

**A Historical View of Cuban Immigration Policy**

by

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## ABSTRACT

Cuba is a communist country an estimated population of 11,075,244(2013), Cuba is located about ninety-three miles south of Key West, Florida. Cuba has been ruled by the communist regime of Fidel Castro, and now his younger brother Raul Castro. For over fifty years this regime has forced a major increase in the amount of people migrating to the United States. The regime has been disregarding basic human rights for decades and oppressing Cuba's citizens. Hundreds of thousands of Cubans have come to the United States using boats, rafts, or any means available.

The Cuban Adjustment Act of 1966 (amended in 1994 to contain the *Wet Foot, Dry Foot Policy*) states that if Cubans trying to reach the United States are intercepted at sea, they will be sent back to Cuba, or a third country. If they make it to United States soil, they will have the chance to start the journey to becoming citizens of the United States. Many Cubans die at sea trying to reach the United States for this chance at citizenship.

There have been attempts to implement immigration policy in the past. President Obama is now trying to reform current immigration laws. What effects could a new immigration policy have on Cuban immigration versus the legislation put forth in the past? This study will be an examination and analysis of past and Cuban immigration policy and issues.

This research paper utilizes government websites, news articles, presidential addresses, books and various sources to address this question. My hope is that this study will help to explain the impact past policies and reform had on Cuban

immigration, and the impact proposed policy and current issues may have in the future.

## **DEDICATION**

To my mother who told me I could be anything I aspired to be, except a  
gymnast.

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## INTRODUCTION

Cuba is a country located about ninety-three miles south of Key West, Florida with an estimated population of 11,075,244. When “Cuba,” is mentioned, thoughts of Fidel Castro, communism, and immigration arise. Cuba has been ruled by the communist regime of Fidel Castro, and now his younger brother Raul Castro, for over fifty years. During this lengthy communist regime, there has been a major increase in the number of people migrating to the United States. Most common in the 1990’s and early 2000’s, Cubans made the journey to the United States soil by whatever means they could acquire; such as boats, makeshift rafts, and even floating cars. Many Cubans flee Cuba because they fear prosecution for openly opposing the communist regime. Others came in search of a better life because of the disregard for human rights, lack of opportunity, and fear of the government. Many Cubans have died at sea trying to reach the United States for a chance at citizenship and still continue to die.

Historically, Cuba has always, with very few exceptions, forbidden freedom of speech, freedom of religion, and freedom of the press. Since the Cuban Republic’s inception in 1898, Cuba’s presidential administrations had been filled with corruption, oppression, rigged elections, violence, and the misuse of government monies.

When Fidel Castro came to power in Cuba, any chance at democracy was destroyed. The United States has made attempts to thwart the Castro’s regime. Some of these attempts by the United States were The Bay of Pigs Invasion, Operation Mongoose, and exposing Cuba and its hiding of nuclear missiles during the Cuban Missile Crisis.

In the past, the United States passed legislation and approved projects to liberate some oppressed by the communist country. A few of these special migration projects were Operation

Pedro Pan, the Cuban Freedom Flights, and the Special Cuban Migration Lottery. Immigration reform is on the horizon and its exact contents are still unknown. As our country stands on precipice of change, it is important to understand our past with Cuba. As astronomer, Dr. Sagan, once said, “You have to know the *past* to understand the *present*.”

## **A BRIEF OVERVIEW OF CUBAN HISTORY: 1898-1959**

In order to understand the current state of Cuba, consideration must be given to the events that molded the country into what it is today. In the following section, a brief overview will be given of the pre-revolutionary history of Cuba from 1898 to 1958. This overview will be followed by a summary of events taking place during the Revolution from 1956 to 1959. Since their independence in 1898, the United States has always had a hand in Cuban affairs.

### **PRE-REVOLUTION: 1898-1952**

The United States won The Spanish American War in 1898. In that same year, the United States proposed the Teller Amendment which states that the United States "*hereby disclaims any disposition of intention to exercise sovereignty, jurisdiction, or control over said island [...], when that is accomplished, [the United States will] leave the government and control of the island to its people*" ("Teller and Platt Amendments"). True to their word, the United States withdrew their troops from Cuba four years later in 1902. The United States did not want to fully remove their presence in Cuba; but they could not violate the Teller Amendment. The United States served their purpose in restoring Cuba's independence. They were supposed to leave once that occurred and let the Cubans take control of the government. In order to bypass the Teller Amendment, the United States created The Platt Amendment. The Platt amendment gives the United States the right to intervene in Cuban affairs to preserve their independence ("Teller and Platt Amendments"). Some of the most influential articles state:

- Cuba will never enter into an agreement with any country that could jeopardize their independence. It also states that Cuba will never let any other

country control a portion of land, or colonize land for the use of military or naval purposes.

- The United States may intervene in Cuban affairs to preserve the government and Cuban independence.
- During this time, Yellow Fever was very common. The United States included an article to sanitize the cities to prevent further spread of the disease.
- The provision that grants Guantanamo Bay to the United States.
- Cuba will follow all the provision in the Platt amendment and enter into a permanent treaty with the United States (“Teller and Platt Amendments”).

### **Tomas Estrada Palma: May 20, 1902 - September 28, 1906**

On May 5, 1902 the first Cuban Congress met and assumed control of the government on May 20. May 20<sup>th</sup> is to Cuba what July 4<sup>th</sup> is to the United States. The first president after Cuba’s independence was Tomas Estrada Palma. Peace did not last long. In 1906, rebels began protesting President Palma and his election. Palma resigned and returned to the United States. The United States intervened in the protest and placed a provisional government to try and control the situation. The United States withdrew three years later in 1909.

After the United States withdrew, the next few presidents of Cuba were rebels from the Cuban War for Independence (Fitzgibbon).

**Jose Miguel Gomez: January 28, 1909 - May 20, 1913**

In 1906, José Miguel Gómez was elected president. Before being elected president, he was the Governor of Santa Clara and was seen as a fair and sympathetic politician. He had fought in the War for Independence and was seen as a strategic military man. Political corruption skyrocketed during his presidency and many scandals occurred. Some believed that he became rich as a result of his presidency. He was assigned, the nickname “the shark.” One of these scandals involved the Cuban government funding newspapers to publish pro-government propaganda. Later, when some newspapers did not comply, and published negative things about the government, the writer was arrested. Gomez openly stated that he valued the ‘economic interest’ of the country above all else. His presidency ended in 1913 (Fitzgibbon).

**Aurelio Mario Garcia Menocal: May 20, 1913 - May 20, 1921**

In 1913, Aurelio Mario García Menocal was elected president. Menocal had attended boarding schools in the United States and graduated from Cornell University. He spent his younger years away from Cuba but became very involved in the fight for Independence. He was awarded the rank of Colonel. During his first year as president, Menocal established a monetary system for Cuba. Prior to this, American, Spanish, and French monies were being circulated in the country. The Philadelphia mint gave the Cuban government gold, silver, and nickel coins in the amount of more than \$30,000,000 dollars. In 1916 he set aside his promise of a one-term presidency and ran again. It was believed that Alfredo Zayas won the election but it was later determined that Zayas had manipulated the election. The amount of votes, roughly 800,000, did not correspond with a later census which had only indicated 477,786 eligible voters. After the presidency was given back to Menocal in December 1916, talk of revolt was on the horizon.

