

US Discriminatory Immigration Policies Toward Haitians

By [Stephen Lendman](#)

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It's a familiar story for Haitians – last in, first out for the hemisphere's poorest, least wanted, and most abused people here and at home. Most recently it was highlighted by Immigration and Customs Enforcement (ICE) officials announcing the resumption of over 30,000 deportations to a nation reeling from poverty, repression, despair, the devastation from last summer's storms, and occupation by UN paramilitary Blue Helmets – since 2004, illegally there for the first time ever to support and enforce a coup d'état against a democratically elected president, at the behest of Washington.

On December 9, ICE resumed deportations after halting them in September following summer storms that battered the country leaving 800,000 people without food, clean water, other essentials, and for around 70,000 their homes.

ICE spokeswoman Nicole Navas announced: "We fully expected to resume deportation flights when it was safe. And we made a determination that it was appropriate to (do it now) based on the conditions on the ground....The individuals being returned have final orders of removal and the necessary travel documents" – even though advocates say things are worse in Haiti, not better.

BBC called the situation "eye-popping," and the Miami Herald said it was "the worst humanitarian disaster (for) Haiti in 100 years" leaving:

- Gonaives, Haiti's third largest city, uninhabitable;
- most of the nation's livestock and food crops destroyed as well as farm tools and seeds for replanting;
- irrigation systems demolished;
- collapsed buildings throughout the country; 23,000 houses destroyed; another 85,000 damaged; 964 schools destroyed or damaged;
- conservatively about \$1 billion in storm damage;
- the threat of famine, especially for children and the elderly;
- 2.3 million Haitians facing "food insecurity," according to USAID, reeling under 40% higher prices than in January;
- inadequate sanitation and clean water;

— the widespread threat of disease; and

— overall millions lacking everything needed to survive who in normal times struggle to get by.

In December, Director Randy McGorty of Catholic Legal Services for the Archdiocese of Miami said:

“After dealing with this administration on Haitian issues for eight years, I’m forced to conclude that its policy toward Haiti is based on racism. It’s shocking. People (lack everything and) are starving. This callous disregard for human life is inexplicable. Many deported Haitians simply have no communities to return to. It is disappointing that the Bush administration would even consider sending people back to this incredibly fragile nation....(Haiti’s) humanitarian crisis....continues and worsens.”

(South) Florida Immigrant Advocacy Center’s (FIAC) executive director, Cheryl Little, said: “We are attempting to do whatever we can to convince government officials to change their minds on this. It’s an outrageously inhumane act.”

On January 26, FIAC urged new DHS Secretary Janet Napolitano to “immediately stay the inhumane deportations and to seriously consider granting Temporary Protected Status (TPS) for Haitians already in the United States.” On December 19, former DHS Secretary Michael Chertoff denied the Preval government’s TPS request. As a result, Haiti won’t cooperate, so ICE is making Haitians get their own travel documents (including passports) and assist in their own deportations.

Throughout 2008, around 1000 occurred in total. After a near-three month suspension (from September 19 – December 9), they resumed slowly, but picked up noticeably after Obama’s inauguration. According to FIAC, men like Louiness Petit-Frere are affected, deported on January 23: “Here ten years with no criminal record, he leaves his US-citizen wife behind along with his mother and four siblings, all (with) legal status....One of his brothers, US Marine Sgt Nikenson Peirreloui, served and was injured in Iraq.”

In 2008, Obama campaigned vigorously for South Florida’s Haitian vote. Now he’s betrayed it the way he’s abandoning millions of distressed households by providing little in real relief compared to trillions in handouts to Wall Street and the rich.

After Congress established TPS in 1990, Washington granted 260,000 Salvadorans, 82,000 Hondurans, and 5000 Nicaraguans protection, then extended it on October 1, 2008. It lets the Attorney General grant temporary immigration status to undocumented residents unable to return home due to armed conflict, environmental disasters, or other “extraordinary and temporary conditions.” Besides El Salvador, Nicaragua and Honduras, past recipients included Kuwait, Lebanon, Bosnia-Herzegovina, Guinea-Bissau, Rwanda, Burundi, Liberia, Montserrat, Sierra Leone, Somalia, Sudan, and Angola. Six nations still have TPS, but all face expiration in 2009 unless extended.

