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HALF THE STORY

The Skewed U.S. Monitoring of Repatriated Haitian Refugees

"I am convinced that the people in Haiti are not being physically oppressed. I would not want on my conscience that...anyone that was fleeing oppression would be victimized upon return."

-- President George Bush,
May 28, 1992, in Marietta, Georgia

The May 24 Executive Order authorizing the summary repatriation of Haitian boat people is premised on the view, expressed by President Bush and other U.S. officials, that none of the Haitians risk political persecution upon return to Haiti. That view is principally based on surveys of repatriates conducted by State Department and Immigration and Naturalization Service (INS) officials. After interviewing some 2,500 repatriates, these officials claim not to have encountered a single case of political persecution related to repatriation. If such a large survey of repatriates failed to detect persecution, the Administration contends, Haitian boat people as a whole must not face political persecution, and can be forcibly returned without any prior effort to screen for political refugees.

This report analyzes these surveys and finds them deeply flawed. Whether by design or negligence, the surveys exclude repatriates who are at greatest risk of persecution. Even those repatriates who are included are interviewed under circumstances that strongly discourage them from describing the persecution they face. What emerges is a wholly slanted undertaking. As an exercise designed to illustrate the premise that repatriates do not face political persecution, the surveys serve a public-relations purpose. But as an attempt to discover whether repatriates encounter persecution, the surveys utterly fail. They offer no defense to what remains a clear violation of international law against the forced return of refugees to situations of political persecution.

The prohibition of the forcible return of refugees to face persecution, known as the doctrine of *nonrefoulement*, is codified in the Protocol Relating to the Status of Refugees.[1] The United States is legally bound by the doctrine both as a matter of customary international law and because it ratified the Refugee Protocol in 1968. To prevent *refoulement*, a government must screen for political refugees before forcibly sending migrants home.

The Bush Administration has advanced the novel proposition that the prohibition of *refoulement* does not apply to the Haitian boat people because the U.S. Coast Guard stops them before they reach U.S. shores. But the Protocol bars efforts not only to "expel" refugees but also to "return" them "in any manner whatsoever." While one must enter a country to be expelled, one can be "return[ed]...in any manner whatsoever" without ever stepping foot on the territory of the state whose troops are responsible for one's forcible return. Indeed, under ordinary principles of treaty interpretation, the Administration's new reading of the clause is clearly wrong since it makes the phrase "return...in any manner whatsoever" wholly superfluous.

The more accurate reading of the treaty is consistent with the plain meaning of the terms used: that the principle of *nonrefoulement* applies to any manner of forced return, regardless of the location of the refugee. That is, before the boat people can be forcibly returned to Haiti, the Refugee Protocol requires that, regardless of where they are interdicted, they must be screened for valid claims of political persecution so that political refugees are not sent back against their will.

This plain truth was openly recognized by the Reagan Administration Justice Department at the outset of the interdiction program. In an August 11, 1981 opinion, then Assistant Attorney General Theodore B. Olson made clear that the Refugee Protocol requires that Haitians interdicted on the high seas "who claim that they will be persecuted...must be given an opportunity to substantiate their claims" before being forcibly returned to Haiti. The Bush Administration has not publicly addressed why this inconvenient official opinion of the U.S. government is no longer valid.

Given the weakness of the Bush Administration's attempt to reinterpret the Refugee Protocol, the principal defense of its new policy of summarily repatriating all Haitian boat people is the argument advanced by President Bush, among others, that all of the boat people are economic migrants. The INS and State Department surveys are central to this argument. If none of the repatriated Haitians faces political persecution, the argument goes, the prohibition of *refoulement* does not bar their return. There would be no need before repatriation to screen for and exempt political refugees because, as the survey purports to show, political persecution is not among the problems encountered by those forcibly returned to Haiti.

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[1] Article 33 of the Convention Relating to the Status of Refugees, which is incorporated by reference into the Refugee Protocol, provides: "No Contracting State shall expel or return ('*refouler*') a refugee in any manner whatsoever to the frontier of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

A refugee is defined in Article 1 of the Convention as a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country...."

This claim, of course, stands in contradiction to the more than 10,000 Haitians -- roughly 30% of those interviewed so far at Guantánamo -- who have been found by immigration adjudicators to have credible claims of persecution in Haiti.[2] Even if the surveys were entirely valid -- and of course, as we will show, they were far from that -- they were based on a pool of repatriates who had already undergone screening in Guantánamo and from whom the 30% found most at risk of political persecution had been excluded. But under the Bush Administration's new policy of summary repatriation for all boat people, the surveys of some of the 70% returned to Haiti after being found not to have credible claims of persecution say little about the fate of the 30% who, if past trends continued, would have been kept in Guantánamo after rulings that they did have credible claims of persecution. It is as if a survey conducted among a group of Haitians from whom all those over six feet tall had been removed concluded that no Haitian is over six feet tall.[3]

Recognizing the illogic of this argument, the Administration has attacked the adjudication process at Guantánamo. It claimed that the adjudicators were deceived by human rights groups and the Haitians themselves to believe that persecution continued in Haiti, when in fact calm had returned to the country. INS reports reviewed here recommended throwing out the results of screening interviews. The Haitian Situation Report called for "rescreening of the Haitians screened-in and presently awaiting travel to the United States," a move which it said was "warranted and justifiable in view of the absence of evidence or even questionable proof that these potential asylees would face persecution on the return to their homeland."