Zayas gave the signal and insurgents led by Gerardo Machado and José Miguel Gómez planned to take over Havana on February 11, 1917. They did not succeed. Within weeks the revolt had spread all over the island but Menocal used his military experience to combat the revolt. On February 13, 1917, the United States dispatched a note to Cuba and offered to sell 10,000 rifles and 5,000,000 rounds of ammunition to strengthen Menocal's government. The United States sent another powerful communication on February 18, 1917 that stated that "the leaders of the rebellion were to be held responsible for injuries to foreign nationals and property." This position greatly helped to subdue the revolt and the government gained the upper hand and by June the revolt was quashed.

On April 7, 1917, only one day after the United States, Menocal declared war against Germany and joined World War I. Menocal hesitantly accepted the United States offer to send soldiers as protection. Approximately 2,600 troops arrived in Cuba and did not withdraw until 1922. During the war, Cuba seized five German ships and turned four over to the United States. Because of the political turmoil in the country, they were not more active in the war efforts (Fitzgibbon).

### **Alfredo Zayas: May 20, 1921 - May 20, 1925**

A few months after Zayas became president, the United States sent a man named General Crowder to Cuba (as an informal representative of the President of the United States) to advise him. When Zayas became president, he had an almost bankrupt treasury. Zayas proposed a budget reform to simplify governmental functions in Cuba's banking system. In 1921 the Cuban government was in desperate need of financial assistance. With the approval of the United

States, J.P. Morgan Chase loaned Cuba \$5,000,000 dollars. Even with this assistance, Cuba was very deep in debt.

In June of 1922, because of suggestions from the United States to General Crowder, the Honest Cabinet was appointed. Cubans with integrity were appointed to perform tasks like “reducing the budget, eliminating unnecessary employees, . . . [and] sifting the fraudulent public work contracts. . .(Fitzgibbon)” There were five reforms that Crowder urged on the Cuban Congress. The reforms were:

*“the suspension of some and modifications of other parts of the civil service law in order that the administrative structure might undergo a more thorough purging; the adoption of a better system of accounting; the appointment of a special commission to investigate the amount and character of the floating indebtedness; reforms calculated to improve the judiciary and to facilitate removal of corrupt judges; and a bill authorizing a \$50,000,000 foreign loan (Fitzgibbon)”*

On September 14, 1922 the United States issued a warning to Cuba:

*“[the United States] hoped and believes that it will be possible for Cuba to carry out the reforms in the manner suggested and in this way to avoid the serious situation which would inevitably arise.(Fitzgibbon)”*

The threat of American intervention jump-started the legislative program and initiated a cleanup of Havana. Since General Crowder had done so much to improve matters in Cuba, the United States wanted to reward him by creating an Embassy in Cuba and making him their Ambassador. In June 1923 Cuba agreed. However, matters took a different path when Zayas

did not want Ambassador Crowder to supervise his administration. On April 13, 1923, Zayas dismissed the Honest Cabinet and in July 1923, the Cuban Congress adopted a resolution saying “that the Cuban people did not desire any outside interference with their civilian affairs (Fitzgibbon).”

President Zayas, like many Cuban presidents before him, had made the one-term presidency promise. But when given the opportunity to run for reelection, he accepted. However, he was discredited as a candidate because his family used the public treasury greedily. The next elected president was not one well-known to the United States (Fitzgibbon).

### **Gerardo Machado: May 20, 1925 - August 12, 1933**

After President Zayas’ one term presidency, Gerardo Machado --who participated in the 1917 revolt-- was elected. His first year in office was uneventful and he kept up good relations with the United States. In 1925, he signed the Sanitary Convention with the United States and twelve other Latin American countries. The following year, he signed a treaty dealing with the smugglings of aliens, liquor, and narcotics into the United States. The two governments signed the treaty in Havana. He also attempted a program to diversify the crops being grown because he felt that Cuba relied too heavily on sugar.

President Machado did not want to serve more than one term. His exact words were, “when I hand over the power to my successor after four years in office . . . no power on earth will keep me in it one single day longer . . .(Fitzgibbon)” But it seems he had a change of heart. In 1927, Machado started making changes to the Cuban Constitution. He wanted to change the length of the presidency to a six year term, eliminate the vice presidency, and establish women’s suffrage. He also wanted to combine the six year term to his term so that he could remain in



office longer. But the Cuban Supreme Court did not agree. They declared that the six year term would only apply to future presidencies. Machado ran for election again in 1928, setting aside his previous opposition to serving a second term. Those who opposed Machado charged that part of his first presidency and his entire second one were filled with political oppression, assassinations, censorship of the press, illegal arrests, and other dictator-like actions. Due to Machado's corruption, he was thrown out of office (Fitzgibbon).

### **Executive Commission of the Provisional Government of Cuba and the Puppet Presidents**

The Executive Commission of the Provisional Government of Cuba, better known as the Pentarchy of 1933, was a short lived Cuban presidency that included five members: José M. Irisari, Porfirio Franca, Guillermo Portela, Ramón Grau, and Sergio Carbó. All members were supposed to consult each other and agree on proclamations and decisions that were made. During the time of this five-man presidency, Fulgencio Batista, was a Sergeant gaining momentum among the soldiers for his anti-Machado attitudes and his beliefs that the government and military needed to be cleansed of any remaining Machado sympathizers. Sergio Carbó secretly promoted Batista to the rank of Colonel, which gave him the title Army Chief of Staff. Soon after Batista's promotion, the Pentarchy of 1933 fell apart and Ramón Grau was named president of Cuba with Batista heading the military. Control of the military would essentially control the country. Batista's new position gave him an advantageous control over the presidency.

Over the next seven years, Cuba had seven presidents. The shortest term lasted only a few days. Batista used whoever was in the president's seat as a puppet to further his own agenda. Batista was so powerful and influential; he even had a hand in manipulating some of

these presidential elections with a representative from the United States Department of State named Jefferson Caffrey. The United States involvement in Cuban affairs at this time was very secretive. Caffrey (and Batista) wanted a specific type of candidate that would look favorably upon business agreements between Cuba and the United States. The goal was to have the 1936 election look as legitimate as possible, yet “the race lacked the spirited debates and intensive campaigning of prior elections”. There was little excitement in the electorate, and in fact only 60 percent of the eligible voters cast ballots, despite the fact that these were the first elections in nearly eight years. When the outcome of the election was announced, no one was surprised that the handpicked candidate Miguel Mariano Gómez had won the election.

During the next four years of Gomez’s presidency, Batista spent his time constructing his own political reputation. He was changing with the times and was trying to transform himself from a military man into a civilian politician. He also wanted to maintain control over the Cuban military. Choosing Gomez for president had not worked out 100% as planned. As was previously agreed to, Gomez was to share the presidential power with Batista. Gomez was convinced that he must keep Batista “in his place” and out of political affairs. But Batista’s popularity among the people was increasing because of his strong interest in social reform. As Batista’s popularity increased, Gomez’s was coming to an end. In December of 1936, Gomez was impeached via tribunal.

After Gomez’s impeachment, Federico Laredo Brú was appointed president of Cuba. Brú was nothing more than a puppet of Batista’s. He attended government meetings but never made any major decisions. “The government’s message was clear: Batista was the leader ..., Brú an administrative caretaker”(Argote-Freyre).

