



## U.S. Policy and Black Refugees

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# U.S. POLICY AND BLACK REFUGEES

## *The Honorable Shirley Chisholm (D-NY)*

The debate over who is a "legitimate refugee" involves more than just a quarrel over definitions. Haitians and African refugees, largely Ethiopians, have come to our shores in much the same manner as previous groups. The reaction to the arrival of these groups, however, must be seen in the context of legal and political changes in American society.

The "first asylum" phenomenon of persons fleeing to the United States as their first place of refuge from persecution has become the primary focus of any policy decisions affecting our refugee and immigration laws. Further, the "first asylum" issue has blurred the distinctions between refugees and immigrants. The controversy surrounding the "first asylum" issue emanates from two areas: our foreign policy in the Western Hemisphere is based on the perception that "first asylees" flee to the U.S. for economic reasons rather than a "well-founded fear of persecution on the basis of race, religion, political opinion or membership in a social group," the definition for a refugee and/or asylee as embodied in the Refugee Act of 1980. Secondly, the new "asylees" are overwhelmingly persons of color in comparison to earlier immigrant groups which were largely European.

First, the majority of the people fleeing to this country as "first asylees" come from Western Hemispheric countries like El Salvador, Haiti, and most recently Guatemala. These countries are not simply allies to the United States; their governments receive a substantial amount of military and/or economic assistance from us. In addition, the Reagan Administration has made it quite clear that it will support the existing governments in such countries against any revolutionary or liberating forces. Needless to say, this support often contributes to refugee flight from the Caribbean and Central American nations.

Secondly, the poor economic conditions in countries like Haiti provide an easy excuse for labeling Haitians as "economic refugees." This characterization, of course, ignores the political conditions in the home country and encourages the presumption that nationals from Haiti are fleeing to the United States solely for economic reasons.

The color question overlays the politics of our refugee policies. Clare Booth Luce, who serves on the President's Foreign Intelligence Advisory Board, was recently chastized for her remarks in the September issue of *Geo* magazine

where she suggested that America's new immigrants were a threat to American culture. Her remarks are worth repeating here:

In the Nineteenth Century, the United States absorbed something like forty million immigrants. But the vast majority were of a fundamental culture, and they were all white. They were not black or brown or yellow."

Luce's statement, while perhaps embarrassing to the administration, is indicative of the thoughts behind some of the administration's policy formulations. Refugees, who are people of color, are assumed to be inapplicable of integrating into American society. Ms. Luce forgot that black Americans preceded 19th century European immigrants and that our society is not *white* but rather multi-cultural. That is why jazz remains America's only original art form despite efforts to make square-dancing the official American national dance.

The marked increase in numbers of "first asylum" cases has certainly heightened the debate in this area. In 1980, 125,000 Cubans came to South Florida in the mariel exodus. Notably, *these* Cubans were of a darker hue than their predecessors in the 1960s. During this same year, it is estimated that 12,000 Haitians arrived on U.S. shores. Over 100,000 Salvadorans entered the United States in 1981. This level of mass asylum is a new concept for U.S. immigration and refugee law. The genesis of the current crisis results from the fact that when Congress adopted the Refugee Act of 1980, the Act was silent on the issue of the United States as a country of first asylum. Needless to say, the mariel exodus and the continuing flow of Haitian and Salvadoran refugees focused attention on this first asylum issue very quickly.

The next question, of course, is how have we responded as a country of first asylum. As signatories to the U.N. protocol relating to refugees in 1968, the U.S. has certain international obligations toward refugees who are defined as persons who have a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership in the particular social group, or political opinion." Our own refugee laws, as a result of the Refugee Act of 1980, largely incorporate this definition. Of special significance is the protocol's prohibition of the deportation of a refugee "to the frontiers of territories where his life or freedom would be threatened...." It also requires that its provisions be applied "without discrimination as to race, religion or country of origin." Our problems with "first asylum" issues largely stem from our inability to accept this definition with "political"