Gunther O. Wagner, who headed three INS survey missions, decided that most asylum claims made by Haitians were lies. "I feel that 95 to 97 percent of the people obviously have had no problems, and therefore would not be eligible for asylum," he recalled telling an asylum officer working at Guantánamo.

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[2] As of June 10, 1992, 37,995 boat people had been interdicted by the U.S. Coast Guard since the overthrow of Aristide's government. Through May 24, when the Coast Guard began returning Haitians without offering screening interviews, 10,562 people, or 30%, had been found to have a "credible fear" of persecution if returned to Haiti. With the exception of 200-300 said to be HIV positive, these "screened in" refugees would be brought to the United States where they could apply for political asylum. After interviews, 23,879 had been "screened out." Fewer than 1,000 of these returned voluntarily to Haiti or were given haven in third countries. The rest, more than 23,000, were forcibly returned. Since President Bush's May 24 executive order, 2,887 refugees had been forcibly returned without an opportunity for a screening interview.

Among those found at Guantánamo to have credible claims of persecution were dozens of double-backers," that is, Haitians who originally were returned from Guantánamo after having been found not to have credible persecution claims but who fled again and, upon return to Guantánamo, were found to have such claims. Although the "double-backers" fled Haiti a second time before the Embassy survey began, their existence suggests that being found at Guantánamo not to have a credible claim of persecution is no guarantee that persecution does not await the Haitian's return.

[3] Even if true, the surveys' findings, that repatriates were not persecuted upon their return, would not necessarily mean that these individuals had not had a well-founded fear of persecution when they left Haiti. It also would not prove that Haitians currently fleeing do not have a well-founded fear. Individual cases must continue to be judged on their own merits, not on a survey of other peoples' experiences.

"It is my opinion that most of these cases are fraudulent cases...."[4]

Although the recommendation that Haitians be re-screened was not known to have been followed (with the exception of Haitians found to be HIV positive, who were forced to undergo second interviews on Guantánamo or be returned to Haiti), the proportion of refugees screened in by adjudicators dropped off sharply in April and May, after Wagner's report and visit to Guantánamo.

While the surveys generally acknowledge that violence occurred in the weeks immediately following the coup, they minimize or ignore the troubling human rights conditions that have continued in Haiti. Popular organizations, trade unions and student groups have been driven underground. The all-important radio stations have been silenced or reduced to politically neutral formats. The dreaded section chiefs, key to the Duvaliers' reign of terror, have resurfaced. Ongoing (but at times more selective) beatings, arrests and intimidation have transformed Haiti into an empty shell of the vibrant and thriving civil society of nine months ago. It would be surprising to say the least to find that repatriates were somehow exempt from the widescale repression that persists in Haiti to this day. What accounts for this anomalous result is the methodology employed by the officials who conducted the surveys.

Before turning to that methodology, however, it is worth noting one other unfortunate consequence of the survey. By denying the political persecution that many of the boat people face, the surveys, of course, have dire consequences for them at a personal level. But their conclusions are also devastating for Haiti as a whole. By returning unscreened refugees to Haiti and asserting that they face no danger, the Bush Administration undercuts efforts by the Organization of American States--efforts it ostensibly backs--to restore President Jean-Bertrand Aristide to office. By proffering skewed surveys that purport to show minimal persecution in Haiti, the Bush Administration grants the illegal regime in Port-au-Prince a good measure of legitimacy and provides a political cover for continuing repression. This license for continued repression will only prolong Haiti's political crisis as it reinforces the underlying cause of the refugee flow.

Documents Analyzed

Our analysis of the U.S. government's efforts to monitor repatriated boat people in Haiti is based primarily on three sets of documents:

- More than 200 pages of unclassified telegrams from the U.S. Embassy in Port-au-Prince, sent between mid-February and mid-May. These include Consular Situation Reports (so-called "Sitreps"), as well as reports on "Monitoring repatriated boat people," "In-country refugee

[4] Deposition taken May 5, 1992, in Washington, D.C. by Lucas Guttentag, Esq., of the Immigrants Rights Project of the American Civil Liberties Union.

processing"[5] and various related subjects. These reports recount in considerable detail visits to different towns and regions as well as the results of interviews with repatriates.

