

Refugees as an Impetus for Intervention: The Case of Haiti¹

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Abstract

The 1991-94 Haitian refugee crisis, and the resulting intervention, brings together a number of different issues, including refugee flows, human rights concerns, UN Security Council action, and the domestic politics and other direct interests of one of the great powers. This article examines these factors and the role they played in the eventual US-led intervention. It concludes that the perceived security aspects of the Haitian refugees were the primary impetus for the US action. However, human rights and other humanitarian concerns also played a significant, although ambiguous, role, and the reaction on the part of other states to the intervention may prove to be precedential in legitimating future intervention for humanitarian purposes.

Précis

La crise des réfugiés haïtiens et l'intervention suivante mélangent une série des influences internationales: des mouvements des réfugiés, des droits de la personne, des actions du Conseil de Sécurité, tout en reflétant la politique interne et d'autres intérêts du plus grand pouvoir mondial. Cet article suit les traces de ces facteurs dans l'enjeu aboutissant à l'intervention dont les É.-U. à la tête. On conclut que la perception des haïtiens comme risque sécuritaire par-dessus tout incitait l'action interventionniste. Les droits de la personne et d'autres concernes humanitaires, cependant, ont joué un rôle significatif bien que ambigu. Il est probable que les réactions des autres états face à une telle intervention dans l'avenir peuvent servir comme préalable dans le processus de légitimation d'une intervention à titre humanitaire.

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The case of Haiti is particularly relevant to the issue of refugees and intervention because of the combination of factors which brought together dramatic flows of refugees, human rights concerns, Chapter VII action by the Security Council, and the direct interest of one of the great powers. The reaction in the region to the way the final outcome was achieved is also possibly precedential.

On September 30, 1991, Jean Bertrand Aristide, Haiti's first democratically elected president, was overthrown in a military *coup*. The following three years saw the spectacle of boat loads of refugees trying to make it to the United States and uneven and ineffective reaction by the OAS and UN, including the imposition of sanctions. The OAS was the first international body to take action in the wake of the *coup*. The OAS called on Aristide to be returned to power, declared that the military government would not be recognized, and recommended sanctions. Less than two weeks after the *coup*, the UN General Assembly passed resolution 46/7 condemning the military takeover. Throughout 1992, the OAS continued to be the focus of international activity aimed at returning Aristide to power.²

However, on December 11, 1992, the UN Secretary-General appointed a special representative to deal with the situation in Haiti. From that point on, the UN became the focal point for dealing with Haiti. As Acevedo argues, the "shift to the UN forum was prompted, at least in part, by the prospect of a massive influx of refugees, which drew high-level attention to Haiti's crisis in early January 1993, both from the outgoing Bush administration and from President-elect Bill Clinton."³ In fact, the flow of refugees from Haiti had become a significant policy issue earlier in 1992. Haitians had been at-

tempting to reach the US by boat for many years, and the US Coast Guard routinely interdicted them. Between 1981 and 1990, 24,000 Haitians were interdicted, while only six were allowed to make asylum claims in the US. Following the *coup*, the Coast Guard began taking Haitians to the US naval base at Guantánamo Bay, Cuba, where they were "screened in" to make claims. Soon there were as many as 12,000 Haitians at the base. In May 1992, President Bush ordered the Coast Guard to return Haitians to Haiti without evaluating their asylum claims. By the end of 1992, more than 40,000 Haitian had been interdicted, and during that year 29,500 had been forcibly returned.⁴ Only 54 Haitians were admitted to the US as refugees.⁵ Thus, by the time the UN became involved in a significant way in December 1992, Haiti was a major policy priority for one of the biggest players in the UN.

During the presidential campaign Bill Clinton had stated that he would reverse the policy of forced repatriation. However, just before he was inaugurated, he announced that he would continue the policy of forced return, and that only asylum claims made in Haiti would be evaluated.⁶ The policy seemed to have its intended effect—discouraging Haitians from leaving Haiti and attempting to reach the US—and only 2,329 Haitian were interdicted and returned in 1993.⁷ However, the conditions which prompted the refugee exodus in the first place were still in place. On April 4, 1994 exiled President Aristide gave six month notice ending the 1981 accord between Haiti and the US that had allowed the repatriations. One month later, President Clinton announced that asylum claims would be processed on ships. A hunger strike by Randall Robinson, Director of TransAfrica, may have been partially

responsible for Clinton's change of policy.⁸ At the same time, the Haitian military began to make it harder for Haitians to leave the country. However, many *were* able to leave, such that 24,917 Haitians were interdicted in 1994. At the same time, the US began using Guantánamo Bay to process the refugees. It also tried to get countries in the region to allow processing and to take in some of the refugees, at least temporarily.¹⁰

The Security Council passed its first resolution on Haiti on June 16, 1993, a year and a half after the *coup*. Resolution 841 "noted with concern the incidence of humanitarian crises, including mass displacement of population, becoming or aggravating threats to international peace and security," and stated that it was:

Concerned that the persistence of this situation contributed to a climate of fear and persecution and economic dislocation which could increase the number of Haitians seeking refuge in neighbouring Member States and convinced that a reversal of this situation is needed to prevent its negative repercussions on the region ...