In 1940, Batista finally ran for the position he always wanted, the Presidency (Argote-Freyre).

**Fulgencio Batista: October 10, 1940 - October 10, 1944**

During his presidency, Batista legalized the Communist Party and created a new constitution for the country. Also, trade between Cuba and the United States had increased greatly. Batista preached that he was trying to move the country towards democracy even though he had been manipulating the country's electoral system for almost thirty years. Even though Batista had won the presidency, he was starting to lose favor among the people for his imposition of war taxes on the population. Because of the re-election restrictions in the new constitution, Batista could not run again for the presidency in 1944. He retired to Daytona Beach, Florida and lived a lavish lifestyle.

Before Batista's time in office was done, he had picked his successor, Carlos Zayas, to win the next election. But Batista had not planned on his candidate losing to Ramón Grau (Argote-Freyre).

**Ramon Grau San Martin: October 10, 1944 - October 10, 1948**

Grau had previously served as president shortly during the unsuccessful Pentarchy of 1933. During the 1930's, Grau had been had been popular among the people. After he was inaugurated he was very well-liked for lifting the ban on freedom of the press. But over the years the Cuban people began to see him as corrupt because of several government scandals. During his presidency, he attempted to make positive changes in healthcare and education. He

later withdrew and rarely was seen in public because of his growing unpopularity. When the 1948 elections occurred, Grau's protégé Carlos Socarrás ran (against Batista) and won(García).

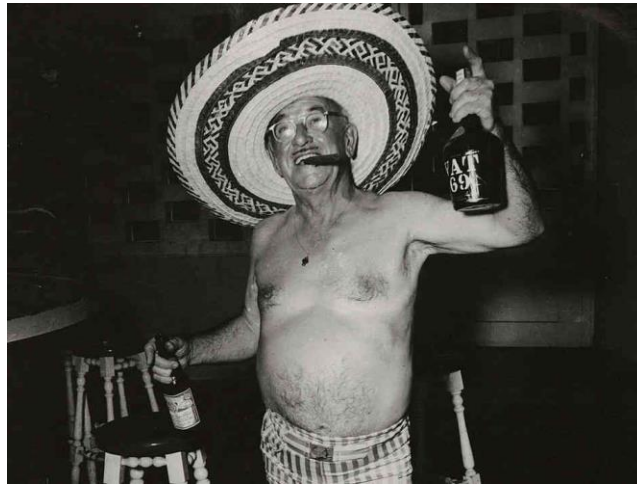
### **Carlos Prio Socarras: October 10, 1948 - March 10, 1952**

During Grau's term in office, Carlos Prio Socarras had served as the Minister of Labor. Socarras was liked by the Cuban people and promised that when he became president, he would create laws to get rid of the Mafia and drug trafficking in Cuba. Unfortunately, the laws he issued were ineffective at resolving these problems. He tried to fix Cuba's broken economy by promoting foreign trade and restoring public order but failed. The public unrest was too great. Socarrás was a corrupt leader and became very wealthy during his time in office. After Batista overthrew him in 1952, he went into exile until 1959 when he returned to Cuba to support Fidel Castro. His death on April 5, 1977 was believed to be a suicide("Encyclopedia Britannica Online").

### **Fulgencio Batista's Military Coup: 1952**

In 1952, Batista ran for president. He planned a coup to take over the government and remove Socarrás from power. Three months before the commencement of the 1952 elections, Batista led a military takeover of the government and succeeded with ease. Socarrás fled to Mexico for safety. Batista called off the election and appointed himself as the "provisional president." He then appointed himself as the Dictator of Cuba. He abandoned his strive for social reforms in welfare, healthcare, and education that he had pursued in his first term. Batista also suspended constitutional rights, Congress, and Presidential elections. Instead, he allowed Cuba to become a hellish playground where gambling, prostitution, and drugs ran rampant.

There was also a very large Mafia presence in Cuba that turned it into one of the most popular international drug trafficking ports.



**Figure 1: Cuba became a party destination with the attitude of “Anything goes.” From National Public Radio.**

Many American companies owned casinos, shops, and hotels in Cuba and were earning a large profit. Batista was also earning a profit from his presidency. The Cuban people were drowning in poverty while Batista and his friends enjoyed a lavish lifestyle.

In 1953, only a year after Batista’s coup, a small group led an attack on a military barrack. The attack was defended and easily defeated by a young student named Fidel Castro (Balfour).

## **THE REVOLUTION: 1953-1959**

In the early 1950s Fidel Castro was a young student opposed to Batista's leadership. Many rebels preferred peaceful opposition to Batista, but Castro opted for more violent measures. By mid-1935, Castro had already amassed 1,200 followers who agreed with his ideas.

In July 1935, Castro set his ideas in motion by organizing attacks on government buildings, one of which was the Moncada barracks. But military forces awaited Castro and he and his fellow fighters were defeated. Castro was tried and sentenced to fifteen years in prison. This placed Castro's trial into the public's eye. He defended himself and gave moving speeches about social, political, and economic reform. He spoke of a "new Cuba". His revolutionary ideals started to take hold among the people and were very popular. He was greatly admired by the Cuban people for his attack on the barracks and this began a protest for his release. In order to appear a merciful and giving leader, Batista gave in and released the prisoners in 1955.

Six weeks after his release from prison, Castro renewed his battle against Batista's regime. Castro travelled across several countries to "fundraise" for his revolution. He travelled to Mexico, Miami, and other areas of Florida. During his fundraising, Castro met a young Argentinean doctor named Ernesto "Che" Guevara. Guevara was deeply impressed by Castro ambition and assisted Castro with his funding.

Even though there was a strong opposition, Castro sailed for Cuba with an eighty-two man crew on a ship named "Granma" on November 25, 1955. Sailing to Cuba, they ran into a storm and it was a miracle they arrived in Cuba at all. Once they arrived, they led an attack in Santiago. After thirty hours of gunfire they were forced to retreat. They trudged through swamp land and relied on the kindness of peasants to survive. The band of soldiers thought they had

made it out alive. But a peasant betrayed them to the Cuban Military and they were ambushed in a mangrove swamp. The group was decimated. Of the eighty-two soldier that landed in Cuba, only sixteen survived. After the ambush, it took several days for Guevara to locate Castro and the other survivors.

Castro seized an opportunity in his recent defeat. Castro had been dodging the Cuban Military through a mountain range south of Oriente Province called the Sierra Maestra. While on the run from the Cuban Military, Castro realized the tactical advantage to making the Sierra Maestra the base for his revolution. He never planned to stage his revolt from the countryside, but it added to Castro's movement. The Cuban people were starting to view Castro's revolt as a people's fight for freedom, and not one man's plot to take over the government. Castro's army swept out from the Sierra Maestra and started liberating occupied cities. The army was also heavily involved in acts of sabotage, agitation, and guerilla warfare. "During the struggle against Batista, according to one calculation, [Castro's army] carried out over 300,000 acts of sabotage."

Castro's attacks evolved from strictly guerilla attacks, to head on attacks with military forces. Castro's army was winning. This destroyed the moral amongst Batista's groups and strengthened Castro's troop's moral. If they could defeat Batista's regime by military means, the end to Batista's reign would be closer than they thought.