Haitians never got it, yet granting it is the simplest, least expensive form of aid so Port-au-Prince can concentrate on redevelopment while Haitians in America help through remittances back to families. In 2006, they sent \$1.65 billion, the highest income percentage from any foreign national group in the world.

In 1997, the Clinton administration granted Haitians Deferred Enforced Departure (DED) for one year. Currently about 20,000 Haitians qualify for TPS, a much smaller number than for other recipient countries.

Nonetheless, deportations are proceeding with 30,299 on “final order of removal” status, meaning an immigration judge ordered them out. About 600 are in detention, 243 others are electronically monitored, and all 30,000 will be removed by an administration as callous to the poor as previous hard-liners under George Bush. In America, everything changes, yet stays the same, even under the first black president.

Some Background on Haitian Immigration to America

Haitians began arriving in South Florida about 50 years ago, but were denied the same rights and treatment as more favored immigrants like Europeans. Fleeing repressive dictatorships hardly mattered during years under “Papa” and “Baby Doc” Duvalier or when military dictatorships ran the country.

In September 1963, the first boatload claiming persecution arrived but were denied asylum and deported. Decades later, it’s the same. After a 1991 coup deposed President Jean-Bertrand Aristide, thousands of Haitians fled to America. Most were intercepted at sea and sent home while around 300 were detained at Guantanamo because tests showed they were HIV positive.

Conditions at the camp were deplorable. Treated like prisoners, they were held behind razor wire in leaky barracks with bad sanitation, poor food, and little medical care even for the sick and pregnant women. After protests and a hunger strike, crackdowns were severe, many were imprisoned, and Clinton White House justification was no different than today. The DOJ claimed Haitians had no legal rights under the Constitution, federal statutes, or international law. Wrong.

International law protects asylum seekers, Haitians as much as others.

Article I of the 1951 UN Convention Relating to the Status of Refugees defines one as:

“A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality, and is unable to or, owing to such fear, is unwilling to avail him/herself of the protection of that country.”

Refugee-seeking persons are “asylum seekers.” Post-WW II, the UN High Commissioner for Refugees (UNHCR) was created to help them. To gain legal protection, individuals must:

- be outside their country of origin;
- be afraid of persecution;
- be harmed or fear harm by their government or others;
- fear persecution for at least one of the above cited reasons; and
- pose no danger to others.

In the 1980s, Haitians fared no better than earlier. From 1981 – 1990, 22,940 Haitians were interdicted at sea, yet only 11 qualified for asylum compared to tens of thousands of Cubans who automatically get it if they reach South Florida.

After the September 1991 coup against Aristide, the OAS's strong condemnation forced the first Bush administration to soften its policy slightly, but not much. By November 11, about 450 Haitians were in detention while the State Department sought a regional solution, and the UN High Commissioner for Refugees arranged for several Latin countries (including Belize, Honduras, Trinidad, Tobago, and Venezuela) to provide temporary safe havens. Still hundreds were forcibly returned and thousands more interned at Guantanamo.

By May 1992, citing an inflow surge that month, president Bush ordered all Haitian boats interdicted and peremptorily returned without determining if their occupants were at risk of persecution. Repatriation continued until Bill Clinton offered to process arrivals at a regional location, but only as it turned out for three weeks because the flow was much greater than expected. Thereafter, refugee processing was suspended with arrivals offered regional "safe havens" but no option for US refugee status.

In October 1998, under the newly enacted Haitian Refugee Immigration Fairness Act (HRIFA), eligible Haitians (who filed asylum claims or entered the US before December 31, 1995) were allowed to live and work in America permanently without applying for an immigrant visa in advance from overseas.

However, under the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), aliens arriving in America without proper immigration documents are immediately processed for removal. If they fear persecution, they're kept in detention until an asylum officer determines the threat's credibility. In 2005, 1850 interdicted Haitians were sent to Guantanamo. Only nine got hearings and of those, one man got refugee status.

Under the 2002 Homeland Security Act, at least five separate agencies handle Haitian migrants:

- the Coast Guard for interdictions;
- Customs and Border Protection for apprehensions and inspections;
- Immigration and Customs Enforcement (ICE) for detentions; and
- DOJ's Executive Office for Immigration Review (EOIR) for asylum and removal hearings.

