

£UNITED STATES OF AMERICA/HAITI

@The price of rejection - Human rights consequences for rejected Haitian asylum-seekers

As the United States (US) continues with its policy of intercepting Haitians at sea, those who are forcibly returned face the threat of serious human rights violations. Others, who make their asylum-claims in Haiti, may have to wait months for an interview, have to live in hiding and may face rejection of their claim in spite of repeated persecution, threats, arrests, ill-treatment or torture¹.

President Aristide ends 1981 agreement with US Government

On 4 April 1994 President Jean-Bertrand Aristide notified the US Government that he was to end the 13-year-old bilateral agreement concerning the interdiction and return of Haitians by the US Coast Guard. Since the signing of the agreement on 23 September 1981, the US Government has used this agreement as legal justification for its policy of intercepting Haitians at sea and returning them to Haiti. President Aristide sent a letter to President Clinton giving the required six-month notice to terminate the agreement. However, the US Coast Guard has continued its interceptions as before and there are fears that it may continue beyond the six-month notice period.

President Aristide apparently decided to end the agreement because of the lack of any progress being made to return him to power and because of a recent upsurge in killings of his supporters in Haiti².

President Aristide, overthrown by a military coup in September 1991, was due to return to power on 30 October 1993, according to the 3 July 1993 agreement signed by him and

¹ For further information on the US policy on Haitian asylum-seekers, see *Forcible return of Haitian asylum-seekers by the United States*, AMR 51/07/94, January 1994.

² (See UA 166/94, AMR 36/21/94, 27 April 1994, UA 163, AMR 36/20/94, 26 April 1994, UA 151/94, AMR 36/18/94, 15 April 1994, UA 147/94, AMR 36/17/94, 14 April 1994, UA 142/94, AMR 36/16/94, 8 April 1994, UA 132/94, AMR 36/15/94, 31 March 1994, UA 62/94, AMR 36/08/94, 18 February 1994 and follow-up AMR 36/12/94, 11 March 1994, UA 42/94, AMR 36/07/94, 9 February 1994 and follow-up AMR 36/09/94, 4 March 1994 and UA 32/94, AMR 36/06/94, 1 February 1994).

Commander-in-Chief of the Armed Forces, General Raoul Cédras. However, this did not happen and there has been no indication of any other firm date being set for his return. General Cédras and Police Chief Michel François are effectively ruling the country and widespread human rights violations continue to occur.

The US Government's policy of intercepting and forcibly returning Haitian asylum-seekers violates international standards for the protection of refugees, and puts Haitians at risk of serious human rights violations.

New Bill introduced in the US Congress

A new bill (H.R. No. 4114), cited as the "Governors Island Reinforcement Act of 1994", has recently been introduced by Representative ³ Ronald Dellums, a member of the Congressional Black Caucus (CBC)⁴. This bill is to "provide for sanctions against Haiti, to halt the interdiction and return of Haitian refugees, and for other purposes". The bill calls on the US President to notify the Government of Haiti immediately that the 1981 bilateral agreement is to be terminated. It also states, *inter alia*, that:

"The US Government shall not return ... to Haiti a national or habitual resident of Haiti, who is outside the territorial boundaries of Haiti,... unless the US Government first determines in a manner that incorporates procedural safeguards consistent with internationally endorsed standards and guidelines that such individual is not a refugee of Haiti under Article 1 of the Convention Relating to the Status of Refugees as applied under Article 1 of the United Nations Protocol Relating to the Status of Refugees or a person designated under Article 33 of the Convention Relating to the Status of Refugees."

The same obligations would be provided for Haitians within the territorial waters of Haiti. This bill apparently has the backing of the whole of the CBC.

Bill H.R. 3663, known as the "Haitian Refugee Fairness Act", introduced earlier by Representative Carrie Meek of Florida, apparently has over 75 co-sponsors. However, it is hoped that more representatives will support the bill. The Washington office of the United Nations High Commissioner for Refugees (UNHCR) wrote a letter to Carrie Meek expressing its support of Bill 3663⁵.