- The 11-page "Special Intelligence Report, Haiti," dated February 24, 1992 and marked DOJ [Department of Justice] Limited Official Use. This document summarizes a February 10-19 visit by INS officials.

- The 11-page "Haitian Situation Report, Repatriation," also marked DOJ Limited Official Use, and issued by the Department of Justice, INS, HQINT Dallas, Texas. This report summarizes visits in February and March by INS officials.

Additional information was obtained from depositions taken of several government officials, especially Gunther O. Wagner, the author of "Special Intelligence Report, Haiti," in the course of litigating *Haitian Centers Council* vs. *Gene McNary*, a suit filed in the U.S. District Court for the Eastern District of New York.

These reports, and possibly others not available to us, appear to form the basis of the government's claim that no boat people returned to Haiti face political persecution.

The Forced Return of Haitian Refugees

Beginning a month after the bloody coup d'etat of September 30, 1991, the mass exodus of Haitian boat people posed an unprecedented challenge to the decade-old interdiction program that had been established by the Reagan Administration, with the agreement of then Haitian "President-for-Life" Jean-Claude Duvalier, to intercept and return Haitians fleeing by boat. Under the program, the Immigration and Naturalization Service ("INS") developed a screening procedure whereby Haitians could be exempted from immediate return to Haiti only if they demonstrated a "credible fear of persecution." Determinations of whether Haitians met the "credible fear" standard were based on five- to ten-minute interviews held aboard Coast Guard cutters, often after the Haitians had been without food or water and exposed to the elements for days.

A suit challenging the original interdiction program, brought by the Miami-based Haitian Refugee Center in 1982, foundered when the U.S. Court of Appeals for the District of Columbia found that the organization lack the requisite standing to bring the suit. In November 1991, however, the Haitian Refugee Center tried again, this time not only on its own behalf but also on behalf of a group of Haitians facing forced return. The suit, *HRC* vs. *Baker*, led to a temporary halt in forced repatriations, the creation of a refugee camp at the U.S. naval base in Guantánamo Bay, Cuba, and improved, more lengthy screening interviews for Haitians. On February 24, 1992, the Supreme Court refused to hear HRC's appeal of a lower court's decision in favor of the government, allowing the repatriation of "screened out" Haitians to proceed.

[5] The cables could provide the basis for a study of refugee processing at the U.S. embassy in Port-au-Prince, something we have not attempted to do here.

With the May 24 executive order, President Bush ended all screening, and ordered the Coast Guard to begin immediately returning all Haitians intercepted thereafter. The new decree revokes and replaces the 1981 executive order which launched the interdiction program. That order had paid a certain lip service to international laws governing refugee protection by proclaiming that "no person who is a refugee [will] be returned without his consent," even though, in practice, that provision had not been exercised to the benefit of Haitians fleeing by boat. The new order provides only that "the Attorney General, in his unreviewable discretion, may decide that a person who is a refugee will not be returned without his consent." It also states explicitly that U.S. international legal obligations under the Refugee Protocol "do not extend to persons located outside the territory of the United States."

Rationalizing and Justifying Forced Return

The genesis of the surveys of repatriated Haitians lies in the resumption of forced repatriation in February 1992. Government officials, including Assistant Secretary of State for Inter-American Affairs Bernard Aronson, were caught in the embarrassing position of maintaining that the United States was able to monitor the safety of returned refugees at a time when security considerations had led to a vast reduction in Embassy personnel following the September coup. Assertions that American citizen "wardens" and representatives of non-governmental organizations would help the Embassy monitor were simply not believed by the press or by members of Congress. As a result, some Embassy staff members were brought back to Haiti, and INS officials arrived to work with them.

The U.S. Consul General in Port-au-Prince, Dudley Sipprelle, said in a sworn declaration that of the 9,503 Haitians repatriated as of March 30, 1,294 had been interviewed by U.S. officials and "no credible case of reprisal...or persecution...had been identified." By the end of May, U.S. officials claimed to have interviewed some 2,500 repatriates without finding a single sustainable claim of reprisal or persecution related to repatriate status.

A Biased Inquiry

Although there are no firm international standards for monitoring the safety of forced repatriates, investigative standards developed by the international human rights community provide a benchmark for measuring the effectiveness of the Embassy monitoring effort. For example, a guiding principle for human rights investigators is that they should always undertake an impartial quest for the truth. They must elicit testimony that bears on the problem under investigation, and be willing to modify investigative hypotheses as the facts require. By contrast, a review of the reports emanating from the Embassy monitoring effort in Haiti reveals that its primary purpose is to discredit repatriates' stories. The purpose is evident even in the selection of investigators: many of them experts in the detection of fraudulent claims, rather than experts on conditions in Haiti or in the process of conducting human rights field investigations. While detection of fraudulent accounts could be considered one legitimate element of a monitoring effort, the reports reviewed here reveal that it dominated the investigations. This purpose of discrediting claims of persecution is explicit in reports issued by the INS and in some of those coming from the Embassy in Port-au-Prince.

