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Clare Deck

Fordham University, [cdeck@fordham.edu](mailto:cdeck@fordham.edu)

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# **“Give Me Your Tired...” and the Government Will Decide Who Stays: Examining the U.S.’s Inconsistent Responses to Immigrant Groups Seeking Protection**

**AUTHOR:** Clare Deck

**ADVISOR:** Greta Gilbertson

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**ABSTRACT:** What accounts for the inconsistencies in the way the U.S. responds to large scale influxes of immigrants who are seeking protection within the U.S.’s borders? The author comes to conclusions that the political interests of the United States are largely responsible for how the U.S. responds to large scale immigrant groups seeking protection. The author further argues that the inconsistencies of the U.S. response from case to case is due to the protection gap that exists within the UNHCR’s definition of refugee, and the resulting ease with which the U.S. can apply the definition, when, where, and how it chooses based on its political interests in the home country of the immigrants in question. The author comes to these conclusions based on an in depth discussion of three cases of mass migration to the U.S., in which each group of immigrants sought protection within the U.S.’s borders. The first case is that of the Cubans, arriving in the U.S. beginning with Fidel Castro’s rule in 1959, followed by an analysis of the influx of Haitians seeking protection in the midst of the dictatorship of the Duvaliers beginning in 1957. The final case is that of the Salvadorans, fleeing in increasingly higher numbers beginning with the onset of civil war in the 1980s and into the 2000s. In each case, the U.S.’s responses to the immigrants varied, leading to an interesting framework with which the reader can then understand and further analyze present day influxes of immigrants seeking refuge.

## INTRODUCTION

There is a sonnet written on a plaque that is set at the foot of the Statue of Liberty in New York, New York. The author, Emma Lazarus, wrote this sonnet, "New Colossus," for a fundraiser to raise money for Lady Liberty's pedestal. The famous final lines of the sonnet have been reiterated throughout the history of the United States, the anthem for a country proudly independent from its European ruler and a fast emerging power throughout the western world. These lines read: "Give me your tired, your poor,/Your huddled masses yearning to breathe free,/The wretched refuse of your teeming shore./Send these, the homeless, tempest-tossed to me,/I lift my lamp beside the golden door." Yet in present times, with the increasingly controversial and intense debate on whether the United States should open its borders to the millions of refugees fleeing Syria and other middle eastern countries ravaged by war and poverty, it seems that the U.S. has forgotten the cherished words that have chartered much of the history of our nation in light of recent terrorist attacks and the ever present fear of these terrorists entering our borders under the guise of a refugee. The U.S.'s response to various instances of mass migration such as this has been a topic of debate for much of history. As a country that is often the destination of immigrants in search of a better life due to its political stability and democratic government, the U.S.'s response affects the lives of many. Despite the welcoming and accepting lines of the sonnet underneath the iconic symbol of the American Dream, more often than not the U.S. responds to mass influxes of immigrants seeking protection with restrictive policies.

In this paper I explore the question of why there are discrepancies in the response of the U.S. to immigrants seeking protection. What accounts for the inconsistencies in the way the U.S.

responds to large scale influxes of immigrants who are seeking protection within the U.S.'s borders? I propose that the U.S.'s political concerns in regards to its relationship with the sending country of the immigrants is the basis for the inconsistencies in its response.

Furthermore, these inconsistencies are due to the protection gap that exists within the UNHCR's definition of refugee, and the resulting ease with which the U.S. can apply the definition when, where, and how it chooses based on its political interests in the home country of the immigrants in question. In the first section of my paper, I review the literature available on the broader themes of my question. In the second section, I present the methodology, outlining how I test my thesis. In the third section, I present an in-depth overview of each of my three cases, while arguing my proposed thesis. The first case is that of the Cubans, arriving in the U.S. beginning with Fidel Castro's rule in 1959, followed by an analysis of the influx of Haitians seeking protection in the midst of the dictatorship of the Duvaliers beginning in 1957. The final case is that of the Salvadorans, fleeing in increasingly higher numbers beginning with the onset of civil war in the 1980s and into the 2000s. Finally, I discuss the results of my research and the implementation of my methodology.

## **LITERATURE REVIEW**

Discussing the United States' inconsistent responses to large scale influxes of immigrants seeking protection in the U.S. is difficult due to the debate of the definition of refugee. At the 1951 Convention on Refugees held by the United Nations, the term refugee was defined as any person who cannot find protection within his or her country of nationality due to fear of persecution based on "race, religion, nationality, membership of a particular social group or political opinion," and who is also outside of his or her country of nationality (UNHCR).

Although the UN established a set definition of the term in 1951 at the Convention, which the U.S. became ratified in 1968, the U.S.'s response to immigrants who claim refugee status has not been consistent from case to case. Furthermore, while the UNHCR definition protects a significant number of people that fall within its parameters, there remain to be immigrants who are fleeing dangerous situations but who “are not covered by the legal status of the ‘51 convention,” resulting in what the current UN High Commissioner for Refugees, Antonio Guterres, has called a “protection gap” (Vick 46). The following literature review will examine literature on the topic of refugee policy and refugee movements, the international refugee regime, and how the term refugee is defined, as well as the gaps in these areas.

### ***The UNHCR & the 1951 Convention on Refugee Status***

In 1951, in a world still reeling from the effects of World War II, which had left millions of people displaced throughout Europe, the United Nations High Commissioner for Refugees (UNHCR) held a Convention on the Status of Refugees. Before the establishment of the UNHCR, the United Nations Relief and Rehabilitation Administration (UNRRA) administered the overwhelming task of assisting displaced persons in relocating back to their home countries, but faced difficulties due to a well grounded fear that many of these people had to return home (Kennedy 3). With these emerging hardships, the United Nations created the International Refugee Organization (IRO) to temporarily help with the resettlement of millions of refugees (Kennedy 3). Three years later, there was still assistance and resettling to be done, and the permanent body of the UNHCR came into existence as what was viewed by many as a “compromise” in light of tensions between the East and West (Kennedy 3). The view of the creation of the UNHCR as a compromise rested in conflicts that arose with refugees from

Eastern Europe attempting to find new homes in Western Europe, and the countries of Western Europe feeling overburdened from the massive influx of migrants (Kennedy 3). On an international level, many Western governments were not willing to fund refugees seeking resettlement, and believed that an “intergovernmental agency should carry on the work” that the IRO had begun (Kennedy 3). Within this context, the UNHCR emerged with the aim to administer protection to refugees and advocate for their rights. Over time the UNHCR has expanded outward from serving refugees in only developed Western states. This expansion has developed necessarily with the rise of refugee crises in less developed countries in the 1960s. Refugee policy, as a result, became “intertwined with conflict and post-conflict recovery,” and “altered the nature of the UNHCR from an apolitical coordination agency to an operational organization charged with assisting states in eliminating refugee problems” (Roper & Barria 619). Thus the UNHCR’s initial stance as an “apolitical” agent changed quickly as refugee movements that were distinct from the refugee crisis at the end of WWII emerged, ultimately politicizing the refugee process and the definition of refugee as established at the 1951 Convention.

### ***Defining the Refugee***

The UNHCR set up the 1951 Convention to establish how a refugee would be legally defined. At the convention, the term came to be recognized as including any person who cannot find protection within his or her country of nationality due to fear of persecution based on “race, religion, nationality, membership of a particular social group or political opinion,” and who is also outside of his or her country of nationality (UNHCR). The Convention, as it stood in 1951, only applied to refugee movements and events in Europe that had happened before January 1st,

1951 (UNHCR Convention Relating to the Status of Refugees 2). However with the Protocol Relating to the Status of Refugees that took effect in 1967, the UNHCR rescinded its previous geographic limitations as well as the Convention only applying to events before 1951. With this protocol, new countries such as the United States became signatories and accepted the newly expanded definition of refugee (UNHCR).

