

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Original OA/ID Number: 475				
Document ID: 9404345				
Stack: V	Row: 44	Section: 4	Shelf: 4	Position: 3

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9404345
RECEIVED: 01 JUN 94 16

TO: LAKE

FROM: PRESIDENT

DOC DATE: 24 MAY 94
SOURCE REF:

KEYWORDS: HAITI
LEGAL ISSUES

REFUGEES
MEDIA

PERSONS:

SUBJECT: PRES QUEST RE NEW YORK TIMES EDITORIAL RE HAITI ENTITLED TO THE
RESCUE ON MAY 24

ACTION: NFAR PER SCHWARTZ

DUE DATE: 04 JUN 94 STATUS: C

STAFF OFFICER: SCHWARTZ

LOGREF:

FILES: PA.

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO
NSC CHRON

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSMBN

CLOSED BY: NSDRS

DOC 1 OF 1

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9404345

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 ROSSIN
001
001 SCHWARTZ
001

Z 94060116 PREPARE MEMO FOR LAKE
Z 94060212 ACTION TRANSFERRED
Z 94060212 PREPARE MEMO FOR LAKE
X 94122915 NFAR PER SCHWARTZ

UNCLASSIFIED

TO: LAKE

FROM: PRESIDENT

DOC DATE: 24 MAY 94
SOURCE REF:

KEYWORDS: HAITI
LEGAL ISSUES

REFUGEES
MEDIA

PERSONS:

(what question? Don't see any.)

SUBJECT: PRES QUEST RE NEW YORK TIMES EDITORIAL RE HAITI ENTITLED TO THE
RESCUE ON MAY 24

ACTION: PREPARE MEMO FOR LAKE

DUE DATE: 04 JUN 94 STATUS: S

STAFF OFFICER: ROSSIN

LOGREF:

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION
ROSSIN

FOR CONCURRENCE
CLARKE
HALPERIN
KRECZKO
SCHWARTZ

FOR INFO
FEINBERG
ROSS

*To NSC/S-
Transfer to ERIC
Schwartz for
action.
L Rossin 6/1*

*Close
Return for
filing to Recd. Mgt.
OBE
we took this
action.*

COMMENTS:

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSMBN

CLOSED BY:

DOC 1 OF 1

NATIONAL SECURITY COUNCIL

June 3, 1994

NOTE FOR EXEC SEC

FROM: ERIC SCHWARTZ

Is a response needed here?

Eric,
Per Kristei, a
memo does need to
be done giving comments
on the article -- agree,
disagree, your views,
etc.

To the Rescue?

THE PRESIDENT HAS SEEN

By Grover Joseph Rees

W

hen the Clinton Administration announced this month that it would no longer forcibly return Haitian boat people who have a well-founded fear of persecution, the President himself was said to have insisted upon the change — reminding his advisers that “they are chopping people’s faces off” in Haiti.

The President is right. Unfortunately, the Government is still wrong. The old repatriation order remains in force; since the announcement, 1,000 boat people have been returned to Haiti, without the promised interviews to determine whether they are in danger of persecution.

Last week, in a welcome victory for refugee advocates, the United Nations High Commission for Refugees said it would work with U.S. officials to screen Haitian boat people. But it will take more than U.N. cooperation to overcome the flaws in our policy.

Advocates of forced repatriation believe it is the only practical response to mass migration. Our last attempt to deal one by one with requests for asylum led to the opening of a refugee camp in the Navy base at Guantánamo Bay in Cuba in 1991. About 30 percent of the Haitians who applied there were found to have credible claims of persecution. Government theorists believe a rate this high is a powerful magnet for further departures. Whether for this reason or because of events in Haiti, by the time George Bush issued the automatic repatriation order in May 1992, more than 35,000 Haitians had come to Guantánamo.

Almost nobody liked the Guantánamo program. It diverted resources from the Immigration and Naturalization Service, the armed forces, the State Department and other agencies. Some Americans worried about the thousands of Haitians we let in, others

working from the assumption that regattas, not killings and mutilations, are the one thing to be avoided at all costs.

First, the announcement of the new policy was vigorously hedged by senior officials, who estimated that only about 5 percent of the Haitian boat people have valid asylum claims — an estimate the U.N. refugee agency quickly criticized as “very low.” And then there are the 1,000 people we have returned to Haiti since. The official explanation is that the Navy needs time to rent and refurbish two Ukrainian cruise ships. Unofficially, a senior official says the latest repatriations may send a message that we are serious about not opening the floodgates.

Each of these pronouncements raises serious questions. The Administration can decide not to accept more than a certain percentage of applicants. Or it can try to protect people with a well-founded fear of persecution. No process can be relied upon to do both of these things. The announcement that we will protect all refugees and still return 95 percent may have been directed at frivolous applicants, but it could corrupt the process by sending a message down the chain of command.

