

1776 I Street, NW, Suite 890  
Washington, DC 20006  
(202) 452-8200

The Honorable Orrin G. Hatch  
Chairman  
The Honorable Patrick J. Leahy  
Ranking Member  
United States Senate Committee  
on the Judiciary  
Washington, D.C. 20510

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Donald H. Rumsfeld  
Judy Shelton  
John Skoen  
Ward W. Woods

Dear Senators Hatch and Leahy:

President Clinton has announced that he will ask you to relax sentences for trafficking in crack cocaine. We write to urge you and your colleagues to reject any such proposal.

Our position is a matter of public record -- while we do not oppose stiffer sentences for trafficking in powder cocaine, we strongly oppose weakening sentences against the crack trade.

It seems obvious that crack sentences should not be reduced, given crack's impact on vulnerable inner-city populations (including an unprecedented proportion of female addicts). Moreover crack sentences are not, as you know, 100 times more severe than those for powder cocaine; that widely-cited figure is based on the so-called "trigger" amount for a given sentence. In fact, crack sentences range between two and six times longer than for a comparable quantity of powder. Such a differential is fully justified. After all, crack dealers have destroyed the fabric of peace and harmony in inner-city communities all over America. Crack use is associated with the explosion of especially horrifying child abuse cases in recent years. Many crack sellers are remorseless killers, and need to be taken off the streets.

Nor are crack sentences excessive in any absolute sense. A crack dealer has to traffic at least 50 grams -- approximately 1,500 "rocks" -- to trigger the ten-year mandatory minimum. Selling 1,500 rocks of crack is an offense that easily merits ten years in jail. Indeed, the United States Sentencing Commission reports that in fiscal year 1996, the typical dealer convicted under federal law was caught selling 109 grams of crack -- the equivalent of more than 3,000 rocks. Federal crack defendants are also more likely than any other category of federal drug defendant to have a substantial criminal history.

Opponents of the current law argue that law enforcement snares mostly young, non-violent, minority defendants. In fact, very few federal crack defendants are low-level, youthful, and non-violent. Again, according to the Sentencing Commission, of the 3,430 crack defendants convicted in fiscal year 1994, just 51 were youthful, small-time offenders with no prior criminal history and no weapons involvement.

In other words, despite all the rhetoric, just one crack defendant out of 67 qualifies as youthful, non-violent, and low-level. And as you well know, under the so-called "safety valve" provision of the 1994 Crime Act, which overrides mandatory minimum penalties for certain first- or second-time offenders who did not use a firearm in connection with the offense, defendants similar to these 51 are now eligible for more lenient sentences. Even then, federal crack defendants are so unlikely to be low level, non-repeat offenders that, according to the Sentencing Commission, they are proportionately the *least* likely federal drug defendants to actually qualify for the safety valve.

These are the facts. Unfortunately, this debate is no longer about facts. It is about race.

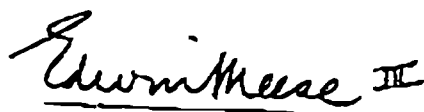
Yet a basic feature of this debate, one that has apparently eluded even Drug Policy Director Barry McCaffrey, is that while many crack dealers are black, crack's victims are overwhelmingly black, inner-city residents – and these victims dramatically outnumber the crack dealers. Rev. Eugene F. Rivers, III, is co-chair of the National Ten Point Leadership Foundation in inner-city Boston. As Rev. Rivers sees it: "To confuse the concerns of crack dealers with the broader interests of the black community is at best inane and at worst immoral. Those who are straining to live in inner-city neighborhoods that are most adversely affected by the plague of crack, and who witness crack's consequences firsthand, want [crack dealers] taken off the streets for the longest period of time possible."

We associate ourselves with the remarks of Rev. Rivers. Our urban communities want crack dealing in their neighborhoods to stop. We urge you to continue to oppose those who would undermine their efforts.

Sincerely,

  
William P. Barr

  
William Bennett

  
Edwin Meese III

  
John Walters

Dear Speaker Gingrich:

Thank you for your June 6, 1997, letter requesting extension of the Nicaraguan Review Program. I share your concerns about the Nicaraguans and others who have been living in this country for many years who are adversely affected by the new immigration law (IIRIRA). In particular, I am concerned about ensuring a fair transition to the new tighter rules applicable to the relief from deportation formerly known as suspension of deportation.

Although the Nicaraguan Review Program expired in 1995, and subsequent transitional measures expired in June of this year, the Department is committed to working with Congress to make sure that the transition to the new immigration law accounts for the special circumstances of certain immigrants who were present in the United States when the law was enacted. Of particular concern are Nicaraguans and other Central Americans who may have fled their countries during periods of civil war, and who have received temporary protection from deportation and other special legal treatment in this country for significant periods of time.

To ensure fair treatment of transitional cases under the new immigration law, I am vacating and taking under review the decision of the Board of Immigration Appeals in Matter of N-J-B-, Interim Decision 3309 (BIA, February 20, 1997). This decision prevented many aliens who were in immigration proceedings before April 1, 1997, from having their applications for suspension of deportation considered. It interpreted a provision of the new law as requiring these existing cases to meet one of the tighter standards for relief from deportation which requires a suspension applicant to have accumulated a requisite amount of time in the U.S. by the time they are served with a charging document (the "stop-time" rule).

Though the new law clearly makes this stop-time rule applicable to cases filed after April 1, I believe that the legal question of its application to pre-April 1 cases deserves my careful review. If the decision is reversed, many who were in proceedings as of April 1 will simply be afforded the opportunity to apply for suspension, but reversal will not require that any affected cases be granted. While the case is under review, I will take immediate steps to protect against deportation persons who might have been able to claim suspension but for the N-J-B- decision.

In addition, the Administration will submit to Congress shortly a proposal for amendments to the Immigration and Nationality Act which are necessary to ensure a better transition to the new, tighter rules applicable to the relief formerly known as suspension of deportation. This proposal allows those whose cases were already in the pipeline the opportunity to seek suspension under the standards that applied before the 1996 immigration reform law took effect, eliminating any unfair application of the new rules governing suspension-type relief to cases in proceedings before April 1, 1997. These transitional cases would be exempted from the stop-time rule, described above, that accrual of necessary time in the U.S. stops when a charging document is served. They would also be exempted from the new 4,000 yearly cap on grants of suspension-type relief. Post-April 1 cases, however, would continue to be governed by the new standards.

Also, in recognition of the special circumstance of the persons covered by the Bush Administration's settlement of the *ABC* litigation in 1991 and the Reagan Administration's Nicaraguan Review Program, the proposed amendments apply the pre-April 1 rules to such persons. These are, in effect, "pipeline" cases and I believe that their applications for relief should be judged under the earlier substantive standards.

None of the amendments dictates that any of the affected persons will be granted relief. Every application for relief from deportation must still be considered, case-by-case, by an immigration judge.