There is extensive debate in the existing literature relating to refugees on the definition of the term refugee as specified by the UNHCR. Largely agreed upon is the idea that the 1951 Refugee Convention's language and the protection offered under this convention is entirely too restrictive and narrow, as well as being Western and European centric (Musarat-Akram 214, Kennedy 3, Darcy 137). While the 1967 protocol broadened the definition, the actions of individual states after the protocol is evidence that this still was not enough.

Many countries established broader legal definitions of the term in the event of large scale refugee movements. For example, in 1969, the Organization of African Unity Convention instituted a definition of refugee to (in addition to the 1951 Convention terms) include anyone who involuntarily had to leave his or her home country due to "external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin" and is consequently must "seek refuge" (Musarat-Akram 215). Another example is the Cartagena Declaration, which in 1984 formed new legislation that was then utilized throughout many states in Central and South America that added to the 1951 Convention's definition of refugee (Musarat-Akram 215). The definition was expanded to include anyone who left their home country because of a threat on "their lives, safety, or freedom" by "generalized violence, foreign aggression, internal conflicts, massive violation of

human rights or other circumstances which have seriously disturbed public order”

(Musarat-Akram 215).

In light of these broadened definitions, crafted to meet the refugee crises that the countries who applied them were faced with at the time, it is clear that there is a general consensus that there is a protection gap within the 1951 Convention’s definition of refugee (Darcy 136, Musarat-Akram 214). The circumstances of any states who initially accepted the given definition of the Convention and the Protocol change over time. Thus, in not also adapting the definition to these changes, there is the possibility that with new waves of people seeking protection for various reasons, there will also be new circumstances that the UNHCR definition does not cover (Darcy 136, Black 63). Ultimately, the definition of the 1951 Convention was created for a context of history that has inevitably changed, and the result is that many immigrants who should qualify for this legal status slip through the cracks of the system unless there is action on the individual state’s part (Darcy 137, Musarat-Akram 214). The scholarly article “50 Years of Refugee Studies” from *The International Migration Review* argues that the specific context of the Convention’s definition and its utilization without criticism in scholarly literature “can contribute to the perception of the naturalness of the category of refugees and of differential policies towards those who do and those who do not qualify for the label” (Black 63). Thus in approaching the multidisciplinary nature of refugee studies, it is key to maintain a critical lens when reading and discussing the specifications the article or essay in question perceives as constituting the refugee.

While there is consensus about the restrictiveness of the 1951 Convention definition, debate arises around how to expand it. While many countries, as mentioned earlier, have adopted

a broader definition of refugee, there still is no overarching consensus as to what should constitute a refugee on an international level (Black 64). Consequently, the field of refugee studies itself has faced criticism in terms of what it “should or should not include” (Black 64). For example, there are those who argue that victims of natural disasters should not be considered refugees due to the temporary nature of their movement (Black 64). Furthermore, there are various and more specific terms within the broad overarching term of refugee that have been suggested and used in policy and throughout the existing literature. Some of these terms include asylum-seeker, humanitarian refugee, stateless person, exiles, expellees, transferees, and economic refugees, all falling under what one scholar calls “forced migrants” (Black 64). However, even with the supposed specificity of these terms, there are still a multitude of “vague, shifting or overlapping” characteristics that leave their goal of inclusivity unfulfilled (Black 64). In “Fifty Years of Refugee Studies,” the term refugee is introduced as signifying “uprootedness and exile,” suggesting “a dependence on humanitarian intervention and a rupture of ‘normal’ social, economic and cultural relations” (Black 63). Furthermore, the author identifies the refugee as being distinct from the economic migrant in that the person has no choice but to migrate, and must leave his or her home due to force rather than voluntarily (Black 63). This seems to be the key common denominator across the highly debated qualifying circumstances of the term, that of a refugee as someone who is forced to migrate.

### ***Refugees and Refugee Policy in the United States***

After the end of World War II, the U.S. established the Displaced Persons Act of 1948, which it used to grant admission to certain groups of “displaced forced laborers from conquered German states” as well as for “certain refugees fleeing Nazi, fascist, or Soviet persecution”

(Leibowitz 164). The next occurrence of policy came with the Refugee Relief Act in 1953, which granted entry to refugees who were “victims of national calamities and persons fleeing communist domination in parts of Europe and the Middle East” (Leibowitz 164). With the resettlement that continued in the years after World War II across Europe, the U.S. developed the Fair Share Law of 1960, which admitted a “fair share” of refugees still in refugee camps in Europe (a fair share was defined as 25 percent of the total number of refugees who had been resettled in other countries) (Leibowitz 164). In response to the influx of Cubans in 1962, the U.S. developed the Migration and Refugee Assistance Act, but it was the 1965 amendments to the Immigration and Nationality Act which set up the basis for the 1980 Refugee Act (Leibowitz 164).

Beginning with the 1965 amendments in U.S. immigration policy, the second half of the twentieth century was a time when immigration to the U.S. was characterized by three key developments. The first was the 1965 amendments, which adjusted immigration policy in the U.S. so that it was centralized around the reunification of immigrant families and bringing skilled laborers to the U.S. (Rumbaut 589). These amendments are commonly endorsed as “the principal reason for the ‘new immigration’ and the change in its composition,” as well as being influential in determining “migration decisions” and future immigrants’ right to citizenship (Rumbaut 588). Under these amendments, there was a “seventh immigration preference under the newly adopted hemispheric quotas system permitting 6 percent of all ordinary immigrants to enter as refugees” (Leibowitz 164). There were four requirements that the migrant had to qualify for under this preference: fleeing a communist country or country in the Middle East, having a departure that “constituted flight,” the flight being a result of “persecution or fear of persecution on account of

race, religion, or political opinions,” and lastly, the inability to return to his or her home country (Leibowitz 164).

The second development after these amendments was the increased admission of refugees to the U.S., with the U.S.’s concerns in regards to accepting immigrants from communist countries during the Cold War era (Rumbaut 589). Groups of refugees admitted to the U.S. during this period of time (Cold War era, 70s and 80s) included groups of Asian immigrants from Cambodia, Laos, and Vietnam who were admitted as political refugees fleeing the Indochina war (Rumbaut 598), and groups admitted from the former Soviet Union, in addition to Cubans who were granted admission to the U.S. (Rumbaut 616). The third development that shaped immigration to the U.S. at this time was the emergence of a worldwide pattern of international labor migration, reflecting the inequality between developed countries and less developed countries (Rumbaut 589). With capital flows from wealthy countries to poor countries, migrants moved in search of labor from lesser developed areas to more developed countries (Rumbaut 589). This involved increasingly high labor flows from less developed countries to the U.S., which stood as “the principal receiving country” with 19.8 million foreigners accounted for in the U.S. census in 1990 (Rumbaut 589).

In 1980, the U.S. passed a refugee act that is identified by scholars as “the most comprehensive U.S. law ever enacted concerning refugee admissions and resettlement” (Leibowitz 164). It centered around four key points. It first set up a federal policy of continuing the admission of refugees, secondly, it established the U.S.’s legal definition of refugee according to the UN Convention definition (although the U.S. had already agreed to take on this definition in 1968 after the protocol, it did not officially redefine its own terms of refugee

accordingly until this 1980 Act) (Leibowitz 164). The third point that the Act established focused on the grounds for asylum in U.S. statutory law, and lastly, the Act addressed the topic of “resettlement assistance for refugees” (Leibowitz 164). On these grounds, it becomes obvious that there was a reliance on foreign policy considerations early on in the U.S.’s development of refugee policies.

