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HAITI - PROFILE OF ASYLUM CLAIMS AND COUNTRY CONDITIONS

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I. INTRODUCTION

This profile is provided by the State Department's Office of Asylum Affairs for use by the Executive Office of Immigration Review and the Immigration and Naturalization Service in assessing asylum claims. By federal regulation, the Department of State may provide information on country conditions to help adjudicators assess the accuracy of asylum applicants' assertions about country conditions and their own experiences; likely treatment were the applicants to return; whether persons similarly situated are known to have been persecuted; whether grounds for denial are known to exist; and other information relevant to determining the status of a refugee under the grounds specified in section 101(a)(42) of the Immigration and Nationality Act (INA).

Country conditions profiles are produced by the Office of Asylum Affairs under the supervision of the Bureau of Democracy, Human Rights and Labor (DRL). Formerly the Bureau of Human Rights and Humanitarian Affairs. They are written by experienced Foreign Service Officers with expertise and service in the relevant area and are circulated for comment within the Department, including to overseas missions, and with other agencies as appropriate. They are based on a review of asylum applications, reports from U.S. missions abroad and other information available to the Department of State. Other relevant information published by the Department, incorporated hereafter by reference, includes the annual Country Reports on Human Rights Practices and the annual World Refugee Report. Country Reports are designed to report annually on the status of internationally recognized human rights abuses, which are updated regularly, provide additional and current information relevant to the specific standards set forth in the INA.

PART ONE - POST UN INTERVENTION OF 19 SEPTEMBER 1994

SUMMARY:

HAITI SINCE THE MULTINATIONAL FORCES (MNF) INTERVENTION

On 19 September 1994, in an action having few precedents, the United States with the support of some twenty-five other member-nations of the United Nations, intervened militarily in Haiti with the express purpose of restoring the democratically elected president of the country in accordance with a UN Security Council resolution. This intervention primarily to redress human rights deprivations is practically without precedent. Almost two months later, the human rights situation in Haiti has vastly changed from that during the prior three years of military domination. Haiti is now led by a democratically-elected government which is in the midst of establishing itself in control of the capital, while de-facto authority in the provinces is wielded by a mix of local officials elected in the 1991 elections, various resurgent popular groups, and the (largely U.S.) Multi-National Force (MNF). The repression once found in Port-au-Prince and the countryside has diminished remarkably in no place are people subjected to human rights violations as an instrument of state policy.

Within two weeks of the intervention, a force which was to swell to over twenty thousand American soldiers had spread out over the entire country to take command of the military barracks in each of the nine departmental capitals. By November 1, they were in control of the barracks in several other towns, and in each department as well, and by the end of the month they had patrolled through no fewer than four hundred smaller towns. By September 29 Port-au-Prince's INCD-party mayor Eyars Paul had been reinstated in office, by October 13 the Cedars/Rambry/Michel triumvirate had left the country and on October 15, President Aristide was returned to the country amidst international and popular acclaim.

II. REMOVAL OF PERSECUTORS

The sources of previous government-sanctioned human rights violations were subjected to the following changes:

A) Haitian Army - Once the power behind the throne of the 1991-1994 de-facto regimes, the FADHI (Haitian military) has been effectively beached, disarmed, demobilized, and dominated. All of its bases have been occupied, its coup-making heavy weapons company disarmed, and its leading triumvirate (Cedars, Rambry, Francois) pressed into exile. With only half of the Army's former 7,500 members reporting for duty, fear of retribution or arrest, and a new separate police force having been voted, substantial doubt exists as to whether the Army will continue at all. Many small army sub-stations have been burned out in the capital and Cap Haitien, though not generally elsewhere in the country; others are occupied by American and other MNF soldiers. The strangulation which the army had traditionally held on the nation has been almost utterly broken.

B) Attaches - Beginning on October 2 the MNF stated to round up and arrest notorious assistants of Cedras and the Haitian military. As the US Special Forces troops pressed further and farther out into the countryside, numerous of these people are thought to have "gone to ground" with their weapons. On the other hand some 14,000 weapons have been picked up by the MNF soldiers, either by direct confiscation (see the Camp d'Application seizure) or by an ambitious weapons buy-back program. In October the Parliament passed a law forbidding paramilitary groups of any kind, whose enforcement will spell the end to the succession of informal "assistants" to the police, embodied in the "tonien-macoutes," the "VSN," the "Nirgas," the FRAPI, the "sans-man-mants," etc.

C) Section Chiefs - These 565 persons formerly charged with rural law-enforcement have been ordered to turn in their arms and to cooperate with the elected local councils (CASECs). They have been dismissed and have no official authority. An alternative system of rural administration/justice is currently being devised.

D) FRAPI - Following an attack on Aristide followers on 30 Sept in Port-au-Prince, it was dismantled in many sections of the country by the MNF, in others it was allowed to continue. On the day that Cedras left the country, its chief Emmanuel Constant declared that the group would play the role of a "loyal opposition" dedicated to non-violence, a claim which few observers shared. Since that time, the group has had negligible influence, its offices throughout the country have been pillaged or otherwise closed.

E) Illegal Central Government - The Jonoasaint government, symbol of the basic refusal of the military power structure to allow the people to be governed by their elected representatives, was evicted from its offices on Oct 10/11, the Port-au-Prince municipal government having been changed over on September 29. With its backing power, the Haitian army, effectively neutralized, it has ceased to exist.

II. NEW ELEMENTS:

A) Human Rights Monitoring Groups - As during the de-facto regime, some seventeen indigenous and international human rights groups continued to operate in Haiti. Since the restoration of Aristide yet other groups which had been excluded from the island were able to visit, report, and set up operations. Chief among these has been the OAS's Inter-American Commission on Human Rights (IACHR) and the UN's International Civilian Mission (ICM), the latter of which had been expelled in July 1994.
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D) Political Parties While during the three de-facto regimes, political parties had been allowed to operate within the confines of an essentially powerless Parliament, following the intervention they have also been able to meet, propagandize, and even electorates outside of the chamber. President Aristide met in early November with the leaders of some thirteen of them to start procedures moving for the next elections. These elections appear likely to be held in early 1995 and will include two-thirds of the Senate (six-year terms), all of the House of Deputies (two-year terms), and all of the rural CASECS (Conseils Administratifs de Sections et Communes).

