

## Haitian Asylum Cases

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- Background: Since the early 1970s, thousands of Haitians have arrived in Florida in small boats. Others, including those on valid nonimmigrant visas, have entered the US by other means. Many from both groups have requested political asylum. The US Immigration and Naturalization Service (INS) processes these applications and asks the Department of State for its views. If necessary, the Department requests additional information from the INS or from the US Embassy in Port au Prince. The Department evaluates the asylum claims in light of current conditions and political developments in Haiti. Under arrangements established in 1977, each Haitian application filed with the INS Miami office also is reviewed by a representative of the UN High Commissioner for Refugees (UNHCR). Although the INS considers their views in reaching a decision, the State Department and UNHCR act only in an advisory capacity.
- Criteria: All applications for political asylum are reviewed to determine whether the claimant has established a well-founded fear of persecution, upon return to Haiti, for reasons of race, religion, nationality, membership in a particular social group, or political opinion. This is a relatively narrow standard, established by the UN Protocol and Convention Relating to the Status of Refugees and by US law. The mere existence of human rights problems in the home country does not necessarily validate an applicant's claim, and denial of asylum claims does not necessarily mean endorsement of a country's overall human rights performance.

The UNHCR agrees with the INS and with the State Department that simply departing Haiti and requesting political asylum in the US do not make a prima facie claim to asylum. Each applicant must establish that the asserted fear of persecution is well-founded. To date, all final State Department recommendations to grant or deny asylum to Haitian nationals have been in accord with the UNHCR's views.
- Conditions in Haiti: Haiti is one of the poorest countries in the world, and a desire to improve one's economic situation may play an important part in motivating a Haitian to seek entry into the US. In the past, many Haitians left home and went to the Bahamas, where they obtained employment. Since the independence of the Bahamas, however, the Bahamian Government has begun deporting Haitians illegally in that country and revoking work permits of others. Most of the small boats arriving in Florida have come from the Bahamas rather than directly from Haiti.

Because there are long delays in obtaining immigrant visas, it may appear easier to enter the US illegally. Since about 1972, the State Department has reviewed over 5,000 requests for asylum from Haitian nationals. In most cases, we were unable to conclude that the individual's fear of persecution upon return to Haiti was well-founded. In over 250 cases, however, the Department has recommended that the asylum application be approved.

4. State Department study team: In May 1979, a State Department study team traveled to Haiti to examine the treatment of Haitians returned from the US; 86 returnees, as well as relatives or friends of another 24 returnees, were contacted. The team found no evidence of a pattern or policy of the Haitian authorities to mistreat or persecute returnees because of their stay in the US. However, it did not rule out the possibility of valid individual asylum applications and stressed that those applications must continue to receive careful, case-by-case review.
5. Legal status: All Haitians can employ legal counsel in the US in connection with their claim for asylum, and most are represented by attorneys who have volunteered their services. They also are being assisted by church and voluntary groups. Prior to return, every Haitian has an opportunity for a full evidentiary hearing before an immigration judge to develop evidence that the applicant might face political persecution in Haiti. If dissatisfied with the immigration judge's decision, the applicant can appeal to the Board of Immigration Appeals and obtain judicial review.
6. Cuban and Indochinese refugees: Comparisons between the situation of Haitians and the treatment afforded Cuban and Indochinese refugees can be misleading. Cubans enjoy a unique status in the US under Public Law 89-732 of November 1966, which allows them to enter the US as refugees under a special procedure. Because of the emergency situation in Southeast Asia, the Attorney General, with congressional approval, has authorized the entry of over 300,000 Indochinese refugees into the US. Haitian asylum applications, on the other hand, are processed under statutory and regulatory provisions that are different from those uniquely applicable to the Cuban and Indochinese refugee programs. However, the Haitian applications are evaluated using the same standards and procedures employed to evaluate all asylum claims received from other foreign nationals every year.