By 1958, Batista was growing tired of fighting Castro. He sent 12,000 troops to his base in the Sierra Maestra backed by air forces to destroy the rebel army. But Batista's soldiers had lost their thirst for battle. Many of them deserted when they reached the Sierra Maestra and joined Castro's forces.

By this time, Castro thought it was time to expand his territory. He planned an attack on Oriente. They attacked Oriente because they could attack from the mountains and it was easier to smuggle in weapons on planes. Castro needed money to fund his attack. He enlisted the help of his friend and advisor Guevara to help raise funds. It was during this time that many businessmen became involved and supported the rebels. Castro was also interviewed by many American magazines and spoke about his motives. He said there was nothing to fear from the revolutionary movement and much to gain if he succeeded.

By the end of 1958 Batista's army had been defeated and he began making plans to leave the country. And on New Year's Day 1958, Batista fled to the Dominican Republic. On January 1, 1959, Castro triumphantly entered Santiago, and took control of Havana. Castro had won and defeated Batista (Balfour).



## PAST ISSUES AND MASS MIGRATIONS

Since Castro's takeover in 1959, the United States and Cuba have had disagreements regarding Castro's government choices. Some of these problems have led to mass migration from Cuba to the United States. On August 28, 1960, the United States imposed its first embargo on trade with Cuba. This embargo was put in place to weaken Cuba's economy and government. When the United States established the embargo, Fidel Castro made connections with the Soviet Union and began to trade with them. Unfortunately for Castro, when the Soviet Union fell in 1991, so too did his trade agreement with them. As a result, Cuba kept falling deeper into economic distress. This prompted the United States to enact the Cuban Democracy Act that made the previous embargo even more stringent.



**Figure 2: Random Operation Pedro Pan children. From Time Magazine.**

When Castro rose to power in 1959, many started to fear Castro and his Communist regime. In order to protect their children, many parents decided to send their children to the United States via a program authorized by the Department of State called Operation Pedro Pan. In this program, Cuban parents could choose to send their children to the United States. In the

United States they were welcomed by Monsignor Bryan Walsh, a Catholic priest. Many children were placed into foster care. Some of these children were reunited with their parents, others never saw them again. Among the Operation Pedro Pan children, now adults, there is a mixture of gratitude and resentment about being separated from their country and family. Some famous Operation Pedro Pan children are Senator Mel Martinez, singer Willy Chirino, and singer Lissette Alvarez. The Cuban government saw Operation Pedro Pan as psychological warfare the United States was waging. Between 1960 and 1962 about 14,000 children were smuggled out of Cuba via this Operation (Diaz).

As a result, tensions were high between the United States and Cuba. President Kennedy concluded that Castro must be removed from power because he had allied himself with the Soviet Union. The United States sent a naval brigade to Cuba to try and take over the government. The fighters were Cuban exiles and mercenaries taken from camps in other Latin American countries. After months of planning, the C.I.A and the Pentagon decided that Girón, translated to “Bay of Pigs” in English, would be a good location to establish a beachhead for the invasion. From this beachhead, the United States would then bring in members of their “new Cuban government.” But Cuba anticipated the United States’ attack and focused all of their limited resources on defending the Bay of Pigs. Cuba had managed to preserve a few old military planes and defended against the United States. “After 65 hours of . . . fighting,” Cuban forces took back the Bay of Pigs (García 70-72). Cuba took more than a thousand prisoners.



**Figure 3: Captured Cuban Freedom Fighter from Miami after the failed invasion**

The United States wanted to remove Castro from power more than ever after the defeat at the Bay of Pigs. The United States assigned staff to investigate what went awry at the Bay of Pigs and decided to take on a new approach. In 1962, the United States created Operation Mongoose. The plan would assist the counter-revolutionaries inside Cuba to topple the Communist regime. The United States tried to sabotage the Cuban government with arming rebels, assassination attempts, and propaganda. The United States also set up a blockade to destabilize the Cuban economy. In order to ensure the success of this plan for espionage, the C.I.A created Task Force W and created a large C.I.A. station in South Florida (Garcia).

*“From January through August 1962, there were 5,780 acts of sabotage, terrorism and subversion; 716 of them damaged important economic and social targets . . . the number of armed bands of armed counterrevolutionaries increased from 42 in March to 79 in September (García).”*

Once the United States felt that they had weakened the Cuban government enough, they planned to use military intervention to overthrow Castro. There were some officials involved in

Operation Mongoose that disagreed with the tactics of the project. While other officials involved were getting overzealous and wanted to raise the level of aggression. Those disagreed with Operation Mongoose still wanted to overthrow Castro, but they wanted to use diplomatic rather than military means. In October 1962, “a crisis broke out that pushed the world to the brink of nuclear war” (García).

Because of the various attempts to sabotage the Cuban government, Castro thought an attack from the United States was imminent. The United States was preparing in South Florida; growing their number of soldiers and amassing a large quantity of weapons. When the Soviet Union offered to help Cuba defend themselves, they eagerly accepted. The Soviet Union sent Cuba 48,000 soldiers and forty two medium and intermediate range missiles with nuclear warheads. The Soviet Union’s intentions were not all in the name of friendship; they thought it would be in their advantage to have missiles trained on the United States to change the balance of world power(García).

Before the nuclear missiles could be fully installed, a United States spy plane spotted the missiles and took numerous pictures of them. The United States set up blockades to further prevent Soviet aid from reaching Cuba.

The United States decided to utilize a diplomatic route by engaging in negotiations with the Soviet Union directly. Cuba was not involved in, nor informed of, these negotiations. The United States and the Soviet Union came to a resolution. In the resolution, the Soviet Union would remove their missiles from Cuba if the United States agreed to remove their missiles from Turkey. Cuba was insulted that they were not included in these negotiations. This incident

weakened Cuba's relationship with the Soviet Union. Cuba was viewed as very deceitful in the eyes of the free world for concealing their missile agreement with the Soviet Union.

As a result of the espionage attacks, Fidel Castro gave a responsive speech in September of 1962. In his speech, he stated "that any 'anti-revolutionary' Cubans wishing to leave the island could do so (Yanez)." This sparked a boatlift out of the city of Camarioca. Relatives hired boaters from Miami to retrieve their loved ones. About 3,000 Cubans made it to Miami before President Johnson declared the journey dangerous. After that, the Cuban Freedom Flights were arranged by the United States government. This program demonstrated the United States' commitment to help the Cuban people. From 1965 to 1973, about 265,000 immigrants made the life-altering 45 minute plane ride to the United States. The Freedom Flights were "the largest, longest resettlement program of Cuban refugees ever sponsored by the U.S. government (Yanez)."

After the defeat at the Bay of Pigs, and the small victory during the Cuban Missile Crisis, the United States wanted to further disturb the Cuban government. Starting in the early 1970's Cuba released participants from counter-revolutionary activities from its prisons. These prisoners wanted to get out of Cuba as fast as possible but had no way to leave the country. Then on April 1, 1980, six Cuban rammed a bus through the gates of the Peruvian Embassy in Havana. The Embassy refused to turn over those who had driven the bus through the gate. In retaliation for the Embassy not turning over the six Cubans, Castro withdrew his officers protecting the Embassy. Thousands of Cubans stormed into the Peruvian Embassy demanding to leave the country. The first group of Cubans that left went to the United States, Costa Rica, Peru, and other Latin countries. None were sent to third-world countries. After Castro agreed to

let those granted asylum leave the country, he took it a step further and said that any Cuban who did not want to remain in Cuba could leave via the Mariel Port. “About 2,800 Cubans were arriving in Key West every day; on June 3, more than 6,000 were counted” (Santiago).

