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The Bahamas: Asylum-Seekers at Risk

Amnesty International and the Forced Migration Projects of Open Society Institute (the Projects) are concerned that the Government of the Bahamas is not fulfilling its obligations as a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Refugee treaties).

The government is not ensuring that all asylum-seekers, and in particular Cuban and Haitian nationals, arriving in the Bahamas seeking refuge are afforded meaningful access to a full and fair procedure to determine whether they are in need of international protection.

Rather, it appears that men, women and children arriving from Cuba and Haiti are routinely detained in squalid and unsanitary conditions which fail to meet international standards. People who have sought protection in the Bahamas have reported that they have not been informed of their rights or of the procedures for requesting protection as refugees. They have no access to legal counsel and reportedly are not informed of their right to consult with UNHCR. Interviews conducted by representatives of the Department of Immigration, when provided, are reportedly cursory: some people were asked only their name, age, nationality and last address in their country of origin. When some tried to inform a representative of their reasons for seeking asylum, they reported that the representative said that nothing could be done and refused to hear their claims. According to the government, determinations are made on the basis of these interviews.

The government reports that claims which appear to be well-founded are forwarded to an inter-departmental governmental committee and then referred to the Ministry of Foreign Affairs for determination, although there are no written guidelines. A denial of protection may not be appealed, in violation of standards for refugee protection.

In addition, the Government of Bahamas has entered into a repatriation agreement and protocol with the Government of Cuba. In accordance with these agreements, which contain no references to its obligations under the Refugee treaties, the Government of the Bahamas has agreed to provide the Cuban authorities with the names, sex, date and place of birth and last known address in Cuba, of all "Cuban illegal emigrants who arrive in its territory" within a maximum of 72 hours of their arrival and to repatriate them within not more than 15 days.

Amnesty International and the Projects are concerned that the time limits imposed by the agreement between the Bahamian and Cuban Governments and the practices described above render a full and fair determination of a claim for protection highly improbable. Consequently, there are concerns that persons at risk of serious human rights violations may be forcibly returned to Cuba without any opportunity for a full and fair determination of their claim.

In view of concerns that people were not being afforded facilities and a full and fair procedure to determine whether they were in need of international protection and that as a consequence people face risk of *refoulement*, the Inter-American Commission on Human Rights has requested that the Government of the Bahamas suspend deportation of Cuban asylum-seekers. This request was made by the Commission on 14 August 1998 in accordance with its authority to issue precautionary measures, after consideration of a petition filed by the Projects and the Center for Justice and International Law. As of 24 September 1998, however, the Government of the Bahamas had not replied to the Inter-American Commission on Human Rights' request.

In view of their deep concerns Amnesty International and the Projects urge the Government of the Bahamas to take all necessary steps to ensure that all foreigners arriving in the territory are treated in accordance with the dictates of international human rights standards.

The organizations call on UNHCR to continue to engage the Government of the Bahamas in dialogue and to continue to work with them to ensure that the government is fulfilling its international obligations with respect to the treatment and protection of asylum-seekers entering the Bahamas.

Given the regional dimension of the problems, the organizations also urge the Governments of the United States and the United Kingdom to render appropriate assistance to facilitate the Government of the Bahamas in meeting its obligations of ensuring that all asylum-seekers arriving in the Bahamas are treated in accordance with international standards.

Such standards guarantee that: all asylum-seekers are afforded adequate time and facilities to present their claims for refuge in the course of full and fair procedures to determine whether they are in need of international protection, such people are detained only in narrowly prescribed circumstances and as last resort and, if detained, they are treated humanely and in conditions which ensure respect for the inherent dignity of the human person.