Within the time frame of the 1951 Convention and present day, there is extensive debate about the type of immigration policy the U.S. should implement and how the U.S. should respond to large-scale influxes of immigrants. Some argue for limiting the number of immigrants that enter the U.S. and instead raising the wage of minority or migrant workers already in the country (Fogel), and many others are in agreement, however arguments such as these fail to acknowledge the situation that many of the immigrants who wish to enter the country may be coming from. In fact this is a consistent gap in the existing literature on immigration policy--so many scholars fail to acknowledge or even address the policy where the U.S. would consider the situation the immigrants are leaving, rather they spend time debating how the U.S. can fix its policy to best serve domestic interests. Another apparent gap is discussion of the impact of racial considerations on the immigration law that the U.S. forms (Johnson). While some authors have begun to address this possible contributing factor of the U.S.’s past responses to immigrant and refugee influxes, Johnson points out that there is still a huge disparity of scholarship and literature here.

There is a general consensus across existing immigration literature that the U.S.’s many attempts to limit and cut off the influx of undocumented immigrants coming across the U.S.-Mexico border are facing forces stronger than policy enforcement (Epenshade). Certain

reports from scholars even conclude that U.S. policy has generally failed altogether to halt unauthorized immigration to the U.S. across the southern border, which challenges claims by other scholars that state there is a definite link between U.S.'s immigration policy and the influx of immigrants from the south.

While one consensus in the existing literature is that policy surrounding immigration and refugees has a huge impact on who the U.S. allows to enter its borders, another consensus is that foreign policy specifically has played a key role in who the U.S. permits. Interestingly, in *Calculated Kindness: Refugees and America's Half-Open Door, 1945 to the Present*, Loescher and Scanlan argue that the Cold War has “continued to influence who the U.S. admits as refugees,” and that the U.S. has long defined refugees as “people who are fleeing from communism,” putting foreign policy in the spotlight as the main determinant in who the U.S. admits with refugee status. The book also addresses what appears to be a gap in the literature of refugee policy, which is a history of the ways social and political climate at the time impacted refugee policy.

The biggest consensus seems to be that policy impacts immigration and the U.S. response to immigration. It is logical that U.S. immigration and refugee policy would impact how the U.S. has responded to various influxes of immigrants throughout history. However, as there is some literature that points out, foreign policy is just as big if not a bigger determinant in the U.S. response to these influxes. Literature also does not address what other possibilities for variances in response could be. While some authors do discuss things such as race and the limitations and failure of the 1951 Convention definition of refugee as factors that could account for varied responses of the U.S., ultimately this is an area that needs more attention and could be expanded

upon in terms of discussion in scholarly texts. Foreign policy, immigration and refugee policy, and--as some authors do mention--social and political climate all come into play when looking at the U.S.'s response to large scale influxes of immigrants. How do these lesser discussed factors account for U.S. responses to immigrants fleeing violence specifically? What other factors may exist? These are questions that demand attention and further research when reviewing past and present cases of large scale influxes of immigrants fleeing violence. Also needing attention are the limitations that exist within the UNHCR definition in regards to how it is put into practice and upheld by states.

### ***Argument***

As evidenced by Edwards in her *International Migration Review* critique on *The Central American Refugees* by Elizabeth Ferris, humanitarian concerns are perhaps a weak explanation for U.S. decision making in regards to refugee policy. Ferris's analysis, as mirrored in other scholarly texts on the subject, "ignores the causal link between U.S. policy in the region and increasing refugee flows to the United States," a link that serves as an explanation for the "restrictive refugee policy in the United States toward Salvadorans and Guatemalans" (Edwards). This leads us to the conclusion that while it is easy to believe and argue that the U.S.'s refugee policy is based on humanitarian concerns, the reality is that "cold political calculations" stands in as a prominent factor in forming refugee policy, especially in cases where the relationship between the U.S. and the government of the country the refugees in question are fleeing is complicated.

In agreement with Ferris's claims, and based on my own findings, I propose that the U.S.'s political concerns in regards to its relationship with the sending country of the immigrants

is the basis for the inconsistencies in its response. However I argue further that these inconsistencies are also due to the protection gap that exists within the UNHCR's definition of refugee, and the resulting ease with which the U.S. can apply the definition when, where, and how it chooses based on its foreign policy interests.

I will now outline how I will test this thesis in my methodology section.

## **METHODOLOGY**

What accounts for the inconsistencies in the way the U.S. responds to large scale influxes of immigrants that are seeking protection within the U.S.'s borders? In answering my research question, I examined three cases: instances of mass migration of Haitians, Cubans, and Salvadorans during the second half of the twentieth century (and in the case of the Salvadorans, throughout the 2000s). The dependent variable in my project is the U.S.'s response to these large scale influxes of immigrants, while the independent variable is the factor or potential combination of factors, which include the following: the initial terminology used for the migrants (refugee versus undocumented versus economic migrant versus boat people, etc.), policy put in place to address the situation, humanitarian aid sent or not sent to the point of entry on behalf of the government, granting or not granting asylum and on what grounds, temporary protection status granted or not granted, detaining and deporting of migrants, and active response to the root cause for why the refugees fled their home countries in the first place (e.g. corrupt governments, civil war). I chose the cases I did due to their geographic proximity to the U.S., which accounted for why the sending countries of the cases I selected made the U.S. their primary destination in their migration. Furthermore, the cases I chose presented interesting factors to consider due to the stark differences in response on the U.S.'s behalf. In picking cases, I chose cases that had

time frames that extended or began after the U.S. ratified the United Nations High Commissioner for Refugees (UNHCR) Protocol on the term refugee (1968). I looked at the peaks in migration of each of the three cases within the time frame of the second half of the twentieth century, and for the case of the Salvadorans, into the 2000s. I extended my examination of the Salvadorans to the influxes that have persisted in more recent years due to the continuing influx of immigrants that arrive at the U.S. Mexico border from El Salvador. Other than this extension of the time frame for the Salvadoran case, having one time period within which I examined each case allowed me to compare the differing responses of the U.S. to influxes of immigrant groups within the same U.S. political and economic climate.

My sources ranged from data and definitions provided by the Migration Policy Institute and the United Nations High Commissioner for Refugees and the United Nations Refugee Agency, as well as data from the Human Rights Watch and the U.S. Department of Homeland Security. In regards to data collection, I gathered information such as the number of migrants in each case and how many were considered refugees/asylees and how many were granted asylum and protection in the United States, as well as the period of time each case spanned. For these numbers I turned again to reports done by the UNHCR but also data collected by the U.S. Department of Homeland Security. Furthermore, when available, I utilized interviews done with immigrants who were a part of each case I looked at, courtesy of NPR and scholarly articles which included quotes from immigrants of the time. I did this to ensure that I would get an adequate understanding of the cases I examine from both the side of the U.S.--the ones responding--and the side of the immigrants--the ones directly affected by the response.

Defining legal terms such as refugee is incredibly crucial in the examination of the available literature and data collected in relation to the topic. However, due to the debate surrounding what the definition of this term should be, the terms used by the authors for the immigrants in question were often not consistent with those which others used for the same case, or a similar case. This was the main limitation of my research and argument. Another significant limitation also had to do with defining the status of an immigrant. The numbers of immigrants/refugees/asylees reported by the U.S. in each case was often questionable because the numbers reported were in accordance with whether the U.S. decided to grant the legal status of refugee or asylee, etc. to each group of immigrants.