*“The Communist Party of Cuba stated clearly that Cuba wouldn’t oppose those who wanted to go to the United States, and they could do so directly and safely, in boats sent by their relatives to the ports of Mariel (García 218-219).”*



**Figure 4: Photo illustrating refugees arriving in the US via the Mariel Boatlift. Printed in the New York Times.**

This was the largest ever migration between Cuba and the United States; 125,000 Cubans arrived in Miami via yachts and other vessels. This was another small victory for Cuba. The Mariel Boatlift created an immigration crisis and gave the United States more reason to pursue a more aggressive anti-Cuba policy.

Relations between Cuba and the United States were more strained than ever. In 1994, Cuba rammed and sank a small vessel called the “Olympia” while it was trying to flee Cuba. Three of the twenty-one passengers were killed; two of whom were small children. The United States was outraged by the event and publicly condemned the Cuban government. Only three

months later, Cuba sank another vessel that killed forty passengers. President Clinton publically condemned the actions of the Cuban government and referred to the second sinking of a vessel attempting to escape as another “example of Cuban brutality” (Bates). The Cuban government stated that both incidents were accidents and that this would not have happened were it not the for United States encouragement of illegal immigration.

As a result, the relationship between Cuba and the United States was at its worst in decades. The broadcasting of Radio Martí from the United States to Cuba did not contribute positively to the relationship between both countries. Radio Martí is an anti-Communist radio station, funded by the United States government that continues broadcasting to Cuba today. Radio Martí broadcasts for a few hours a day out of its headquarters in Miami, Florida. Some of the topics discussed by Radio Martí are World News, Human Rights, and the treatment and imprisonment of Cuban journalist by the Cuban government. Today, Cuba tries to intercept the signal, but they cannot prevent all transmissions from reaching the country. Because of the attempts of signal blocking, the United States is not sure of the size of the Cuban audience listening ("Radio and TV Martí").

The counter-revolutionary activities continued through to the 1990's. Castro threatened that if the United States did not stop encouraging rebellion among the Cuban people, he would release the Cuban people. In 1994 Castro kept his promise. He announced that the Cuban people could flee the island and the Cuban police and Cuban Coast Guard would not stop them. Thousands of Cubans made rafts and travelled the 93 miles to Florida. About 35,000 Cubans left the country. But unlike the Mariel Boatlift, the immigrants were not accepted into the country with open arms. They were taken to Guantanamo Bay and Panama where they were slowly

paroled to the United States where they could apply for residency or a third country. This was the largest mass migration to the United States from Cuba since the Mariel boatlift in the 1980's (Wasem).



## PAST LEGISLATION

The Cuban Freedom Flights from 1965 to 1973 prompted the relocation of 265,000 Cubans and created an influx of immigrants into the United States.



**Figure 5: Photo illustrating Cubans leaving for Miami from a Cuban airport. From Operation Pedro Pan Group, Inc.**

As a result, the United States enacted the Cuban Adjustment Act. The act states that:

*“any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence”*(Cuba: The Adjustment Act).

If you were a Cuban citizen and were paroled into the United States, and had been present in the United States for one year, you would be eligible for permanent residence according to the Cuban Adjustment Act.

After the fall of the Soviet Union, the United States was more convinced than ever that the Communist government in Cuba would crumble. The United States passed The Cuban Democracy Act in 1992. The Act states the following policies the United States would follow:

- 1. to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;*
- 2. to seek the cooperation of other democratic countries in this policy;*
- 3. to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;*
- 4. to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;*
- 5. to continue vigorously to oppose the human rights violations of the Castro regime;*
- 6. to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;*
- 7. to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;*

8. *to encourage free and fair elections to determine Cuba's political future;*
9. *to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and*
10. *to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era (United States Code)”*

The Act details other allowable interactions with Cuba. Citizens in the United States are allowed to send and receive mail from Cuba; as well as send food donations and medical supplies. Non-governmental organizations in the United States may provide assistance to those in Cuba to encourage a non-violent movement towards a democratic Cuba. United States citizens are also allowed to engage in telephonic communications with Cubans. However, vessels that have docked in a Cuban harbor may not dock at an American port within 180 days of leaving the Cuban port. Also, vessels cannot enter an American port if they are carrying any cargo or persons from Cuba (Wasem).



**Figure 6: Balseros arriving in Miami. From the University of Miami.**

The large amount of immigrants received because of the Balsero Boatlift prompted the next change in immigration policy. Until this point, the United States had accepted most of the Cubans that arrived on its shores and were intercepted at sea. But after the Balsero Boatlift, the United States had been bombarded by the largest mass migration yet.

President Clinton signed a Cuban Migration Agreement in September 1994, which stated that Cubans were no longer be welcomed to the United States. Instead, they would be taken to Guantanamo Bay, or a third “safe haven” country, where they would either remain or be paroled into the United States. The United States also agreed to admit at least 20,000 Cuban immigrants annually and return any illegal immigrants found at sea. Because of the stringent requirements to qualify for being one of the 20,000 legal immigrants, very few Cubans qualified for immigration through legal means. To give the majority of the unqualified Cubans a chance to migrate, the United States came up with the Cuban Migration Lottery (Wasem).

The Cuban Migration Lottery randomly chose 6,000 Cubans who would be given a visa to come to the United States. The Lottery was only held for three years, in 1994, 1996, and 1998. As the lottery progressed, the number of eligible Cubans rose “from 189,000 in 1994 to 433,000 in 1996 and to 541,000 in 1998.” The requirements were that you must be a Cuban citizen between the age of 18 and 55, and answer “yes” to two of the following three questions:

1. *Have you completed secondary school or a higher level of education?*
2. *Do you have at least three years of work experience?*
3. *Do you have any relatives residing in the United States?*

In 1994, the migrant camps at Guantanamo Bay were over populated and overcrowded. In order to relieve the overcrowded camps, the United States set up four camps in Panama to

house the immigrants. These immigrants had illegally reached the United States. Because of the Cuban Migration Agreement signed earlier the same year, those at Guantanamo Bay could not be relocated to the United States yet. The Panamanian government would allow the Cuban refugees to remain in the country for no more than six months. Over 8,000 Cubans were kept in the Panama camps. About 1,000 were allowed to enter the United States because of a parole program. A few others were accepted into countries like Spain and Venezuela. But the majority of the Cuban immigrants remained in the Panama camps and rioting ensued. The Cuban refugees felt that they were being held captive and did not want to be shipped from country to country. During the riots, United States military personnel were injured as well as Cubans in the camps. Many Cubans also drowned trying to escape the camps through the Panama Canal. As the six month expiration date approached, the United States prepared the remaining Cuban immigrants for their journey back to Guantanamo Bay. This movement of immigrants was named Operation Safe Passage (Wasem).