³ House of Representatives of the US Congress.

⁴ The CBC is a grouping of black members of the US Congress.

⁵ This bill aims, *inter alia*, to "reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States".

Further opposition to US policy

The CBC are also apparently backing the hunger-strike of Randall Robinson, Executive Director of the human rights group TransAfrica, based in Washington. Randall Robinson, who reportedly began his hunger-strike on 12 April 1994, has vowed that he will continue until the US administration ends its policy of summarily returning Haitian asylum-seekers. Randall Robinson previously led a campaign of civil disobedience in front of the South African Embassy, which is generally believed to have helped convince Congress to pass sanctions against South Africa with the Anti-Apartheid Act of 1986.

Besides the backing of the CBC, his hunger-strike is also backed by a US group calling itself 'Artists for Democracy in Haiti', which includes many US celebrities, including Jonathan Demme, Robert De Niro, Paul Newman, Susan Sarandon, Harry Belafonte, Gregory Peck, Julia Roberts, Richard Gere, Robin Williams, Joanne Woodward, Jason Robards and Spike Lee. This group has begun an advertising campaign suggesting that the administration's policy toward Haitian asylum-seekers is racist.

Worsening of human rights situation in Haiti

According to human rights groups in Haiti there has been an increase in the number of arrests and killings of Aristide supporters in recent weeks. The United Nations (UN)/Organisation of American States (OAS) human rights observer mission in Haiti recently announced that there have been at least 150 apparent extrajudicial executions recorded in the country since the end of January 1994, as well as a rise in the number of rapes and kidnappings.

Recent cases of arrest/ill-treatment of forcibly returned Haitian asylum-seekers

Several Haitian asylum-seekers have recently been arrested or ill-treated by the Haitian military after being forcibly returned to Haiti by the US Coast Guard. According to the National Coalition for Haitian Refugees (NCHR), from the beginning of 1994 until 4 May, 139 of the 904 Haitians forcibly returned have been arrested on dock. On only two occasions were there no arrests, on 19 February and 29 March, but on both these dates returned asylum-seekers were ill-treated (see below). Although some of those arrested are released quickly (usually after paying extortion fees), others remain in prison for weeks. None of those arrested after forcible return have been tried.

Most must pay to be released, often after being ill-treated whilst in detention. It is difficult to gain reliable information on the condition of those detained because, since February 1994, the military authorities have not permitted US officials nor representatives of the UN/OAS International Civilian Mission to visit the detained asylum-seekers.

According to an affidavit made available to Amnesty International of a former US Coast Guard interpreter, on 10 February 1994 sixty-four Haitian asylum-seekers were interdicted inside US territorial waters (not provided for in the May 1992 "Kennebunkport Order"⁶) and then forcibly returned to Haiti. All were reportedly residents of Cité Soleil, on the outskirts of Port-au-Prince, who had fled the area following an attack which took place on 27 December 1993 by members of the *Front Révolutionnaire pour l'Avancement et le Progrès Haïtien* (FRAPH), Revolutionary Front for the Advancement and Progress of Haiti⁷. Some 5,000 inhabitants of Cité Soleil were victims of this attack in which some 250 homes were destroyed by fire and dozens of people were killed or "disappeared". During the attack, in which many people were beaten, shot dead or burnt, the perpetrators are reported to have ordered firemen to go away, claiming that they were not needed. According to the US Coast Guard interpreter, the asylum-seekers told him that "in December 1993 every last one of their homes in Cité Soleil had been violated in some way, burnt out, their parents and relatives killed by military and *attachés* who were killing, burning and ransacking and violating them and their neighbours, terrorizing and intimidating them, and that that is why they fled... When I told the Haitians they were going back to Haiti, some seemed in shock, others cried, all were extremely upset. Many talked of jumping overboard".

According to reports, on 19 February a Haitian was beaten with a baton by a Haitian policeman after being forcibly returned by the US Coast Guard along with 97 other Haitian asylum-seekers.

