

EXTERNAL (for general distribution)

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*Please bring this urgent action to the attention of the refugee coordinator and the CARRAN coordinator in your section for immediate action*

UA 403/91      *Refoulement (forcible return)*

20 November 1991

**USA:                    Haitian asylum-seekers**

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Amnesty International is extremely concerned that the United States (US) authorities returned over 500 Haitian asylum-seekers to Haiti on 18 and 19 November, after intercepting their boats en route to the United States. The organization is also concerned at the US authorities' announced intention to return hundreds more asylum-seekers to Haiti in the near future.

In a violent coup in Haiti on the night of 29 to 30 September, troops overthrew the elected government of President Jean-Bertrand Aristide, who had taken office in Haiti on 7 February 1991. Since then Amnesty International has repeatedly expressed its concern at widespread human rights violations committed by the security forces, including hundreds of extrajudicial executions, beatings, and widespread arbitrary arrests. Most of the victims have been supporters of President Aristide or people whom the new authorities in Haiti believe to be Aristide supporters, such as residents of poor areas, members and leaders of grassroots organizations, members of the Catholic church, and members of President Aristide's government.

During October and November, in the weeks following the coup, over 2,000 Haitians who left the country by boat to try to get to the United States were intercepted by US Coast Guard ships before reaching US territorial waters. According to US State Department figures, about 500 of these asylum-seekers are currently held at Guantanamo, the US naval base in Cuba. On 18 November the US State Department 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 that about 50 such people had so far been identified; the others, part from those who had been granted temporary refuge by other countries in the region, would be returned to Haiti. Over 200 asylum-seekers were returned to Haiti on Monday 18 November, and about 300 the next day, 19 November. The remainder are held on US Coast Guard ships in the area. On 19 November a judge in Miami issued an order temporarily prohibiting the US authorities from returning any more asylum-seekers to Haiti pending further examination of the issue in several days' time.

The US State Department, in its 18 November announcement, stated that it does not believe the asylum-seekers sent back to Haiti would face persecution there. However, in light of the current disturbances and widespread and severe human rights violations in Haiti, Amnesty International is seriously concerned 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. Indeed, in past years, Amnesty International knew of several cases where asylum-seekers who had been refused asylum in the United States and returned to Haiti were imprisoned and in some cases ill-treated on their return. Amnesty International therefore believes that large numbers of those who have fled Haiti in recent weeks could indeed be at risk of serious human rights

violations if returned there.

Amnesty International's concern on this point is heightened by a recent report, as yet unconfirmed, that on the morning of 15 November a group of Haitian military officers, some uniformed and some in plain clothes, arrested several young men in the poor district of Cité Soleil, in Port-au-Prince, whom they suspected of preparing to leave the country. The youths were reportedly severely beaten in full view of Cité Soleil residents and were forced to identify the houses of other youths who were thought to be getting ready to leave. About 40 youths were taken away, and their current whereabouts are not known.

The US State Department has indicated that, with the exception of the 50 who have been allowed to proceed to the US to apply for asylum there, none of the Haitians returned have any claim to asylum. However, Amnesty International is concerned that 500 have been returned, and others may be returned in future, without a full and fair examination of their reasons for fearing to return to Haiti.

Article 33 of the 1951 United Nations Convention relating to the Status of Refugees, to which the US is a party, prohibits 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 protection from 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 claim.

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" by US officials on board US Coast Guard vessels in order to ascertain whether they are likely to have a claim for asylum, but this screening procedure lacks essential safeguards which must be allowed to asylum-seekers and which are required under 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:**

Since September, 1981, a bilateral agreement between the governments of the US and Haiti has been in force which permits the US authorities to intercept Haitians travelling to the United States, outside US territorial waters, and 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 claims.

In its statement of 18 November the US State Department said that the US authorities "fear that any action by the United States to bring large numbers of Haitians without claim to asylum to the United States would create a massive outflow, resulting in large numbers of deaths on the High Sea." In recent weeks the US authorities have asked other countries in Latin America and the Caribbean to accept the Haitian asylum-seekers. Honduras has agreed to provide temporary refuge for 250 of those from the Guantanamo base, but the Honduran authorities have stated that after three months they would have to leave the country, either to return to Haiti, or to go to a third country. Venezuela, Trinidad and Tobago and Belize have also reportedly agreed to grant temporary refuge to some of the asylum-seekers.

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

- expressing concern that 500 Haitian asylum-seekers were returned to Haiti without being given 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; and that these requirements cannot be satisfied when a procedure is held on ships at sea;
- urging the US Government not to forcibly return any asylum-seekers to Haiti before they have had their application for asylum 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

**Dear Mr President**

Head of State

The White House, Office of the President

1600 Pennsylvania Ave

Washington DC 20500, USA

**Telegrams: President Bush, Washington DC 20500, USA**

**Telephone: + 202 456 1414**

**Faxes: + 202 456 2461**

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2) Secretary of State:

James Baker

**Dear Secretary Baker**

Secretary of State

2201 C Street, N.W.

Washington DC 20520, USA

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

**Telephone: + 202 647 4910**

**Telexes: ITT 440080 secstate**

3) Attorney General Designate:

William P Barr

**Dear Mr Barr**

Attorney General Designate

Department of Justice

10th Street and Constitution Ave N.W.

Washington DC 20530, USA

**Telegrams: Mr Barr, Department of Justice, Washington DC 20530, USA**

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**COPIES TO:**

Gene McNary

New York Times (newspaper)

Commissioner

The New York Times Co

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Service (INS)

New York, NY 10036, USA

425 Eye Street N.W.

Washington DC 20536, USA

Washington Post (newspaper)

Haiti en Marche (newspaper)

Washington Post Co

173 N.W. 94 St

1150 15th St

Miami

NW, Washington, DC 20071, USA

FL 33150, USA

and to diplomatic representatives of the USA in your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Please check with the International Secretariat, or your section office, if sending appeals after 1 January 1992.