If these legislative proposals are not enacted, the Administration is prepared to consider any available administrative option, including Deferred Enforced Departure, to protect from deportation nationals of El Salvador or Guatemala who were *ABC* class members and nationals of Nicaragua who were in the Nicaraguan Review Program who would have been eligible for suspension but for the new rules. Deferred Enforced Departure is based on the Presidential authority over foreign affairs and has previously been used to achieve foreign policy objectives.

I look forward to working closely with you to secure the enactment of transitional legislation which will eliminate any unfair application of the new rules restricting relief from deportation.

# Congress of the United States

Washington, DC 20515

July 21, 1997

The Honorable Janet Reno  
Attorney General  
Department of Justice  
Tenth and Constitution, NW  
Washington, DC 20530

Dear Attorney General Reno:

We are writing to express our extreme displeasure over your recent decision to unilaterally suspend deportation proceedings for hundreds of thousands of illegal immigrants. Your decision to vacate the ruling by the Board of Immigration Appeals and essentially to overturn current law through administrative action is unacceptable.

The "Illegal Immigration and Immigrant Reform Act of 1996" which was passed overwhelmingly by both the House and Senate and signed by President Clinton, specifically raised the bar for those seeking relief from deportation. It was an action taken in order to ensure that only those illegal immigrants who truly face an "exceptional and extremely unusual hardship" to an immediate relative remain in this country. Illegal immigration is a growing problem and every illegal immigrant should be treated the same under current law.

If the administration had a problem with the current provision, it should have addressed those concerns prior to enactment. We oppose administrative actions to change the law and encourage you to seek legislative amendments if you so choose.

It is our opinion that this is yet another instance of the Clinton Administration being soft on illegal immigration. We hope that you reverse your decision and continue with deportation proceedings under the guidelines that Congress and President Clinton agreed to last year.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,



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97-25 A8-39



RECEIVED  
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Attorney General Reno  
July 21, 1997  
Page 2

Mark Thompson

Bob Goodlatte

Dana Rohrabacher

Ben Bellman

Frank Brady

Charlie Norwood

Buck McHenry

Doug Bereuter

Al Sharkey

John Gohmert

Don Hutto

Mike Jensen

# National Immigration Forum

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## PRESS CONFERENCE

September 29, 1997  
FOR IMMEDIATE RELEASE

Contact: Judy Mark  
(202) 544-0004, ext. 14

### FORMER REAGAN ADMINISTRATION OFFICIALS STAND UP FOR NICARAGUAN AND OTHER CENTRAL AMERICAN REFUGEES Edwin Meese and Eliot Abrams to Appear at Press Conference

**WHEN?** Wednesday, October 1, 1997  
10:00 am

**WHERE?** Dirksen Senate Office Building, Room 628

**WHO?** Edwin Meese, Former U.S. Attorney General  
Eliot Abrams, Former Assistant Secretary of State for Inter-American Affairs  
Senator Connie Mack (R-FL) [Sponsor of Senate bill]  
Rep. Lincoln Diaz-Balart (R-FL) [Sponsor of House bill]  
Other members of Congress  
Former Contra Freedom Fighters who will benefit from the legislation

**WHY?** During the 1980's the Reagan Administration took up the cause of the Contras in Nicaragua in order to prevent the spread of Communism and to fight for democracy. As the civil war raged, thousands of Nicaraguan opponents of the Sandinista regime sought refuge in the United States. They were joined by thousands of Salvadorans and Guatemalans fleeing civil wars in their own countries. Eventually, the Reagan and Bush Administrations granted temporary legal status to many of these war refugees.

Having resided here legally ever since, the Central Americans have become established in the U.S. They have created businesses, started American families, and obeyed our laws. Left in legal limbo, they were told by the federal government that if they remained in the U.S. for seven years, they would be eligible to apply for a form of humanitarian relief called "suspension of deportation." However, an unintended consequence of the 1996 immigration law changed the rules in the middle of the game and made it virtually impossible for these refugees to even apply for this relief.

Senator Connie Mack, Sen. Bob Graham (D-FL) and Sen. Ted Kennedy (D-MA) are sponsoring legislation which gives Central American refugees a fair hearing. The legislation was offered as an amendment to the D.C. Appropriations bill currently under consideration. The Senate will likely vote on the amendment on Tuesday, Sept. 30 or Wednesday, Oct. 1.

-###-

# IMMIGRATION FAX

Central American Update # 9

September 17, 1997

*Implementing the 1996 Immigration Act  
Analysis by the National Immigration Forum*

Contact: Angela Kelley, (202) 544-0004, ext. 19.

THIS FAX CONTAINS 3 PAGES

## Metropolitan Mayors Call on the President and Congress: Eliminate the Threat of Deportation of Central Americans

Recognizing the fact that many of the Central American war refugees who face potential deportation as a result of a provision of the 1996 Immigration Act live in their metropolitan areas, nine big city mayors have signed a letter to President Clinton urging the Administration and Congress to restore fairness to these people who have followed the rules. The mayors -- Richard Dale (Chicago, IL), Wellington Webb (Denver, CO), Norman Rice (Seattle, WA), Alex Penelas (Metropolitan Dade County, FL), Sharpe James (Newark, NJ), Marc Morial (New Orleans, LA), Susan Hammer (San Jose, CA), Willie Brown, Jr. (San Francisco, CA), and Marion Barry, Jr. (Washington, DC) -- state that although these war refugees arrived with little but the clothes on their backs, they have since "found jobs, bought homes, opened businesses, paid taxes, and built new lives for themselves and their families." As a result, the Central American war refugees have over the many years been building equities in this country and "have proven to be valuable residents."

These cities and others with communities of Central American war refugees in them will suffer if families are forced to split up, children are pulled out of school, and employers abruptly lose their employees. To avoid confusion and turmoil that will affect so many communities, the new immigration law should not be applied retroactively to this group of immigrants; instead, each should be given a chance to apply, on a case-by-case basis, for relief from deportation under rules that pre-existed the 1996 Immigration Act.

Attached is the sign-on letter under Mayor Penelas' cover.

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National Immigration Forum  
220 I Street, N.E., Suite 220 ♦ Washington, DC 20002-4362  
(202) 544-0004 ♦ Fax: (202) 544-1905

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*Alex Penelas*  
MAYOR  
METROPOLITAN DADE COUNTY

President Bill Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, DC. 20500

Dear Mr. President:

The undersigned mayors write to request that Congress and the Administration take urgent action to favorably resolve the situation of law-abiding Central American immigrants who have been residing in the United States for the past decade with the full knowledge and permission of successive administrations and Congress.

Due to a mistaken interpretation of the new immigration law enacted in 1996, an estimated 300,000 Nicaraguan, Salvadoran, and Guatemalan immigrants faced imminent deportation. Fortunately, the Attorney General, with bipartisan support, recently announced a series of administrative and legislative proposals to begin to correct this error. If fully implemented, these measures would restore fairness to people who have followed the rules and reduce the threat of mass deportation to fledgling democracies emerging from decades of civil strife.