141 Haitian asylum-seekers were forcibly returned on 26 February, nine of whom were arrested by the Haitian armed forces. They were attempting to flee Haiti by a boat which left from the northern town of Port-de-Paix on 24 February. All were subsequently released (see UA 90/94, AMR 36/10/94, 4 March 1994 and follow-up AMR 36/14/94, 28 March 1994).

On 23 March 244 Haitian asylum-seekers were forcibly returned, six of whom were detained for at least one week. By 15 April the US Embassy in Port-au-Prince had reported that they had all been released.

On 29 March 40 asylum-seekers were returned to Haiti by the US Coast Guard. In contrast to other recent cases of forcible return by the US, on this occasion no one was detained, although three men, including 26-year-old **Luckner Joseph** and a 16-year-old boy, were held briefly at the dock for questioning. A port security official in civilian clothes reportedly proceeded to press two of his fingers deep into the right eye of Luckner Joseph, in the

⁶ On 24 May 1992 President George Bush issued Executive Order 12,807, known as the "Kennebunkport Order", under which all Haitians intercepted at sea outside US territorial waters would be forcibly returned direct to Haiti.

⁷ This group is the political mouthpiece of the *attachés*, who are armed auxiliaries to the security forces.

presence of a member of the NCHR. Following this incident the military briefly suspended the practice of arresting forcibly returned asylum-seekers.

However, one week later, on 5 April, nine forcibly returned Haitians were arrested from a group of 79 asylum-seekers. According to the US Embassy in Port-au-Prince, all were subsequently released. In addition, on 8 April ten Haitians who had departed from Petite Rivière de Nippes were forcibly returned by the US Coast Guard, all of whom were arrested by Haitian police and transported to the Immigration and Identification Police. Three of these, all of whom are brothers, **Ernst, Camille and Wilfrid Alexandre**, were not released until the end of April.

On 22 April 15 Haitian asylum-seekers were forcibly returned to Haiti, eight of whom were arrested. Some of these were released later that day, but others remained in prison for several days before being released. On 25 April eighteen asylum-seekers were arrested, following the forcible return of 180 Haitians. All were released by 3 May.

According to the NCHR, this brings the number of asylum-seekers forcibly returned to Haiti by the US Coast Guard since President Aristide's overthrow in September 1991 to 31,938. Of these, 7,832 have been returned since the 1992 "Kennebunkport Order". They also maintain that there are presently some 55,000 asylum applications being processed through the 'in-country processing system'⁸. Some 1,000 of these applicants have been granted refugee status to go to the US.

Killing of Oman Desanges following his forcible return to Haiti by the US authorities

A few days after the September 1991 coup soldiers attempted to arrest 27-year-old Oman Desanges, President of the *Association des Jeunes Progressistes de Martissant* (AJPM), Young Progressive Association of Martissant, a leading neighbourhood committee which he founded in 1990. However, he and his family managed to flee Port-au-Prince and went into hiding until February 1992 when they left Haiti by boat. They were interdicted by the US Coast Guard and taken to the US naval base at Guantánamo Bay, Cuba, in mid-February 1992. Oman Desanges, his brother Ronald Desanges and his sister had their cases approved to go to the US to lodge an asylum-claim. Although Ronald Desanges was taken to Miami, Oman Desanges, his children and his sister were returned, apparently mistakenly, to Haiti on

⁸ The only option presently available to Haitians seeking asylum in the US is the in-country processing (ICP) system, established in February 1992, under which officials of the International Organization for Migration (IOM) and in Cap-Haïtien (North department) and Les Cayes (South department) two US non-governmental voluntary agencies, on behalf of the US authorities, interview Haitian asylum-seekers in Haiti in order that a decision can be made as to whether they qualify for an interview with the US Immigration and Naturalisation Service (INS) which will then decide whether they will be granted protection in the US.

12 May 1992. His other brother was also forcibly returned, but it is not clear whether his case had been approved to go to the US.