In my argument I also have sought to address the implications of the U.S. response for the immigrants in question, especially in terms of the status granted (refugee, temporary protection status, permanent residency, none, etc.) and the resulting immigrant experience. Which factors have the biggest implications for them? In examining the response of the U.S. to each case, I have also broken down how the response has directly impacted the people still in their home countries trying to escape whatever violence or life threatening situation they were in, and how things such as changes in policy potentially influenced a continued or slowed flow of refugees from the region.

I will now explore each of my cases in detail, implementing my aforementioned methodology to argue my thesis.

## **CASE STUDIES & ARGUMENTATION**

### ***The Case of the Cubans***

Fidel Castro's establishment of a revolutionary socialist state in Cuba in 1959 incited what would become a decades long influx of over a million Cuban immigrants to the United States. This influx can be broken down into four waves of migration (Nackerud et al. 187).

The first wave consisted of two groups, the first being educated professionals from the upper-middle class, fleeing their country due to the onset of a political battle between the U.S. and Cuba and fear of what Castro's new regime would bring (Nackerud et al. 184). The second group was mainly middle class individuals pushed out of the country by Castro's open opposition and silencing of the Catholic church, his elimination of the electoral system, and his shutdown of all private educational institutions (Nackerud et al. 184). This first wave, which lasted from Castro's takeover until 1964, was comprised of people who did not necessarily fall under the UNHCR refugee definition, because although they were mainly pushed out by political turmoil, they were not being actively persecuted. However, it can be argued that many who fled during the second group of immigrants were leaving due to fear of persecution based on religion after Castro's silencing of the Catholic church. During the first wave, the U.S. under President Eisenhower granted the "automatic acceptance" of Cubans, a component of his foreign policy which "relied on hard-line resistance to the Cuban regime via severe economic sanctions and other restrictions" (Nackerud et al. 184).

In the midst of the first wave of immigrants from Cuba to the U.S. was a program called Operation Pedro Pan, which was largely unknown and unpublicized until years later. Between 1960 and 1962, more than 14,000 Cuban children were airlifted from Havana to Miami, Florida due to an agreement between a priest from Miami--Father Bryan Walsh--and the U.S. State Department ("Children of Cuba"). The agreement was that Father Walsh would sign visa waivers

for children under the age of 16. These signed visa waivers were photocopied and distributed widely throughout Cuba once people heard that they were accepted by the Cuban government, and as a result hoards of children packed the twice daily flights from Havana to Miami (“Children of Cuba”). The majority of the children travelled unaccompanied, put on the planes by desperate parents after private and Catholic schools throughout Cuba were closed by Castro, causing what historian Victor Triay called a “mass panic” (“Children of Cuba”). Once the children landed in Miami many of them were reunited with relatives in Florida, while others lived with foster families or were put in boarding schools--usually after an extended period of time at camps for Cuban children throughout Florida (“Children of Cuba”). Jose Azel was 11 when he became one of the thousands of children flown to Miami as part of Operation Pedro Pan. He voiced that the conversation he had with his father before he left Havana was brief, and that his father told him it was for his safety that he was being sent away (“Children of Cuba”). In an interview done by *National Public Radio* he says, “So in the minds, I suspect, of most of the parents of the Pedro Pan children, this was going to be a short-term, temporary separation” (“Children of Cuba”). The majority of the children--even if they were eventually reunited with their parents or other relatives in the U.S.--would remain in the United States.

The second wave of immigrants was characterized by a significant pull factor: a Memorandum of Understanding that extended from 1965 until 1973, in which Cuba and the United States arranged for asylum seekers to be given transportation to the U.S. by plane (Nackerud et al. 185). These flights were called “Vuelos de la Libertad,” or “Freedom Flights” (Nackerud et al. 185). While the flights were a large factor in terms of why the migrants were leaving Cuba at this time, a notable push factor during the second wave was a shortage of

consumer goods and financial need, due to the decline of Cuba's economy after increased embargos and sanctions imposed by the U.S. (Nackerud et al. 185). These immigrants, consequently, could not qualify under the UNHCR's definition as refugees, because they were not fleeing due to fear of persecution, rather, they were fleeing due to the availability of transportation offered on behalf of their country of choice for resettlement and protection as well as dire economic need. The context of the Memorandum of Understanding which allowed these flights to take place can be explained by the way the immigrants were regulated (Horowitz 314). The U.S. composed a list of people in Cuba who Cubans already in the U.S. claimed to be their family members, and Cubans in Cuba who wished to flee could request departure as well (Horowitz 314). The U.S. and Cuban governments in this way determined who would be able to leave on the Freedom Flights, mostly decided based on existing family networks (Horowitz 314).

From January of 1975 until March of 1980, the United States saw a significant drop in immigrants from Cuba. While in 1974 there had been a total of 13,670 immigrants throughout the year, 1975 had only 8,488, and the following years' numbers fluctuated in the 4,000s (Nakerud et al. 188). This drop was most likely due to increased efforts by the U.S. government to "maintain antagonistic policies due to Cuba's relationship with the Soviet Union" and "improve relations with Cuba by lifting the ban on travel, opening diplomatic offices in Havana and Washington, and participating in a 1978 dialogue intended to diminish U.S.-Cuba hostility" during the Nixon, Ford, and Carter administrations (Nakerud et al. 185). However, in April of 1980, after a number of "illegal boat and plane hijackings and the storming of several Latin American embassies by Cubans requesting asylum," the Mariel Crisis began--marking the third wave of Cuban immigrants to the U.S. (Nakerud et al. 186). The crisis was the response of

Castro and his regime to the U.S.'s subtle urges at rebellion in Cuba, and the Cuban government allowed for over 125,000 individuals to leave for the U.S. from the port of Mariel (Nakerud et al. 186). The sudden extreme influx in migrants overwhelmed the U.S., leading to a denial of automatic refugee status for the people that made up this third wave, although they received residency status under the 1984 Cuban Adjustment Act (Nakerud et al. 186).

Also characterizing this third wave was the immigrants' evident economic necessity for migration; a consequence of the U.S.'s continued implementation of foreign policy anchored in its cold war worldview, which accelerated the decline of Cuba's economy (Nakerud et al. 186). Thus, while the Mariel Crisis was sparked by an intertwined push and pull factor--Castro allowing Cubans to leave for the U.S. and the U.S.'s continued open door policy which granted them admission eventually--the immigrants that arrived in the U.S. in 1980 were motivated by their dire economic need. This third wave once again does not qualify under the UNHCR definition of refugees--they are not fleeing persecution or fear of it, rather they left due to the opportunity to leave made available to them combined with the desperation of their economic and financial situation. However, this wave of immigrants was classified by the U.S. as refugees, and in the year 1980, 207,116 refugees total arrived in the U.S. ("Yearbook of Immigration Statistics"). While the Department of Homeland Security's "Yearbook of Immigration Statistics" does not provide a breakdown by region of the refugees that arrived in 1980, this number is the highest by nearly 50,000 of refugees arriving in the U.S. from 1980 through 2013. This is evidence to the tendency of the U.S. to tinker with the actual, legal definition of refugee to suit its own political interests.