In May of 1994, the United States and Cuba signed another Migration Agreement to build upon the one they had signed the year before. Operation Safe Passage alleviated some of the overpopulation of the Guantanamo Bay immigrant camps. The camps were still extremely overcrowded and were housing more than they could detain. In the new agreement, the United States would admit 33,000 immigrants to the United States and they would count towards the 20,000 immigrants allowed through the Cuban Migration Agreement of 1994. The United States also agreed that instead of housing the illegal immigrants intercepted at sea at Guantanamo Bay, they would return them to Cuba under the condition that they would not be punished for fleeing the country. However, if a Cuban was intercepted at sea, and expressed extreme fear of being

returned to Cuba, they might be granted asylum. Those who qualified for asylum would either be allowed to remain in the United States or be relocated to a third country. Under this agreement, “from May 1995 through July 2003, about 170 Cuban refugees were resettled in eleven different countries, including Spain, Venezuela, Australia, and Nicaragua” (Wasem). However, this agreement was not as beneficial as it could have been because there were some points the Cuban government refused to discuss with the United States:

- *“Cuba’s issuance of exit permits for all qualified migrants; Cuba’s cooperation in holding a new registration for an immigrant lottery;*
- *the need for a deeper Cuban port utilized by the U.S. Coast Guard for the repatriation of Cubans interdicted at sea; Cuba’s responsibility to permit U.S. diplomats to travel to monitor returned migrants;*
- *and Cuba’s obligation to accept the return of Cuban national” (Wasem).*

This migration agreement inspired the “wet-foot/dry-foot policy” where Cubans who reached American soil were allowed to remain in the United States, but those picked up at sea must express extreme fear of returning to Cuba to remain in the United States. Cubans picked up at sea are interviewed by United States Immigration officials to determine whether they have a fear of persecution if returned to Cuba. If it is concluded that their fear is well-founded, they will be granted asylum in the United States or a third country. If the immigration officials decide not to grant asylum, the refugee will be returned to Cuba.

## **PRESENT IMMIGRATION ISSUES AND POLICY**

The “Wet-Foot/Dry-Foot Policy” was formed from the Cuban Migration Agreement of September 1994. The Policy is that Cubans with “wet feet” who are found at sea will be sent back to Cuba. Cubans with “dry feet” who make it onto United States soil are granted permanent residence after being present in the United States for one year. This Policy is a privilege given to no other nationality and has been perceived by generations of Cuban-Americans and politicians to be a guarantee for permanent residence for all Cubans who make it to dry land.

There are a few legal issues with the “Wet-Foot/Dry-Foot Policy.” One of these issues is that the Policy encourages smuggling from Cuba to the United States. In 2007, 13,019 Cubans arrived at ports of entry, and 2,868 were intercepted before they reached land. In 2008, about 49,000 Cubans were paroled into the United States. Ruth Wasem, an immigration specialist, stated that “very few . . . arrived in the United States through the legal immigration avenues proscribed by the [Immigration and Nationality Act].” In the United States of America v. Hernandez-Sanchez, No. 07-2303-cr, 2008 WL 2477426 (2d Cir. June 19, 2008), Sanchez along with four others was charged with multiple counts of encouraging or inducing illegal entry into the United States and bringing aliens into the United States illegally. Sanchez arrived in the United States via raft from Cuba fleeing persecution because his father was a political prisoner. In 2008, fearing that that his family was being persecuted, Sanchez contacted smuggler Saidel Guzman. Guzman told Sanchez that he would bring his family to the United States via speed boat for \$20,000 dollars. Sanchez did not have the means to pay to bring his family because he made a modest living as a truck driver. Guzman told Sanchez that he would bring his family for

free if Sanchez would assist him in bringing illegal Cubans into the country by driving a back-up boat. Sanchez agreed and assisted Guzman in smuggling twenty-five Cubans into the United States. Guzman and Sanchez left the Cubans in the Florida Keys and headed to Dinner Key to dock Guzman's boats. When they neared the location where Guzman kept his boats, United States Border Patrol Agents awaited their arrival. Sanchez was sentenced to the minimum five-year sentence and the Cubans that were smuggled were free to go and allowed to remain in the United States in accordance with the "Wet-foot/Dry-foot Policy."

Another issue with the "Wet-Foot/Dry-Foot Policy" is the unique circumstances surrounding every landing and whether the Cuban immigrants landed with "wet" or "dry" feet. In the case of Movimiento Democracia v. Chertoff, 417 F.Supp.2d 1343 (S.D. Fla. 2006), fifteen Cubans immigrants landed on the old Seven Mile Bridge in the Florida Keys and were picked up by the United States Coast Guard. The Coast Guard did not think that the old Seven Mile Bridge qualified, for the purposes of the "Wet-Foot/Dry-Foot Policy," as the fifteen immigrants landing with "dry feet" because the portion of the bridge they landed on was not connected to land on either side. The fifteen immigrants filed a suit for "(1) a declaratory judgment for a "Judicial definition of the term 'territory' of the United States" including whether a bridge or structure equals presence within the United States, and (2) a declaratory judgment ordering the return to the United States of the fifteen individuals who were erroneously returned to Cuba on January 9, 2006." The Court of Appeals held that the old Seven Mile Bridge qualified as United States territory and the immigrants landed with "dry feet" and were entitled to remain in the United States and apply for asylum. Another unique circumstance where it was questioned if the "wet-foot/dry-foot policy" should apply is the case of Rodrigues v. Ridge, 310



F.Supp.2d 1242 (S.D. Fla. 2004). In *Rodrigues*, eleven Cubans were caught at sea trying to travel to the United States in a raft fashioned from a 1959 Buick on February 3, 2004. The Cuban immigrants were found twenty five miles south of Marathon, Florida in international waters. While onboard the Coast Guard vessel, the Cuban immigrants entered within twelve miles of the Florida coast on three separate occasions. On February 10, 2004 an Asylum Officer interviewed the eleven Cubans to evaluate if they showed a sufficient amount of fear in order to be granted asylum. Of the eleven immigrants, eight were sent back to Cuba and the other three were found to have shown a believable fear of persecution and were taken to Guantanamo Bay. *Rodrigues* argued to consider entry into United States waters sufficient for immigration purposes. The District Court held that entry into United States waters did not count as entry into the United States for immigration purposes.



**Figure 7: Cuban 1959 Buick raft. From U.S. Coast Guard.**

*Rodrigues* raises the issue of what constitutes sufficient fear of persecution? The case of *Barreto-Claro v. U.S. Attorney General*, 275 F.3d 1334 (11th Cir. 2001) is an example of a lack of fear of persecution. Barreto was a member of the Communist party in Cuba but expelled

when he was discovered to be an American sympathizer. After his expulsion, Barreto applied on four different occasions to the American Interest Section in Havana for a tourist visa to enter the United States legally. He was denied all four times because he was seen as a possible immigrant. Barreto bribed a Cuban official in an airport in order to escape to Costa Rica. Once in Costa Rica, he paid a smuggler to get him a seat on a flight to Atlanta, Georgia. When Barreto landed in Atlanta he had no travel papers and was detained. He never told officials about his time in Costa Rica. He claimed that he had flown directly from Cuba and taken a flight from a third unknown Latin American country to the United States. During his hearing to determine if he would be allowed to stay, Barreto testified “about the history of his family life in Cuba, his three-year association with the Communist Party, his persecution upon his expulsion from the party, his fears of future persecution, arrest and torture should he be forced to return to Cuba, and the fact that his family was in the United States with no close relatives left in Cuba. He also testified that he lied on his initial asylum application out of fear for the smugglers.” The Court of Appeals held that after reviewing Barreto’s testimony and the facts of the case, they did not think he had sufficient and reasonable fear of persecution to remain in the United States.