Q) End of Embargo Three years of increasingly crushing international embargo came to an end with the intervention of the MNF and the return of President Aristide. Immediate donations of fuel oil for the production of electricity rescued over a dozen provincial towns from darkness, sometimes over a year's duration. Most importantly, with the reestablishment of legal petroleum imports, the price of gasoline fell from an $8 per gallon price to a quarter of that amount, setting the conditions for a more normal economy. Simultaneously, port administration, of much added cost, was cleaned up by the election of corrupt officials. Prices of staples have subsequently fallen by 40 percent and more.

D) Beginning of International Aid In ordinary times international assistance accounts for almost half of Haitian government revenues; during the three years of de-facto rule, this support was virtually nil, with most international assistance going to the direct feeding of the poor and to job creation programs. With the restoration of Aristide, a 555 million dollar series of financial assistance and projects funded by international donors has commenced flowing into the country.

E) New Police Force/Legislation The Aristide government swiftly moved to address the separation of the police from the armed forces, a state of affairs required by the Constitution of 1987, but for which implementing legislation had never previously been passed. A 3,000-person interim police force was planned, using screened-in former members of the FADH and recruits from among the migrants safehoused at Guantanamo. These are being given a brief training course (about 1,500 have attended), followed by permanent police corps some 4,000 strong which will be sent through a newly-established police academy staffed by international police experts, with classes to begin early in 1995. By early November over 700 newly-trained interim police were on duty in Port-au-Prince, Cap-Haïtien, and eight other provincial towns. These were assisted by over 900 international police monitors from 20 UN member states. Currently police patrol jointly with American or other international force units or with the new International Police Monitors (IPM).

F) Multi-National Forces By early November the USA had 16,000 troops in country with units stationed in 27 communities and providing interior security to 85 percent of Haiti's population. Over 2,000 troops from some 29 other UN member countries were on hand. It is anticipated that the final contingent (the mixed group to be called UNM multih (UN Mission in Haiti)) will number 6,000, being roughly half American and half other nationalities.

G) Amnesty Law Central to many plans, discussions, and agreements over the three years of exile has been the effort to assure that restoration of democracy and of Aristide to power does not degenerate into popular or state-supported retribution against those believed to be responsible for the 1991 coup and subsequent repression. An amnesty law was the first order of business for the Haitian Parliament after the intervention; and a law defining amnesty for political acts during and since the anti-Aristide coup against the legitimate government was passed on October 7. Although political amnesty was decreed by Aristide in early October 1993, no actual amnesty has been granted under the new law. After Aristide's return various groups have pressed for a "Truth

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H) Freedom of Assembly This basic freedom was one of the most universally denied during the de-facto years. It was with reference to ongoing attempts on the part of the FADH (21 September police riot against onlookers at the Port-au-Prince harbor and FRAPI (the murderous disruption of a peaceful memorial parade on 30 September) which first prompted the U.S. troops to intervene in micro cases of what was called "Haïtian-on-Haïtian violence." Since the October 3 move of the U.S. troops against the FRAPI, the latter arrests of the attacks and occupation of the Army/police stations throughout the country, and particularly since the reinstatement of President Aristide, political parties, labor unions, grassroots organizations, and local government have been slowly emerging from their dormant status.

I) Mob Violence, Destruction, and Theft of Property Upon return to Haiti, President Aristide immediately distanced himself from the pillaging of warehouses which had been happening in certain areas of downtown Port-au-Prince, calling on the population to refrain from acts of vengeance and to concentrate on reintegration, a theme which he has repeated on many occasions. Some conservative parliamentarians as well as his own newly-appointed military chiefs have suffered the pillaging ("dechoukaj") by political opponents. Others, including Port-au-Prince's restored mayor, have suggested that enemies of the government and common thieves were using the temporary lack of police to plunder targets of opportunity. This immediate and unequivocal condemnation of extra-legal acts by unidentifiable perpetrators differs markedly from previous government reaction during 1991 through mid-1994. As the interim police force fills in the gaps in local authority, the incidence of such events with a clearly political motive has dropped markedly. Looting of stores and housebreaking in the commercial areas of Port-au-Prince, unfortunately, continues in an unorganized fashion.

III. ELEMENTS TO BE ADDRESSED

A) Judicial Reform As many other elements of the Haitian state, the judiciary for many years has not functioned well and has been marked by incompetence and corruption. Legal procedures are intricate and designed to produce stalemate, judges are poorly educated in the law, if at all, and the Justice Ministry, for which they work, is one of the two traditionally most under-funded in the Haitian government. The fact that the police system, on which much international attention and money is being focused, feeds into such an impoverished system of justice is a matter of genuine concern which the international community has been hurrying to address. The appointment in early November of a justice minister provides a focal point for those and indigenous efforts. President Aristide has backed the formal structure of justice, calling on October 31 for the people, in the absence of the section chiefs, to bring their complaints to the courts rather than taking justice into their own hands. An agreement initiating a one-million-dollar US assistance program for strengthening the justice system and focusing on training and equipment was signed in mid-November. Other donors are expected to follow suit.

