



*Jean v. Nelson:*  
**A Civil Rights  
Revolution in  
Immigration**

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*Jean v. Nelson:*  
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Irwin P. Stotzky



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Cover photo: Haitian migrants rest aboard the U.S. Coast Guard Cutter Harriet Lane after being interdicted at sea on their way to Florida December 1, 1991, in the Caribbean Sea. The refugees will be taken to camps in Guantanamo Bay, Cuba for repatriation. US Coast Guard Photo / Alamy Stock Photo

*For Ace, Amber, Audrey, Jacob, and Joshua*

*With love and appreciation for taking on the burdensome task  
of keeping me sane during the many years  
I have worked on this project.*



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# About the Author

**Irwin P. Stotzky** is currently Professor of Law at the University of Miami School of Law. He is the founder and served as the Director of the University of Miami Center for the Study of Human Rights from 1993 to 2010. He received his J.D. from the University of Chicago Law School in 1974. In 1986-88, he was a Visiting Scholar at the Yale Law School. In 1991-1993, Professor Stotzky was a Fulbright Scholar in Argentina. In 2001, he was a Distinguished Visiting Professor and Scholar at the State University of New York at Buffalo School of Law. In 2007, he was a Distinguished Visiting Professor and Scholar at Emory University School of Law. For over four decades, he has represented Haitian and other refugees on constitutional and human rights issues in many cases, including several cases in the United States Supreme Court. Professor Stotzky has served as an adviser to the Alfonsín regime in Argentina on what steps to take, including human rights trials, against those who committed massive human rights abuses during the so-called “dirty war.” For many years, he served as an attorney and adviser to the first democratically elected president in the history of Haiti, Haitian President Jean-Bertrand Aristide, and as an adviser to President René Préval’s administration. In this capacity, he organized and directed the investigations into the massive human rights violations committed in Haiti during the illegal military regime’s reign, between 1991 and 1994. This led to the first conviction for human rights crimes in the 200-year history of Haiti. From 2000 to 2003, he served as the Chairman of an international Presidential Commission to help Haiti confront its drug problems.

Professor Stotzky has published numerous articles and books on democracy and human rights, criminal law and procedure, and the role of the judiciary in the transition to democracy. His books include *The Theory and Craft of American Law: Elements* (with Soia Mentschikoff) (1981), *Transition to Democracy in Latin America: The Role of the Judiciary* (1993), *Silencing the Guns in Haiti: The Promise of Deliberative Democracy* (1997), *Law as Justice: The Moral Imperative of Owen Fiss’s Scholarship* (2009), and *Send Them Back* (2019). He teaches in the areas of constitutional law and theory, criminal procedure, immigration law, and philosophy.

Professor Stotzky has received human rights awards from the American Immigration Lawyers Association and the Haitian Refugee Center for his representation of refugees in a series of cases before the United States Supreme Court and his human rights work abroad. For his involvement in investigating human rights abuses worldwide and his scholarship, he

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Professor Stotzky is a founding member and member of the Board of Directors of the Institute for Justice and Democracy in Haiti, a human rights institute that researches and distributes objective and accurate information on the human rights conditions in Haiti. He is a member of the editorial board, and special editor for "Deliberative Commentary: The Nexus of Democratic Theory and Law," for the journal *Democratic Theory*.