S

uch messages have been sent before. I am told that the first meeting to organize a refugee screening program in Haiti, as an alternative to the Guantánamo operation, began with a sardonic announcement to this effect: “Those of us in this room know there is no such thing as a Haitian refugee. But we have been instructed to find some.”

This was in early 1992, when embassy reports vehemently denied that there was much political persecution in Haiti. The refugee program in Haiti has improved since then, but the improvements have caused higher acceptance rates and attracted more applicants. So the embassy earlier this year quietly imposed restrictions limiting eligibility to “high priority” applicants like journalists and close associates of Jean-Bertrand Aristide, the exiled President. This is egregiously inconsistent with the reason for the new policy — unless the people dead and mutilated by the side of the road all knew President Aristide personally — and with our repeated admonition to Haitians to make refugee claims in Haiti, not by taking to boats.

The recognition that there are some things in the world even worse than boat people suggests that reopening the Guantánamo operation — this time with the participation of the U.N. refugee agency — may be the best of the bad choices available. The best features of that program — interviewers trained in refugee law, a standard of proof meant to protect anyone with a plausible claim of persecution, and instructions to judge each case on its merits and not worry about percentages — were what caused the “magnetic” 30 percent acceptance rate. But a program without these features would afford no assurance that those rejected could be returned safely.

If the risk that a generous program will admit many Haitians to the U.S. is deemed unacceptable, there is one way to avoid it without getting people killed. This is to announce that no boat people will be brought here, but that none will be returned to Haiti either. Instead they could be housed in refugee camps in a third country until it was safe to return to Haiti.

The offer of sanctuary in a habitable, civilized place in which there is no fear of persecution, but which is not the least bit economically magnetic, may be the best way to protect refugees without encouraging migration. The existence of such a place might have the additional effect of keeping international attention focused on the need for a solution to the problems in Haiti.

The hard part of this plan is that

other countries do not like boat people any more than we do. The President seems to recognize that to overcome this resistance, he must be the lead negotiator. His first effort, a call last week to Prime Minister John Major of Britain, has yet to produce results. But a President can often get other leaders to do things they do not want to do, if he can convince them that these matters are extremely important to the U.S.

If all else fails, there is always Guantánamo. The Pentagon’s maximum estimate of how many refugees the base can hold is 12,500. Adjusting this figure to take account of the jealousy with which agencies guard their resources, we come up with a likely figure that is twice or even four times that number. A semi-permanent refugee camp in Guantánamo is a bad option, but we could do worse. We are doing worse right now.

The best option for Haitian refugees is still Guantánamo.

about the thousands we sent back.

This is the secret of the automatic repatriation policy: It was never so much a Bush Administration policy as a consensus of the affected agencies. During the Clinton transition, career officials were quick to inform the new President that his campaign promise to stop sending back Haitian boat people was unthinkable. In the words of one official, keeping the promise would turn the day after the inauguration into the “Jan. 21 regatta.”

Mr. Clinton’s observation about the cutting off of faces seems to have been intended to alter the debate within his own Administration, using a compelling image to single out one option as far worse than all the others. The President’s statement is also literally true. There have long been reports of roadside executions in Haiti, but disfigurement of the bodies as a terror tactic is a recent development. So is the mass rape of women and the abduction of young children.

Mr. Clinton should keep these rapes and kidnappings in mind. There are two indications that some of his colleagues in Government may still be

Grover Joseph Rees, a senior visiting scholar at Yale Law School, served from 1991 to 1993 as General Counsel of the U.S. Immigration and Naturalization Service.

THE NEW YORK TIMES, TUESDAY, MAY 24, 1994

To the Rescue?

✓ 4345

THE PRESIDENT HAS SEEN

5/24/94

By Grover Joseph Rees

WHEN the Clinton Administration announced this month that it would no longer forcibly return Haitian boat people who have a well-founded fear of persecution, the President himself was said to have insisted upon the change — reminding his advisers that “they are chopping people’s faces off” in Haiti.

The President is right. Unfortunately, the Government is still wrong. The old repatriation order remains in force; since the announcement, 1,000 boat people have been returned to Haiti, without the promised interviews to determine whether they are in danger of persecution.

Last week, in a welcome victory for refugee advocates, the United Nations High Commission for Refugees said it would work with U.S. officials to screen Haitian boat people. But it will take more than U.N. cooperation to overcome the flaws in our policy.

Advocates of forced repatriation believe it is the only practical response to mass migration. Our last attempt to deal one by one with requests for asylum led to the opening of a refugee camp in the Navy base at Guantánamo Bay in Cuba in 1991. About 30 percent of the Haitians who applied there were found to have credible claims of persecution. Government theorists believe a rate this high is a powerful magnet for further departures. Whether for this reason or because of events in Haiti, by the time George Bush issued the automatic repatriation order in May 1992, more than 35,000 Haitians had come to Guantánamo.