B) Decentralization/Local Government Officials of the restored government have spoken of the need for implementing some of the 1987 constitution's mandate for local administration. CASECS or three-man local councils were elected in 1990 in some 555 sections, and for the most part they still exist, although with pay desperately in arrears and with miniscule budgets. Departmental Advisory Councils are mentioned in the constitution, but need implementing legislation (not to mention elections) to come into being. This "territorial collectivities" bill passed the Senate on November 17 and awaited action in the Chamber of Deputies.
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VII. CONCLUSION

A. Economic Situation

By the year 1993, 3,000 new jobs will have been created due to the constitution of early January 1993, elections for a new legislature required by the constitution to start sessions in January 1993. The elections, is that for the first time in early 1993, and around 2,000 offices around the nation will be contested. The UN is already working with the Aristide government to assist in funding, advising, and monitoring the elections as soon as they are scheduled. It is already clear that with the financial and personnel assistance of the UN, the OAS, and various non-governmental organizations in Haiti, the elections will be held on time.

B. Overall Security

A major factor in the overall security of Haitian citizens is the immediate restoration of Aristide's government. The government has been in power since September 19, 1993, and the situation has improved dramatically. The government has been able to restore order and provide security to the citizens of Haiti. The stability of the government has been a major factor in the improvement of security in the country.

C. Post-Intervention Migrations

While it is too early to assess the effects of the restoration of President Aristide on Haitian undocumented migration patterns, the immediate net movement has been one of return: since September 19 some 8,200 of the Haitians stranded in Guantanamo have voluntarily returned, while somewhat fewer than 200 undocumented people are known to have left by sea. Haitians are also in the process of returning from other nearby countries such as the Dominican Republic, the Bahamas, and Cuba. The United States has been providing assistance to the returning Haitians to help them resettle in their home country.

V. POST-INTERVENTION CLAIMS

A. Former Aristide Backers

The most frequently encountered claim among those who have fled the intervention is that of the former partisan of the deposed president who still fears general conditions of violence, unchecked individual oppressors, or the security situation in his particular community. Without addressing the validity of the original claim, it is understandable that people who left a country under one set of conditions might entertain a threshold fear about returning. However genuine their perceptions, in practical terms the whole country's fearful view appears poorly substantiated. No more than in the United States can the government of Haiti, its subdivisions, or the Multi-National Force assure complete insolvency from common nor, indeed, politically motivated crime. Despite the current low numbers of trained Haitian police and the general punishment of the MNF to take over day-to-day police functions over the long haul, the likelihood of a former Aristideist of encountering harassment upon returning to Haiti is extremely slight. Hundreds of thousands of Haitians who have stayed in Haiti during the past three years have been placing Aristideists in their homes, hanging Lavalas and Haitian flags over their streets, and, on less frequent occasions, marching and appearing in the street for the returned president. By department, the MNF forces are currently located in the following cities and towns: (Ouest) Port-au-Prince, Petit-Goâve, Mirebalais, (Nordwest) Port-de-Paix, Batey, Batey, (Nord) Cap Haitien, Rivière-au-Renard, Montreal, (Sud) Les Cayes, (Grande Anse) Jeremie, Barabise, Anse d'Agout, Dame Marie, Corail, (Sud-Ouest) Jacmel, Centre Hinche, Mirebalais, Bellavance.

B. Violence Feared from Aristidists

While less than 20 percent of asylum applicants have made such allegations, the number of such claims has begun to grow. Aside from clearly fraudulent attempts at obtaining U.S. permanent residence, some claims may be related to the activities of self-styled followers of the president. While it is true that the latter participated in several protests in the southern part of the country, the numbers of such claims are thought to be less than a hundred. Others equally prominent have stayed and in those cases where they felt their property threatened, the MNF provided protection. Since the beginning of November, no further cases of such threats have been registered.

C. Membership in the Army/Policie

This variety of claim is currently on the rise. It is critical to recall that at the time of the intervention, there were 10,000 soldiers in the army, which has also been the police, numbered about 7,000 men. Tours of enlistment were for three years, renewable. An important element of the ex-soldiers' claims is that they refused orders to oppress the population, thereby occasioning antipathy from their superiors and leading to their dismissal and eventual flight from Haiti. Failure to rejoin is not ordinarily regarded as a reason for retaliation. We are unable to determine whether individual common soldiers or non-commissioned officers have individually engaged in acts that might amount to "persecution." Low-ranking members of the military are likely to have engaged in acts of repression, beatings, false imprisonment, and extortion, sometimes for political purposes but mainly for gain. People entering the military would have been highly likely to know this reputation of the institution. Indeed, military service attracted people not just for the opportunity to supplement their income, and by its premise of inclusion in the power structure, which conferred a measure of protection for one's own family. Higher-ranking officers may have ordered the acts alluded to above and could be expected to have been aware of their happening.

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II. Membership in Right-Wing Parties

There has been no recorded state action against members of these parties since the restoration of democracy. The right-wing parties are Roger Lafontant's UDN (Union de Reconciliation Nationale) [practically non-existent at present] and Hubert Deconare's MDP [Mouvement Democratique Populaire], a small party. There are no reports of harassment of these parties' members for reasons of their politics. In fact, in early November President Aristide asked Deconare, Leslie Manigat [Rassemblement National des Democrates Progressistes - RNDP] and 11 other political party leaders to meet with him in the Palace to discuss the upcoming electoral season.

E. Membership in Right-Wing Organizations (FRAPH)

The major right-wing organization at the time of the intervention was the FRAPH, which had about 200 members and offices in most communities of 20,000 or more. At its height it may have had some 40,000 adherents. At the time, however, it had no serious political influence, and its influence appears to have waned as the UPR government has become more popular. A small but vociferous group of the Capois Lamont organization, appears to have specialized in Port-au-Prince press bulletins and statements backing the de-facto government, with few instances of its followers acting in the streets or in the provinces. Another group called the RDR [Rassemblement des Democrates pour la Republique] surfaced as the summer of 1994 drew to a close. A general matter, right-wing groups other than FRAPH had not developed any extensive organizational structure before the intervention, appearing in most cases to compromise only publicly-seeking cliques confined to Port-au-Prince.

