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DEPARTMENT OF STATE

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MEMORANDUM

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SUBJECT: State Department Study Team on Haitian Returnees

SUMMARY

In recent years thousands of Haitian nationals have arrived on U.S. shores by boat, and many of them have claimed political asylum. These claims are adjudicated by the Immigration and Naturalization Service, with the State Department playing a limited but significant role in review of the claims. Approximately 600 Haitians have been returned to Haiti since 1972, and there have been allegations by private groups that these returnees have faced political persecution upon return.

To review the situation of these returnees and to assure continued conscientious observance of U.S. obligations under the United Nations Protocol Relating to the Status of Refugees, the State Department sent a study team to Haiti from May 10-22, 1979. Members of the team spoke with government officials and non-governmental contacts, and also located and interviewed 86 returnees living throughout Haiti, in addition to interviews with family members of eleven other returnees. The team was given freedom to go wherever it wished without Haitian government accompaniment.

All returnees interviewed stated, sometimes quite emphatically, that they had left for economic reasons. The team uncovered no significant indication of mistreatment or of punishment of returnees because of their

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journey to the U.S., with the exception of organizers, who are often fined and imprisoned for a matter of months. Returnees, however, are not immune to difficulties with the authorities on other grounds, and there were isolated reports of physical abuse.

In our discussion with Haitian government officials, they repeated earlier assurances that returnees are not mistreated. In their view, the vast majority leave for economic reasons, and in light of their usually low socio-economic status and lack of education, would not be considered political refugees. The team was told, however, that a very small number of those now in the U.S. who had been actively involved in political opposition might be subject to imprisonment or surveillance if they returned. Of those returned so far, the Haitian government is only interested in punishing organizers, organizing being viewed as a lucrative trade that victimizes the passengers.

Although we thus found no evidence of any pattern or policy of mistreating returnees, there remain reasons to believe that some asylum claims could well have merit. Each individual asylum application must continue to be reviewed carefully on its own individual facts.

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INTRODUCTION

Since the early 1970's many thousands of Haitians aboard small fishing boats have arrived in various ports in Florida. When apprehended by the Immigration and Naturalization Service (INS), many of these people have requested political asylum, claiming that they have a well-founded fear of persecution "for reasons of race, religion, nationality, membership of a particular social group or political opinion" if they were to return to Haiti. Those who establish such a claim are protected against forced return under the United Nations Protocol Relating to the Status of Refugees, to which the United States acceded in 1968, and under applicable U.S. law.

Applications for political asylum are reviewed on their individual merits by the INS. Some applications by Haitians have been granted, but the overwhelming majority have been denied. The denials have drawn sometimes vehement criticism from citizens groups who allege that Haitian nationals returned from the U.S. face political persecution. The denials have also provoked a number of lawsuits, which have had the effect of delaying many pending exclusion and deportation proceedings. INS states that there are some 8800 Haitian cases pending in Florida. Estimates of the number of Haitians illegally residing in this country run many times higher.

The Department of State has a limited but important role in the processing of asylum cases, Haitians as well as others. Until recently, the INS has sent to the Department for our review those applications determined to be doubtful or lacking in merit. Upon request of the Department of State, the UNHCR has agreed to participate in the review of all Haitian asylum requests submitted to the INS/Miami district office. After reviewing over 2000 such requests, the UNHCR concurs that the vast majority of such asylum seekers have not established a well-founded fear of persecution upon return to Haiti.

Under INS regulations issued in April, the Department will henceforth review virtually all asylum claims before INS passes on the merits. Based on general information about the country, knowledge of specific events or organizations or other matters cited in the request for asylum, or, when available, particular information we may have about the individual, the Department transmits its views on the claim for use by INS in making its final decision.

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With regard to Haitian cases, the Department occasionally has asked the United States Embassy in Port-au-Prince to develop additional information on a particular claim, and has sometimes requested that INS hold an additional interview to obtain more information from the applicant.