Another issue with the “Wet-foot/Dry-foot policy” is that while the policy applies to only Cubans, other nationalities want to benefit from it as well. When Cubans make it onto United States soil, they locate the nearest Immigration Officer to identify themselves as Cuban refugees because they have “dry feet.” When Haitian immigrants make it to United States soil, they avoid Immigration Officers and take refuge hiding with friends or family in the United States. Haiti is a country with a history not that different from Cuba’s. They both experienced a suppression of their human rights, a corrupt and unstable military and government, oppressive leaders, as well

as poverty. In 1946, François Duvalier, a graduate of the University of Haiti School of Medicine was appointed as director general of the National Public Health Service. Soon after, the current president at the time, Dumarsais Estime, was overthrown. Duvalier organized a resistance and took over the government. Duvalier ruled through an oppressive regime of terror for fourteen years and was responsible for the deaths of an estimated 30,000 people. After his death in 1971, his son Jean-Claude Duvalier took his father's place and continued his brutal footsteps for fifteen years before he was driven out of power in 1986. In February 1991, Haiti experienced hope when its first democratic president, Jean-Bertrand Aristide, was elected. He promised to give a voice to the poor and rid the government of its corrupt leaders. Aristide kept his promise and was investigating officials, punishing criminal acts, and calling for the resignation of corrupt military leaders. The short democracy ended seven months later when a violent group, the Tonton Macoutes, kicked Aristide out of power. The violence and fear that the Tonton Macoutes created for the Haitian people sparked an increase of Haitian immigrants to the United States.

Between the fiscal years 1982 and 2014 about 117,000 Haitian immigrants have been interdicted at sea and the exact number of those deported is unknown. While Cubans who make it to United States soil get to stay, the same is not certain for Haitian immigrants that make it to United States soil even if they express extreme fear or persecution if returned to Haiti. In the case of Auguste v. Ridge, 395 F.3d 123 (3d Cir. 2005), Napoleon Bonaparte Auguste entered the United States in 1987 as a lawful permanent resident and his entire family resides in the United States with him. About sixteen years later in 2003, Auguste was charged with the Attempted Criminal Sale of a Controlled Substance and sentenced to ten months in jail. Three months later, the Department of Homeland Security issued Auguste a notice to appear for deportation

hearings. Auguste argued that he feared persecution if returned to Haiti and that according to Article Three of the United Nations Convention against Torture, “No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” Haitian prisons are notorious for their harsh and brutal environment. Auguste presented evidence that showed that prison cells in Haiti are so tiny and overcrowded that if one wishes to sleep, they must do so standing up or sitting down because there is no mattress or enough area to lay down. Prisoners are brought little or no food or water and endure temperatures of more 105 degrees. There are infestations of pests such as “roaches, rats, mice and lizards.” Guards will bring prisoners plastic bags or buckets for prisoners to urinate and defecate in and these are rarely retrieved and mostly end up spilled on the floor where the prisoners live. Malnutrition and starvation are constant and there is no medical treatment for prisoners. Prisoners commonly suffer from many diseases such as Beriberi (a fatal disease caused by malnutrition, tuberculosis, HIV, and AIDS and never receive treatment). There are reports of prison guards beating prisoners, burning prisoners with cigarettes, chokings, and isolated incidents of electric shock. The Court of Appeals held that while these conditions are substandard and are “are indeed miserable and inhuman,” there must be “specific intent to cause severe physical or mental pain and suffering” and Auguste was not entitled to relief according to the standard applied by the President and the Senate. Another case similar to *Auguste* is that of Gourdet v. Holder, 587 F.3d 1 (1<sup>st</sup> Cir. 2009). In *Gourdet*, Mackendy Gourdet entered the country sometime before 2002 and was given legal permanent resident status on January 2, 2002. After residing in the United States for five years, Gourdet was charged with a substance control violation in 2007 and soon after was issued a notice to

appear for deportation hearings. After hearing expert testimony about prison condition in Haiti where the expert depicted deplorable conditions identical to the *Auguste* case, the Court of Appeals held that “although grossly inadequate, are not sufficiently severe to rise to the level of torture.” *Auguste* and *Gourdet* both showed fear and evidence of being persecution upon returning to Haiti, both their claims to remain in the United States were denied.

In order to create a fairer way for immigrants to enter the country and create a road to citizenship for undocumented immigrants, a group referred to as “The Gang of Eight” wrote an immigration reform bill titled “The Border Security, Economic Opportunity, and Immigration Modernization Act.” The Gang of Eight consists of four democratic senators and four republican senators and the Act was approved by the Senate in July 2013. The Act depicts plans for increased border security, a path to citizenship, grant programs to assist immigrants with application fees, organizations to help with integration into the United States culture, and re-opening previously denied asylum applications for reasons such as missed application deadlines. How will this Act affect the “wet-foot/dry-foot policy?” Will the policy be done away with? Will Cubans be an exception to the Act?

## CONCLUSION

The decision to escape an oppressive country is not an easy one. Some are not born into freedom. The Cuban people have endured decades of corrupt presidents, communist tyranny, and the suppression of basic human rights. It is natural that Cubans would want to flee this oppression. Through the years, the United States put forth great effort to destroy Fidel Castro's Communist regime and help Cubans flee. The United States has sponsored many immigration programs to give thousands of Cubans the chance to start new lives in the United States.

Cubans have thrived and added to American culture in many areas such as politics, music, film, television, and athletics. A few famous Cubans are actor William Levy, actor Andy Garcia, singer Gloria Estefan, politician Ileana Ros-Lehtinen, and athlete Danell Leyva. William Levy, who started his film career making Spanish novellas, stars in American movies, M&M and Pepsi commercials. Actor Andy Garcia starred in Ocean's Eleven, Twelve, and Thirteen with famous American actor like Brad Pitt and George Clooney. Danell Leyva is a world champion gymnast and Olympic medalist. Cuban public figures are no longer only popular amongst Cubans and Hispanics; they are receiving national and global recognition.

As of January 2013, Cuba altered its travel restrictions to allow citizens to travel abroad freely. The change was made because the Cuban government believed Cuba's economy and relationship with other countries would improve if they loosened travel restrictions. Cuba is an extremely poor country. The majority of its citizens live in poverty. Even Cuba's educated professional such as doctors and lawyers only make about twenty United States dollars a month. Who will be able to afford to travel abroad and visit other countries? The average citizen will not. If by chance an average citizen managed to gather the money to leave the country, the

Cuban government can deny their request to travel. And if by chance one managed to gather the money, and your travel was approved, a person is still required to undergo a multi-year visa application to travel to the United States and most Latin American as well.

As part of the Cuban economic reform, the communist government also fired 1,000,000 government workers and legalized home and car sales to encourage entrepreneurship. Who will buy these newly legalized homes and cars if a million people were just fired?

The Cuban government also proposed several reforms and amendments to its Constitution in February of 2013. These proposals included setting term limits on presidencies and selecting new member to join the Cuban parliament. Raul Castro says that he will retire in 2018 and step down to the next president. Raul Castro has chosen his successor to be Miguel Diaz-Canel. Even though they are not having open elections or legalizing other political parties, these recent changes to the Cuban government have been a step in the right direction.