F. Membership in the MIDH (Marc Bazin) Party

Some applicants, recalling that economist Marc Bazin, leader of the Mouvement pour l'installation de Democratie en Haiti (MIDH) was the major leader in the 1990 election, posit that his followers will be/ have been subjected to state-condoned violence because of their political beliefs. There is no indication that such a thing has happened. Rather, in his first month the restored president has called Bazin over to the Palace and has included the MIDH party in the group invited for the pre-electoral conference. Members of the MIDH, current or former, would appear to have little to fear on returning to Haiti.

G. Temporary Nature of the Restoration of Democracy

Numerous applicants are now claiming that they do not trust in the permanence of the restoration of democracy. This office cannot predict the long term future in Haiti, but believes that currently reforms are on a stable track. The MNF is slated to stay through the elections and inauguration of President Aristide's successor (February 1996), a promise of internationally-guaranteed stability enjoyed by few other countries.

PART TWO SITUATION BEFORE THE INTERVENTION

While the near total political change in Haiti may lessen the relevance of the following information in considering current asylum claims, it provides useful background to today's situation, and may assist in evaluating the substance of old claims in which the argument of past persecution may be propounded.

I. OVERVIEW DURING THE 3-YEAR MILITARY PERIOD (1991-94)

Situation in 1993/94. To provide context for the following comments, the introductory paragraphs of the 1993 Country Reports on Human Rights Practices in Haiti (published in early February 1994) are repeated below.

"The Haitian military has effectively ruled the country since its constitutional, violent overthrow and expulsion of President Jean-Bertrand Aristide in September 1991. From January to August 1993, Haiti was ruled by an unconstitutional de facto regime, the second since the coup. On July 3 (1993) the military high command signed an agreement with President Aristide on Governor's Island, New York, to restore the constitutional order. Pursuant to that accord, on August 30, Prime Minister Robert Malval, appointed by President Aristide, was sworn into office. The military high command failed to respect the provisions of the Governor's Island Accord, which delayed the full implementation by the end of the year. Malval held de jure power throughout the period but was unable to effect full control of the government, and actual power remained in the hands of the military and its supporters. Ministers in the Malval government were often prevented from carrying out their duties by threats, violence, and other forms of intimidation. On October 14 (1993), Justice Minister Guy Malary was killed in downtown Port-au-Prince. Although the killers had not been identified by year's end, there is strong reason to believe that they were supporters of the military. Prime Minister Malval resigned on December 15 (1993), in keeping with his announced intentions, but stayed on as acting Prime Minister pending appointment of a replacement.

"The Haitian Armed Forces, which have considerable legal and institutional autonomy, are responsible for law enforcement and public security. The police, all of whom are stationed in Port-au-Prince, are an integral part of the armed forces. In both urban and rural areas, armed forces units serve as police, despite a constitutional requirement to separate these two bodies. Paramilitary personnel in civilian clothes (known as "attaches" in the city and "section chiefs" and "adjoints" in rural areas) conduct most of the intimidation and violent repression for both the police and the army. Military, police, and paramilitary personnel committed numerous serious human rights violations with impunity in 1993.

"The Haitian economy is characterized by severe overpopulation vis-a-vis ever dwindling arable land due to environmental devastation, high infant mortality, a heavy dependence on imports and foreign assistance, a primarily rural population living on rapidly eroding land, wide disparities of income, and a small manufacturing base. While never strong, the economy declined in recent years, owing to political instability and government mismanagement. That decline continued in 1993 and was intensified by the Organization of American States' (OAS) trade embargo and the United Nations' fuel embargo, as well as suspension of all but international humanitarian assistance following the 1991 coup.

"Haitians suffered human rights abuses throughout 1993, including political and extrajudicial killings by the security forces and their allies, disappearances, beatings and other mistreatment of detainees and prisoners, arbitrary arrest and detention, executive interference with judicial processes, and continued infringement of the right of citizens to change their government.
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More than 200 civilian human rights observers from the United Nations and the OAS were deployed throughout the country through October when they were withdrawn due to perceived threats and intimidation. Their presence temporarily helped curb public violence and human rights violations, but indiscriminate violence remained substantial, especially in rural areas, where two-thirds of Haitians live. There was a substantial increase in crimes of violence, including politically motivated killings, beginning in July and August (1993), as tensions rose over the Governor's Island Accord and military efforts to derail its implementation. Most of the violence is directed at stopping the transition to democracy.

Situation to September 1994  Since the mid-October 1993 prevention by a group of armed "attacks" of the tanding of U.S. engineering soldiers, the murder of Aristide's Justice Minister, renewed outbreaks of violence on the streets of Port-au-Prince, the re-constitution of the UN embargo (including petroleum) enforced by warships, and the evacuation of most international human rights personnel from the province - signaled a worsening human rights climate in Haiti - one in which fear and uncertainty predominated. In-country observers, including to late June 1994 some 90 UN/OAS human rights monitors, reported a recrudescence of repression continuing into 1994 with increased frequency and brutality, including the murder, rape, and beating of political opponents, in this period including some rank-and-file former Aristide supporters and other innocent citizens in Port-au-Princes slum neighborhoods, by local authorities and their agents, in the capital and provinces alike.

II. COMMENTS ON MOST FREQUENTLY OCCURRING CLAIMS (1991-Sept 1994)

The following paragraphs pertain to the rights situation as it stood in August/September 1994, before the intervention. It is supplied since practically all newly filed and currently pending asylum applications pertain to fact-situations arising out of this period.