The leader of at least three INS monitoring missions, Gunther O. Wagner, is a senior intelligence agent for the INS, whose relevant expertise lies in detecting illegal smuggling of undocumented foreigners

and drugs into the United States.[6] He was accompanied during part of his first trip by the Embassy's "fraud officer." According to Wagner's report, the Consul General "felt it would be advantageous to the Embassy's future task if the fraud officer would be able to observe our method of operation and debriefing procedures to continue follow-up work and start his own debriefings of repatriates as the designated Embassy Intelligence officer during the ensuing weeks as ordered by the State Department to monitor the repatriation program."

Cables issued by the Embassy itself reveal a somewhat more serious effort than do the reports issued by the Justice Department. Embassy and consular personnel assigned to the monitoring effort often appear better informed about conditions in Haiti. Taken as a whole, however, the Embassy cables, too, reveal an overriding concern with validating U.S. policy of forcibly returning the boat people. This is made particularly clear by the extensiveness of efforts devoted to demonstrating that certain claims of persecution are false. As we describe below, no comparable energy is devoted to uncovering those in hiding who are most likely to have faced persecution since their forcible return to Haiti.

The INS Special Intelligence Report, prepared by Gunther O. Wagner, is much briefer, and more baldly prejudiced. Wagner, who seems to have been responsible for at least 600 repatriate interviews, knows next to nothing about Haiti and very little about U.S. refugee law. He made his first visit to the country in December 1991, and before starting his interviews received only a one-hour background briefing on country conditions. His limited knowledge of the Haitian political scene -- something of unquestionable value in such work -- is revealed in answers he gave in his deposition. Asked what political parties are active in Haiti, Wagner mentions having heard of the "FCND," and the "KAK" or "KPK" -- none of which exist. Asked for the popular nickname given ousted President Aristide, he responds, again incorrectly, "They call Aristide Kiki."

Brief and Often Public Interviews

Yet another problem with the investigations is the brevity of the interviews conducted with repatriates and the fact that they take place in what are, at best, semi-private conditions.

On May 29, Dennis Hankins, Repatriation Liaison Officer at the embassy in Port-au-Prince, told a delegation from the Washington Office on Haiti[7] that investigators had interviewed 2,500 out of what were then 17,000 boat people repatriated to Haiti. Of this number, he said, 2,200 had received interviews of five minutes or less, with approximately three minutes devoted to taking biographical information and two minutes to issues of fear or persecution. None of the interviews were conducted in private, he said, but an effort was made to hold them semi-privately. Some 300 repatriates had received longer interviews and an unspecified number of these had actually been menaced in some way since returning to Haiti. But, he said, all these episodes related to events occurring after they were repatriated. None involved persecution which was connected to repatriation or reasons for fleeing Haiti in the first place.

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[6] Wagner is Southern Region Intelligence Officer for the INS. His position, according to the May 5 deposition, entails "the collection of intelligence as it pertains to trends of illegal migration, or smuggling of drugs, fraudulent document discoveries, follow up discoveries on the subjects."

[7] Interview with Carl Anderson, Esq., a member of the Washington Office on Haiti delegation.

In a follow-up telephone interview, the U.S. Information Service director in Haiti, Christian Filostrat, said that "eyeball to eyeball" interviews last an average of 20 minutes, and that "every attempt is made to speak to the refugee alone," or at least out of hearing of others. The reports reviewed here tend to confirm that interviews are brief and rarely held in true privacy.

A Skewed Sample

Another obvious problem with the U.S. government's monitoring effort is the skewed sample of repatriates who were interviewed. The methods used to locate repatriates, including reliance on the Haitian Red Cross, ensured that only those individuals most comfortable with coming forward in public, or those known by friends and neighbors to have returned to their homes, were likely to be interviewed by the investigative teams. Those who remained in hiding, feared emerging in public, or lacked confidence in the Haitian Red Cross, were excluded from the sample.

Even investigators embarked on good-faith, unbiased efforts to locate returned refugees would encounter difficulty contacting refugees living in hiding. However, the methods employed by the INS and Embassy investigators, while sufficient to enable them to locate a large number of repatriates, make it highly unlikely that they will encounter individuals who have been threatened, harassed or arrested.

The investigators have two essential ways of locating returnees. The first is to ask at random in public if anyone in a given town knows any repatriates. The second is to be present during a scheduled distribution of food to repatriates by the local Red Cross, or to use Red Cross registries of returnees.

Random Interviews

Wagner's report describes him employing mainly the first method. After leaving Port-au-Prince early in the morning, his team would check in with the local provincial military commander,[8] "then enter a city, town or village, identify the team as U.S. immigration officials and explain their mission, asking if anyone knew of a returnee from Cuba. Infrequently an individual stepped forward and identified him or herself as a repatriate. In a majority of the cases, the team relied on residents who knew of someone and accompanied the team to locate the individual(s)."