The Government of Haiti has previously provided both formal and informal assurances that returnees would not be persecuted or harassed because of their illegal departure or their residence abroad. The American Embassy in Port-au-Prince has also undertaken some follow-up contact, where possible, with individuals who have been returned either from the continental U.S. or from the U.S. naval base in Guantanamo Bay, Cuba. (Bad weather and mechanical problems have forced a number of Haitian boats bound for the U.S. ashore at Guantanamo.) Most of the Embassy follow-up has been undertaken in the Port-au-Prince area.

In order to gain additional information on the ultimate treatment of returnees -- especially those who have not remained in Port-au-Prince -- and to assure that the Department continues to fulfill conscientiously its role in review of Haitian asylum applications, the Department sent a study team to Haiti from May 10-22. Officers from the Bureau of Human Rights and Humanitarian Affairs, the Bureau of Inter-American Affairs, the Bureau of Consular Affairs (one of whom was fluent in Creole) made up the team, along with an additional State Department Creole interpreter. Our mission was to contact a broad spectrum of returnees in many sections of the country to determine their situation and learn whether or not they had met with mistreatment or persecution on their return. Before the team left, we held numerous meetings with private groups and public agencies concerning the issue, both in Florida and in Washington, D.C. and these meetings provided useful background information.

The study team made courtesy calls at the outset to inform the Haitian government of our objectives and plans. The team was politely received at the highest levels of the Foreign Ministry, the Interior Ministry and the Immigration and Emigration Service. We expressed our appreciation for official Haitian cooperation and stressed our desire that the team be permitted to conduct field contacts without any official Haitian presence or participation. The Haitian government officials readily agreed. They also volunteered further information on Haitian policies and procedures toward the returnees. These comments are summarized in a later section.

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Following these discussions the study team split into two interview groups travelling to different regions of the country to interview returnees. The groups returned to Port-au-Prince on May 18 and concentrated thereafter on interviews with returnees in the capital and nearby towns.

INTERVIEWS WITH RETURNEES: PROCEDURES

The team covered a broad geographical area within Haiti. In addition to the capital, we interviewed or inquired about returnees from Cap Haitien, Limbe, Limonade, St. Louis-du-Nord, Port-de-Paix, Gonaives, St. Marc and Rossignol in the north, and from Leogane, Les Cayes, St. Jean-du-Sud, Boyer, Moindre and Abacou in the south.

We were authorized to move freely about the country without government accompaniment, and our contact with authorities in the areas visited was minimal and often haphazard. We filed no set itinerary, and indeed the precise areas to be visited were often determined by the team only shortly before departure for the site, based on information or the name of a possible contact suddenly discovered. Several local figures whom we contacted in hopes of securing their help in locating returnees commented favorably on our lack of official government accompaniment. They took it as a sign that the mission was accepted and respected by the Haitian government while yet maintaining definite independence.

The interview groups used their own initiative to locate the returnees. The starting points were lists provided by the Department of Justice, containing names of Haitians who had returned during 1977, 1978, and early 1979, as well as lists of returnees from Guantanamo in September 1977 and August 1978. With the exception of the Guantanamo returnees, this information was in the public domain, having been provided last April by INS to the lawyer for the National Council of Churches. If we discovered other returnees whose names were not on the lists, however, we were equally interested in talking to those individuals. We have initiated steps since our return to check the names of such individuals against INS lists of returnees as a further verification of the accuracy of our findings, and also to determine which of the people interviewed applied to the United States for asylum.

We had been cautioned that the addresses supplied to INS by the Haitian nationals would be of little use, and the house numbers provided did indeed give an illusory

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precision to those addresses. A given house may have three or more numbers assigned to it, in connection with unrelated government projects such as malaria education.