It found that the Haitian crisis "defines a unique and exceptional situation warranting extraordinary measures by the Security Council ... [and] the continuation of this situation threatens international peace and security." And, it implemented sanctions against Haiti under Chapter VII of the UN Charter. On August 27, resolution 861 suspended the sanctions when it seemed that the coup leaders were implementing the Governor's Island agreement which was to restore Aristide to power. After a recently authorized peacekeeping mission, the United Nations Mission in Haiti (UNMIH), was prevented from arriving in Haiti by the military and it was clear that the *de facto* authorities were not implementing the agreement in good faith, resolution 872 of October 13, 1993 reinstated sanctions. On May 6, 1994, just two days before President Clinton announced the policy of ship-board processing of refugee claims, the

Security Council tightened sanctions with resolution 917. Resolution 933 of June 30 noted "the deteriorating humanitarian situation in Haiti" and "that the situation in Haiti continues to constitute a threat to peace and security in the region ..."

It was not until resolution 940 of July 31 which authorized military action to reinstall Aristide that refugees were mentioned specifically again. Resolution 940 stated that the Security Council was:

Gravely concerned by the significant further deterioration of the humanitarian situation in Haiti, in particular the continuing escalation by the illegal *de facto* regime of systematic violations of civil liberties, the desperate plight of Haitian refugees...

It determined that "the situation in Haiti continues to constitute a threat to international peace and security in the region ..." The US heightened its

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rhetoric regarding its will to intervene over the ensuing month and a half and US military ships were moved into position off Haitian coast. Finally, a settlement was reached with US representatives on September 18 after the military leadership found out that a US invasion force was on its way and paratroopers would land in a few hours.¹¹ Aristide returned to Haiti on October 15, 1994.¹²

Haiti is one of the clearest cases to date of refugee flows leading to eventual intervention. Michael J. Glennon argues that in resolution 940 the "Security Council dealt with the refugee problem not as a potential cross-border threat but, rather, in the context of humanitarian considerations."¹³ It is true that the resolution talked about "the desperate plight of Haitian refugees," whereas resolution 688 regarding Iraq mentioned the "massive flow

of refugee towards and across international frontiers and ... cross-border incursions, which threaten international peace and security in the region ..." Even in their role as helpless victims rather than a national security threat, the very fact of the existence of the refugees can be seen as constituting a basis for intervention. However, placing resolution 940 within the context of the previous three years makes it very clear that it was the perception of refugees as direct threats to international peace and security that was behind the eventual US-led intervention. Certainly resolution 841 made the direct connection between refugees and security.

In addition, it was the US which ultimately undertook the intervention, so it is its motives which are particularly relevant. Between the September 1991 coup and August 1994, 67,493 Haitians were interdicted at sea, most

of these were forcibly repatriated. In August, there were also approximately 14,000 Haitians at Guantánamo Bay.¹⁴ The US obviously had little concern for them as refugees. Rather, they were seen as a security threat, a mass of humanity to be kept out of the country. This feeling must have been reinforced by the fact that by that time, a vigorous debate had been going in the US about immigration and significant anti-immigration sentiment was being expressed, particularly in Florida where the Haitians would have landed if they made it to the mainland.¹⁵ Further, it is noteworthy that the intervention came only weeks before the agreement allowing for the repatriation of Haitians was to have expired. That this new situation would have opened the interdictions and repatriations up to more challenge and would have made them seem even more illegitimate must have

been on the minds of the US administration. That the US continued to return Haitian refugees to a dangerous situation, in violation of its international commitments, and the fact that it took so long to finally undertake its intervention¹⁶ lead to the conclusion that it was only the fact that it was receiving increasing international criticism for its policies and that the refugee crisis was intensifying and heading for a new phase which led to the activities on September 18, 1994. However, beyond the US, some Latin American countries, which were not affected by the refugee crisis, supported forceful action to return Aristide to power. This was by no means a consensus view.¹⁷ However, given previous attitudes in the region which were adamantly opposed to any kind of intervention, the Haitian crisis may prove to be precedential in increasing support for humanitarian intervention:

But a precedent is being created that could well rescue some future democratic government in Nicaragua or Trinidad or even Paraguay from the hands of its own soldiers—and, more importantly, will deter the soldiers from seizing power in many more countries. It is not just an American initiative, and it is not just business as usual.¹⁸

Michael Glennon argues, however, that whatever precedent was set, it is an ambiguous one at best:

In Haiti ... sovereignty lost. But sovereignty's loss was not an unarguable gain for the community of nations, because the community has not adequately considered either the rationale for continued ad hoc opportunism or the impact of its precedents on future attempts to avoid the piecemeal and move toward principle.¹⁹

Thus, Haiti represents a case where the perceived security aspects of refugee flows were the main impetus behind intervention, but where humanitarian aspects may also play a significant, but still ambiguous, role in creating a legitimate basis for intervention in humanitarian crises. ■