The fourth wave of Cubans migrating to the U.S. is remembered as the Balsero crisis, named for the people who fled Cuba via makeshift rafts in increasingly large numbers in 1994 and 1995 (“The Cuban Rafter Phenomenon”). In July of 1994, nearly 500 balseros were arriving in the U.S. on rafts each day, and as a result of this spark in numbers the Cuban government hijacked three boats in August of the same year (“The Cuban Rafter Phenomenon”). Cuban authorities continued to be more proactive in preventing the balseros from leaving the shores of Cuba, inciting riots and protests in Havana by angry citizens who were desperate to leave (“The Cuban Rafter Phenomenon”). After this demonstration, Castro temporarily stopped the enforcement of laws against Cubans leaving the country, which pushed 32,385 Cubans from Cuba into the water on rafts in hopes of reaching the U.S. (“The Cuban Rafter Phenomenon”). However, under the Clinton administration, the U.S. Coast Guard intercepted the balseros and sent them to the U.S. Base at Guantánamo Bay, where camps formed of all the Cubans who were refused entry to the U.S. by President Clinton (“The Cuban Rafter Phenomenon”).

In September of 1994 the U.S. and Cuba signed an agreement in which the U.S. agreed to allow “at least 20,000 Cubans per year directly from Cuba through legal channels,” and Cuba agreed “to prevent unsafe departures using mainly persuasive methods” (“U.S. Response to 1994 Cuban Migration Crisis” 4). In May of 1995 all those in Guantánamo were allowed entry into the U.S. under this agreement, and as of January 1996 all the camps at the base were closed (“The Cuban Rafter Phenomenon”). The camps at Guantánamo served as temporary homes to over 30,000 Cuban balseros during the summer months of 1994, and consisted of nothing more than tents surrounded by barbed wire and landmines (“The Cuban Rafter Phenomenon”). The U.S. Interests Section in Havana identified that of the 20,000 Cubans the U.S. agreed to admit per

year through “legal channels,” about 7,000 would be refugees and their family members, (according to the UNHCR definition) 8,000 would be people who had received immigrant visas, and 5,000 would be from the Special Cuban Migration Program--a lottery through which citizens could leave the country (“U.S. Response” 4). As of May of 1995, the U.S. released a statement that any Cubans intercepted at sea by the U.S. Coast Guard would no longer be taken to Guantánamo but returned directly to Cuba to “apply for entry into the U.S. through legal channels at the U.S. Interests Section” (“U.S. Response” 4).

This change in the U.S.’s decades long open door policy towards Cuba came about because of Cuba’s diminished political threat to the U.S. after the fallen Soviet trading bloc in Cuba, which had been a key component of Cuba surviving economically without the U.S. since Castro’s takeover (Nackerud et al. 187). It was also a significant step in terms of the U.S.’s contradictory refugee policy, which had allowed over a million Cubans to enter the country but denied other potentially qualifiable refugee groups the same privilege. While this progress is notable, the end of the open door policy affected numerous Cubans who sought protection from Castro’s regime in the U.S. The major pull factor of Cubans to the U.S. was the open door policy throughout the better part of the second half of the twentieth century, however once this factor disappeared, it did not eliminate the significant push factors that people in Cuba faced (Nackerud et al. 188). The economic situation in Cuba had not improved due to the continued economic embargo, and under Castro’s regime Cuba had “the worst possible score pertaining to the political and individual liberties of citizens” in 1994 (Nackerud et al. 189). Furthermore, poor living conditions under Cuba’s ruined economy such as food, energy, and medical supply shortages went unaddressed by the U.S. after the end of the open door policy (Nackerud et al.

189). These economic, political, and social circumstances in Cuba acting as push factors persisted, but there has been no influx of Cubans to the U.S. of the same magnitude since the Balsero crisis.

The U.S.'s failure to directly address the poor conditions in Cuba after the end of the open door policy is a signifier of the solely political foundations for the U.S.'s active outreach, assistance, and acceptance of Cubans seeking protection from Castro's regime. Due to the U.S.'s cold war era concerns with Cuba's government's Communist leanings and its relationship with the Soviet Union, the U.S. actively pursued an open door policy through which Cubans were granted protection and often residency status upon their arrival in Florida. It is clear that the U.S.'s heightened political concern with Cuba during the onset of Castro's regime was the main motivating factor for why they had this open door policy, especially with the end of the policy in the 1990s after the Balsero Crisis and the decline of Cuba as an active threat after the Soviet Union trade bloc with Cuba ended. In denying entry to the continued flow of balseros with the end of the open door policy, it is evident that the push factors for the immigrants still existed despite the U.S.'s changing policies. Despite the U.S.'s acceptance of over one million Cubans during the years 1959 and 1995, even people who were in dire need of protection after 1995 in Cuba were not given refuge in the U.S. The foreign policy concerns of the U.S. determined the U.S.'s acceptance of these immigrants seeking protection.

Many of the immigrants from Cuba to the U.S. were not qualifiable as refugees under the UNHCR definition yet they were still given protection and residency status in the U.S. They were also considered refugees in the media coverage of the events at the time and in the Department of Homeland Security's count of refugees in the U.S. ("Yearbook of Immigration

Statistics”). This is another implication for the U.S.’s refugee and immigration policy, due to the selectivity with which the U.S. grants protection to large influxes of immigrants fleeing their countries, and the selectivity with which the U.S. chooses to restrict its definition of refugee to solely the UN terms. While it is not right to diminish and compare the experiences of one group of immigrants fleeing their home country to another group of immigrants fleeing but for different reasons, it is necessary to acknowledge that the U.S. accepted over one million Cuban immigrants during the open door policy, and that this open door policy was only applicable to Cuban immigrants, despite the other ongoing migration crises at the time. Many of the Cubans were fleeing due to restricted individual freedoms and poverty under the Castro regime. These are push factors which demand a reevaluation of the UNHCR’s definition, but many of them were perhaps not in the same dire conditions of those who were attempting to enter the U.S. at the same time, although they still were given protection in the U.S. while others were not.

There are two clear conclusions that can be drawn: the definition of refugee under the UNHCR does not necessarily cover all those who need protection, as evidenced by the massive flood of Cubans to the U.S. who were fleeing based on limited freedoms such as educational institutions and also a dire economic situation. With this in mind, it is evident that although the UNHCR definition does not cover all those fleeing, the U.S. has a tendency to morph the definition of refugee and surrounding policies based on its political interests and concerns with the sending country of the immigrants.

### ***The Case of the Haitians***

Haiti, approximately 700 miles from Miami, has a long and complex history with the U.S., reaching as far back as the slave trade in the seventeenth century (Lennox 689). The

developing relationship between the two countries over time has led one historian to state, “the success or failure of a Haitian government is always ultimately determined by relations with the U.S.” (Lennox 692). Before beginning an analysis of the Haitian immigration crisis that began in the 1960s, it is worth noting that since the U.S. occupation of Haiti from 1915 to 1934, the U.S. desired to maintain a stronghold over Haiti as part of its attempts to keep Europe out of the Caribbean region (Lennox 692). Furthermore, after this period of the U.S.’s active involvement in Haiti, the country was left in an economic and political mess, underscored by a lethal military trained by the U.S. which kept Haiti under its undemocratic grip (Lennox 696). In 1957, Francois Duvalier, known as “Papa Doc,” became president of Haiti with the support of the U.S. His dictatorship would become the worst Haiti had ever experienced, largely due to his personal army, the Tonton Macoutes (Lennox 696). Alarming, however, despite the estimated range of 30,000-60,000 people killed in Haiti during Duvalier’s 14 year dictatorship, the United States continued to support his rule. Throughout President Kennedy’s presidency, his administration did nothing in regards to the ruthless dictatorship of Duvalier and the continuous violations of human rights “in exchange for anti-Cuban support” (Lennox 697). The U.S. continued to provide military assistance to Haiti during Duvalier’s rule, fueling his brutal regime by bolstering the army which allowed him to maintain power (Lennox 697).

