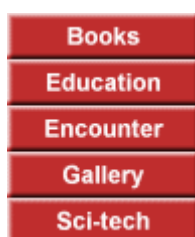


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US 'stretching' borders to block migrants

By Michael Flynn

WASHINGTON: In a case that highlights the growing US effort to detain migrants long before they set eyes on this country's borders, five crew members of an Ecuadorian fishing vessel called the San Jacinto pled guilty in a federal court here to conspiracy to encourage illegal immigration.

On May 15, 2002, while trolling international waters off the coast of Guatemala, a US Coast Guard cutter detained what appeared to be a fishing boat heading north towards Mexico. But a few things about the ship did not seem right. First, it bore no flag or markings designating its origin.

On closer examination the Coast Guard found some 270 undocumented passengers from Ecuador hidden in unventilated cargo holds in the bowels of the ship.

According to court documents filed by the US attorney's office in Washington, "There were no tickets for the voyage, and no passengers appeared to have suitcases; no one (meaning crew members) checked whether passengers possessed proper immigration documents."

"It was common knowledge among the passengers that most, if not all, passengers had paid smugglers for passage to the United States, with the route for Guatemala to the United States, through Mexico, occurring over land."

Working with the Mexican Navy, the Coast Guard towed the vessel to Puerto Madre, Mexico, where the passengers were interviewed by US immigration officials and the crewmembers identified.

Although the crew was in the custody of Mexican authorities, officials from the US Immigration and Naturalization Service (INS) advised them of their rights under the US Constitution.

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And despite the fact that the crewmembers had little or no understanding of US laws, the officials asked them to waive their Miranda rights (which, among other things, stipulate that a person has a right to refuse to answer questions and to request an attorney), which they subsequently did.

According to the court documents, INS officials then contacted the Justice Department about the case, and the decision was made to file an arrest warrant against the crewmembers. "After being expelled from Mexico," relates the US attorney's office, "the defendants were arrested in Houston, Texas, where their flight landed, and taken into custody by federal authorities."

No explanation is given about how the crew ended up on that flight or whether they had any idea they were heading to this country.

"Their understanding was that they were going to Ecuador," said Elita Amato, an attorney representing the crewmembers, in an interview.

Last Thursday, after waiting more than a year for their case to come to trial, the crewmembers surprised their attorneys when they said that they had decided to plead guilty to the conspiracy charge. They now face up to three years in prison.

Lory Rosenberg, a former member of the US Board of Immigration Appeals who is now with the non-profit National Legal Aid and Defender Association, says that the case raises a number of intriguing questions.

Did the crewmembers give express permission to be deported to a third country? Once on the plane were they handcuffed and put in the custody of US officials? If so, under what authority? And, even if they were read their rights, what does it mean to tell someone they have a right to an attorney when that attorney is located 1,000 miles away in a foreign country?

But for Rosenberg, the case raises an even more disturbing question about US treatment of potential asylum seekers: by detaining undocumented migrants before they reach the United States, is Washington ignoring its commitments under the United Nations Convention Relating to the Status of Refugees to protect those fleeing persecution?

Asked whether the undocumented passengers on the San Jacinto — all of whom were apparently repatriated to Ecuador — were granted asylum hearings, Kittay said that she could not comment on that issue because it had no bearing on the case of the crewmembers.—Dawn/The InterPress News Service.

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