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THE AMERICAN LEGAL SYSTEM AND THE AMERICAN CONSTITUTION

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U.S. Asylum Meant Jail For Haitian 'Boat People'

MIAMI — Jacques is not the nicest of kids. He is a thief, a briber, an ex-con, a dropout, and does not have all that much faith in authority.

Jacques (not his real name) began his criminal career at age 11, when he managed to accumulate the \$400 necessary to bribe his way onto a boat smuggling people from Haiti to the United States. He had help, of course. His mother was dead, and his father and relatives chipped in. They figured he would have the best chance to survive in the land of the free. He'd get an education. He'd get the world's best medical care. He'd get his first decent meal. He would become an American.

So they put him on the boat with a bunch of other Haitians hoping for another life, and they set out on a 30-day voyage — much of it without food or water — over the high seas to Florida — where he and the other refugees were put in jail. He was 11 years old, and the Immigration and Naturalization Service deemed him an illegal Haitian immigrant who was coming here for no other reason than to better his economic standing, and they sent him back. That was the first time.

It is against the law in Haiti to speak against the country or its president, Jean-Claude (Baby Doc) Duvalier. And asking for political asylum elsewhere is considered speaking against the ruling family. Haitians who leave the country and are sent back are jailed.

Jacques did not like to talk about the weeks he spent paying for the crime of symbolically speaking against his country's leadership. U.S. District Court Judge James L. King, in a 180-page July 2 decision voiding the INS' Haitian policies, quotes this former deportee who was sent to Haiti's Fort Dimanche Prison for political opponents:

"We lived in cells measuring nine square meters of 10 square meters. . . . The cells kept between 22 and 33 prisoners. These prisoners are detained in the nude, with no medical help. At night, no prisoners were allowed eight hours' sleep. The absence of necessary vital space obligated them to rotate in order to lie down. . . . They suffered from tuberculosis, malnutrition, and even vermin got them.

"A great percentage of the prisoners died either of tuberculosis or the consequence of torture or wounds inflicted during their time there. . . . The cadavers were not buried. They were devoured by dogs in the back of the jail, and the sinister barking of the dogs would take sleep away from all prisoners.

"I can only tell you, simply, that only during the year 1976, from a number of 150 prisoners, 96 died at that prison."

"The conditions in Haitian jails," wrote Judge King, "are inhuman."

But despite that, the U.S. State Department and the INS

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felt there was nothing wrong with Haiti and its government, and as a result, said the judge, "those Haitians who came to the United States seeking freedom and justice did not find it. Instead, they were confronted with an Immigration and Naturalization Service determined to deport them."

Jacques bided his time after getting out of jail. His lawyer described him as a "survivor, a street-wise kid." He waited a year and tried again — another bribe, another passage over the open seas in an open boat, another effort to enter the United States as a refugee. Another rejection. He was an illegal alien. And he had been in jail.

The INS treated the kid they way it had treated all other Haitians seeking asylum. It jailed him.

He was 13 and hungry and they put him in a juvenile detention center — the kind reserved for 17-year-old thieves and cons and killers — along with a 10-year-old Haitian boy so he would have company. The younger boy had arrived with his parents, according to Vera Weisz, attorney for the Haitian immigrants, but the INS had a policy of separating kids from adults, since there had been opposition to kids being placed in adult jails with their parents.

"There are a lot of horror stories," said Weisz, "of adults getting out of jail and then trying to find their children who have been scattered to juvenile detention centers. And no one speaks Creole, and no one can help them find their kids."

Said the judge, "The Haitian asylum claims were prejudged as lacking any merit. An expedited process was set up for the sole purpose of expelling Haitians from the United States.

"By its very nature and intent, was that process prejudicial and discriminatory. . . .

"It is beyond dispute that some Haitians will be subjected to brutal treatment if deported. Until INS can definitely state which Haitians will be so treated and which will not, the brutality and bloodletting is its responsibility."

And the INS decided, in this case, that its responsibility was to let the kid who risked his life twice to come into a coun-

try he didn't know, with a language he really didn't understand and with no one to take care of him, fend for himself on the streets of Miami.

For having been found guilty of discrimination, guilty of violating every precept of due process and fair play, the INS chose not to introduce the immigrants to America, but to dump them.

The Haitian boat people were not in the best of health when they got to Florida. They are getting worse. "They are not allowed to work, for the most part," said Claude Charles of the Community Mental Health Service here, "so they live in conditions of active unemployment. They vegetate."

They are dumped into the Haitian community here — crowding into rooms provided by anyone from their village, or any Haitians who decide they owe it to their fellow expatriates to share their poverty and starvation. And they do.

"A few months ago," said Rev. Gerard Jean Juste of the Haitian Refugee Center, "I found a group of eight Haitians that the INS dumped on a street corner. They were living in a garage and in abandoned cars. They were starving. We brought them food and helped them find places to stay."

It was not an unusual situation. The INS would leave Haitians in the middle of Little Haiti, and Haitians would take them in, sharing what they had, including taking turns working so that everyone could have a piece of a job; taking turns eating what there was; taking turns sleeping. Mostly, they shared hunger and disease. Untreated colds would roar through the group. Medicines, including psychotropic drugs given those under mental care, did not work properly and were fraught with unpleasant side effects because, explained Charles, the medicines do not work properly on people who are not eating.

It is difficult to comprehend the callousness which would permit the INS to have a policy excluding a group of people who risked their lives for the opportunity to be free. But they had such a policy, and though the federal judge called it "prejudice," and others have called it "racist," an argument can be made that the employees of that federal agency had no choice but to follow orders.

But where is the justification for the policy which dictates that after being plucked from the sea, and rescued from the brutality of Haiti, they be abandoned on the hot Miami streets and told to fend for themselves? There was no compassion in the policy of deportation — but at least the unfortunate deportees were out of sight and at the mercy of their own countrymen. Now they are here, and at the mercy of Americans, and they are not being brutalized — they are being abandoned. Is there really a hell of a lot of difference?