In 1971, Duvalier passed his reign to his son, who became known as “Baby Doc” (Jean-Claude Duvalier). This undisturbed and smooth transferral of power was ensured by a U.S. warship, signifying the U.S.’s continued support of the Duvaliers’ authoritarian regime. Baby Doc carried on the his father’s detrimental and ruthless legacy (Lennox 697). A likely explanation for why the U.S. continued to turn a blind eye to the mistreatment of Haitians under

the Duvaliers was the father and son's commitment to supporting anti-Cuban sentiments (Lennox 697). Duvalier even carried out a campaign to oppose Castro in an effort to maintain the U.S.'s support (Lennox 697). With the 15 year rule of Baby Doc following the 14 year rule of his father, Papa Doc, Haiti became the poorest country in the western hemisphere, with the highest child mortality and illiteracy rates, as well as the lowest life expectancy (Lennox 696).

During the Carter administration, which was from 1977 through 1981, Haitians were not recognized as refugees by the U.S., instead, they were viewed as economic migrants and "denied due process with no possibility to present their asylum claim, and refused refugee status" (Charles 199). With the Mariel Cuban crisis of 1980, about 30,000 Haitians seeking protection were given asylum under the Cuban-Haitian entrants status program, however despite this pairing of the Haitians with the Cubans, there was still contradiction in U.S. policy towards the two groups (Charles 199). Cubans were able to "adjust their situation" after a year as a part of the 1966 Cuban Adjustment Act, while Haitians were not applicable for regular residency until 1986, despite multiple bodies floating up off the coast of Florida during 1981 and 1982 (Charles 199). The U.S. at this point did not even offer humanitarian aid to the Haitians who were in obvious need of not only assistance in their travel from Haiti to Florida, but also in desperate need of protection from the oppressive system of the dictatorship.

In 1981, under the Reagan administration, an interdiction program (which was eventually named the Haitian program) was agreed upon by the U.S. and Haitian governments: "all landing refugees were detained and were subject to the rules of the newly created [program]" (Charles 200). The goal was to prevent Haitians arriving in the U.S. from having grounds for claiming asylum, resulting in detention centers throughout the U.S. along the east coast, Texas, and even

Puerto Rico (Charles 200). The Haitian program became an operation through which U.S. officials attempted to process and deport Haitians in the detention centers as quickly as they could (Charles 200). All of this happened despite the U.S.'s knowledge and support of Baby Doc's regime and his oppressive military rule, which killed thousands of Haitians and left everyone else living in extreme poverty. The U.S. did not acknowledge the Haitians at this time as refugees or asylees with a right to protection but rather they processed them and sent them back to Haiti. Thus there appears to be a connection between the U.S. supported Haitian regime under Baby Doc and the refusal to grant protection to the large influx of Haitians on U.S. ground. The Haitian case was not helped by the Center for Disease Control's labeling of Haiti as "the primary source of AIDS" (Charles 200), further alienating the Haitians from any desire of the U.S. to help their plight, but also further exacerbating the vicious and unjust cycle of the U.S.'s lack of intervention in the horrible situation the Haitians were trying to flee.

Baby Doc eventually fled Haiti in 1986--at this point opposed by the U.S. due to the outrageous death toll of Haitians under his regime and the U.S.'s inability to continue overlooking the facts (Lennox 698). With the beginning of the Bush administration in 1989, Haitians were still seen by the U.S. as "opportunistic job seekers," and throughout the early 90s, the policy set in place for detention and deportation of Haitians persisted (Charles 200). In 1991 Jean-Bertrand Aristide--a Catholic priest--was elected as Haiti's first democratic leader (Lennox 698). His support and advocacy for the impoverished people of Haiti and his work to dismiss many of Haiti's previous military leaders lasted from his election in February of 1991 until September 30th of the same year, when he was removed from power by the Tonton Macoutes army (Lennox 698). The resulting rapid fire decline of Haiti's political and economic situation

into brutal violence and utter poverty placed the people of Haiti in dire circumstances, with continued flows to the U.S.

Under a “temporary restraining order” which prevented further deportation of Haitians without due process, the U.S. began to transfer Haitians to Guantánamo for screenings for “credible claims of potential persecution” (Charles 201). Strangely, the temporary “protection” granted by the U.S. to Haitians in Guantánamo camps was approved by the UNHCR, despite it being a guise for getting Haitians out of the U.S. quickly and showing alleged consideration of their desire for protection, yet ultimately denying them protection within the U.S. borders (Charles 201). 1994 saw three thousand Haitians detained at Guantánamo, and with the eventual return of Aristide to power in Haiti, these detainees had five days to decide if they wanted to go back to Haiti voluntarily, a deal which fewer than five hundred accepted (Charles 201). The only other option was a forced repatriation, and as a result the U.S. Coast Guard brought approximately six hundred Haitians from Guantánamo to Haiti each day before the end of 1995 (Charles 201). This is a testament to how badly Haitians needed protection from their government and their economic situation. As evidence to how poorly they were looked upon by the U.S. government, when “class-action suits brought court victories, the courts never accorded a legal immigration status to Haitians; they only forced the government to reprocess claims and to follow its own rules and regulations” (Charles 201).

In light of this unjust treatment of Haitians, when it was apparent that their country’s conditions provided viable reason for its citizens to live in fear and actively seek out refuge, Congress passed the Haitian Refugee Immigration Fairness Act in 1998, which allowed any Haitians who had been in the U.S. since 1995 to become applicable to attain permanent resident

status without needing to have applied outside of the U.S. (Charles 202). However, the act came with restrictions for anyone who had come by plane or who had history of using false papers, and it did nothing to aid the countless people who were still seeking to leave Haiti or who had tried to gain refuge before 1995. Furthermore, with over 38,000 seeking lawful permanent resident status, cases took nearly a decade to be processed (Charles 202).

An understanding of the political and economic circumstances of Haiti during the second half of the twentieth century, especially influenced as it was by the U.S., is imperative to a discussion of the mass influx of Haitians to the United States during the time. Since the 1960s, with the onset of the Duvalier regimes, Haitians have been moved to flee their country for the United States due to brutal political violence, repression, and extreme poverty (Charles 206). The military dictatorships of Haiti served as the grounds for these push factors, and the pull factors in terms of why Haitians fled to the U.S. were mainly geographic proximity, but also the ongoing acceptance and refuge provided to Cubans at the same time in a comparable situation at home. While the U.S. government consistently denied a viable fear of persecution and harm of the Haitian people by their government, human rights officials from organizations such as Americas Watch and Amnesty International cite “incidents of assassinations, arbitrary arrests, murder, and mayhem” throughout the multiple cycles of political upheaval in Haiti (Lennox 707).

The U.S.--throughout the various waves of influxes of immigrants from Haiti--sent aid to the Haitian government as long as Haiti cooperated “in blocking the exodus of Haitian refugees,” giving the Haitian government an incentive to punish the thousands of Haitians who were returned to their home country after attempted entry to the U.S. (Lennox 707). While the U.S. did acknowledge and recognize the occurrence of violence in Haiti, it maintained its hold on the

UNHCR's definition of refugee, that an immigrant must provide evidence that if he or she remains in Haiti, he or she will be "specifically targeted for persecution" (Lennox 707), and consequently did not consider this group as refugees in that regard.