Notes

1. This article is an excerpt from: "United Nations Intervention in Refugee Crises in the Post-Cold War World," *Centre for Refugee Studies, Working Paper Series 1996: 1*, York University, March 1996.
2. Domingo E. Acevedo, "The Haitian Crisis and the OAS Response: A Test of Effectiveness in Protecting Democracy," in Lori Fisler Damrosch, ed., *Enforcing Restraint: Collective Intervention in Internal Conflicts*, (New York: Council on Foreign Relations Press, 1993): 132-34.
3. *Ibid.*, pp. 134-35.
4. Juan P. Osuna and Christine M. Hanson, "U.S. Refugee Policy: Where We've Been, Where We're Going," in *World Refugee Survey 1993*, p. 42; *World Refugee Survey 1993*, p. 53.
5. "New Haitian Refugee Initiative Continues Long-Term Double Standard," said Amnesty International USA, [Online], press release posted by Hilary Naylor, (July 6, 1994), Available: USENET Newsgroup: soc.rights.human. During the same period, over 61,000 refugees were admitted from the former Soviet Union and more than 44,000 from Vietnam.
6. Osuna and Hanson, "U.S. Refugee Policy," p. 43.
7. US Committee for Refugees, *World Refugee Survey 1994*, (Washington, DC: US Committee for Refugees, 1994): 163.
8. Thomas David Jones, "A Human Rights Tragedy: The Cuban and Haitian Refugee Crises Revisited," *Georgetown Immigration Law Journal*, 9 (Summer 1995): 489.
9. US Committee for Refugees, *World Refugee Survey 1995*, (Washington, DC: US Committee for Refugees, 1995): 180.
10. *Ibid.*, p. 188; Jones, "A Human Rights Tragedy," p. 488; "Haitians Interviewed at Sea," *The Associated Press* [Online], (June 16, 1994), Available: USENET Newsgroup: clari.news.immigration; "USA Has Haiti Refugee Facility," *The Associated Press* [Online], (June 18, 1994), Available: USENET Newsgroup: clari.news.immigration; "Honduras Would Take Haitian Refugees in Return for Aid," *Reuters* [Online], (July 27, 1994), Available: USENET Newsgroup: clari.news.immigration.
11. Jones, "A Human Rights Tragedy," p. 490; Douglas Jehl, "Troops in Today," *The New York Times*, (September 19, 1994): 1, 8.
12. "UN Welcomes Aristide, Lifts Trade Embargo," *Reuters* [Online], (October 15, 1994), Available: USENET Newsgroup: clari.world.organizations.
13. Michael J. Glennon, "Sovereignty and Community after Haiti: Rethinking the Collective Use of Force," *American Journal of International Law*, 89 (1995): 72.
14. *World Refugee Survey 1995*, p. 180.
15. Further, several states, including Florida, California, and Texas sued the federal government for reimbursement of costs such as medical care and incarceration they claim were incurred as a result of illegal immigration. "Florida Fears Haitian Boat Exodus, Leaders Say," *Reuters* [Online], (May 9, 1994), Available: USENET Newsgroup: clari.news.immigration; "Illegal Immigration Becomes Hot Political Issue," *Reuters* [Online], (July 25, 1994), Available: USENET Newsgroup: clari.news.immigration; "Immigration becomes Vote Issue," *The Associated Press* [Online], (September 18, 1994), Available: USENET Newsgroup: clari.news.immigration; "Poll Finds Anti-Immigrant Bias," *The Associated Press* [Online], (May 23, 1994), Available: USENET Newsgroup: clari.news.immigration; "Backlash Fuels Support for Anti-Immigrant Measure," *Reuters* [Online], (September 29, 1994), Available: USENET Newsgroup: clari.news.immigration; "Campaigns Eye Immigration," *The Associated Press* [Online], (October 8, 1994), Available: USENET Newsgroup: clari.news.immigration.
16. It seems likely that if the US had wanted to get UN approval sooner it could have done so. One reason that it did not intervene sooner seems to be that the US government did not want Aristide to return to power, seeing him as a revolutionary who might not keep US interests at the top of his agenda. He was accused of being undemocratic and the CIA launched a smear campaign against him. "Aristide—Haiti's First Freely Elected Leader," *Reuters* [Online], (September 18, 1994), Available: USENET Newsgroup: clari.world.organizations.
17. "Caribbean: Caricom Countries Pledge Support for Invasion of Haiti," *Inter Press Service*, [Online], (August 30, 1994), Available: Nexis; "Rio Group: Presidents Call for Haitian Regime to Step Down," *Inter Press Service* [Online], (September 10, 1994), Available: Nexis; "Haiti Accord Greeted with Relief in Latin America," *Reuters North America Wire Service* [Online], (September 19, 1994), Available: Nexis; "Haiti: Latin America Leaders Breathe Sigh of Relief," *Inter Press Service* [Online], (September 19, 1994), Available: Nexis.
18. Gwynne Dyer, "Beyond Haiti; Armies in the Western Hemisphere Take Note: Coups Will Not Be Tolerated," *The Gazette (Montreal)* [Online], (September 20, 1994): B3, Available: Nexis.
19. Glennon, p. 74. □