During a trip from February 10 to 19, "a total of 139 Haitian repatriates were debriefed at their homes at various locations West, South and North of the capital city."[9] By "homes" Wagner appears to mean "hometowns," although some people were in fact spoken to in their homes. Wagner discounts the claims of people he interviewed who said they were in hiding:

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[8] "These individuals, all sergeants, were pleasant and cooperative and no problems were encountered," writes Wagner. But provincial commanders are usually colonels and are never sergeants. Either Wagner has no notion of military ranks, surprising for someone who has worked extensively in law enforcement, or he confuses provincial commanders with local ones.

[9] In five cities, five towns and 19 villages.

> If an individual talked to me, in public, and tells me that he cannot go out because he has to be afraid to be arrested, then he would not have been in my presence, he would not have been in the village square or in the neighbor's house to talk to me.

Yet Wagner never apparently considers that people who were truly in hiding would not be available to be interviewed.

An Embassy cable describing a March 18-20 trip to seaside towns in southern Haiti near Pestel (Corail, Point Sable and Les Basses) gives a good sense of the very public nature of the inquiry. The towns' inhabitants "had no knowledge of the monitoring team's arrival until the moment that the bow of the boat bumped against the town's decaying docks. Word was spread that a delegation from the U.S. embassy had arrived to meet boat people. Within minutes crowds gathered, interviewing sites were selected, and tables and chairs were provided."

While noting that the local military appeared visibly angry and threatening, and recording interviews with 18 people who claim to have fled Haiti for political reasons (some after relations died in political violence), the report concludes that the area is characterized by "a certain peaceful coexistence between police and citizens."

In only one of the cables that we reviewed was there any indication that hard-to-reach repatriates had been interviewed. A May 4 cable records interviews with 15 people in Carrefour, the densely populated neighborhood south of Port-au-Prince, who were contacted through a private charitable organization. This is the only apparent instance in which the U.S. government investigators attempted to reach out to people in hiding. Of the 15, "five claimed to have been specifically sought by the police before leaving Haiti, and all said that they remained in 'hiding' since their return." Since by remaining in hiding they had avoided further problems with the army and police, the investigators did not consider them to have faced persecution.

Reliance on the Red Cross

Another principal method for locating repatriates was to seek the cooperation of the local Haitian Red Cross. U.S. investigators appeared when the Red Cross was scheduled to distribute food to repatriates, and then attempted to interview those who showed up. While this method sometimes allowed the investigators to interview more than 100 people in a day, it clearly did not reach those who are afraid to come forward. The reports themselves make clear that many, perhaps a majority, of the refugees did not register with the Red Cross or show up to receive their free food, even though most must be desperately poor. Some of the cables even speculate that those who did not show up feared reprisals or mistrusted the Red Cross.

The lengthy and carefully written Embassy report, "Monitoring repatriates from Guantanamo: Thirty-nine interviewed in Haiti's north west; a sampling of the political and economic situation in the region," offers ample evidence that a majority of repatriates are afraid to come forward. The cable recounts a March 9-12 visit to Haiti's northwest by a team of two Embassy officials, one official from the U.S. Agency for International Development, and one Foreign Service interpreter. The team was able to locate

and interview 39 repatriates, a fraction of the people who had left the region, and far fewer than the investigators had expected. The main method used to locate repatriates was to work with local Red Cross committee leaders, using their lists of repatriates who had registered to receive Red Cross foodstuffs. The drawbacks to this approach are made rather clear in the report, which is worth quoting at length.

"A number of challenges to locating repatriates" were encountered, the report explains. First, many of those who left their homes "have not returned home." This is attributed to poor economic conditions, although fear of persecution would seem an equally plausible explanation.

"Inaccessibility and dispersion of the rural population posed other hurdles," continues the report, detailing conditions on the Island of La Tortue and in the rural sections of northwestern towns. "To mount an effective survey of rural areas," the report says, "would require considerably more time and resources than are currently available."

Reliance on the Red Cross is addressed:

> A possible third, and potentially more disturbing reason for the difficulty experienced in locating repatriates also suggested itself. In some towns where Red Cross committees were created, or the presidents were installed, after the coup, repatriates might have proved reluctant either to register or otherwise make their presence known to those they might have believed to be politically unsympathetic.

The Red Cross presidents in Port-de-Paix and Gros Morne, for instance, are said to have held their posts for many years, and they had registered a good number of repatriates.