Most pre-intervention applicants have claimed at least some participation in activities during the December 1990 election in which Aristide was elected president and/or in grassroots organizations which burgeoned during his seven months in power. Consequent mistreatment at the hands of the military or his quasi-military allies is claimed, frequently after deportations and generally involving an attempted or realized arrest at the applicant's home. Others who left Haiti before Aristide came to power say that they left because they opposed the governments of the particular era and were sought out by the military or their henchmen the "tonton-makoute." The oral account is usually the sole basis of the claim. Comment on particular aspects of the most common claims follow:

1. Aristide/RNCU supporters  Persons who were prominent supporters of President Aristide as well as most current open and activist supporters of his return, especially if they engage in public political activities, were likely to be at risk. Individual targets included persons the military fears as sources of potential opposition, such as, but not limited to, influential Aristide supporters. There were arbitrary arrests, extra-judicial executions, and "disappearances" of such individuals. However, Aristide won the election with 67 percent of the vote, a total of 1,107,125 citizens, and the State Department had no credible information that minor election activity or simple support for him in 1990-91 had caused targeting for reprisal. Nevertheless, post-coup political activities which could have been seen as publicly challenging the 1991-94 authorities could well have lead to retribution. In early 1994 there were indiscriminate attacks, killings, rapes, and beatings by agents of the authorities on prominent Aristide supporters, the ousted President Aristide himself, and others innocent citizens in underclass neighborhoods in Port-au-Prince considered Aristidistes bastions.

2. Relatives of Aristide supporters  Although some relatives of prominent Aristide supporters have claimed that they are also in danger, our information indicates that prior to 1994, it was unusual for such relatives to be threatened or harmed solely because of their familial relationship. The danger to the relatives of prominent Aristide supporters who have been harmed seems to have resulted from their having been in the vicinity of targeted persons when the violence occurred. In 1994, credible reports of rapes, murders, and kidnappings of these relatives in rank-and-file Aristidistes were encountered.

3. FDCH (Sylvio Cloude) members  Despite the horrible death of FDCH leader Sylvio Claude at the hands of a mob at the inception of the coup, members of the Parti Democratic Christsian d'Haiti, which garnered 50,000 presidential votes in the election in which Aristide became president, were not sought out and harrassed. Without a charismatic leader, albeit with several deputies in the Parliament, the party posed no threat to the military's enjoyment of power.

4. MIDH (Marc Bazin) Supporters  Currently, having been associated with the MIDH should cause no problems. The MIDH was the party of the Prime Minister of the de facto government of Haiti during June 1992 to June 1993. Former Prime Minister Bazin himself is currently (Nov. 1994) living quietly in Port-au-Prince.

5. RNDD (Leslie Manigat) Supporters  Past involvement in politics in Manigat's Rassemblement National des Democrates Progressistes is unlikely to cause an applicant problems under the 1991-94 or current country conditions. On June 19, 1988, President Manigat was deposed by a coup led by General Henri Namphy. Manigat, who was ruled ineligible to run again for President during the 1990 elections, lives in comfort today in Port-au-Prince, while the man who ousted him is in exile. During 1992/93, Manigat assumed the role of a gadfly to the de facto government of Marc Bazin, but has not engaged the public in support of his initiatives. We have no reports of Manigat followers or their families being targeted at this time (1991-94 and Nov. 1994). Manigat went to the Dominican Republic after the 1994 intervention.

6. Followers of Roger Lafontant (JUN) Lafontant, a former Interior Minister in the Duvalier government and head of the "tonton-makoute" (g.v.), returned to Haiti in the summer before the December 1990 elections but was disqualified from running by the electoral commission. Following a coup attempt designed to prevent Aristide from taking office, he was captured immediately, tried, and imprisoned. On the first night of the anti-Aristide coup, he was killed in his prison cell. There was no credible report that Lafontant's followers were in particular danger from the 1981-94 authorities because of their political orientation. In some cases inquiry should be made into applicants' own past activities in support of Lafontant, given the leader's unsavory record.
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7 Duvalierists Since the overthrow of Jean-Claude Duvalier there have been several governments of widely different political tides, including several political parties, including the 1991-94 de facto authorities. The atmosphere in Haiti was not conducive to persons of this political background and there was little likelihood of members of former Duvalierists being harmed solely because of the content of the political relationship. The restored Aristide government has made no extra-legal moves against people of this tendency.

8 Persons Who Left During the Duvaliers (1957-86) Since the Duvalier regime, no less than seven governments of different political characteristics have intervened. Whatever the truth of the allegations made by most applicants having left during this period, the military authorities were less interested in pursuing historical Duvalierist grudges and more in the practical matter of staying in power by preventing organized resistance by partisans of President Aristide.

9 Persons Who Left During the Duvalier-Aristide Interregnum (1986-90) When departure from Haiti took place during the 1986-90 regimes, successor governments include (General Namphy's first presidency (7 Feb 86 to 7 Feb 88), the regime of Leslie Manigat (Feb to 19 June 88). Namphy "two" (June to 17 Sep 88), Gen. Avril (Sep to 10 Mar 89), Trouillot (13 Mar 90 to 7 Feb 91), Aristide (Feb to 30 Sep 91). The de facto governments of Nerette/Honorat (7/9 Oct 91 to May 92) and Bazin (13 June 92 to 8 June 93) and the tenuous prime-ministership of Aristide's designate Malval (30 Aug 1992 to Oct 94) followed. We do not believe the fact that an ordinary citizen was or is known to oppose or have opposed these earlier rulers puts that person at particular risk of mistreatment or abuse. It has been many years since some of those leaders and their families left the country, and later personalities, hopes, and animosities have moved to the fore.

10 Poll Watchers (Mandateurs) While there was much political upheaval at the time of the aborted elections of November 1987, when elections were held in a far more peaceful atmosphere. Those elections were internationally supervised (around 1,400 observers) with some 14,000 polling stations established throughout Haiti. There were a few administrative irregularities due to inexperience with the procedures, but the elections delivered a result believed to be fair by all.

