

Public Statement

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Letter to Prime Minister of Bahamas

The Honourable Hubert Ingraham
Sir Cecil V. Wallace Centre,
PO Box CB 10980,
Naussau,
The Bahamas. 4 February 2002

Dear Prime Minister,

We note with concern the interception and detention of 226 Haitian nationals off the coast of the Bahamas on 30th January 2002. According to reports, this brings the total number of arrivals for the month of January to nearly 800.

We understand that the Haitians include pregnant women and children and that they are arriving in desperate, dangerous and overcrowded conditions.

We wish to raise with you the concern that they have full access to adequate procedures for claiming protection under the 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention) and its Protocol.

You will doubtless be aware that Amnesty International has long expressed concern about ongoing human rights violations and political violence in Haiti.

The situation has further deteriorated in recent weeks following an armed attack, by unidentified armed assailants, on the National Palace in Port-au-Prince on 17th December. Information we have points to numerous subsequent acts of targeted violence at the hands of armed government supporters against perceived opponents. This has included attacks on reporters and radio stations.

We understand that you have expressed your own concern at the situation in Haiti and that your Minister for Immigration, Mr Earl Deveaux, also made mention of this when asked about the recent influx of Haitian. Mr Deveaux confirmed that the alleviation of this problem of immigration would come about only if Haiti made efforts to improve the democratic and electoral process.

Thus, given this climate of tension and violence in Haiti, and in accordance with the 1951 Refugee Convention and its Protocol, it is essential to ensure that the arrivals are made aware of, and have access to, a fair and satisfactory asylum procedure in accordance with international standards.

As a signatory party to the Convention and its Protocol, the Bahamas has obligations under international law. Under the principle of non-refoulement, enshrined in Article 33 of the Refugee Convention, the Bahamas' is obliged to ensure that no person is forcibly 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". Implicit in this principle is the necessity to establish a fair and satisfactory asylum procedure (including the right to appeal) to identify those in need of international protection.

Thus, we are alarmed to hear that some Haitian arrivals are being deported very shortly after their arrival raising doubts about whether a fair and satisfactory asylum procedure can have been completed.

In the circumstances, we would be grateful if you could provide us with more detailed information as to the Bahamas' compliance with her international obligations. In particular, we would be obliged if you could confirm that:

1. Asylum seekers are not returned to Haiti until their individual asylum claims have been fully examined and they have been given an opportunity to appeal;
2. Arrivals are made aware of their rights and have adequate access to qualified interpreters and to legal advice concerning the possibility of making a claim for asylum;
3. Those who wish to claim refugee protection are granted immediate access to a full and fair procedure, including an effective appeal process;
4. Asylum seekers are not detained unless unavoidable, in accordance with Conclusion no.44 adopted by the states participating in the United Nations High Commissioner for Refugees (UNHCR) Executive Committee in 1986;
5. If it is detention is considered unavoidable, then please confirm that asylum seekers receive adequate medical care and treatment and are not held in detention with convicted prisoners
6. Children under the age of 18 are not detained. This would be contrary to the UNHCR's February 1999 Guidelines relating to the Detention of Asylum Seekers and the international obligations incurred under the Convention on the Rights of the Child.

We fully appreciate the heavy burden placed upon the Bahamas because of this crisis. We understand that some \$200,000 has already been spent this month on repatriation costs alone. However, we are sure that you will agree that the solution should not entail breaches of the Bahamas' obligations under the Convention, but requires, as the Preamble to the Convention states, "international cooperation".

We thank you for your consideration of the matters raised and look forward to your prompt response.

Yours sincerely,

For Irene Khan, Secretary General

To link to media advisory on the refugee crisis in Bahamas:

<http://web.amnesty.org/web/news.nsf/weball/C746337815BC65AC80256B57005519D8>

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