> In contrast, the Red Cross committee in Jean Rabel, headed by Santiague Samuel, had registered only one repatriate...in the nearly seven weeks since it had put out the word through the seven CASECS, or rural sections, of the district. While acknowledging that these grassroots-level organs of government might not have been uniformly efficient at doing the job, even Samuel expressed surprise that the results had been so limited. Notably, Samuel became the Red Cross Committee's president after the coup, acknowledged that he would not have been president if not for the coup, and declared himself opposed to Aristide and *Lavalas* [the political movement that brought President Aristide to power]. Jean Rabel is a highly politicized town, and the possibility remains that the Red Cross might be perceived by repatriates in the Jean Rabel area as unsympathetic, or even potentially hostile, to them and their plight.

A similar situation seems to prevail in St. Louis du Nord, where Joanel Joseph "also became president in the wake of the coup."

> He evidenced some reluctance to talk too negatively of the military....When asked why no repatriates had registered with the Red Cross in St. Louis du Nord, Joanel Joseph admitted that he believed that the repatriates might be fearful that the Red Cross would give their names to the authorities. Instead, when they returned to the area, they simply headed directly back to their homes in the hills.

In Jean Rabel in northwestern Haiti, two officials from CARE suggested to the investigators that many people were afraid to return "because of a perception that the military wanted to get even with the repatriates. Perhaps because those who may have returned to the area had kept such a low profile, however, emboffs [Embassy officials] heard no claim that authorities had specifically intimidated or persecuted any repatriate."

A Picture of Repression

The report on the northwest offers an extensive description of repression in the region, reflecting information gathered from "Red Cross officials, priests, American wardens and other officials." Although no pro-Aristide activists, or members of peasant or popular groups, were interviewed, the report nonetheless paints a picture of violence and upheaval in some towns. However, since there were no reports of violence specifically against repatriates, the U.S. investigators concluded that repatriates did not risk persecution if forcibly returned. The report said:

> St. Louis du Nord has always been a highly politicized town....According to local Red Cross president Joanel Joseph, the town was split into two distinct camps following the coup--Aristide's supporters and the group supporting the military. There have been several protests to which the military has reacted with violence since September 30. The police claim that no one has been beaten, jailed or arrested but Mr. Joseph had seen violence with his own eyes. He had seen a police van with five wounded youths badly beaten after putting up barricades. The police intimidated people and got them off the streets. When emboffs visited Bonneau, a 'section rurale' (affiliated area) of St. Louis du Nord, locals said that two people had been shot dead by soldiers in the market on the day of the coup.
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> Mr. Joseph surmised that most boat people from St. Louis du Nord left for political reasons directly because of the coup. Repatriates had not been hassled, however, unless they restarted protest activities against the authorities. Demonstrations ended in December but tensions increase whenever rumors of Aristide's return resurface. St. Louis du Nord has an abundance of youth groups opposed to the military. People arrested after the coup typically spent around a week in jail according to Joseph. He felt that although there is currently an apparent calm in St. Louis du Nord, beneath the surface there is an atmosphere of intimidation on both sides. Aristide's camp has put together a list of people to be 'dechouked' [either killed, or their house ransacked] once the president returns. A big Macoute in Bassin Bleu (a nearby town) had told Joseph last week that although he had allowed schools to reopen he would sooner or later destroy the Lavalas teachers who made up most of the teachers in the region.
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> In Jean Rabel it was common knowledge that many left in droves because they felt threatened. Samuel, who explained quite frankly that he would not be head of the local Red Cross committee if Aristide were still president, characterized as common sense the expectation that counter-revenge would be visited upon Lavalassians after the coup as they had directed revenge upon their enemies after Aristide's election.
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> Gros Morne--emboffs interviews confirmed the findings in Reftel (B) that in general, the town had remained quiet since the coup. Delaware Emile, president of the local red cross, reported that

there had not been many protests, for the simple reason that people were afraid to protest and knew all too well, 'what would happen if they did.' There had been no ransackings or killings, to his knowledge. Police did arrest a number of persons for being Lavalassians and had sent them to Gonaives, the administrative center of the department of the Artibonite, in which Gros Morne is a significant commune and arrondissement. Several were beaten, some severely--Emile was personally acquainted with them and saw them upon their return as they were released over the following several weeks. In effect, it appeared that the authorities effectively preempted any serious trouble, as, after the coup, Lavalassians had 'headed for the hills'....As for present conditions, Emile opined that he could not say honestly that fear of the military was unfounded.

Of the 39 repatriated refugees the Embassy team managed to interview, six claimed a mixture of political and economic reasons for leaving and expressed fears "that some form of reprisal could be taken against them by the authorities now that they had been returned to Haiti." Several had not returned to their previous homes out of fear. The Embassy investigators concluded that none of the 39 repatriates had suffered persecution since their return.

Compromising Contacts with Haitian Military

The U.S. government investigators had disturbingly frequent contact with Haitian military officials. The INS reports, in particular, reflect a high degree of faith in the statements of high-ranking officers interviewed.