The political parties assigned many poll-watchers (mandateurs) to the 14,000 polling places around the country. Being a mandateur was a designation which was handed out freely and does not connote any high internal party authority or visibility. NDRP (the party of over whose campaigned activists in Haiti told embassy that almost 50,000 written mandat papers were issued, the majority between December 16 and 16, 1990. Being a mandateur was an insignificant position and would not alone bring on police action. However, in the embassy's considerable experience in examining claims of mistreatment by virtually untrained or inexperienced town police officers that he had issued no less than 5,000 of these papers to potential voters in the days before the elections. He said (in March 1992) that he knew of no instance in which someone who was simply a former mandataire

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- with no other political activities had been targeted for persecution. It should be noted also that very many of the rather simply constructed mandat letters are fabrications done either in Haiti or the USA.

11 Members of a Community Action Group While we typically have limited information on the many micro-groups in which applicants claim membership, it is a fact that in Haiti after the overthrow of the Duvaliers (1986) and particularly after the election of President Aristide (December 1990) neighborhood associations sprang up all over the country. With such self-organized efforts as street cleaning, building new schools, literacy campaigns, and reforestation, many of them became the focus of civic activity. After the coup the military severely restricted public assembly and systematically inhibited any type of association. As a result these groups became inactive. Some of these groups became inactive. Some of the claimed groups are very small (less than ten people), and others consist largely of family members. In attempting to corroborate these claims in the communities in which the applicants lived, the organizations and their leaders seldom can be formally verified; their names seems to be uniquely referenced in a particular application and not encountered elsewhere. When the goals and activities of a particular group are only described generally and in a standardized way, it is possible that the claim of membership in and activities of the group may be overstated.

III. OTHER CONSIDERATIONS FOR ADJUDICATORS (1991-94)

A False and Exaggerated Claims by Some Previous Returnees While, as noted above, there were severe human rights abuses in Haiti, investigations by U.S. Embassy employees indicated that many of the reports made by asylum applicants concerning arrests, killings, and intimidation were unconfirmable. Through late 1994, the Embassy monitoring program had interviewed family members, friends, and neighbors of more than 4,100 returnees without encountering sustained, credible reports of reprisal or mistreatment by authorities after their return to Haiti related directly or indirectly to either their departure or involuntary return.

B Claimed Killings of Family Members or Close Associates In reviewing cases which depend on claims that close family members or associates were killed or caused to disappear by the authorities or others, a careful effort should be made to establish the facts and verify the credibility of the applicant. Some such claims are undoubtedly true, e.g., at least 1,000-400 politically related deaths primarily during the immediate post-Aristide violence. We note that the Embassy in Port-au-Prince over the three past military-dominated years found in checking out the veracity of a number of refugee/asylee claims which were specific enough to be verifiable, that such allegations, particularly where several killings or reprisals had occurred, were not infrequently untruthful or greatly exaggerated. Some substantiated deaths can be related to natural causes or non-political violence, which is endemic. Many people have been killed for other parts of the country or for destinations abroad, so disappearances are not always suspicious. In the absence of a working judicial
system, others have resorted to violence to settle all manner of disputes. The names, ages, and addresses of the deceased or disappeared person, the names of witnesses, and the precise location and circumstances of the deaths are routinely not found in written asylum applications.

C Exiles are not a mistreated social group While people fleeing or emigrating from the ex-communist countries were often seen as "traitors" by their regimes, Haiti is different. The Haitian "diaspora" is commonly referred to as the "Dixieme Departement" (tenth province), reflecting the strength of the family and economic ties between Haitians across the seas. One Haitian in six lives abroad, and many tens of thousands travel back and forth between Haiti, the USA, Canada, and France with no trouble. Neither Haitians nor the authorities, de facto and legitimate, regard seeking a better life overseas as subversive or return from overseas to be grounds for mistreatment.

D Students' Situation Students in Haiti have participated in political activities and been confronted by the police, particularly in the capital and particularly among university students, who are concentrated in an area which happens to be right outside the doors of the consular section of the embassy. After the ouster of Aristide, schools around the country were closed by the government and by church authorities for several months, reopening in January 1992. The police continued its course until late May through July as Marc Bazin, Aristide's major opponent in the 1990 elections, became prime minister of the de facto government. This caused serious, if sporadic, student-police confrontations in Port-au-Prince, which sputtered out during the summer break. Schools reopened in October 1992 with a minimum of disorder. In December 1992 the four faculties of the university were closed temporarily due to disturbances. Provincial schools, Port-au-Prince schools, and university graduate schools are currently open, insofar as the worsening economic situation has not led to their closing. Recent high school and university graduates, in turn, have found job prospects even more limited than in normal times due to the embargo, which continued for three years.

E "Zengelodos" (Gangsters) Critical to the evaluation of certain cases is the political coloring attached to mistreatment by "zengelodos." This politically-tinged Haitian word is applied primarily to night-time burglars. The danger seems to be a function of number, weapons, and pressed or actual police/military connection. While not all those who are necessarily "zengelodos," over the years it had been a practice of the local police to allow for a price certain individuals to plunder neighborhoods. It was also possible for the police to engage in conduct directly themselves. Whether or not there was likely to be political follow-up to a break-in or robbery. In the post-Aristide material was discovered by a particular group of "zengelodos" may have to be elicited in closer questioning.

F The Tonton Macoutes (or Sang-Man-mang) The term "makout," so dreaded in the time of the Duvaliers (1957-1986) when it was coined and when the practitioners were issued special uniforms and grouped into paramilitary formations called the VSN or "Volontaires pour la Securite Nationale," has lost much of its former applicability and precision. The VSN was officially disbanded in 1985. Today the term "makout" can cover a range of people, some with connections to former governments, some with current links. The people known as "attacks" of the section chiefs and the army/police when they go out in force, were perhaps the closest spiritual descendants of the term. Whether their association by its constant usage invoked as an expetile for rough-handed common criminals or for people (sometimes of higher social station or of more conservative bent) with whom one strongly disagrees. A derivative group-appeal is the Gona-Men-mang literally the "bastards," this designation is used by and about thugs in St. Marc and the Artibonite Valley. Fulfilling much of the extrajudicial "bully-boy" role of the "tonton macoutes" in other parts of the country, they have also intervened in the internecine struggles over land rights that characterize the Valley.