While the Refugee Act of 1980 in the United States certainly was evidence of some progress in the U.S. government's preferential acceptance of some immigrant groups over others, it did not succeed in assisting Haitians in their plight for refuge. This Refugee Act was an "attempt to eliminate ideological discrimination from immigration policy," focusing on "the plight of the refugees as opposed to national origins or political considerations" (Lennox 711). Yet, in light of this, the U.S. president still maintains power over the allotment of and locations from which the U.S. will accept immigrants (Lennox 711). Between 1983 and 1989, only 39 of 2,000 Haitians who had filed for political asylum were granted protection, and from 1987 to 1991, 89 percent of "pre-designated refugee allotment" went to immigrants from communist countries (Lennox 711). This is evidence to the U.S.'s political concerns taking priority in determining which immigrants receive protection. Furthermore, during a time when so many Cubans were given unquestioned acceptance into the U.S., so many Haitians were the victims of biased U.S. policies that granted them only a free ride home to Haiti on the U.S.'s behalf, even though it was the U.S.'s aid to their military dictatorship that pushed them to leave in the first place.

In the case of the Haitians, the political interests of the U.S. and the government's support of the dictatorship in Haiti were grounds for the way the U.S. responded to the influx of Haitians with detention centers and repatriation, as well as refusal of asylum or protection. However it also becomes clear that the UNHCR's definition of a refugee as someone who is facing "fear of

persecution” fails to protect the plight of those who are victims of the brutality and poverty of a regime that does not have the citizens’ best interests in mind. There was obviously well grounded fear existent for countless Haitians, and this fear was fear for their lives under the horrific Duvalier reign and the lethal military rule that killed thousands. Furthermore, the dismal poverty which Haitians were cast into by this regime, which is undeniable based on Haiti’s status as the poorest country in the western hemisphere at the time, should be reason enough to seek refuge in another country. However, the U.S. failed to not only acknowledge this as a viable reason for refuge, but also failed to actively address the criticalness of this situation in Haiti.

### ***The Case of the Salvadorans***

In 2013 alone, 1.2 million Salvadorans arrived in the U.S. (Zong and Batalova). Beginning with the onset of Civil War in 1980 in El Salvador, the influx of Salvadorans at the U.S.-Mexico border has been a point of contention in U.S. immigration policy. The U.S. does not recognize these immigrants as refugees, but rather as economic migrants, and in the public eye these immigrants are commonly referred to as “undocumented” and “illegals” (Ferris, “The Politics of Asylum” 358). Rumbaut notes that the war and poor economic conditions in Central America in the 1980s created an environment that caused many to flee--an environment “long shaped by American foreign policy” (598). Similar to the case of the Haitians, Salvadorans have been “denied refugee status and entered mostly without documents” (Rumbaut 598). The UNHCR argued for immigrants from El Salvador to be considered “bona fide refugees” in 1981, reflecting the fear instigated by violence that was pushing these groups of people out of their home country as grounds for protection in another country (Ferris, “The Politics of Asylum” 358). This is important to note because although the U.S. did not recognize immigrants during

this time as refugees, the UNHCR did, and as this occurred after the U.S.'s 1968 agreement on the UNHCR definition of refugee, the U.S., on those grounds, should have recognized these immigrants as refugees as well. However this inconsistency in the U.S.'s response to an influx of a group of immigrants seeking protection is another example of the bias with which the U.S. responds to immigrants. The U.S. has a history of deporting Central Americans seeking refuge in the U.S., although there have been a select few who have applied for asylum upon arrival in the U.S. and have been granted protection (Ferris, "The Politics of Asylum" 359).

It is important to note that the time period of the beginnings of the case of the Salvadorans fits in with the Cold War era climate of the United States, just like the case of the Cubans and the Haitians. Under Reagan's administration, the U.S. government made the argument that Salvadoran immigrants to the U.S. were economic migrants rather than refugees due to the alleged availability of a "safe haven" in Mexico (Kopinak 1343). However, Mexico was not a signatory on the UNHCR's Convention on the Status of Refugees, and as such operated under its own domestic laws and policies (Kopinak 1343). While Mexico did make attempts to accommodate Salvadorans and immigrants from other neighboring Central American countries, attacks at its borders by Central American armies made the situation difficult, as these armies often attacked UNHCR refugee camps brutally, resulting in what is arguably not the safe haven the U.S. made Mexico out to be (Kopinak 1343). Things did not change under the Bush administration--the U.S took no action to broaden the definition of the term refugee in an effort to aid the Salvadorans desperately seeking refuge from the violence at home (Kopinak 1344). Rather, the U.S. required that should any of the immigrants wish to apply for asylum, they must "justify why he or she was different from other emigrants from their country" (Kopinak 1344).

Salvadorans, along with other Central Americans, were deported in large numbers throughout the 1980s and into the early 1990s, and until they were deported they were often held in detention centers along the borders (Kopinak 1344).

The beginnings of the influx of the Salvadorans to the U.S. are rooted in the civil war that began in 1979, which originated from a conflict between an already repressive military regime and a “civilian-military junta” made up of Salvadoran officers (Ram 3). This new government was formed of not only Christian and Social Democrats but also the Salvadoran Communist Party, and was an effort to break free from decades of military dictatorship in the country (Ram 3). The resulting 12 year civil war that would follow quickly became divided into the Farabundo Marti National Liberation Front (FMLN) and the military-led government (Ram 4). The deaths of civilians at the hands of the state numbered nearly 36,000 in the first three years of the war alone (Ram 4). The U.S.’s intervention and support of the Salvadoran dictatorship became based in its Cold War era fears and led to the basis for why it did not recognize Salvadorans as refugees at the time. Similar to the case in Haiti, the U.S.’s support of the government that was driving so many to flee out of fear for their lives prevented it from granting protection to those who it was helping drive out--to a certain extent. Despite the civil war in El Salvador ultimately giving those seeking protection the grounds for being accepted as refugees in the U.S. under the UNHCR definition, the U.S. government did not grant protection to those who sought it until the 1990s.

In the late 1990s, any unauthorized immigrants living in the U.S. from El Salvador were applicable to receive Temporary Protected Status (TPS), which is “provisional protection against deportation with work authorization” after “a series of natural disasters in those countries” (Zong & Batalova). Other legislation passed by the U.S. in the late 90s also allowed for immigrants

from El Salvador and other countries in Central America who were living illegally in the U.S. to legalize their status, largely through family reunification “channels” (Zong & Batalova). This serves as some testament to the U.S.’s eventual shifts in policy in cases of mass immigration such as these. Throughout the other cases as well, we have seen an eventual shift where the U.S.--whether they initially accepted the immigrants or not--offers protection to a certain extent. Despite political interests being the initial priority when it comes to shaping the U.S. response it appears that the U.S. eventually gives in to the pressures of the situation, whether they be from the UNHCR, advocacy or humans rights groups, or simply the gravity and overwhelming nature of the circumstances.

Originating in the 1980s, the crisis in El Salvador can be characterized as having three distinct types of immigrants, and scholar Elizabeth Ferris identifies these three groups as political exiles, urban refugees, and peasant refugees (“The Political Impact of Refugees” 100). The political exiles she identifies are comprised of “well-educated, politically active individuals who seek asylum,” and due to their generally limited numbers and clearly outlined fear of “political persecution,” the U.S. government granted a number of these immigrants protection (“The Political Impact of Refugees” 100). Urban refugees are individuals typically of the working and lower middle class, pushed from El Salvador during the early 1980s by violence rampant in their cities against groups considered subversive in the eyes of the government or military or against members of their family and friends (Ferris, “The Political Impact of Refugees” 100). The final group of immigrants are peasants from small, mostly rural towns in El Salvador, pushed from their homes in the face of “brutal counter-insurgency campaigns of their governments and by the equally brutal violence of the death squads” (“The Political Impact of Refugees” 100). The

individuals of this third group are mostly women and children (Ferris, “The Political Impact of Refugees” 100).