Travelers in Haiti's provinces cannot avoid contact with the military--checkpoints are frequent and strangers, especially foreigners, are often required to identify themselves at the military post when they enter a town. Still, the investigators' practice of notifying local military officials of their presence and intention to interview repatriates raises serious questions about the value of information gathered from such monitoring efforts. In Haiti today, where the military is the prime agent of repression, such contacts inevitably raise suspicions among local people that the investigators do not hold their best interests to heart. Repatriates who fear persecution are unlikely to emerge from hiding under such circumstances. For example:

- The Embassy cable about the northwest states, "Emboffs notified Captain Lucien A. Chatelin of the northwest department's regional police headquarters in Port-de Paix of their presence and plans to interview repatriates."

- An April 7 report entitled, "Monitoring repatriates from Guantanamo: One hundred repatriates interviewed in Jeremie area," notes that the team "called on the mayor of Jeremie, the priest in Bon-bon, and the police commanders in Jeremie, Anse d'Hainault and Dame Marie."

- Both INS reports cite visits to provincial military commanders as a part of every monitoring trip.

More disturbing still, an Embassy report on a March 24-26 trip to Haiti's Grand Anse reveals that a soldier was present during interviews in the town of Dame Marie:

> The team passed through Dame Marie en route to Anse d'Hainault, alerting a few repatriates encountered that the team would return to Dame Marie for interviews. When the team returned later that afternoon, there were one hundred thirty repatriates waiting in front of the Catholic Church. Sunlight was already fading. The team asked the assembled multitude to organize themselves, distributing notepaper to those with pens and pencils and collecting lists of ten or so repatriates. The team then began interviewing in order of the lists received. The police sent a corporal who prowled on the periphery, but the crowd was orderly.

Similarly, another Embassy report, "Investigation into the detention of two journalists and the burning of a remote mountain village," is instructive in its description of local reaction to an accompanying soldier: "During the drive conoff [consular officer] and FSN [foreign service national] investigator attempted to talk with a number of peasants along the twisting dirt road, but most refused to speak when they saw the accompanying soldier."

It is unlikely that repatriates who had experienced problems with the military or lived in fear of such encounters would appear for an interview under such circumstances. Moreover, since refugees commonly cite military violence or fear of such violence as their main reason for leaving Haiti, questioning returnees under the eye of military officials is unlikely to elicit reliable testimony about repression.

Nonetheless, two of the 130 interviewed in the Jeremie area from March 24-26 claimed to have encountered difficulties after their return. The cables that we have received do not reflect the follow-up interviews promised in these cases.

The INS reports, as noted, reflect considerable confidence in the statements of high-ranking officers interviewed. One would not know from Wagner's report that the military was responsible for most of the violence in Haiti since the coup, nor is there any suggestion that these high-ranking officers are anything but fully objective about conditions.

Typical is Wagner's description of an interview with Major Jacques Denis, described as the commanding officer of the Immigration Identification Department at the Port-au-Prince Police Headquarters:

> Of all Haitian officials contacted, Major Denis was the most impressive in terms of being articulate and in charge of the situation. He categorically denied that any repatriated citizens, although subject to prosecution for illegally leaving/returning to the country, are harassed or abused much less prosecuted on their return....He was adamant that the phenomena [sic] of political persecution portrayed by the news media is nothing more than a farce and sensationalism.

An even higher degree of credulity is displayed toward the authorities at the National Penitentiary. The INS team had what is described as a "frank and open discussion" with a person who appears to be the prison commander,[10] who assured them that "there was not a single prisoner in the prison compound as the result of having left the country or any activity therewith...."

[10] The witness's name and position are deleted in our copy of the report.

Wagner then describes his embarrassingly token efforts to corroborate the commander's statement:

> The team, subsequent to the meeting, walked through part of the prison and had cursory conversations with guard personnel and a Jamaican citizen (prisoner) which confirmed the [deleted] assertion that there were no repatriates in the facility.

Biased View of Local Conditions Accepted

Some reports cite testimony about general conditions in Haiti, in particular about the level of local repression as well as the fate of specific refugees, from individuals who support the coup d'etat and oppose Aristide, without acknowledging their likely bias. The most blatant example is the March 17 Embassy report, "Embassy Comment on New York Times article on Haitian refugees," which also offers an example of the "fraud detection" priorities of the investigators. The cable sets out to disprove the claims of five Haitians who had been found at Guantánamo to have credible claims of persecution and were then applying for political asylum in the United States.

The case of Jean Ambroise, a refugee from Leogâne, is called into question on the basis of an interview with the local leader of the Movement to Organize the People (MOP) political party, Galien Gilles. MOP is characterized as "the political party within the FNCD [Aristide's political coalition] most closely allied with Aristide." In fact, MOP has been bitterly divided over its relationship to the FNCD; the leader of one MOP faction, Gregor Jean-Louis, became Minister of Health in the post-coup government. The Embassy's report makes clear that the local MOP leader is no friend of deposed President Aristide.