G The FRAPH The neo-duvalierist React Revolutionnaire pour l'Avancement at Progres d'Haiti first appeared in mid-September 1993 marching in the streets of Port-au-Prince against the embargo. By mid-October it had won its spurs by a highly effective general strike against the Malval government and then by personifying the military authorities' resistance to the disarmament of U.S. and Canadian soldiers from the "Haitian County." It first appears to have been day-hire bully-boys, but with the mid-October 1993 murder of the Justice Minister right after the "Haitian County" incident it started to become an organized political force and had spread to the countryside as well. The FRAPH was a disturbing phenomenon, representing the first time since the ousting of Aristide that the military de-facto authorities behind the scene tried to establish a base of civilian support. The FRAPH was the latter-day equivalent of the VSN or tonton-macoutes, equally political and subservient to those in power, but also about which the military and somewhat nervous as well. Its current (Nov. 1994) efforts to make itself appear innocuous are detailed in Part I.)

H Broadcasting of Applicants' Names on the Radio Such accounts, other than an October 1991 request by name for Aristide's bodyguards in their weapons and the reading of 100 Aristidians' names during a well-known "Radio VSN" broadcast of 18 December 1991, cannot be verified. Where the "exposed" applicant's only contact with Aristidians was that he had been membership in one of the thousands of local committees, or possibly also known by police, a target of "zengelodos" was the only group of similarly-situated people would be in the order of tens of thousands. The reading of any such lists over national radio would normally be expected to have seized the attention of the embassy, the Foreign Broadcast Information Service in Key West, and the various Haitian and foreign human rights groups. However, none of these sources has recorded such activities, with the exceptions mentioned above.

I Varying Levels of Violence Immediately following the coup d'etat against Aristide, when the army first clamped down against his followers and their organizations, violence, particularly in Port-au-Prince and Cap-Haitien, reached a high
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level. 300-400 people were killed in politically-motivated repression. Following the weeks of October/November, levels of violence fell considerably, albeit repression has continued to be strong. Rumors of a return of Aristide in December 91/January 92 and the appointment of Marc Bazin as Prime Minister in May 92 resulted in lesser instances of violence. During 92 the toll of politically-motivated deaths is estimated by the embassy to have been in the dozens. The year 93 followed the pattern of 92, with intense repression of public gatherings and the level of politically motivated killings reported to be around five per month. In April 93 onwards the level of beatings, illegal jailings, and extortions somewhat in most of the eight provincial towns which received resident UNHCR human rights teams. After the 3 July 1993 Governor’s Island agreement to restore Aristide to power, repression, arrests, beatings, and targeted killings increased in Port-au-Prince and throughout the country, and in mid-October 1993 the International Civilian Mission observers were withdrawn. However, in early 1994 the police/military had established a general pattern of deliberately eliminating adversaries, leading to a pattern of violence and intimidation including almost nightly raids on poor neighborhoods. Throughout the post-coup period, “first amendment” rights (especially of assembly, less so of the written press and radio) continued to be tightly controlled.

Immediate Post-Coup Demonstrations against the Regime

The embassy has verified that in some areas of Port-au-Prince and Cap-Haitien, Gonaives, and Les Cayes people took to the streets to protest, if possible, to turn back the September 1991 coup—as they had assisted against the abortive Lafontant coup in 1986—the group in January-February had sought asylum in Canada and elsewhere, and other neighborhoods of Carrefour who first came out to demonstrate were subjected to fierce repression by the military. Those willing to try to reverse the coup found, unlike at the time of Lafontant, that the army was firmly against these attempts. After October 1, the second day of the coup, (and with Aristide now in exile) there were no mass attempts to overturn the military. Stories of demonstrations of hundreds in provincial towns cannot be verified and where investigated have been found to be untrue. Among students in Port-au-Prince there was a brief recrudescence of strike activity concerning the appointment as Prime Minister of Marc Bazin and various academic disagreements in May/June 1992. The police reacted with more restraint than against the urban poor during the previous autumn. No one, for instance, was killed in these demonstrations, and those jailed were released within days.

Pro-Aristide Demonstrations in 1992, 1993, & 1994

During 1992 and 1993, upon occasion there were pro-Aristide demonstrations. The police have been very quick to react against these, indeed against any gathering of people, by shooting in the air, beating people with batons, and often mauling and arresting people. The usual result of an arrest is a beating, an overnight in jail and release, often upon payment of a bribe. Claims for 1992 that people were afterwards sought out and murdered by the authorities for past participation in such gatherings should be compared with the Amnesty International estimate that about 100 people were killed in that year for politically-motivated reasons and the embassy estimate that such killings were in the dozens. In 1994, the increase in repression militates against any public expression of support for Aristide.

I. Human Rights Abuse On Account of Five Protected Grounds

HAITI’s continuing wretched human rights record stemmed in part from endemic conditions such as corruption, poverty, exploitation and ignorance, which are more structural than “political” in the sense it is normally conceived. Committing or exploiting abuses for personal, institutional, and partisan ends was common. The relationship of these abuses to the five protected grounds under the Refugee Convention is often not clarifiable.