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This is the text of an address delivered to a symposium titled "African and Caribbean Refugees" at the 25th Annual Meeting of the African Studies Association, November 6, 1982, Washington, D.C.

qualifications. As a country, the U.S. has been far more interested in responding to refugee concerns when we gained some political benefit than in addressing humanitarian need. In fact, only in the case of Cubans, and to a lesser extent Nicaraguans, has the U.S. responded positively to its obligations as country of first asylum. In both cases, we perceived that it was in our political interest to accept Cubans as refugees and to grant extended voluntary departure status to Nicaraguans. For example, Haitian political prisoners, who were released from prison through the intervention of U.N. Ambassador Andrew Young, were dissuaded by our own state department officials from applying for political asylum in the United States. In this instance, we obviously saw no political gains from accepting Haitians as political prisoners. Geo-political considerations reveal far more about why we have pre-judged Haitian asylum claims as frivolous and rejected Salvadorans as refugees than any other explanation. These considerations raise the question generally of whether we have equal application of our refugee laws or differential treatment. Let me cite a few examples.

New York City papers recently carried the story of four Polish nationals who arrived in Elizabeth, New Jersey. They were granted asylum after only six days in the Brooklyn Detention Center and released. Yet Haitian nationals waited over a year before their release from the Detention Center. Two small boats of Cuban refugees have landed in Miami within the last two weeks. The Cubans have immediately been released to their family members while Haitians, with family members in the area, were denied release from the Krome Detention Camp until very recently.

These comparisons only confirm a continuing racial and ideological bias in our refugee and asylum law. Despite a change in our immigration laws to accommodate the U.N. definition of a refugee, we still respond more favorably to those persons fleeing from a communist regime. For example, from January 1974 to May 1975, none of the Filipinos or South Koreans who requested asylum were granted it. The State Department also recommended that asylum requests be denied to sixteen Greeks who sought political refuge before the fall of the Junta, and to the eight South Vietnamese who asked asylum from the Thieu regime. Yet during this same period, scarcely any requests from Eastern European countries were denied. Between 1975 and 1976, the last year for which data is available, 96 percent of the applicants fleeing rightist governments were denied refuge in the United States, while 95 percent of those applicants from communist countries, in the same time period, were granted sanctuary here. In the particular case of Haitian boat people arriving in Florida and requesting asylum eighteen have been granted asylum, less than one percent of the total.

In spite of a humanitarian change in the United States refugee law in 1980, which eliminated any legal basis for discriminating in favor of those fleeing communist countries, fully 95 percent of those whom the United States has admitted as refugees since the change still come from communist countries in Southeast Asia, Eastern Europe, or the Soviet Union. Furthermore, the quick action on the asylum claims of the four Poles, while Haitians forcibly exiled from Haiti in November 1980 have yet to receive a

ruling on their requests for asylum, illustrates the priority given to asylum claimants from communist countries.

Yet, the racial issue can not be ignored here. The plight of Ethiopian nationals in this country is a clear example of the racism inherent in our policies. The State Department's decision to revoke the extended voluntary departure status granted to Ethiopians in August of 1981 was greeted with cries of racism. At the same time that we were granting this status to Poles, the State Department was removing this status for Ethiopians. Here, we have a people who fled a communist-ruled government just like Poland or other Eastern European countries. Yet, they received decidedly different treatment. Skin color is the only differential which explains this policy decision. Fortunately, through the efforts of Congressmen Jack Kemp (R-NY) and Julian Dixon (D-Ca), this decision was reversed.

Generally, our policy toward African refugees has been one of conflicting interests and benign neglect. Despite the presence of 25 percent of the world's refugee population in Africa, our annual admission quotas remain at the low level of 3000. When challenged on the small numbers, the State Department's defense is three-fold:

1. Africa takes care of its own and there is no need for permanent resettlement in the U.S.;
2. Africans are largely rural people and would not adjust well to American society; and
3. The U.S. compensates for these small numbers by giving economic assistance to refugees in Africa.