Earlier and more recent policies highlight how Haitians are mistreated. On October 29, 2002, fleeing poverty, not repression, 212 Haitians arrived in South Florida, hoping for asylum and safety. Instead, they were rounded up, handcuffed, held in detention, and treated like criminals in gross violation of international law. Families were separated from children, husbands from wives, and siblings from each other, but it wasn't an isolated incident.

Unknown to most Americans, the Bush administration had a secret Haitian policy that took affect in late 2001. It authorized the Immigration and Naturalization Service (INS), now DHS/ICE, to detain all South Florida arrivals regardless of their asylum eligibility.

The result was dramatic, insensitive, and immediate. The Haitian release rate for those passing interviews dropped from 96% in November to 6% between mid-December and mid-

March 2002. Even Haitians granted asylum weren't immediately released.

On February 25, 2004, days before the second February 29 coup, the US State Department urged US citizens in Haiti to leave. In addition, George Bush said all interdicted Haitians would be returned and those reaching shore would be held prior to deportation, regardless of their protected status.

Detention conditions then and since are appalling and for women dangerous with reports of sexual harassment, abuse, and rape. Men and women both are subjected to frequent strip searches, lockdowns, nightly sleep interruptions, and often denial of needed medical care.

Official Haitian policy under George Bush and currently under Obama is:

- deny asylum seeker status;
- summarily return arrivals without screening their claims;
- detain others under harsh conditions prior to deportation;
- deny Haitians their rights under international law; and
- now expeditiously deport over 30,000 refugees to desperate poverty and storm-ravaged conditions in a country under repressive military occupation.

Haitian and Cuban Policies Contrasted

Except for the Aristide and first Preval administration years, Haiti has a history of some of the worst regional repression. So did Cuba until Castro overthrew Batista and transformed the country politically and economically. For decades, refugees from both countries sought asylum in America. Yet Cubans and Haitians get vastly different treatment.

Under the 1966 Cuban Adjustment Act (as amended), a "wet foot/dry foot" policy applies under which interdicted asylum seekers are returned home, but those reaching shore are inspected for entry, then nearly always allowed to stay – in contrast to Haitians getting no equivalent treatment even after "the worst humanitarian disaster in 100 years" leaving the government unable to handle the overwhelming environmental and human fallout. TPS would help, but neither the Bush or Obama administration offered it, so Haitians are left on their own.

It's an old story in America. White Anglo-Saxons and most Europeans are welcome. For poor blacks, Latinos (except for Cubans) and most Asians, far different standards apply, none harsher than for Haitians despite dangers, poverty, and devastation at home, risks they take at sea, and rights international law grants them – ones America disdains or observes as it wishes.

In its 1996 Annual Report, the OAS' Inter-American Commission on Human Rights concluded that America's Haitian interdiction and repatriation policy violated the following provisions of the American Declaration of the Rights and Duties of Man:

- the right to life;
- liberty;

- security of person;
- equality under the law;
- resort to the courts; and
- to seek and receive asylum.

Conditions worsened under George Bush, especially after the February 2004 coup. Since January 20, the Obama administration is continuing the worst of his predecessor's policies. This from America's first black president who governs the same as white ones. Around 30,000 Haitians will be among first to learn how harshly firsthand.

Stephen Lendman is a Research Associate of the Centre for Research on Globalization. He lives in Chicago and can be reached at lendmanstephen@sbcglobal.net.

Also visit his blog site at sjlendman.blogspot.com and listen to The Global Research News Hour on RepublicBroadcasting.org Monday through Friday at 10AM US Central time for cutting-edge discussions with distinguished guests on world and national issues. All programs are archived for easy listening.

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About the author:

Stephen Lendman lives in Chicago. He can be reached at lendmanstephen@sbcglobal.net. His new book as editor and contributor is titled "Flashpoint in Ukraine: US Drive for Hegemony Risks WW III." <http://www.claritypress.com/LendmanIII.html> Visit his blog site at sjlendman.blogspot.com. Listen to cutting-edge discussions with distinguished guests on the Progressive Radio News Hour on the Progressive Radio Network. It airs three times weekly: live on Sundays at 1PM Central time plus two prerecorded archived programs.

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