Almost two years later, on 26 January 1994, the body of Oman Desanges was discovered near the international airport, just outside Port-au-Prince, with his eyes gouged out, his ear cut off, his stomach split, his hands tied and a cord around his neck. There was also a red handkerchief around his arm marked "President of the Red Army" and "*Indigent Lavalasement*" (*Lavalas* is the political movement that supports President Aristide, *indigent* means destitute).

According to reports, on 24 January 1994 soldiers and *attachés* had arrested Oman Desanges at his home in Martissant, Port-au-Prince. Whilst in detention he was reportedly blindfolded, beaten, macheted, knifed and then shot dead. On 26 January his brother went to the "*poste*" (security force detention centre) where Oman Desanges had been taken and asked where he was. An *attaché* reportedly shot Oman Desanges' brother in his hand. The body of Oman Desanges was subsequently discovered. The *attachés* reportedly returned to the Desanges household later that day and searched and ransacked it. Neighbours said that the *attachés* said they were looking for the brother and sister of Oman Desanges "to prevent them from taking revenge".

Other members of the AJPM, including its vice-president, secretary, treasurer and first delegate, were reportedly killed by the military during or just after the 1991 coup. The AJPM reportedly held regular meetings and cleaned the streets. Amnesty International is now extremely concerned for the safety of the relatives of Oman Desanges who remain in Haiti, as well as other members of the AJPM.

Some recent cases of rejected asylum-claims

According to a US State Department document which was issued to human rights organizations in Haiti, under the US 'in-country processing system', "Individuals in the following categories are eligible for refugee processing⁹: senior and mid-level Aristide government officials; close Aristide associates; journalists and educational activists who have experienced significant and persistent harassment by the de facto authorities, or who have a credible fear because of their activities; high profile members of political/development/social organizations who have experienced significant and persistent harassment by the de facto authorities, or who have a credible fear because of their activities; and, others of compelling concern to the US and in immediate danger because of their actual or perceived political beliefs or activities."

⁹ That is, they may have their asylum-claims considered.

According to the Haitian Refugee Center in Miami, asylum-claims made by family members of victims of human rights violations are rarely approved by the US Immigration and Naturalisation Service (INS). However, reports indicate that the persecution of relatives of Aristide supporters or activists is commonplace.

The following are some examples of cases of rejected asylum-claims which Amnesty International believes fall into the categories established by the US State Department or which concern people at risk of human rights violations.

Rejection of asylum-claim made by relatives of Elie Zéphir

Twenty-nine year-old Elie Zéphir, a former employee of the government of President Aristide and a democratic activist, was reportedly abducted and killed by *attachés* in November 1993. According to reports, on 3 November several *attachés* came to his home in Port-au-Prince. They reportedly broke down the front door and took Elie Zéphir away, in the presence of his mother and sickly father. A neighbour also claimed to have seen Elie Zéphir being lead away with his hands tied.

When Elie Zéphir's mother and brother-in-law went to the *Service d'investigation et de recherches anti-gang*, Anti-gang investigation and research service, in Port-au-Prince, and the local police station, they were told that Elie Zéphir was not there, but one officer agreed to make enquiries. When the relatives later returned to the police station, they were told by the officer that Elie Zéphir "no longer exists". Sources within the military apparently told the family that Elie Zéphir had been severely beaten and tortured and that he had been accused of being a *Lavalassien*, a supporter of President Aristide, before being taken away and executed.

From April 1982 until April 1988 Elie Zéphir was a soldier in the Haitian army, during which time he was reportedly arrested on several occasions for taking democratic positions in the course of conversations with other pro-Duvalierist¹⁰ soldiers. During the electoral period of December 1990 Elie Zéphir was president of a registration and voting office in the Fort National area. After the election he and other Aristide supporters apparently met with President Aristide at the National Palace, where the latter gave Elie Zéphir a letter of recommendation to obtain work at the Department of Defence and Interior, which he did. After the coup in September 1991, Elie Zéphir went into hiding for a period of time.