Most of the Central American immigrants affected by these proposals live in our metropolitan areas. During the 1980's, they fled civil war and political oppression and arrived in our cities with little but the clothes on their backs. Since then, they have found jobs, bought homes, opened businesses, paid taxes, and built new lives for themselves and their families. They have proven to be valuable residents of our cities and country.

Whether by administrative action, Congressional action, or some combination, we urge you to quickly follow through so that the threat of deportation is eliminated and qualified individuals are given the opportunity to remain in our great nation. If you are successful, our cities and our country will be stronger for it.

Sincerely,

Alex Penelas  
Mayor  
Metropolitan Dade County

Richard M. Daley Chicago, Ill.

Richard M Daley

Wellington Webb Denver, Co.

Wellington E. Webb 8-13-97

Norman B. Rice Seattle, Wa.

Norman B. Rice 8/25/97

Alex Penelas Metropolitan  
Dade County, Fl.

Alex Penelas 8-6-97

Sharpe James Newark, NJ.

Sharpe James

Marc H. Morial New Orleans, La

Marc H. Morial 9/4/97

Susan Hammer San Jose, Ca.

Susan Hammer 8/6/97

Willie L. Brown, Jr. San Francisco, Ca.

Willie L. Brown

Marion S. Barry, Jr. Washington, DC.

Marion S. Barry 8-20-97

cc: Janet Reno, Attorney General, Department of Justice  
Trent Lott, Senator  
Tom Daschel, Senator  
Newt Gingrich, Congressman  
Richard Gephardt, Congressman  
Orrin G. Hatch, Senator  
Henry J. Hyde, Congressman  
Spencer Abraham, Senator  
Edward M. Kennedy, Senator  
Melvin L. Watt, Congressman



Immigration

Suspension of  
Deportation

1776 I Street, NW, Suite 890  
Washington, DC 20006  
(202) 452-8200 ph  
(202) 833-0388 fax

September 29, 1997

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Donald H. Rumsfeld  
Judy Shelton  
John Skeen  
Ward W. Woods

*President & CEO*  
Tex Lezar

THE HONORABLE HON. SPENCER ABRAHAM  
United States Senate  
Washington, DC 20510

DEAR SPENCER ABRAHAM:

In the 1980s, we stood in solidarity with the people and governments of Central America who struggled for democracy and peace when threatened by expanding Communist violence and influence. We stand in solidarity with them today, as they work to consolidate democracy and free market economies.

Central America's struggles of the last decade caused thousands of Central Americans to flee to the United States. These Central American refugees have tried to comply with U.S. laws and with the immigration requirements which governed their presence in this country. These rules and understandings have now been changed retroactively and unfairly. Our Central American friends living in the United States now face unexpected and unjust deportations, and their countries of origin will face destabilization. Central America will not be able to simultaneously absorb influxes of large numbers of people being forcibly deported and the deprivation of family remittances that have bolstered these struggling economies.

The ex post facto legislation under which Central Americans in our country are threatened with deportation undermines and violates our principles and one of President Reagan's most cherished legacies—a stable and free Central America.

Senator Connie Mack has introduced the Immigration Reform Transition Act, S 1076, legislation which will rectify this unfortunate situation. We urge you to support this bill. We urge you to join us in standing in solidarity with the free people and democratic governments of our Central American neighbors and friends.

Sincerely,

Jeane Kirkpatrick

Jack Kemp

William Bennett

Lamar Alexander

Steve Forbes

# IMMIGRATION FAX

Central American Update 11

October 6, 1997

*Implementing the 1996 Immigration Act  
Analysis by the National Immigration Forum*

Contact: Angela Kelley, (202) 544-0004, ext. 19.

THIS FAX CONTAINS 6 PAGES

## LIST OF PUBLIC ENDORSEMENTS GROWING FOR TREATING CENTRAL AMERICANS FAIRLY

If a provision of last year's immigration law is applied retroactively, a group of war refugees from Central America, who have lived here legally in various temporary statuses for many years, may soon be subject to mass deportation. A growing list of politicians and other public figures, as well as the Editorial Boards of major newspapers, has examined the issue of how these refugees would be treated by the new law. They have reached the conclusion that changing the rules is simply not fair.

What the new Immigration Act does is to change the rules for a certain form of permanent relief from deportation available to long-resident individuals. The new rules for this form of relief will be nearly impossible to meet. It is the retroactive application of the new rules to these Central American refugees that many prominent figures find simply unfair.

The unfair retroactive application of the new rules will soon be addressed in the Senate, by an amendment to the District of Columbia Appropriations Bill, offered by Sen. **Connie Mack** of Florida. His amendment would simply clarify that the law will not be applied retroactively, so that the Central American refugees will still be able to have the opportunity to apply, on a case-by-case basis, for relief from deportation.

Attached is a list of politicians, public figures, and Editorial Boards who have gone on record supporting fairness for Central Americans. Also attached are articles about a recent press conference, where former Reagan administration Attorney General **Edwin Meese** and Assistant Secretary of State **Eliot Abrams** spoke out in favor of treating Central Americans fairly.

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National Immigration Forum  
220 I Street, N.E., Suite 220 ♦ Washington, DC 20002-4362  
(202) 544-0004 ♦ Fax: (202) 544-1905

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## **On the Record In Support of Fairness for Central Americans**

### ***Senate Champions***

**Sen. Connie Mack (R-FL)**  
**Sen. Bob Graham (D-FL)**  
**Sen. Edward Kennedy (D-MA)**  
**Sen. Spencer Abraham (R-MI)**

**Sen. Mike DeWine (R-OH)**  
**Sen. Rick Santorum (R-PA)**  
**Sen. Jack Reed (D-RI)**  
**Sen. Barbara Boxer (D-CA)**

### ***Public Figures***

**President Bill Clinton**  
**U.S. Attorney General Janet Reno**  
**Jeane Kirkpatrick, former UN**  
**Ambassador**  
**Jack Kemp, former HUD Secretary**  
**William Bennett, former drug Czar**  
**Edwin Meese, former U.S. Attorney**  
**General**  
**Elliot Abrams, former Assistant Secretary of**  
**State for Inter-American Affairs**  
**Lamar Alexander, former Education**  
**Secretary**  
**Steve Forbes, Honorary Chairman of**  
**Americans for Hope, Growth and**  
**Opportunity**

**Adolfo Calero, former Director of**  
**Nicaraguan Resistance**  
**José Antonio Reyes, Director of Latin**  
**American Operations/Christian Broadcasting**  
**Network International**  
**Franciso José "Pepe" Hernandez,**  
**President of the Cuban American National**  
**Foundation**  
**Gloria Molina, Los Angeles County Board**  
**of Supervisors**  
**Diana Denman, former President Reagan**  
**Appointee and vice-chair of the Republican**  
**Party of Texas**  
**Al Cardenas, Vice-chair of the Republican**  
**Party of Florida**