> Mr. Gilles said there had been no coup-related killings in Leogâne and the police had not conducted any witchhunts designed to round up party officials or Aristide supporters....Although a prominent party official, Mr. Gilles said he found no reason to live in hiding (indeed it had taken conoff less than five minutes to locate Mr. Gilles upon arriving in town.) Mr. Gilles appeared at ease in discussing politics, even though the interview took place less than twenty yards from the police station. Mr. Gilles told FSN investigator that many of those who had fled Leogâne had done so as a result of their earlier participation in the lootings and burning that characterized local thuggery during the Aristide presidency. (Comment: the lawlessness associated with Lavalas partisans during the Aristide administration is a theme our monitors have heard in widely scattered areas of Haiti. End comment.)

The case of Jesufort Mondesir of Grand Goâve is discredited on the basis of March 6 interviews with unnamed local residents who, judging by the cable, are allies of local military officials. The investigators appear to accept on faith the widely disputed story that Radio Antilles reporter Jean Mario Paul led others in burning down the police station in Grand Goâve. No mention is made of other houses believed to have been burned down by the military and its supporters. Most significant, the investigators accept uncritically the assertion by these sources that the military authorities were seeking only participants in the burning of the police station and not others allied with the popular group alleged to have been responsible for the incident.

Conoff and FSN investigator visited Grand Goâve on March 6 and spoke to a number of local residents who confirmed that the police station had been attacked and burned on the day of the coup by a group called "*Comme il Faut*" (meaning "as it should be" and also the name of a popular Haitian cigarette.) The four soldiers at the police station had quickly taken flight. Townspeople had subsequently identified the group's members to the police. The alleged leader of "*Comme il Faut*," Jean Mario Paul, a news reporter from Radio Antilles, was arrested and is still in jail in nearby Petit Goâve. Police also rounded up another member and beat him so severely that he died in jail. Residents of Grand Goâve told conoff and FSN investigator that the police have singled out only those who they believe were responsible for the torching of the police station. The name Jesufort Mondesir was unknown to our interlocutors. Mr. Mondesir told the New York Times reporter that he did not take part in the burning of the police station. If in fact this is true, then Mondesir would not be wanted or otherwise targeted by the authorities.

The case of Jean Mario Paul, the Radio Antilles correspondent who was arrested, tortured and jailed for months on charges of burning down the Grand Goâve police station, has attracted international attention. Paul, who was released from prison in May when a judge dismissed the charges against him as unsubstantiated, was awarded Pen International's Freedom to Write award in April 1992.

Eight popular organizations in Grand Goâve, including *Comme Il Faut* (or the *Kombit Komilfo*, as it is known in Creole), issued a brief report on March 9 describing violence in the town since the coup d'etat. It listed 18 houses that had been burned down by soldiers, 27 people who had been arrested, ill-treated and later freed, two people who had died in prison from their torture, and four who remained in prison.

Komilfo first came to our attention in 1989. In our March 1990 report, "Reverting to Despotism: Human Rights in Haiti," we cited a visit to Petit Goâve in which we spoke with members of *Komilfo* and a military-backed group called *Les Brulants* (the Burners), which was accused of ransacking the *Komilfo* office and attacking individual Komilfo members. *Komilfo* was known at the time as a grassroots youth organization and a member of the Democratic Unity Confederation (KID), a group led by Port-au-Prince mayor Evans Paul.

Embassy investigators should certainly have been aware of the controversy and international protests surrounding the case of Jean Mario Paul, not to mention information published by human rights groups about repression faced by Komilfo. Information provided by local officials that differed radically from these independent sources merited at least an explanation as to why the independent information was being discarded.

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Americas Watch is a division of Human Rights Watch, which also includes Africa Watch, Asia Watch, Helsinki Watch, Middle East Watch and the Fund for Free Expression. Robert Bernstein is the chair of Human Rights Watch; Adrian DeWind is the vice-chair; Aryeh Neier, executive director; Kenneth Roth, deputy director; Holly J. Burkhalter, Washington director; Ellen L. Lutz, California director; Susan Osnos, press director; Jemera Rone, counsel; Joanna Weschler, Prison Project Director; Dorothy Q. Thomas, Women's Rights Project Director; and Allyson Collins, research associate.

Established in 1982, the National Coalition for Haitian Refugess is composed of 47 legal, human rights, civil rightrs, church, labor and Haitian community organizations working together to seek justice for Haitian refugees in the United States and to monitor and promote human rights in Haiti. Its executive director is Jocelyn McCalla; associate director, Anne Fuller; research associate, Ellen Zeisler. In addition to periodic reports on human rights in Haiti, the National Coalition for Haitian Refugees publishes a monthly bulletin on human rights and refugee affairs. It is available upon request.

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