Nevertheless, the addresses did often prove adequate to get us to the general location of returnees we sought. We usually targeted areas where, according to the lists, several returnees lived, and a series of inquiries of people in the area frequently led us to a returnee from the list, or at least to a family member.

The first returnee contacted usually knew several other returnees in the area and often volunteered to gather them together later at a pre-arranged location to talk with the study team. In some other instances, we were able to work in similar fashion through local clergy or other private contacts to find returnees. Where this contact was well-respected and trusted in the community, his involvement was especially helpful in facilitating interviews. In two instances, at the urging of local contacts, a radio broadcast was used (a common procedure in Haiti) to ask named returnees to come in and speak with the team. And in many locations, simple word-of-mouth communication that the team was in the area prompted returnees to seek us out.

There was often initial suspicion of the team by returnees and some hesitation to become involved without a more complete understanding of the mission's purposes and what we planned to do with the information obtained, although the degree of hesitation varied considerably from location to location. We found it worthwhile in many cases to devote considerable time -- up to several hours -- with the initial contact explaining our purposes, the nature of our mission, and the confidentiality of information supplied by returnees. Time spent getting to know the initial contact often helped break the ice with friends or acquaintances later assembled by that individual. Clearly the role of team members skilled in Creole was crucial to this process.

The interview with returnees then followed an established outline. We began by briefly explaining the nature of the mission and promising that the information provided would remain confidential as to source. We asked for basic identifying data: name, age, occupation, family information, and then asked questions designed to have the interviewees take us chronologically through events from the time of their departure from Haiti. This included treatment in the U.S., any Haitian government contact with

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families during their absence, reception upon return to Port au Prince, whether they were detained or questioned, contact with local authorities since return to the home area, any contact with American Embassy officials, and whether they had been harassed or mistreated or knew of other returnees who had been. We concluded with a request to contact the Embassy if the returnee met with harassment as a result of the interview, since we had been assured there would be no such reprisals. We also invited friends, acquaintances, and others with whom we spoke to contact the embassy if they learned of any such actions.

Most interviews lasted twenty or thirty minutes and were held in relatively private settings, although in a few instances privacy could not be arranged and the interview was held within earshot of a number of bystanders. We have tried to be sensitive to the setting in which the interview took place in assessing the information provided. Ideally, a longer time would be spent with each interviewee to gain more complete trust or at least to be in a better position to judge whether the responses were at all evasive or inhibited. Among those we interviewed, there may thus have been individuals reluctant to divulge all they knew that would be responsive to our questions. It is thus possible that particular incidents might have escaped our scrutiny. Moreover, the situation did not permit scientifically random selection of the returnees to be interviewed. Nevertheless, the exercise was designed and carried out in such a way that any widespread effort to persecute returnees, we believe, would have come to our attention. We found no evidence of such a pattern or policy.

INTERVIEWS: SUMMARY OF RESPONSES

The study team held personal interviews with 86 returnees covering a broad geographical range within Haiti. In addition, we held extensive interviews of the family members of another 11 returnees who were not themselves immediately available when the team was in their area. The account of findings below is based on the information on all 97 of these returnees. It does not include less extensive information, developed through discussions with friends or acquaintances, regarding the return and well-being of another 11 named returnees.

In general, the persons interviewed asserted that they had left for economic reasons -- to find a job, to improve their life prospects, to provide money for their families. We found no significant indication of mistreatment of returnees because of their journey to the

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U.S. Organizers of the boat trips, however, have been and, we were informed by government officials, would continue to be punished for their organizing efforts. Moreover, returnees are not immune to difficulties with the authorities, on grounds other than their emigration.

Motivation for Departure. Most returnees were quite emphatic about the economic motivation for their departure. Many asserted that they had never had a job in Haiti. None stated during the interviews that political reasons caused them to leave. Some stated poignantly that for reasons of unemployment, poor weather, or poor agricultural conditions, they saw no future for themselves in Haiti, no prospect of "organizing their lives" the way they wanted. Few were shy about discussing their difficult economic situation, and many inquired quite pointedly what we -- meaning in some cases the team and in some cases the U.S. government -- planned to do about the situation. Some asked us directly for cash, a job, or help in getting back to the U.S.