### ***Mayors***

**Mayor Richard Riordan (R-Los Angeles)**  
**Mayor Alex Penelas (D-Dade County)**  
**Mayor Susan Hammer (D-San Jose)**  
**Mayor Richard M. Daley (D-Chicago)**  
**Mayor Sharpe James (D-Newark)**

**Mayor Norman Rice (D-Seattle)**  
**Mayor Willie Brown, Jr. (D-San**  
**Francisco)**  
**Mayor Wellington Webb (D-Denver)**

**On the Record In Support of  
Fairness for Central Americans**

***Editorial Boards***

***New York Times  
Washington Times  
The Washington Post  
Chicago Tribune  
Los Angeles Times  
The Miami Herald***

***The San Diego Union-Tribune  
Sun-Sentinel (Ft. Lauderdale, Florida)  
The Sacramento Bee  
San Antonio Express-News  
San Jose Mercury News  
The San Francisco Chronicle***



TOTAL CONGRESS

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Whip

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Louis Stokes, OH - '69  
Ronald V. Dellums, CA - '71  
Charles B. Rangel, NY - '71  
Julian C. Dixon, CA - '79  
Major R. Owens, NY - '81  
Edolphus Towns, NY - '83  
Floyd Flake, NY - '87  
John Lewis, GA - '87  
Donna M. Payne, NY - '89  
Eleanor Holmes-Norton, DC - '91  
William Jefferson, LA - '91  
Maxine Waters, CA - '91  
Eva Clayton, NC - '92  
Sanford Bishop, CA - '93  
Corrine Brown, FL - '93  
Jim Clyburn, SC - '93  
Alcee Hastings, FL - '93  
Earl Hillard, AL - '93  
Eddie Bernice Johnson, TX - '93  
Cynthia McKinney, GA - '93  
Celle Meek, FL - '93  
Bobby Rush, IL - '93  
Robert C. Scott, VA - '93  
Melvin Watt, NC - '93  
Albert Wynn, MD - '93  
Bernie G. Thompson, MS - '93  
Charles Fenton, PA - '95  
Shelia Jackson Lee, TX - '95  
Jesse Jackson, Jr., IL - '95  
Juanita Millender-McDonald, CA - '96  
Elijah Cummings, MD - '96  
Julia M. Carson, IN - '97  
Donna Christian-Green, VI - '97  
Dannay K. Davis, IL - '97  
Herold E. Ford, Jr., TN - '97  
Cereyn Wilpatrick, MI - '97

## U.S. Senate

Carol Mosley-Braun, IL - '93

# Congressional Black Caucus

## Congress of the United States

2344 Rayburn Building • Washington, DC 20515 • (202) 225-2201

October 21, 1997

The Honorable William Jefferson Clinton  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We commend your leadership in proposing legislation which provides that the pending applications of Nicaraguans, Guatemalans, and Salvadorans be considered under the standards of the old immigration law that were in effect when they entered the country. We strongly request your assistance in ensuring that Haitians be included in the final version of this legislation.

Like Central Americans, Haitians face unjust deportation because their pending applications are subject to the provisions of the Immigration law enacted last year. Like Central Americans, Haitians have made vital contributions to their local communities in this country. Unfairly deporting them will tear apart many families who have abided by our laws.

As you know, on October 7 the Senate approved, by a vote of 99-1, the Mack-Graham-Kennedy immigration amendment to the District of Columbia appropriations bill as a first step in enacting this legislation. The House version of the District of Columbia appropriations bill, as passed by the House on October 9, has no comparable provision, and so this matter will ultimately be resolved by the conferees of the House and the Senate in consultation with your Administration.

The Immigration and Naturalization Service ("INS") reports that as of September 30, 1996 applications for asylum were pending from about 18,000 Haitians, 21,000 Nicaraguans, 118,000 Guatemalans, and 191,000 Salvadorans. We strongly believe that applicants from all four of these countries should be judged by the standards that were in effect when they sought asylum and not by the more stringent standards established last year by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

10-22-97 02:37PM

TO 9/4566221

P003/004

Both you and President Bush have permitted Haitians to lawfully enter this country because of the unrest in Haiti. Following the military coup in Haiti in September 1991, the Coast Guard transported Haitians interdicted at sea to the United States base at Guantanamo, Cuba, where the INS made a preliminary determination on the validity of their asylum claims. Based on this screening, the INS permitted about 10,000 of these Haitians to enter the United States before President Bush decided in May 1992 that all interdicted Haitians should be returned. In May 1994, you decided that the United States would resume its policy of not returning interdicted Haitians to Haiti, and since then about 4,000 Haitians have been allowed to enter this country so that the INS can make a final decision on their asylum applications.

We look forward to working with you on this very important human problem.

Sincerely,

Marian Waters

Carole P. Meek

Malvin L. Watt

Miguel R. Amun

Donna M.C. Green

Dannys H. Davis

Theresa H. Hoke

Shirley Jackson

James H. Miller

James E. Clyburn

Dee L. H. Smith

John Lewis

Tom Jefferson

Carolyn D. Dwyer

Betty L. Smith

John Carson

John Dwyer

John Dwyer

Wm M. Clayton

John Dwyer

Donald Wayne

Russell L. Sullivan

Alvin L. Hastings

C. E. McKenney

Earl F. Hilliard

Corinne Brown

Pauline L. Bishop

Tom Allen

Albert R. Green

Alvin F. Hill

Frank L. Hill

Bill Smith

John M. Hill

James L. Chertow

Earl F. Hilliard

Ladie Bernice Johnson

## THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

Earlier this year, I transmitted to Congress legislation designed to promote fair and equitable treatment for individuals with pending immigration cases, including those who fled persecution and civil war in Central America and received protection in the United States. My legislative proposal also aimed to assist the fledgling democracies of Central America which cannot easily absorb their nationals at this time.

I am very pleased that legislation currently under consideration in Congress makes substantial progress toward these objectives. I am concerned, however, that this legislation, unlike my original proposal, inappropriately distinguishes among nationals from different countries -- including those from Central America, requires continued retroactive application of certain provisions in the 1996 immigration law, and does not allow for an adequate transition to the law's new rules. Accordingly, the Congress should provide for a fair resolution of these issues.

In addition, I strongly urge the Congress to provide to Haitians treatment similar to that provided to Central Americans. In recent weeks, Members of Congress and representatives of the Haitian community have highlighted the compelling plight of thousands of Haitians in the United States. Their experiences parallel those of Central Americans in many ways. Most of these Haitians fled the persecution and civil strife that followed the military overthrow of President Aristide's government in September 1991. The Bush Administration brought them to the United States in 1991-93 after it found them to have a credible

The Honorable Newt Gingrich  
Page Two

fear of persecution in Haiti. These Haitians have made vital contributions to their communities and established deep roots in the United States. Providing them with an opportunity to gain permanent status in the U.S. is not only equitable, but also critical to helping Haiti establish a strong and lasting democracy -- a goal to which the United States continues to devote substantial energy and resources.