Such defenses are only a polite way of saying that African refugees are not a priority. While Africa's response to refugees is nothing short of remarkable, given her resources, many Africans could benefit from resettlement in the United States. The rural argument ignores the fact that Hmong Tribesmen were actively encouraged to apply for refugee admission to the U.S.; in this instance, a rural lifestyle in Indochina was no barrier for U.S. policy-makers. Finally, economic assistance from the U.S. is tenuous at best. Recently, the African Refugee Section, at State, estimated that the U.S. might withhold as much as \$25 million in food aid that it pledged at the Geneva Conference on African Refugees in April of 1981. "Unforeseen donations by other countries, carry-overs ... from previous years and reduced estimates" of refugee numbers prompted this change. It seems that even in terms of food aid, Africans receive second-class treatment.

Finally, we can not ignore the feelings of the U.N. high commissioner for refugees and African leaders that the U.S. program encourages a "brain drain" from Africa. Individual liberty and choice, however, should not be sacrificed for the sake of governments' prestige. As long as the U.S. maintains a refugee program, Africans and other black refugees must be treated equitably.

Remarkably, these statistics and facts are not the worst aspects of our policies toward black refugees. Legal protection for refugees has been deliberately undermined by the Reagan Administration. The success of the Haitian lawsuits has generated a lot of discussion about eliminating federal court jurisdiction over asylum claims to prevent any future cases like *Haitian Refugee Center v. Civiletti*. These changes in court jurisdiction, of course, are being proposed in the guise of "streamlining the process." The real motive here, however,

is to cut Haitians' access to the courts. This action is in direct response to the success of the Center's lawsuit and other lawsuits brought on behalf of Haitian asylum claimants.

The new immigration reform package, the Simpson-Mazzoli Bill, severely restricts judicial review of asylum claims. The bill punishes the victims of discriminatory policies for successfully using our legal system to thwart those policies. This action is not "streamlining the process" for efficiency but rather a blatant drive to cut aliens' access to our courts.

The policy of interdiction is a clear violation of the U.S.'s responsibility for the protection of refugees. Without specific legislative authority, the Coast Guard has interdicted three boats carrying Haitian nationals and returned these people back to Haiti. There is no definitive information about the fate of these returnees. Interdiction has certainly eliminated most of the Haitian boat traffic but one must ask at what cost in terms of resources and people.

Perhaps the most heinous policy of the Reagan Administration has been the imprisonment of Haitians for the past year. With the exception of the detention of Japanese-Americans during World War II, no other group has been treated so inhumanely. Over 2,000 Haitian asylum-seekers were dispersed in twelve different facilities around the country, including Puerto Rico. At least three deaths occurred during the year-long detention. In addition, federal prisons were used to detain Haitians who had been accused of no crime either in the United States or in Haiti. The racist treatment of Haitians is clear; no other group has been placed in our federal prisons without first being labelled as a criminal.

One must also be mindful of the forced repatriation of refugees processed for admission to the U.S. in djibouti and the recent debacle with Ethiopians on extended voluntary departure in the U.S. As with Civil Rights issues generally, Human Rights advocates must expect deliberate attempts by this administration to obfuscate its international commitments to refugees when it is politically expedient.

As scholars interested in the peoples of the African Diaspora, we have a responsibility to monitor and influence foreign policies which impact the Caribbean and Africa. Certainly, the plight of black refugees in this country is an issue to which we must all respond. Refugee policy is an adjunct of our broader foreign policy goals. Since U.S. foreign policy is greatly determined by ethnic pressure, it is imperative that black Americans become intimately involved in shaping American foreign policy, including refugee policy. State Department reaction to Polish Martial Law, the Turkish invasion of Cyprus, and the Israeli attacks in Lebanon, greatly shaped America's policies in these situations. We must not be tempted by those who use immigrants and refugees as scapegoats for the economic plight of black Americans. We must be willing to advocate for the protection of black refugees now; otherwise, we will be at a distinct disadvantage when the crisis in South Africa reaches its climax, as it surely will in the near future.