination procedure. Amnesty International has longstanding concerns about human rights violations in Haiti, and fears their lives may be in danger if they are returned.

The six had arrived in Falmouth on 18 November, after their boat, headed for the USA, drifted to Jamaica. The reported 125 others on board were returned to Haiti on 24 November. Some had told journalists they feared they would be tortured or killed on their return.

In a response to appeals by UA network members dated 28 November, a representative from the Ministry of Foreign Affairs defended the government's treatment of the asylum seekers, stating that the government of Jamaica complied fully with its obligations under the 1951 Convention and the 1967 Protocol and strictly followed the 1988 UNHCR Manual on Criteria and Procedures for Determining Refugee Status. The representative also stated that Amnesty International had acted on the basis of inaccurate information and that: "it is my hope that in the future you will appreciate our right to be heard before judgement and that you will be more careful to search for the truth."

In its reply, Amnesty International welcomed the government's commitment to uphold its obligations under international refugee law, and asked for further information on the implementation of these obligations. In particular, Amnesty International asked for clarification of reports that the Haitians had been denied access to legal assistance, interpreters and UNHCR officials, had been interviewed by police officers and immigration officials who had not been trained in the requirements of the Convention, and had not been given access to an effective refugee status determination procedure which included the possibility to appeal against judgement.

Amnesty International also confirmed that the allegations had been thoroughly cross-referenced and confirmed with a variety of sources, before they were presented to the Jamaican authorities.

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.

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

- welcoming the government's stated commitment to uphold its obligations under international refugee law;
- in the light of this expressed commitment, urging the authorities to ensure that the six remaining Haitian nationals are granted immediate access to a full and fair refugee status determination procedure, including the possibility of appeal against judgement, and access to legal assistance, interpreters and an effective appeals process;
- urging that none of them are returned to Haiti until this takes place;
- asking them to respect their international obligations as a state party to the Refugee Convention, in particular the principle of *non-refoulement*.

APPEALS TO:

Minister of Foreign Affairs and Trade

The Honourable K.D. Knight

Ministry of Foreign Affairs and Trade

21 Dominica Drive

P.O. Box 624

Kingston 5

Jamaica

Fax: + 1 876 929 5112/6733

Salutation: Dear Minister

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 25 January 2002.