I hope that you will move quickly to correct these problems in the legislation under consideration and act on it before before the Congress adjourns.

Sincerely,



The Honorable Newt Gingrich  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

Earlier this year, I transmitted to Congress legislation designed to promote fair and equitable treatment for individuals with pending immigration cases, including those who fled persecution and civil war in Central America and received protection in the United States. My legislative proposal also aimed to assist the fledgling democracies of Central America which cannot easily absorb their nationals at this time.

I am very pleased that legislation currently under consideration in Congress makes substantial progress toward these objectives. I am concerned, however, that this legislation, unlike my original proposal, inappropriately distinguishes among nationals from different countries -- including those from Central America, requires continued retroactive application of certain provisions in the 1996 immigration law, and does not allow for an adequate transition to the law's new rules. Accordingly, the Congress should provide for a fair resolution of these issues.

In addition, I strongly urge the Congress to provide to Haitians treatment similar to that provided to Central Americans. In recent weeks, Members of Congress and representatives of the Haitian community have highlighted the compelling plight of thousands of Haitians in the United States. Their experiences parallel those of Central Americans in many ways. Most of these Haitians fled the persecution and civil strife that followed the military overthrow of President Aristide's government in September 1991. The Bush Administration brought them to the United States in 1991-93 after it found them to have a credible

The Honorable Newt Gingrich  
Page Two

fear of persecution in Haiti. These Haitians have made vital contributions to their communities and established deep roots in the United States. Providing them with an opportunity to gain permanent status in the U.S. is not only equitable, but also critical to helping Haiti establish a strong and lasting democracy -- a goal to which the United States continues to devote substantial energy and resources.

I hope that you will move quickly to correct these problems in the legislation under consideration and act on it before before the Congress adjourns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Clinton".

The Honorable Newt Gingrich  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

October 15, 1997

OCT 20 PM 1:24

The Honorable William J. Clinton  
President of the United States  
The White House  
Washington, DC 20500

Dear Mr. President:

We are writing to express the very serious reservations of the Congressional Hispanic Caucus concerning the agreement reached between Congressmen Lamar Smith and Lincoln Diaz-Balart, which has the backing of the House Republican Leadership, regarding legislative relief for approximately 250,000 Guatemalans, Nicaraguans and Salvadorans currently facing uncertain immigration status.

There are several aspects of this agreement that we find extremely objectionable because they represent a retreat from the efforts of the Congressional Hispanic Caucus to provide just treatment for all immigrants to our nation. While the legislative language is not yet available, our understanding is that the agreement would grant amnesty to all Nicaraguans who entered the country before December 1, 1995. In turn, Salvadorans and Guatemalans who entered the country before 1990 would be allowed to pursue permanent residency through suspension of deportation hearings under the rules in place before the enactment of the 1996 immigration law, except that judicial review would not be available for these decisions. The agreement would also codify the Board of Immigration Appeals' decision Matter of N-J-B-, which would apply the 1996 immigration law retroactively. Finally, the current employment visa category of "unskilled workers" would be eliminated entirely.

First, we do not support making the Salvadoran and Guatemalan cases unreviewable by a federal court. The Smith-Diaz-Balart agreement removes the ability for immigrants to have judicial review of an erroneous decision. This severely limits the rights of these immigrants to meaningful due process in the resolution of their immigration status.

Our second concern is that except for Salvadorans, Nicaraguans and Guatemalans specifically exempted, the agreement codifies the N-J-B- decision and makes it impossible for others who were already in the process of pursuing permanent resident status through suspension of deportation to pursue their claims. The Attorney General, as a matter of law and her good judgment, vacated the N-J-B- decision for further review, determining that "[legislation] should not be applied retroactively in the absence of a clear statutory directive." See Landergraf v. USI Film Products, 511 U.S. 244 (1994). The codification of N-J-B- threatens the immigration status, and could lead to the deportation, of at least 25,000 immigrants in our nation.

Third, we find it unacceptable that an entire category of legal immigrants is negotiated away as part of this deal. The Smith-Diaz-Balart agreement ties together the potential relief for Central Americans with the abolition of the unskilled worker visa category. Elimination of this long-standing visa category will affect approximately 10,000 immigrants annually from all over the

The Honorable William J. Clinton  
October 15, 1997  
Page 2

world who come to the U.S. under this provision. At this time, there is a large backlog of approximately 21,000 immigrants who qualify for this category of visa, and who have been waiting patiently for years. The fate of these pending cases is uncertain under the Smith-Diaz-Balart proposal. The rug should not be pulled out from underneath those who have played by the rules and waited in line.

Fourth, there is simply no rational basis for the disparate treatment of these groups of Central American immigrants. From the beginning, we urged you, Mr. President, to take action in crafting a fair solution for the thousands of Central Americans caught in the pipeline when the 1996 immigration law changed the rules mid-stream. Our goal was to treat everyone who was already in the process of pursuing legal residency fairly. We applaud you for your leadership in fashioning bi-partisan legislation that would allow these immigrants to proceed with the rules under which they started.

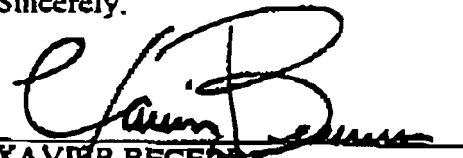
We support and will continue to advocate for the fair and equal treatment of all similarly situated immigrants. We find the agreement of Congressman Smith and Diaz-Balart to grant amnesty to Nicaraguans in this country before December 1, 1995, to be a positive development that we should build upon. We find it promising that the House Republican Leadership is now supporting amnesty as a possible solution. However, if amnesty is to be made available to Nicaraguans, it should also be made available to Guatemalans and Salvadorans. The Guatemalans and Salvadorans find themselves in virtually identical circumstances as the Nicaraguans; we strongly support treating them equally.

Lastly, we think you would agree Mr. President that we should not grant favorable treatment to one group at the expense of others. Sadly, the Smith-Diaz-Balart agreement suggests that our nation is unable to be fair to one group of immigrants without being unfair to another. The elimination of the unskilled worker category affects 10,000 immigrants a year and the codification of N-I-B closes the door on those left out of the deal who have pending claims.

We hope to meet with you as soon as possible to discuss this critical situation. We appreciate your continued leadership and work on this very important issue. We know that your efforts on behalf of Central American immigrants, including your administration's offer to work with Congressman Diaz-Balart in a bipartisan manner on legislation that was drafted by your administration has been largely responsible for keeping hope alive for Central American immigrants.