Their assertions about economic need were clearly supported by the evident widespread poverty and overcrowded conditions throughout Haiti. They were also corroborated by the relatively sizeable numbers of returnees, family members, and acquaintances who were available to talk to the team at whatever hour we arrived, and by the often enormous numbers of able-bodied, employment-age bystanders in the towns and villages visited.

Departure. Most returnees reported little difficulty in leaving Haiti, suggesting that the authorities devoted little attention to heading off departures. In the north, however, and especially in more recent months, there seems to have been a closer watch on potential departures, and perhaps on the actions of suspected organizers. Several persons interviewed, including one organizer of a previous voyage, reported being caught recently in Haitian waters trying to leave without proper documentation. They spent from a week to a month in jail as a result.

A few persons suggested that local authorities would crack down on departures only if not adequately paid to ignore the activity. Part of the money collected for the trips in which they were involved, they asserted, went for such a pay-off.

Many of the clergy and other nongovernmental figures with whom we talked stated that they thought the business of organizing boat trips was quite lucrative, with organizers

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collecting several hundred dollars from each individual taken aboard. Based on the interviews with returnees, however, the organizers' reputation may outrun the reality (although this is a question on which it is hard to develop fully reliable information). Many returnees, particularly in the south, depicted their voyage as largely a collective effort, with individuals contributing as they could toward gathering the provisions needed to make the trip. These people described the organizer as simply a community member who happened to be the focus of activities. In the north, however, there were more people who related having paid substantially higher fees.

Treatment of Families After Departure. Rarely did whole families venture on a voyage together; thus an individual's property would be left behind in the custody of family members. In no case did we discover any government questioning or harassment of family members after the individuals departed. Some expressed surprise at the question: "How would they have known I was gone?"

Treatment by U.S. Officials. The returnees generally reported good treatment in the U.S. or at Guantanamo. Most stated that they had been asked by U.S. officials why they left Haiti. When we asked what they had said to U.S. officials, none indicated that they had filed for political asylum. (We are aware, however, that interviewees from one group who made the voyage together did assert such claims. Four members of that group were granted asylum, but the rest were returned to Haiti when it was determined after full interviews that their claims were not well-founded. We are checking with INS to determine which, if any, of the other interviewees applied for political asylum.)

Those who chose to return to Haiti after only a few days on U.S. soil generally stated that they made that choice after U.S. officials posed their options in these terms: they had the choice of voluntary return or indefinite stay in a U.S. jail. They chose return. Some said they thought "indefinite stay" meant life imprisonment.

Return to Haiti. The typical pattern upon return to Haiti began with reception by Haitian immigration officials at the airport in Port-au-Prince. Many returnees were released there and told to return home after some minor questioning (name, address, family members). Some groups were admonished n

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to try leaving again without proper documentation, but this did not appear to be uniform practice. Members of only a few groups recalled any contact with American Embassy officials upon return or any time since -- although the Guantanamo returnees generally reported the presence of American Embassy officials at the airport.

A significant number of returnees reported that their groups had been taken from the airport to the Caserne Dessalines, the army barracks and headquarters in the center of Port-au-Prince. Although some stated that they were quite fearful during their stay there, it appears the Caserne served essentially as an alternate location for the same minor questioning and sometimes the same admonition against leaving again. Except for organizers (discussed below) no one remained at the Caserne for more than a few hours -- most for less than an hour. None of those interviewed reported experiencing mistreatment or extensive interrogation there.

Return Home

Most returnees had to rely on their own resources to return to their home areas, although members of one Guantanamo group received \$20 each from the Haitian Government for the return trip. None were required to check in with the local authorities on their return, and nearly all stated that they had not been mistreated or even questioned by local police or other authorities since their return. A few thought they were the subject of special attention or surveillance, but most returnees expected no problems with the authorities connected with their return.

