

**Despite U.S. Pledge, Detainees Languish;**  
**Advocates for Chinese Allege Administration Interference With Asylum**  
**Process**

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## **Body**

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When the dismal voyage of the Golden Venture ended off a New York City beach on a moonlit night in June 1993, the Clinton **administration** vowed swift justice for the nearly 300 illegal **Chinese** immigrants who made it to shore alive.

As part of an emergency counterattack on the burgeoning human trade from China, the **administration** announced that the boat people would get quick hearings on their claims for political **asylum** and that the undeserving would be sent home swiftly.

But 18 months later, only 16 of the Golden Venture's passengers have been deported and more than 180 remain in jails around the country. Now it is the **administration** that finds itself on the defensive, fighting off a lawsuit that challenges some basic principles of current immigration policy.

In asking a **U.S.** District Court to release 136 of the ship's passengers who are being detained here, the Golden Venture lawsuit **alleges** that top White House and Justice Department officials directly interfered with the **asylum process** to ensure a high rate of denials.

"Down at the White House they were in a panic because everyone was getting this vision of America under siege by illegal aliens, and we can now see how they reacted," said Craig T. Trebilcock, one of the local lawyers pressing the case against the **administration**.

"They decided to get rid of these **Chinese** -- pack 'em up and send 'em home in a hurry -- to show everyone, starting with the American public, that they could be tough," Trebilcock said.

At issue in the lawsuit is the means the government can use in crises such as those involving Haiti and Cuba this year, when large numbers of people try to enter the country illegally and then contend they are fleeing political persecution back home. The improvised solution in several such crises has been the kind of quick **processing** attempted in the Golden Venture case, and **administration** officials say they will propose legislation next year making it a permanent practice in such emergencies.

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"The Golden Venture case raises a critical question... Is it reasonable to expect that a hurry-up process will produce fair results when the government declares in advance that the people being judged are not legitimate refugees?" said Arthur Helton, a specialist in refugee law at the Open Society Institute in New York.

Julie Anbender, a spokeswoman for the Justice Department, said that in the Golden Venture case, "The department is certain that it acted appropriately and consistent with due process. We have a strong commitment to protecting individual rights and are confident that expedited administrative procedures do not encroach upon these rights."

Rejecting the lawsuit's allegations of interference with the asylum process, Anbender said, "The department did not give instruction to immigration judges as to how to adjudicate their cases." She noted that the judges who heard asylum claims from the Golden Venture's passengers have said in dispositions that "they were never under the impression that they were being instructed to conduct themselves any differently than usual."

Attorneys for the boat people argue that documents and testimony show President Clinton decided to make an example of the Golden Venture's passengers after several crisis meetings with his top advisers on national security affairs, law enforcement and immigration matters. Officially the goal was to deter others in China from trying to reach the United States aboard smugglers' ships but, according to the lawsuit, the effect was to railroad dozens of people who had legitimate asylum claims.

The administration created a new legal category for the Golden Venture cases, Trebilcock argues: "smuggled aliens." It even marked their records distinctively, "which was like putting a bull's-eye on them," he said.

This was carried out according to a detailed six-page plan developed by the Executive Office for Immigration Review (EOIR), a quasi-independent branch of the Justice Department that rules on asylum claims.

The official who drafted that plan, Gerald S. Hurwitz, counsel to the director of the EOIR, said in a deposition that the White House had asked for expedited processing of the cases, something that had never happened before. Given the supposed impartiality of the asylum process, Hurwitz said he would have preferred that the White House had not called because "it created a hint of an appearance that I wasn't comfortable with."

Hurwitz acknowledged, however, that he conveyed the message to some of the judges directly involved in handling the cases.

Anbender said the Justice Department's contacts with the EOIR were consistent with standard practices. "There was no interference with the decision-making process in any of the individual cases," she said.

The plan to speed the processing of the Golden Venture cases was announced by Clinton less than two weeks after the ship went aground. It was part of an ambitious program involving 12 government departments and agencies to combat the smuggling of migrants by criminal syndicates of the sort that had organized the Golden Venture's voyage.

"Deterring this transport in human cargo and traffic in human misery is a priority for our administration," Clinton declared.

Hurwitz said the chief judge in charge of the asylum process, David L. Milhollan, "was aware that there was a general program and that we were part of it, and it had to do with deterring smuggling."

The lawsuit argues that "the unspoken, yet readily apparent" message behind the administration's plan to speed the hearings was "that deterrence would best be accomplished when a large proportion of the smuggled aliens' applications for asylum was denied."

Trebilcock said, "You are not going to get much deterrence if expedited hearings produce a lot of approvals and that must have been obvious to the people judging these asylum claims, who are employees of the Justice Department after all, not constitutionally independent judges."

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The ultimate proof, Trebilcock argues, lies in the results. During the past two years, about 40 percent of all **Chinese asylum** claims have been approved, but only 14 percent of the applications from Golden Venture passengers have been accepted.

Of the original 282 passengers who arrived, 6 have died, 5 escaped custody, 16 have been deported, 70 have been released for various reasons, and the rest, 172 men and 13 women, remain in detention here in southeastern Pennsylvania, and in New York, Louisiana and Virginia, according to Justice Department figures.

Many, if not most, of recent **Chinese asylum** claims come from people who said they were persecuted for resisting China's policy of limiting couples to having one child. The handling of these claims has been subject to complex and sometimes contradictory practices.

The idea of deterring unwanted refugee flows with quick **processing** and quick returns of those rejected did not originate with the Clinton **administration**, and the significance of the lawsuit goes well beyond the Golden Venture case, according to refugee **advocates** and experts in immigration law.

Speedy hearings were used in efforts to deter the first waves of Haitian boat people in the early 1980s and when large numbers of Central Americans crossed into South Texas seeking **asylum** in 1989. Those cases and others produced court rulings against various elements of the **process**.

Shortly after the Golden Venture's grounding, Clinton announced he would seek legislation to create standing authority for expedited **processing** of people who arrived in the **United States** with fraudulent documents or no documents. The **administration** never pursued that proposal, but last summer it developed a broader plan.

Under this legislation, which senior **administration** officials say will be reintroduced next year, the attorney general would be authorized to declare an "immigration emergency." Then the federal government could conduct quick hearings and grant strictly limited appeals before returning people to their homeland.

"In the abstract there is no reason why **asylum** claims should not be handled expeditiously, but you have to look at the track record," said Robert Rubin, an attorney with the Lawyers Committee for Civil Rights.

"It comes down to a matter of credibility," said Rubin, who has won several lawsuits against the **asylum** system. "I am skeptical when deterrence is the openly stated goal of expedited decision-making."

## Graphic

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PHOTO, **CHINESE** PASSENGERS LEAVE THE FREIGHTER GOLDEN VENTURE AFTER IT RAN AGROUND OFF NEW YORK IN JUNE 1993 DURING AN ALIEN-SMUGGLING OPERATION. MORE THAN 180 OF THEM REMAIN IN CUSTODY. AP

## Classification

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