Thank you again for your work. We look forward to your continued support for a final resolution that will help all Central Americans without causing other, additional harm to our nation's immigration policy.

Sincerely,

  
XAVIER BECERRA  
Chairman, Congressional Hispanic Caucus

  
LUIS GUTIERREZ  
Chairman, CHC Immigration and Citizenship  
Task Force

## NATIONAL SECURITY COUNCIL

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**To:** PETER JACOBY 6-2604  
**Agency:** MARIA E. 6-2983  
LEANNE S. 6-7028  
**Fax Number:** ALLAN ERENBARM 514-1117  
**Date/Time:** ~~\*\*\*\*\*~~  
**No. of pages to follow:** 3  
**Message:**

FYI

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 105th Congress

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# Congressional Black Caucus

## Congress of the United States

2344 Rayburn Building • Washington, DC 20515 • (202) 225-2201

October 21, 1997

The Honorable William Jefferson Clinton  
 The White House  
 Washington, D.C. 20500

Dear Mr. President:

We commend your leadership in proposing legislation which provides that the pending applications of Nicaraguans, Guatemalans, and Salvadorans be considered under the standards of the old immigration law that were in effect when they entered the country. We strongly request your assistance in ensuring that Haitians be included in the final version of this legislation.

Like Central Americans, Haitians face unjust deportation because their pending applications are subject to the provisions of the immigration law enacted last year. Like Central Americans, Haitians have made vital contributions to their local communities in this country. Unfairly deporting them will tear apart many families who have abided by our laws.

As you know, on October 7 the Senate approved, by a vote of 99-1, the Mack-Graham-Kennedy immigration amendment to the District of Columbia appropriations bill as a first step in enacting this legislation. The House version of the District of Columbia appropriations bill, as passed by the House on October 9, has no comparable provision, and so this matter will ultimately be resolved by the conferees of the House and the Senate in consultation with your Administration.

The Immigration and Naturalization Service ("INS") reports that as of September 30, 1996 applications for asylum were pending from about 18,000 Haitians, 21,000 Nicaraguans, 118,000 Guatemalans, and 191,000 Salvadorans. We strongly believe that applicants from all four of these countries should be judged by the standards that were in effect when they sought asylum and not by the more stringent standards established last year by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Both you and President Bush have permitted Haitians to lawfully enter this country because of the unrest in Haiti. Following the military coup in Haiti in September 1991, the Coast Guard transported Haitians interdicted at sea to the United States base at Guantanamo, Cuba, where the INS made a preliminary determination on the validity of their asylum claims. Based on this screening, the INS permitted about 10,000 of these Haitians to enter the United States before President Bush decided in May 1992 that all interdicted Haitians should be returned. In May 1994, you decided that the United States would resume its policy of not returning interdicted Haitians to Haiti, and since then about 4,000 Haitians have been allowed to enter this country so that the INS can make a final decision on their asylum applications.

We look forward to working with you on this very important human problem.

Sincerely,

Margie Waters

Carrie P. Meek

Melvin L. Watt

Miguel R. Amun

Lorna M.C. Green

Danny H. Davis

Robert H. Hoke

Shirley Jackson

Juanita Millender

Frank E. Clyburn

Dee C. Smith

John Lewis

Tom Jefferson

Carolyn A. Dignified

Barry Z. Bush

John Carson

John D. Galt

John D. Galt

Wm M. Clayton

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Earl Z. Hilliard

Eddie Bernice Johnson

## CARDINAL LAW'S STATEMENT ON CENTRAL AMERICANS

On this, the Eve of the Feast of All Saints, many of whom were also martyrs, I call on our Government to stop its emotional torture of legal immigrants. National social policy over the past two years has needlessly placed legal immigrants at risk of losing important subsistence programs, causing great anxiety and unrest throughout the immigrant community. Additionally, the unintended consequences of recent immigration legislation today threaten to disrupt nearly a million Central Americans and their families in this country.

As a number of Central American nations were ravaged by civil war and armed uprisings during the 1980s, hundreds of thousands of Nicaraguan, Salvadoran and Guatemalan refugees fled to the U.S. to escape the turmoil, torture and persecution of guerrillas and their own governments. Thousands now live here in Massachusetts where they have been granted some form of legal status, have formed families, made contributions to the economy and have enriched our parishes and our Commonwealth.

Throughout the 1980s, the U.S. government recognized the need to extend protection to these vulnerable people, granted them legal status and promised to deal with them humanely and compassionately. Early in the 1990s our government also pledged to deal with Haitians compassionately as they fled turmoil following the overthrow of their democratically elected government in 1991.

Slow processing of asylum and suspension applications from the 1980s and early 1990s and new provisions of law that were enacted in 1996 have combined to make it very difficult, if not impossible, for most of the hundreds of thousands of Central American and Haitian refugees to qualify for relief here in the United States. As a result, hundreds of thousands of nationals of these countries are now in imminent danger of being removed from the U.S.

Today, I urged President Clinton to intervene to correct these inequities in order to prevent family disruptions affecting as many as a million people living in the U.S. These refugees and their families would face the severe hardship of separation from their families or forced return to countries they do not know or consider their home. The United States must provide for equitable treatment of Nicaraguans, Salvadorans and Guatemalans, as well as justice for Haitians in emerging immigration legislation.

Our newcomers sisters and brothers of such a beautiful variety of hues and tongues so often come from these and other places on earth where the Way of the Cross is the reality of life. They deserve nothing less than our solidarity.

DRAFT

November 3, 1997

Dear X:

*Admission*  
Earlier this year, I transmitted to Congress legislation designed to promote fair and equitable treatment for individuals with pending immigration cases, including those who fled persecution and civil war in Central America and received protection in the United States. My legislation also aimed to assist the fledgling democracies of Central America which cannot easily absorb their nationals at this time. I urge the Congress to provide similar treatment to Haitians as it considers final legislation on this matter.

In recent weeks, Members of Congress and representatives of the Haitian community have highlighted the compelling plight of thousands of Haitians in the United States. Their experiences parallel those of Central Americans in many ways. The Bush Administration brought most of these Haitians to the United States in 1991-92 after they were found to have a credible fear of persecution in Haiti. Many of these Haitians have made vital contributions to their communities and established deep roots in the United States. Providing them with an opportunity to gain permanent status in the U.S. is not only equitable, but also critical to helping Haiti establish a strong and lasting democracy -- a goal to which the United States continues to devote substantial energy and resources.

I strongly believe that Haitians deserve relief equivalent to that under consideration for Central Americans. I hope that you will move quickly to address the special circumstances of Haitians and enact this important legislation before the Congress adjourns for the year.