PART THREE

GENERAL CONSIDERATIONS

I. TREATMENT OF APPLICANTS IF THEY RETURN

Since the September 1991 coup, there were very few substantiated reports, with the exception below, that persons returned to Haiti by the U.S. under the interdiction program, who total over 30,000 people since Aristide’s departure, were subject to punishment by Haitian authorities solely for attempted departure. Smuggling “boot people,” however, was illegal and those suspected were interrogated, and some detained, at most for about forty-eight hours. Reports that persons deported or excluded from the United States after having unsuccessfully sought asylum here or after attempting illegal entry were detained or subjected to punishment by the Haitian authorities have not been substantiated, despite repeated inquiries of over 4,000 returnees by the Embassy during 1992, 1993, and 1994. Following the 1994 intervention, some 8,200 Haitians safehavened at Guantanamo were returned to Haiti and there have been no reports of their being harassed by the government. The current restored Aristide government has placed no obstacles to the return of Haitians outside the country.

II. IN-COUNTRY REFUGEE PROGRAM

From 1992 through 1994 the USA had an in-country refugee program, one of four such in the world, which is now being concluded. More than 63,000 people inquired, over 19,000 were interviewed, and over 6,000 approved for refugee status. The average approval rate of those principals interviewed was in the 20 percent range.

III. INTERNAL FLIGHT AND RELOCATION POSSIBILITIES

Despite the high level of violence, it was possible for many people to take up safer residence in other parts of the country. Throughout the recent decades of Haiti’s lawlessness, many thousands of people have migrated internally, primarily from the countryside to the cities. In times of urban trouble.
many Haitians have moved back to their former abodes in other parts of the country. Estimates of this out-migration to rural areas by inhabitants of Port-au-Prince right after the coup range up to 300,000 persons. Many applicants from Port-au-Prince, for example, were born in other parts of the country and still have parents and other relatives living there. Equally, many rural families have members who have moved to the capital for economic betterment and who have been able to receive relatives from the provinces who may be seeking the anonymity of the city. Demographic studies, observation by embassy and human rights reporters, and the record in most asylum cases show that there has been extensive use of these and other alternative refugees. At the time of the intervention the embassy believes that people displaced number in the thousands. While certain groups cited 300,000 at different times during the 1991-94 period, in this connection it should be noted that the term “in hiding” is sometimes used by applicants to indicate spending the night at one or several addresses, while pursuing normal daytime routines. Currently the opportunities for avoiding an undesirable situation (for whatever reason) in one’s home community by living elsewhere are greatly improved.

IV. ALTERNATIVE REASONS FOR MIGRATION

For many decades the major outlet for Haiti has been emigration; around one Haitian in six now lives abroad, and remittances from relatives overseas (which in pre-embargo times amounted to a quarter of the receipts from exports of goods and services) for many families spells the difference between penury and starvation. Sending a family member to the United States has been called Haiti’s “social security system.”

Annual net migration from Haiti is about 5,000 persons, or 34,000 annually, according to U.S. Census Bureau analysis. With 6.5 million inhabitants, Haiti is the second most populous country in the Caribbean, and another million Haitians are reported to be working abroad, some in the Dominican Republic, Bahamas, France and Canada, but mostly in the U.S. The U.S. portion of the “diaspora” is largely of recent arrival, meaning that many Haitians are likely to have relatives here to help them become established. The human rights situation in Haiti is increasingly abusive, but its impact on the individual must also be considered in the context of this abysmal and worsening economic setting.

In 1992 the INS estimated that 98,000 Haitians were long term illegal residents in the US, including 59,600 in Florida and 21,400 in New York. In October, 1988, the estimated illegal Haitian population had been 58,000 and in the subsequent period there were an estimated 45,000 gross overstays, 5,000 adjustments or departures, 2,000 deaths and 1,000 entries without inspection—resulting in the estimate of 98,000 resident illegal Haitian aliens, an increase of about 12,000/year. A total of 292,559 Haitians have immigrated legally to the US, most of them recently: 138,379 from 1981-1990, 47,046 in 1991 and 58,756 in 1992. Nonimmigrant admissions from Haiti were 72,000 in FY 90, 64,000 in FY 91 and 42,000 in FY 92. (FY 92 admissions are low because the U.S. consular section was closed for non-immigrant and open only part-time for immigrant visas during that year.) 20,153 Haitian affirmative applications for asylum were pending adjudication on September 30, 1994.

In the past visa fraud has been high, resulting in a very high refusal rate for first-time applicants to the U.S. Embassy. Smuggling of Haitians occurs by boat for the very poor, but conditions are hazardous. Up to a thousand people are believed to have perished at sea during the 1991-92 boat-people movement and over 300 further drownings happened in the May-July 1994 migration. People with wealth or stateside relatives are able to pay for false documents to board legitimate carriers or travel undocumented on fly-by-night planes and boats either directly or via way-stations to South Florida.

During the latter part of 1991 and early 1992, larger exoduses of fragile small craft led to close-in operations by the U.S. Coast Guard. Following court orders prohibiting return to Haiti of rescued boat-people, the cost of going to Miami dropped to a fraction of previous charges, and the danger factor of a long sea voyage generally ceased to operate. The chances of being screened in at Guantanamo were well known in Haiti due to extensive stateside publicity repeated into Haiti by local radio and stateside relatives of potential migrants. These factors led to greatly increased mixed-motive flows of people during this period.

In May-July 1994 renewed close-in operations by the Coast-Guard in conjunction with offshore U.S. refugee adjudication commencing aboard a ship in the harbor of Kingston, Jamaica were accompanied by a renewed exodus of boat-people, first in large, then ever smaller craft. When in early July 1994 U.S. policy changed to abandon shipboard refugee processing in favor of those rescued "safeguard" outside of Haiti, without the option of coming to the USA, Coast-Guard rescues of over a thousand a day quickly sank to negligible amounts. Around six thousand of those rescued elected to return to de-facto governed Haiti rather than stay in indefinite "safeguard" in Guantanamo and other places. Currently some six thousand Haitians remain in Guantanamo.

In 1991/92 Haitian refugees sent to third countries (notably Honduras and Venezuela) preferred in over three quarters of the cases to return to Haiti if permanent resettlement in the United States were not possible, a pattern repeated in Trinidad in early 1994.