A handful of interviewees mentioned some knowledge of instances of imprisonment or beating of a returnee. The team pursued all such leads. Our efforts included a visit to a remote area with an interviewee who thought he could put us in touch with the alleged victims. Though we found several returnees there, we discovered no support for the claim, except in one respect. One of the returnees in that area had been identified as an organizer, and he had indeed spent time in prison as a result. Based on the nature of the reports we heard and on our later interviews with a number of organizers or others who were the claimed victims, it is quite likely that the reports of imprisonment or mistreatment were based on the situations of organizers.

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Only one reported incident fell outside this pattern. A number of those interviewed stated that a named returnee was beaten to set an example for those intending illegal emigration. In our interview, however, that individual himself placed the incident in a different light. He stated that he was denounced to the authorities for a matter not related to his emigration and return. He was physically beaten as a result, but he stated that the beating stopped suddenly when it came out that he was a returnee from the U.S. and he was then promptly released.

Organizers

The Haitian Government's policy is to punish those who organize boat trips to the U.S. This policy was widely known among interviewees and among the non-governmental figures with whom we talked. Organizers are charged with an offense that essentially amounts to fraud or breach of contract.

One organizer who spent three months in jail stated that the judge explained his offense to him in these terms: "You took money from these people, and now (following an unsuccessful voyage) you are unable to pay it back." This individual had been detained for a week before he was brought before the judge, but he explained that the death of the judge's wife was all that prevented him from appearing the day after his arrest.

Another organizer spent one day in jail following his first trip, and then about a month in jail when caught in Haitian waters attempting a second voyage. His companions on the second try also spent shorter periods in jail because of the attempt.

DISCUSSIONS WITH HAITIAN GOVERNMENT OFFICIALS AND NON-
GOVERNMENTAL CONTACTS

In our calls upon Haitian Government officials, we were told in some detail about the official position on Haitian emigrants and their policies regarding those who return. The official Haitian position is that virtually all of the Haitians seeking entry into the U.S., including those who continue to

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depart illegally, are motivated entirely by economic factors; they wish to find jobs or better paying employment than is currently available in Haiti. The outflow derives from Haiti's continuing economic underdevelopment. This is the root problem and its solution is the key to halting the flow of people to the United States.

Although departure without travel documents and exit authorization is itself an offense punishable under Haitian law, such offenses are rarely prosecuted. The Haitian government has taken the position that the typical emigrant's sale of possessions to pay for the travel, combined with the embarrassment of failure to gain entry into the U.S., itself constitutes "punishment enough." Emigrants therefore are generally allowed to depart freely from official custody within hours of their return to Haiti, following processing that is limited to filling in a brief questionnaire. The stated exceptions to the rule of release upon return, according to Haitian officials, are those returnees who are identified as organizers, those who have arranged voyages as an illicit and sometimes lucrative business venture. Large fines and imprisonment, described as generally for a period of several months but usually less than a year, were stated to be the punishment meted out by Haitian courts.

An apparently close linkage exists in the Haitian government's view between the commonly low socio-economic status of virtually every emigrant and the extremely limited incidence of what authorities consider to be true political exiles. By virtue of lack of education, typically extending to functional illiteracy, the average emigrant apparently is viewed as politically unaware and therefore excluded from actual or potential participation in anti-government political activities. It was indicated that there would be cases -- a very small number -- where an individual who had been actively involved in political opposition to the Duvalier regime would be detained for special questioning. The individual might be liable to prosecution before a special tribunal, and a claim for asylum in the U.S. by such an individual might be treated as defamation of the nation. It was claimed, however, that no such cases have occurred in recent years and that none are pending, nor have any been brought to this tribunal since its establishment 12 to 18 months ago.

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