Almost nobody liked the Guantánamo program. It diverted resources from the Immigration and Naturalization Service, the armed forces, the State Department and other agencies. Some Americans worried about the thousands of Haitians we let in, others

The best option for Haitian refugees is still Guantánamo.

about the thousands we sent back.

This is the secret of the automatic repatriation policy: it was never so much a Bush Administration policy as a consensus of the affected agencies. During the Clinton transition, career officials were quick to inform the new President that his campaign promise to stop sending back Haitian boat people was unthinkable. In the words of one official, keeping the promise would turn the day after the inauguration into the “Jan. 21 regatta.”

Mr. Clinton’s observation about the cutting off of faces seems to have been intended to alter the debate within his own Administration, using a compelling image to single out one option as far worse than all the others. The President’s statement is also literally true. There have long been reports of roadside executions in Haiti, but disfigurement of the bodies as a terror tactic is a recent development. So is the mass rape of women and the abduction of young children.

Mr. Clinton should keep these rapes and kidnappings in mind. There are two indications that some of his colleagues in Government may still be

Grover Joseph Rees, a senior visiting scholar at Yale Law School, served from 1991 to 1993 as General Counsel of the U.S. Immigration and Naturalization Service.

working from the assumption that regattas, not killings and mutilations, are the one thing to be avoided at all costs.

First, the announcement of the new policy was vigorously hedged by senior officials, who estimated that only about 5 percent of the Haitian boat people have valid asylum claims — an estimate the U.N. refugee agency quickly criticized as “very low.” And then there are the 1,000 people we have returned to Haiti since. The official explanation is that the Navy needs time to rent and refurbish two Ukrainian cruise ships. Unofficially, a senior official says the latest repatriations may send a message that we are serious about not opening the floodgates.

Each of these pronouncements raises serious questions. The Administration can decide not to accept more than a certain percentage of applicants. Or it can try to protect people with a well-founded fear of persecution. No process can be relied upon to do both of these things. The announcement that we will protect all refugees and still return 95 percent may have been directed at frivolous applicants, but it could corrupt the process by sending a message down the chain of command.

Such messages have been sent before. I am told that the first meeting to organize a refugee screening program in Haiti, as an alternative to the Guantánamo operation, began with a sardonic announcement to this effect: “Those of us in this room know there is no such thing as a Haitian refugee. But we have been instructed to find some.”

This was in early 1992, when embassy reports vehemently denied that there was much political persecution in Haiti. The refugee program in Haiti has improved since then, but the improvements have caused higher acceptance rates and attracted more applicants. So the embassy earlier this year quietly imposed restrictions limiting eligibility to “high priority” applicants like journalists and close associates of Jean-Bertrand Aristide, the exiled President. This is egregiously inconsistent with the reason for the new policy — unless the people dead and mutilated by the side of the road all knew President Aristide personally — and with our repeated admonition to Haitians to make refugee claims in Haiti, not by taking to boats.

The recognition that there are some things in the world even worse than boat people suggests that reopening the Guantánamo operation — this time with the participation of the U.N. refugee agency — may be the best of the bad choices available. The best features of that program — interviewers trained in refugee law, a standard of proof meant to protect anyone with a plausible claim of persecution, and instructions to judge each case on its merits and not worry about percentages — were what caused the “magnetic” 30 percent acceptance rate. But a program without these features would afford no assurance that those rejected could be returned safely.

If the risk that a generous program will admit many Haitians to the U.S. is deemed unacceptable, there is one way to avoid it without getting people killed. This is to announce that no boat people will be brought here, but that none will be returned to Haiti either. Instead they could be housed in refugee camps in a third country until it was safe to return to Haiti.

The offer of sanctuary in a habitable, civilized place in which there is no fear of persecution, but which is not the least bit economically magnetic, may be the best way to protect refugees without encouraging migration. The existence of such a place might have the additional effect of keeping international attention focused on the need for a solution to the problems in Haiti. The hard part of this plan is that

other countries do not like boat people any more than we do. The President seems to recognize that to overcome this resistance, he must be the lead negotiator. His first effort, a call last week to Prime Minister John Major of Britain, has yet to produce results. But a President can often get other leaders to do things they do not want to do, if he can convince them that these matters are extremely important to the U.S.

If all else fails, there is always Guantánamo. The Pentagon’s maximum estimate of how many refugees the base can hold is 12,500. Adjusting this figure to take account of the jealousy with which agencies guard their resources, we come up with a likely figure that is twice or even four times that number. A semi-permanent refugee camp in Guantánamo is a bad option, but we could do worse. We are doing worse right now. □

THE NEW YORK TIMES, TUESDAY, MAY 24, 1994

26