# National Immigration Forum

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## PRESS CONFERENCE

November 3, 1997  
FOR IMMEDIATE RELEASE

Contact: Judy Mark  
(202) 544-0004, ext. 14

### IMMIGRANT LEADERS AND ADVOCATES CRITICIZE "VICTIMS OF COMMUNISM RELIEF ACT" Leaders Call for Fairness in Latest Congressional Proposal

**WHAT?** The *Los Angeles Times* reports today that Congressional leaders will seek to pass legislation in the next few days titled the "Victims of Communism Relief Act." In its original form, the bill sought to provide fairness for Central American refugees who were subject to mass deportation. The immigrant community is extremely concerned about how the bill's latest version distorts the original intent of the legislation and sacrifices fairness at the altar of political expediency.

(For more information, see attached statement.)

**WHEN?** Tuesday, November 4, 1997 10:00 am

**WHERE?** 1539 Longworth House Office Building

**WHO?** Representatives of the following organizations will speak at the press conference:  
National Immigration Forum  
Salvadoran-American National Network  
National Coalition for Haitian Rights  
National Council of La Raza  
United States Catholic Conference

more...

# National Immigration Forum

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## THE NATIONAL IMMIGRATION FORUM'S VIEWS ON LEGISLATION AFFECTING CENTRAL AMERICAN REFUGEES AND OTHERS

Monday, November 3, 1997

Late last week an agreement was struck by some Congressional leaders regarding legislation which will benefit Central American war refugees and other immigrants. We are troubled that this latest proposal strays from the principles enshrined in the original legislative proposals introduced earlier this year. As drafted originally, the bills would have 1) offered humanitarian relief to Central American war refugees from El Salvador, Guatemala, and Nicaragua on an equitable basis; and 2) made sure that strict new rules for humanitarian relief from deportation were not applied retroactively to old cases.

We knew the legislation faced an uphill battle and that opposition from the author of the immigration bill of 1996, House Immigration Subcommittee Chair Lamar Smith (R-TX), would be formidable. However, as the tide turned in favor of corrective legislation, Rep. Smith joined in the negotiations, apparently in an attempt to influence the compromise package. Perhaps it is not surprising, then, that these negotiations have yielded a proposal which distorts the shape of the legislation from that which was originally proposed.

### Our Major Concerns

**Where's the equity?** Under the newly-proposed version of the bill, entitled the "Victims of Communism Relief Act," Nicaraguans and Cubans would get amnesty, while Salvadorans and Guatemalans would face enormous obstacles to winning permanent residence, and similarly-situated Haitians get nothing. All fled civil strife and persecution in the 1980's and the early 1990's, all were temporarily protected from deportation, all have been kept in legal limbo, and all have built new lives in the United States. Deportation to any of the fragile democracies in the region could be destabilizing. What is the justification for such disparate treatment?

**Changing the rules in mid-stream is acceptable for some?** Under the Victims of Communism Relief Act, tough new rules governing humanitarian relief from deportation would be applied retroactively to old cases. However, the bill would carve out special consideration for those from Warsaw Pact countries and the former Soviet Union. This approach seems to go out of its way to hurt those not covered. What is the justification for refusing to retroactively apply new rules to old cases for some nationalities but not others?

**Robbing Peter to Pay Paul?** Under the Victims of Communism Relief Act, legal immigrant visas would be temporarily reduced by 10,000 slots annually as an offset for permanent resident visas won by Salvadorans and Guatemalans. Although a significant improvement over an earlier version, this "off-set" implies that humanitarian relief for some can only come at the expense of legal immigration slots for others. What is the justification for mixing apples and oranges in a way that penalizes some in order to help others?

Let us be clear. We are pleased that the Congressional leadership is moving in the direction of offering more help to more immigrants than anticipated in the original legislation. What disturbs

us is that the proposal seems to sacrifice fairness at the altar of political expediency. We call on the Clinton Administration and Congressional leaders to work together this week to produce a final bill that meets these simple tests: 1) those similarly-situated should be treated equitably; 2) new rules should not be retroactively applied to old cases; and 3) Congress should not rob Peter to pay Paul by linking reductions in legal immigrant visas to the proffering of humanitarian relief visas.

### **Possible Solutions to Achieve Equity and Fairness**

With respect to equity, we support the generous treatment offered to Nicaraguans, and believe that Salvadorans and Guatemalans should be given the same. However, if Congress refuses to pass legislation offering parity of *process* for Nicaraguans, Salvadorans, and Guatemalans alike, there are a range of legislative and administrative actions that could assure parity of *outcomes*. In addition, Congress and the Administration should find a way to provide equitable and meaningful relief to similarly-situated Haitians. With respect to retroactivity, Congress should remain silent on this issue and defer to the Attorney General, who is expected to rule that last year's immigration law should not be applied to cases already in the pipeline. And Congress should de-link orderly legal immigration from wholly separate humanitarian relief policies.

If Congress and the White House keep faith with these principles, we are optimistic that good legislation can indeed be fashioned in the remaining days before Congress recesses. Such legislation is urgently needed.

As we turn into the homestretch, we want to salute the tireless work of Reps. Lincoln Diaz-Balart (R-FL) as well as Senators Abraham (R-MI), Mack (R-FL), Kennedy (D-MA), and Graham (D-FL). Without their determination and drive over the past few months, legislation would not be so close at hand. We also want to thank the Congressional Hispanic Caucus and Congressional Black Caucus for their stepped up efforts to fight for equity in this legislation.

**FOR MORE INFORMATION: Contact Angela Kelley at (202) 544-0004 extension 19 or Judy Mark at extension 14.**

DRAFT

Dear Member of Congress:

Earlier this year, I transmitted to you legislation designed to recognize the fragile democracies that exist in our region and to preserve equitable treatment for pending immigration case. I am writing to urge you to include certain nationals of Haiti in any final legislation on this matter.

In recent weeks, Members of Congress and members of the Haitian community have highlighted the compelling plight of thousands of Haitians in the United States. In many ways, their experiences parallel those of the other Central American countries currently covered by the legislation. They have made vital contributions to their communities and have established deep roots in the United States. Thousands of Haitians who came to the U.S. in 1992-93 were actually brought here by the U.S. government after a finding that they had a credible fear of persecution if returned to Haiti. I believe that they deserve a measure of relief that is at least equal to that proposed for nationals of other countries.

I urge you to extend fair treatment to Haitians in the legislation under consideration.

I am concerned about several modifications to the original proposal. The Administration's legislation recognized the unfairness of applying any of the 1996 immigration law's new requirements for [relief or cancellation of removal] to pending cases. It also would not have applied the statutory cap on [relief or cancellation of removal] to cases pending before the new rules took effect. These principles should be preserved in the final legislation. Finally, the Administration's legislation recognized the similar circumstances of certain Central Americans by restoring the same protections to all of them. I am concerned about the inequity of treatment that the proposed Congressional legislation provides.