It has been over a decade since the last immigration negotiations between Cuba and the United States. After more than fifty years of a strict communist regime, Cuba is slowly making strides to loosen its control on the government, economy, and the Cuban people. It may be time to consider resuming negotiations and establish a new relationship between Cuba and the United States to improve and encourage legal immigration to the United States from Cuba.

## BIBLIOGRAPHY

Auguste v. Ridge, 395 F.3d 123 (3d Cir. 2005)

"Alien Migrant Interdiction." *Migrant Interdiction (CG-MLE-3)*. United States Coast Guard, 12 Nov. 2013. Web. 14 Nov. 2013.

Argote-Freyre, Frank. *Fulgencio Batista: From Revolutionary to Strongman*. New Brunswick, NJ: Rutgers UP, 2006. Print.

Balfour, Sebastian. *Castro*. Harlow, England: Pearson Longman, 2009. Print.

Barreto-Claro v. U.S. Attorney General, 275 F.3d 1334 (11th Cir. 2001)

Bates, Ara. *Cuba: Issues and Bibliography*. Huntington, NY: Nova Science, 2000. Print.

"Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." *United Nations News Center*. United Nations, 10 Dec. 1984. Web. 14 Nov. 2013.

"Cuba: The Cuban Adjustment Act." U.S. Department of State. U.S. Department of State, n.d. Web. 18 Mar. 2013. <[http://www.state.gov/www/regions/wha/cuba/publiclaw\\_89-732.html](http://www.state.gov/www/regions/wha/cuba/publiclaw_89-732.html)>.

Diaz, Madeline Baro. "The Miami Herald." *The Miami Herald*. The McClatchy Company, 1 Aug. 2004. Web. 13 Mar. 2013. <<http://www.miamiherald.com/2008/12/16/815394/miami-herald-database-tracks-those.html>>.

Dugan, Andrew. "Passing New Immigration Laws Is Important to Americans." *Passing New Immigration Laws Is Important to Americans*. Gallup, 11 July 2013. Web. 28 Aug. 2013.



"Encyclopedia Britannica Online." Carlos Prío Socarrás. Encyclopedia Britannica Online, n.d.

Web. 28 July 2013.

Fitzgibbon, Russell Humke. *Cuba and the United States, 1900-1935*. New York: Russell & Russell, 1964. Print.

Foley, Elise. "Gang Of Eight Targets 121 House Republicans On Immigration Reform." *The Huffington Post*. TheHuffingtonPost.com, 16 July 2013. Web. 28 July 2013.

Foley, Elise. "Senate Immigration Bill Would Create An Average Of 14,000 Jobs Per District: Report." The Huffington Post. TheHuffingtonPost.com, 20 Aug. 2013. Web. 28 Aug. 2013.

Frank, Marc. "Cuban Leader Raul Castro Says He Will Retire in 2018." *Reuters*. Thomson Reuters, 25 Feb. 2013. Web. 23 Oct. 2013.

<<http://www.reuters.com/article/2013/02/25/us-cuba-castro-idUSBRE91N0HB20130225>>.

García, Luis Julio. *Cuban Revolution Reader: A Documentary History of 40 Key Moments of the Cuban Revolution*. Melbourne: Ocean, 2001. Print.

Gourdet v. Holder, 587 F.3d 1 (1<sup>st</sup> Cir. 2009)

Hickson, Alessandra. "Raul Reyes on MSNBC: KIDS Act Is "Dream Act lite"." NBC Latino. NBC Latino, 1 Aug. 2013. Web. 28 Aug. 2013.

"INA: ACT 208 - ASYLUM 1/." *INA: ACT 208 - ASYLUM 1/*. United States Citizenship and Immigration Services, n.d. Web. 07 Oct. 2013.

Movimiento Democracia v. Chertoff, 417 F.Supp.2d 1343 (S.D. Fla. 2006)

Osmanczyk, Edmund Jan., and Anthony Mango. *Encyclopedia of the United Nations and International Agreements*. New York, NY: Routledge, 2003. Print

"Radio and TV Martí" *BBG*. Broadcasting Board of Governors, 2013. Web. 17 Nov. 2013.  
<<http://www.bbg.gov/broadcasters/ocb/>>.

Reynolds, Heather. "IRRECONCILABLE REGULATIONS: WHY THE SUN HAS SET ON THE CUBAN ADJUSTMENT ACT IN FLORIDA." *Florida Law Review*(2011): n. pag. *WestlawNext*. Web. 9 Nov. 2013.

Rodriguez, Andrea, Tran Minh, and Nataliya Vasilyeva. "Cuban Economy to Undergo Changes after Travel Reform." *USAToday.com*. USA Today, 21 Oct. 2012. Web. 18 Oct. 2013.

Rodrigues v. Ridge, 310 F.Supp.2d 1242 (S.D. Fla. 2004)

Santiago, Fabiola. "Fidel Castro | MiamiHerald.com." Fidel Castro | MiamiHerald.com. Miami Herald, 2008. Web. 28 July 2013.

Smith, Daniel J. "Political Asylum—Well-Founded Fear of Persecution." *American Jurisprudence Proof of Facts 3d* (1991): n. pag. *WestlawNext*. 1991. Web. 9 Nov. 2013.

Spradley, Jermaine. "Despite Immigration Policy Change, No Easy Path From Cuba To U.S." *The Huffington Post*. TheHuffingtonPost.com, 17 Oct. 2012. Web. 21 Oct. 2013.

Spradley, Jermaine. "DREAMers Respond To KIDS Act: 'We Will Not Stand For This'" The Huffington Post. TheHuffingtonPost.com, 20 July 2013. Web. 28 July 2013.

"Teller and Platt Amendments." - The World of 1898: The Spanish-American War (Hispanic Division, Library of Congress). Hispanic Division Library of Congress, 22 June 2011. Web. 11 Mar. 2013. <<http://www.loc.gov/rr/hispanic/1898/teller.html>>.

United States. United States Department of Commerce. United States Census Bureau. N.p.: n.p., n.d. *American Fact Finder*. Web. 18 Oct. 2013.

<<http://quickfacts.census.gov/qfd/states/12000.html>>.

United States. U.S. Department of State. Office of the Historian. The Bay of Pigs and the Cuban Missile Crisis, 1961-1962. Office of the Historian, n.d. Web. 10 Mar. 2013.

<<http://history.state.gov/milestones/1961-1968/CubanMissile>>.

"U.S. Senator for Florida, Marco Rubio." *Press Releases*. Marco Rubio, 17 Apr. 2013. Web. 16 Oct. 2013.

United States of America v. Hernandez-Sanchez, No. 07-2303-cr, 2008 WL 2477426 (2d Cir. June 19, 2008)

United States Code. "CUBAN DEMOCRACY ACT." *TITLE 22. FOREIGN RELATIONS AND INTERCOURSE CHAPTER 69*. (1992): n. pag. Print.

Wasem, Ruth Ellen. *Cuban Migration to the United States Policy and Trends*. [Washington, D.C.]: Congressional Research Service, Library of Congress, 2009. Print.

Yanez, Luisa. "The Miami Herald." *The Miami Herald*. N.p., 16 Dec. 2008. Web. 11 Mar. 2013.

<<http://www.miamiherald.com/2008/12/16/815394/miami-herald-database-tracks-those.html>>.