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Bush Permitting Cuban Trial for Hijackers

by LADB Staff

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The repatriation to Cuba of 12 alleged hijackers last month has set off the most vigorous debate on US immigration from Cuba since the Elian Gonzalez case (see NotiCen, 2000-07-13). Because immigration is a core element of US Cuba policy, the debate has taken in the whole of that policy.

On July 21, the Coast Guard returned the 12 alleged hijackers to Cuba along with three guards who said they were forced onto the Gaviota 16, a government surveying boat, when it was hijacked July 15 from the port of Nuevitas, Camaguey Province. The repatriation came shortly after the Cuban government promised not to impose the death penalty on the alleged hijackers as it had done in April with the execution of three men convicted of hijacking a Havana harbor ferry (see NotiCen, 2003-05-22).

An official note from Cuba said that Cuban prosecutors would ask for no more than 10-year sentences because of the "exceptional circumstances." Six of the 12 suspects were released on their return to Cuba. The other six were sentenced to terms ranging from seven to 10 years. The repatriation is widely interpreted as a major shift in US policy in such matters. Until a Key West jury convicted Adelmis Wilson Gonzalez of air piracy for the March 31 hijacking of a passenger plane, hijackers were usually detained only for irregular entry into the US and eventually released with an immigration parole (see NotiCen, 2003-07-17).

Cuba praises US action

The Cuban government note praised the US's handling of the two incidents, calling them "a valuable contribution" in the effort to end hijacking and immigration by violence. These were the "exceptional circumstances." However, it remains to be seen whether the conviction in Key West and the return of the Gaviota 16 will have a modifying effect on the way the US applies the 1994, 1995 immigration accords with Cuba. Cuba complains about US immigration policies with the same vigor it applies to the Helms-Burton Act, the trade embargo, and the travel ban.

The official note pointedly referred to the immigration agreements, conditioning the light sentences on US "fulfillment of the immigration accords." The return, said the note, was in "full compliance with the letter and spirit of the immigration accords." The note pointedly emphasized that the accords require both countries to force immigration from Cuba into "safe, legal, and orderly channels," and to prevent violent means of immigration such as through hijackings.

The sharp turn in policy regarding hijackers touched off debate within the Bush administration. The Miami Herald described it as the first such debate since the migratory accords were signed. And, using words from the accords, White House spokesman Scott McClellan said, "Our policy is one of a safe, orderly, and legal migration." McClellan denied there was any change in policy. But that

of course was not true since the conviction in Key West marked the first time a Cuban hijacker had been charged, convicted, and sentenced.

Right-wing exile leaders in Miami were quick to describe the repatriation as an unacceptable softening of the hard-line promised by the White House. The administration is now in the position of defending a much-criticized Clinton-era approach to Cuban immigration, presumably out of concern about terrorist attacks on US cities using hijacked planes. For their part, exile leaders like Jorge Mas Santos, chairman of the Cuban American National Foundation (CANF), are in the position of defending violent hijacking in the name of freedom and democracy in Cuba.

State Department deputy spokesman Philip Reeker answered criticisms by saying the US returned the 12 suspects because their method of immigration to the US hijacking a vessel made them ineligible for political asylum. Cuban assurances about light sentences did not satisfy Rep. Lincoln Diaz-Balart (R-FL). He accused the government of complicity with Cuba in what he supposed would be harsh treatment once the 12 arrived in Cuba. He referred to the alleged armed robbers and kidnappers as "refugees," and called the repatriation an "act of infamy" and "a condemnable monstrosity."

President faces ire of exile leaders

On Aug. 11, 13 Republican state legislators in Florida signed a letter to President Bush warning him that the repatriation could cost him the exile vote. The letter apprised Bush of "alarming concern" in the exile community and "great disappointment and outrage over the lack of a comprehensive policy." The lawmakers demanded "immediate and tangible progress" on the Cuba issue. The letter also reiterated what has become the accepted agenda on the right for dealing with Cuba: revision of the immigration policy meaning automatic asylum for all Cubans whether they reach dry land or not, indictment of Fidel Castro for the killing of three Hermanos al Rescate pilots in 1996, more effort to get TV Marti's signal into Cuba, and more aid to the "democratic opposition" in Cuba.

While the letter did not say the aim of these demands was to provoke hostilities between the two countries, the signers added, "The ultimate solution" to the migration problem "is the liberation of Cuba." Two of the legislators said they had received encouraging responses to the letter from White House staffers.

However, Roger Noriega, newly confirmed as assistant secretary of state for Western Hemisphere affairs, said Aug. 6 that he expected no significant changes in immigration policy. Employing the White House formula, he said, "We remain committed to safe, orderly, and legal migration with Cuba." "Any decision on our part that would lead to a dramatic outflow of people from Cuba, that would lead people to believe that we are somehow suspending our immigration laws, would invite a real tragedy," said Noreiga. "Cubans would conceivably try extraordinarily dangerous crossings." In an open letter to President Bush sent to The Miami Herald, CANF directors demanded "an effective Cuban policy" and reminded Bush of unfulfilled promises. "When you were a candidate for president and again in Miami in May 2002, we heard words from you that gave us great expectations that Cuba policy would soon lead to a free and democratic Cuba," said the

letter. "Unfortunately, the administration's Cuba policy has not been significantly different than that of the prior administration."

CANF chairman Mas Santos warned that Bush and the Republican Party could lose the exile vote and warned that CANF would not give unconditional support to either party. "This will cost them," he said. However, CANF has already supported congenial candidates from both parties. The organization has invited Sen. Bill Nelson, a Florida Democrat, to give the keynote address at the annual meeting of CANF's board of directors for the last two years.

In 1992, CANF offered support to Democratic presidential candidate Bill Clinton. This year, presidential candidate Sen. Joseph Lieberman (D-CT) has received CANF backing. The repatriation prompted CANF executive director Joe Garcia to attack Diaz-Balart for failing to prevent it. Diaz-Balart, an unrelenting Castro foe, attacked CANF for its recent shift toward accommodation with Cuba.

Florida governor criticizes administration

During an interview with The Miami Herald, Florida Gov. Jeb Bush criticized the repatriation. He said that, "despite the good intentions of the administration," it was wrong to send the Cubans back because of Cuba's "oppressive regime." Gov. Bush absolved the president of any blame and offered a ray of hope to the right, asserting that the White House would make a policy announcement on Cuba before the 2004 election to rectify what he said was an incoherent Cuba policy.

Asked about the governor's statement at the Aug. 1 daily press briefing, State Department spokesman Richard Boucher reiterated the noncommittal line the administration has adopted. The repatriations, he said, "are consistent with standard practice under the migration accords with Cuba." Mas Santos and other exile leaders have never been satisfied with Bush's handling of Cuba policy but have generally kept criticism muted. Last year, there was widespread disappointment in Bush's annual May 20 speech (see NotiCen, 2002-05-23).

This year, Bush continued to withdraw from a direct confrontation with Castro, first by giving a meek 45-second May 20 address, and then by continuing the presidential practice begun by Clinton of waiving enforcement of Title III of the Helms-Burton Act (see NotiCen, 2001-07-26). Bush's recent handling of Cuba policy appears to have further split the exile community, which recent polls have suggested is now less interested in overthrowing Castro than in solving problems closer to home. But some analysts suggest that Bush is giving up on the exile vote precisely because the split no longer guarantees solid support for the Republican Party in Florida.

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