

**PLEASE DRAW THIS TO THE ATTENTION OF THE HAITI, REFUGEE, AND CARRAN COORDINATORS
IN YOUR SECTION FOR IMMEDIATE ACTION.**

EXTERNAL (for general distribution)

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20 December 1991

**Further information on UA 403/91 (AMR 51/61/91, 20 November 1991) - Refoulement
(forcible return)**

USA:Haitian asylum seekers

On 17 December an appeal court in Atlanta lifted the injunction made by a Federal Court in Miami on 19 November which had for the time being barred the United States (US) Government from continuing to forcibly return Haitian asylum-seekers to Haiti. This will enable the US authorities to resume the forcible return of asylum-seekers to Haiti, and it is expected that such returns will commence imminently.

Amnesty International is concerned that there is a grave risk that those returned could include many people who would be at risk of serious human rights violations in Haiti.

Article 33 of the United Nations Convention relating to the Status of Refugees, which is binding on the US, prohibits *refoulement* -- the forcible return of any person to a country where they risk serious human rights violations. In order to ensure that such people are properly identified and given effective protection from such forcible return, it is essential that the US Government grants all asylum-seekers access to a full and fair procedure for determining the merits of their asylum claims. Amnesty International is concerned that the US Government has not given any such opportunity to the Haitian asylum-seekers currently wishing to seek protection in the United States. They are "screened" at Guantanamo, the US naval base in Cuba, in order to ascertain whether they are likely to have a claim for asylum and so may be allowed to proceed to the United States to lodge their asylum claim; others are liable to be returned to Haiti. But this screening procedure lacks certain essential safeguards which must be allowed to asylum-seekers and which are required by international standards. These essential safeguards include the right of every asylum-seeker to legal advice and, if their application for asylum is rejected, the right to have an effective review of their case before being expelled from the country where they seek asylum.

BACKGROUND INFORMATION:

Following a violent coup in Haiti on the night of 29 to 30 September, after which hundreds of people were wounded and killed and hundreds more imprisoned or ill-treated, thousands of Haitians left the country by boat to get to the United States. Over 7,000 have been intercepted by US Coast Guard Ships before

reaching US territorial waters, and over 5,500 are currently accommodated at Guantanamo, the US naval base in Cuba.

On 18 November the US Government announced that only those who may be able to qualify for asylum would be allowed to proceed to the US to lodge an asylum claim, and by mid-December over 700 such people had been identified. The US Government's announcement of 18 November stated that the others, apart from those who had been granted temporary refuge by other countries in the region, would be returned to Haiti.

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On 18 and 19 November the US authorities returned over 500 asylum-seekers to Haiti.

The US Government has stated that it does not believe that the asylum-seekers would face persecution if returned to Haiti, and has expressed the view that many of them are economic migrants who have left the country because of the deterioration of economic conditions as a result of the trade embargo imposed by the Organization of American States in protest against the coup. Amnesty International remains concerned that, contrary to statements made by the US Government, widespread and severe human rights violations in Haiti continue to occur, and that those who have tried to leave the country following the coup could be perceived as government opponents and, as such, become targets for abuses perpetrated by the security forces and armed civilians acting with them.

Since September 1981 a bilateral agreement between the governments of the US and Haiti has permitted the US authorities to intercept outside US territorial waters those Haitians travelling to the US and to return them to Haiti. The US Government contends that under this arrangement no one is sent back who may have a legitimate claim to refugee status. However, of the more than 20,000 Haitians interviewed at sea in the ten years from September 1981 to September 1991, only about 30 were permitted entry to the US to pursue their asylum claim.

FURTHER RECOMMENDED ACTION: Telegrams/telexes/telephone calls/faxes/express and airmail letters:

- expressing concern that the US government may be returning refugees to Haiti without giving them a full and fair examination of their reasons for fearing to return to Haiti;
- stressing the US Government's obligation under international law not to return people to countries where they risk serious human rights violations, and that this requires that all asylum-seekers be provided with access to a full and fair asylum procedure;
- pointing out that a full and fair asylum procedure must include certain procedural safeguards, such as access to legal advice and the opportunity to have an effective review of a negative decision;
- urging the US Government not to forcibly return any asylum-seekers to Haiti before they have had their application examined in a full and fair asylum procedure, and under no circumstances to return any Haitians who would be at

risk of human rights violations.

APPEALS TO:

1) The President of the USA:

George Bush

Head of State

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Telegrams: President Bush, Washington DC 20500, USA

Telephone: + 202 456 1414

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Telexes: ITT 440074

[Salutation: Dear Mr President]

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2) Secretary of State:

James Baker

Secretary of State

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Washington DC 20520, USA

Telegrams: Secretary of State Baker, Washington DC 20520, USA

Telephone: + 202 647 4910

Telexes: ITT 440080 secstate

[Salutation: Dear Secretary Baker]

3) Attorney General:

William P Barr

Attorney General Designate

Department of Justice

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[Salutation: Dear Mr Barr]

COPIES TO:

Gene McNary

Commissioner
Immigration and Naturalization Service (INS)
425 Eye Street N.W.
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Washington Post (newspaper)
Washington Post Co
1150 15th St
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New York Times (newspaper)
The New York Times Co
229 W 43 St
New York, NY 10036, USA

Haiti en Marche (newspaper)
173 N.W. 94 St
Miami
FL 33150, USA

and diplomatic representatives of the USA in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
of your section office, if sending appeals after 31 January 1992.