The United States is the final destination of most of the immigrants who fled during the 1980s, even though fewer than 400 of them were given political asylum or refugee status, and the rest of them live in fear of deportation (Ferris, “The Political Impact of Refugees” 101). This unwillingness on the behalf of the U.S. to offer protection to Salvadoran immigrants is likely due to its political involvement with the government. If the U.S. were to recognize the nearly half a million individuals from El Salvador within its borders at the time, it would be a statement of those people as victims of persecution by a government which the U.S. not only supported, but also armed (Ferris, “The Political Impact of Refugees” 101). Furthermore, with the additional factor of the U.S.’s cold war world view at the time, the U.S. justified funding the Salvadoran government and their militaries in order to maintain power in the region and prevent any communist leanings (Kopinak 1343). The violence that these immigrants were fleeing was facilitated by these U.S. funded and armed militaries, which terrorized the people of the region and resulted in hundreds of deaths at a time in attacks such as El Mozote in 1981, when a Salvadoran army killed 936 individuals in that community, about half of whom were individuals under the age of 14 (Kopinak 1343). These severe human rights violations went unpunished by the U.S., despite their being directly aided by the support of the U.S.’s government, and serve as evidence of a valid fear instigated by this brutality in all Central Americans.

The U.S.’s cold war strategy and resulting support of corrupt government systems which used their militaries against their people El Salvador and other countries in Central America during the 1980s led to a complex relationship between the U.S. and the influx of immigrants

from the region. The U.S.'s vested political interest in the region outweighed its humanitarian concern for the people fleeing violence and the results of a dire economic crisis in the region, leading the government to deport the high numbers of immigrants arriving at its borders and refusal to recognize them as refugees or grant them any protection (until the 1990s). While the U.S. did recognize the immigrants as victims of a compromised economic situation, calling them economic migrants, this does not encompass the totality of what the immigrants were seeking protection from. Furthermore, why should an economic crisis and the resulting poverty of those circumstances be grounds for not granting at least temporary protection to immigrants? Many have argued that immigrants from Central America are only coming to the U.S. in search of "a better life," but why is that an invalid reason for there to be some sort of protection of them? Wanting a better life, in which parents can feed and clothe and educate their children and not have to fear for their lives every time they step out of their house at night is not an invalid reason to seek protection in another country. The case of the Central Americans in the 1980s is further evidence that the definition of refugee under the UNHCR's definition of the term is often inadequate in its protection of immigrants who need assistance and refuge.

Between 1980 and 1990 alone, the population of Salvadoran immigrants in the U.S. rose from 94,000 to 465,000 (Terrazas). Throughout the 1990s and into the 2000s this population grew, largely due to family reunification and a series of earthquakes and hurricanes (Terrazas). In 2014, the U.S. was thrown into a frenzy as the media reported that "the number of unaccompanied children crossing the U.S.-Mexico border increased 90 percent between 2013 2014" ("Rising Child Migration to the United States"). While increases in the numbers of unaccompanied children from Central America had started to rise in 2011, "policymakers, the

public, and the media were seemingly caught off-guard in spring 2014,” (“Rising Child Migration to the United States”). This increase in unaccompanied minors was due largely in part to recurring cycles of poverty and gang violence, especially in rural communities. The Congressional Research Service’s July 2014 report found that between 2007 and 2012, homicides per 100,000 people were highest in El Salvador (Kandel, et al.). Furthermore, the report found, “according to the U.N. Office on Drugs and Crime in 2012, the homicide rate per 10,000 inhabitants stood at...41.2 in El Salvador” (Kandel, et al.). These unaccompanied minors were not recognized as refugees by the U.S. but continued to be recognized as aliens seeking an escape from poverty, and were detained for lengthy periods of time as the numbers reached the thousands, and children waited months for their court date (Zong & Batalova). In this recent influx of immigrants, especially unaccompanied minors, from El Salvador and the Central America’s Northern Triangle, it has become apparent that the U.S. chooses when it applies the UNHCR definition of refugee, and dictates its response accordingly.

In the following section, I discuss the results of my overview of cases and what it means in terms of my proposed argument.

### **DISCUSSION & CONCLUDING THOUGHTS**

Throughout my analysis and exploration of the three cases--the Cubans, the Haitians, and the Salvadorans--it became apparent that the political concerns of the U.S. were the common denominator across all three in terms of being the reason that the U.S. responded the way it did. The different relationship the U.S. had with each sending country of the immigrants in question and the government’s political interests in that country were central to understanding the different receptions of the immigrants. It became evident that this was exacerbated by the time

period I selected, an era in which the U.S. government's every move was based in its cold war world view and concerns. Thus, while my conclusion and argument could arguably only be applicable in other cases of immigration influxes in the cold war era, I would argue that my thesis would hold true in other cases in other time periods based on my findings. The relationship of the United States with the sending country of groups of immigrants seeking protection in the U.S. would account for inconsistencies in the U.S. response to these situations in any era, because as evidenced by my findings, political calculations and relations with other country's governments are prioritized by the U.S. government, regardless of the humanitarian concern. This argument is upheld in examining the present migration crisis the world faces today; congress has recently suspended the bill which would allow for the admission of thousands upon thousands of Syrian refugees to the U.S. due to the government's fear of terrorists, which are terrorizing and overtaking the governments the refugees are fleeing. I found that particularly surprising--that in the face of so much dire humanitarian need and obvious suffering on the part of the immigrants, the U.S. would uphold its restrictive policies in the case of the Haitians and the Central Americans due to its political support of the governments of the sending countries.

The most apparent struggle and limitation of my research and argument of my thesis was due to the implications of the UNHCR's definition of refugees. While I argue that the ineffectiveness of the definition is another factor that has accounted for inconsistencies in the U.S.'s response to influxes of immigrants seeking protection, its definition's inconsistent application which made my analysis of each case so difficult. Across the literature and the numbers of people who have entered the U.S. at a given point of time for a certain reason, the

definition of refugee is inconsistent, because of the inconsistency of when the U.S. chooses to apply it to a certain group of immigrants.

The ability of the U.S. to selectively apply the term presents another issue, which is that perhaps it is time for the UNHCR to call another convention. The current migration crisis overtaking the international community is the largest since World War Two, which was the context for the 1951 Convention on the Status of Refugees. The UN's High Commissioner for Refugees, Antonio Guterres, has said that it is time for a broadening and reshaping of the UNHCR's definition of refugee. He recently stated, in regards to the ongoing refugee crisis in Europe, "The truth is, these factors are creating more and more situations where life is unsustainable for people in some communities, forcing them to move. They are forced to flee, but they are not covered by the legal status of the '51 convention. There is a protection gap" (Vick 46). With his acknowledgment of the ineffectiveness of the definition in terms of protecting all those who are left with no other choice but to flee their home countries, it is undeniable that the definition does not fulfill the objectives of the 1951 Convention. Furthermore, it is clear that the definition needs reworking in terms of how the UNHCR can go about ensuring that it is a definition that is subscribed to not only on paper but in practice, so that there are no more inconsistencies in the response of governments like the U.S. in the response to large scale influxes of immigrants seeking protection.

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