In November 1993, following the abduction and apparent extrajudicial execution of Elie Zéphir, an application was made by a US-based refugee centre to the International

¹⁰ François Duvalier and then his son, Jean-Claude Duvalier, ruled Haiti from 1957 until 1986.

Organization for Migration (IOM) on behalf of Elie Zéphir's relatives, requesting refugee protection for them under the ICP system.

In December 1993 members of the *Front Révolutionnaire pour l'Avancement et le Progrès Haïtien* (FRAPH), Revolutionary Front for the Advancement and Progress of Haiti, reportedly threatened a relative of Elie Zéphir. The FRAPH members were apparently looking for Elie Zéphir's nephew and brother.

In January 1994 further information was provided to the IOM regarding the relatives of Elie Zéphir. However, in March 1994 their asylum-claims were rejected by the Immigration and Naturalisation Service of the US Department of Justice.

Amnesty International is extremely concerned for the safety of the relatives of Elie Zéphir who remain in Haiti as their lives could be in danger.

Article in the Haitian exile newspaper Haiti en Marche, which describes Amnesty International's campaign to try and locate Elie Zéphir and establish his fate after his abduction in November 1993. (See also UA 400/93, AMR 36/33/93, 12 November 1993).

Rejection of asylum-claim made by Rochelin Moimeme

Since the September 1991 coup Rochelin Moimeme has been arrested, beaten and harassed on several occasions, apparently because of his support of President Aristide. His application for asylum was rejected by the US authorities in early 1994. Subsequently, on 21 April 1994, Rochelin Moimeme went to visit his parents in Port-au-Prince. Two armed men in civilian clothes reportedly came to the house in a military truck and threatened to arrest the elderly parents of Rochelin Moimeme if they did not say where their son was. The men apparently confiscated some pro-Aristide journals and said that Rochelin was a *Lavalassien* and that they would not rest until they found him.

Amnesty International is seriously concerned for the safety of Rochelin Moimeme and his relatives as their lives could be in danger.

Rejection of asylum-claim made by Jean Gerald Duverger, his family and the seven other leaders of the reforestation group 'UNPREN'

Since the September 1991 coup members of the *Unité nationale des progressistes pour le reboisement et de l'environnement* (UNPREN), National unity of progressives for reforestation and the environment, have been persecuted by the Haitian security forces. In July 1993 the *Chef de Section* (rural police chief) of Abricots (in Grande-Anse department) and his *adjoints* (aides) invaded and broke up a meeting of UNPREN members from six branches, accusing them of being *Lavalassien*. In October 1993 another UNPREN meeting held in Port-au-Prince was broken up by soldiers and *attachés* who beat Jean Gerald Duverger on his head, face and body, confiscated the group's documents and searched UNPREN members' houses. Family members were threatened during these raids.

Claims for asylum by UNPREN members and their relatives were rejected by the US authorities in April 1994. Amnesty International is seriously concerned for the safety of all members of UNPREN and their families.

Rejection of asylum-claim made by Célor Josaphat

Célor Josaphat is a supporter of *Lavalas* and a member of the *Rassemblement Paysant Perodin* (RPP), Perodin Peasants Association, a peasant organization working on human rights and literacy in Artibonite department. He was arrested by the military in November 1991 and accused of being a *Lavalassien*, along with several other members of the RPP. He was arrested again in October 1992 and whilst in detention was beaten on the head and chest, his ears were boxed and he was trampled upon by soldiers. As a result, his eardrums were burst and his arm was broken. He was released the following day after paying an extortion fee and had to spend several days in hospital. On 7 November 1993 Célor Josaphat and three other RPP members were arrested by the local *Chef de Section* in Perodin. Whilst in detention the

four men were kicked and beaten with batons. Célor Josaphat apparently lost consciousness as a result of the beatings. The following day the four men managed to escape and went into hiding. However, friends reported that soldiers continued to look for them. Célor Josaphat applied for asylum twice through the ICP system, the first of which was in November 1992, but both applications were denied. There continue to be serious fears for his and other members of RPP's safety.