[Haitian  
US Affairs  
DRAFT

Learn  
I like this. Could  
you touch base with  
James and/or Peter and  
find out (1) who this should  
be addressed to and (2),  
when we should meet  
it. And we should meet  
touch base on it.  
The staff secretary

(Date)

Dear X:

Earlier this year, I transmitted to Congress legislation designed to promote fair and equitable treatment for individuals with pending immigration cases, including those who fled persecution and civil war in Central America and received protection in the United States. My legislation also aimed to assist the fledgling democracies of Central America which cannot easily absorb their nationals at this time. I urge the Congress provide similar treatment to Haitians as it considers final legislation on this matter.

In recent weeks, Members of Congress and representatives of the Haitian community have highlighted the compelling plight of thousands of Haitians in the United States. Their experiences parallel those of Central Americans in many ways. The Bush Administration brought ~~most of these Haitians~~ to the United States in 1991-92 after ~~they were found~~ to have a credible fear of persecution in Haiti. ~~Many of~~ these Haitians have made vital contributions to their communities and established deep roots in the United States. Providing them with an opportunity to gain permanent status in the U.S. is not only equitable, it is also critical to helping Haiti establish a strong and lasting democracy -- a goal which the United States continues to devote ~~extensive~~ <sup>substantial</sup> energy and resources. <sup>to</sup>

Given these similarities, I strongly believe that Haitians deserve relief equivalent to that under consideration for Central Americans. I hope that you will move quickly to address the special circumstances of Haitians and enact this important legislation before the Congress adjourns for the year.

① most of these Haitians  
fled the persec. + civil  
 strife that followed the  
 nullification of  
 President Aristide's govt  
 in Sept. 1991.

to get an official  
 version signed by  
 The President.  
 Elena

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Msgr. Bryan O. Walsh

October 21, 1997

Congresswoman Carrie Meek  
U.S. House of Representatives  
17th District, Florida  
401 Cannon House Office Building  
Washington, DC 20515

Dear Congresswoman Meek:

We are writing on behalf of Haitian refugees who once again are being unfairly treated by Congress.

Last week Congressmen Lincoln Diaz-Balart, Lamar Smith and Speaker Newt Gingrich reportedly agreed to legislation that would grant amnesty to tens of thousands of Nicaraguans who entered the United States before December 1, 1995. Relief to Salvadorans and Guatemalans under the old suspension of deportation rules was also recommended. Conspicuously absent from any mention of relief, however, are the Haitians who for decades have been discriminated against by the US government.

We are calling upon our U.S. Representatives and Senators to grant amnesty to Haitians who arrived in the United States before December 1, 1995. This group includes nearly 12,000 Haitians who fled Haiti following the 1991 coup d'etat in Haiti and were identified by INS officials at the Guantánamo Naval Base in Cuba as persons who could be persecuted if returned to Haiti. Most of these cases are still pending.

While those concerned about the Haitian community may not have the political clout other groups in South Florida do, we remain steadfastly committed to ensuring that some measure of justice regarding this issue is attained.

Please transmit copies of this letter and endorsements to Hon. Lamar Smith, Chairman, Subcommittee on Immigration and Claims and to Hon. Melvin L. Watt, the Subcommittee's ranking minority member.

Thank you for your prompt response to this request.

Sincerely,

Cheryl Little, Esq.  
Executive Director

***On Behalf of:***

*American Friends Service Committee  
Asian-American Federation of Florida  
Catholic Charities of the Archdiocese of Miami  
Center for Haitian StudiesCentre Communautaire Haitian D'Education et De  
Development, Inc.  
Chinese-American Benevolence Association  
Church World Service  
Coalition of Florida Farmworker Organizations/COFFO Immigration Project  
Coalition to Support Cuban Detainees  
Federal Council of Nigerians  
Florida Immigrant Advocacy Center, Inc.  
Gwen Chery (Dade County HUD)  
HACAD  
Haitian American Foundation  
Haitian Organization of Women, Inc.  
Haitian Refugee Center  
Haitian Support, Inc.  
Haitian Women of Miami  
Human Rights in Cuba  
Inter-American Center for Human Rights  
Justice Committee for Haitian Immigrants  
Little Haiti Crime Prevention Sub-Council  
Little Haiti Housing Association  
Mennonite Central Committee, South Florida  
NAACP Miami Dade Branch  
Nigerian American of Yorubaland  
Pierre Toussaint Haitian Catholic Center, Inc., G.W.L. Legal Project  
St. Thomas University Law School Immigration Clinic  
Women For Human Rights International  
World Relief*

To: LEANNE SHIMABUKURO 6-7028  
Fr: SCOTT BUSBY 456-9141 (ph)

Dear Senator Mack:

I write regarding the status of the Immigration Reform and Transition Act of 1997. We understand that other members of the Senate have proposed that, in lieu of acting on this bill at this time, the Senate impose a six-month moratorium on the deportation of all individuals who would be affected by the legislation, thereby permitting further consideration of the bill at a later date.

The Administration does not support such a moratorium. First and foremost, we believe that action on this legislation should occur in this session of Congress. Many of the individuals affected by this legislation are in uncertain status and would remain so under a temporary moratorium. Moreover, a moratorium of the sort proposed would add unnecessary bureaucratic complexity and confusion to the processing of these, as well as other, immigration cases.

Second, such a moratorium would be redundant in light of some administrative actions that have already been taken and others that may be taken if the legislation is not adopted during this session. When the Attorney General unveiled the Administration's plan for addressing these cases in July, among other things, she took under review the Board of Immigration Appeals' decision in Matter of N-J-B- and indicated that any case affected by that decision would be stayed until she issued a new decision in the case. This stay affects most of the cases covered by the proposed legislation.

The Attorney General further indicated that if there were no legislative action on these cases by the end of this session, she would recommend to the President that he consider granting deferred enforced departure (DED) to certain individuals who would benefit from the legislation. In the past, grants of DED have been for a minimum of one year and often longer. Thus, a moratorium of the sort proposed would not accomplish anything

2

beyond what is already within the power of the Executive branch to do.

For these reasons, we do not view the proposed six-month moratorium as a helpful alternative to the passage of the Immigration Reform and Transition Act of 1997. We urge you and your colleagues to move forward with this legislative proposal.

Sincerely,

The Honorable Connie Mack  
United States Senate  
Washington, D.C. 20510

Newt Gingrich  
Sixth District  
Georgia

(202) 225-0600



Office of the Speaker  
United States House of Representatives  
Washington, DC 20515

June 6, 1997

The Honorable Janet Reno  
Attorney General of the United States  
Department of Justice  
Constitution Avenue and Tenth Street, NW  
Washington, D.C. 20530

Dear Attorney General Reno:

I would like to respectfully request that you extend for another year the Nicaraguan Review Program, which is due to expire on June 12, 1997.

As you are aware, many Nicaraguans fled their homeland and Sandinista tyranny, only to arrive in the United States to be confronted by bureaucratic indecision. In many instances, these cases have been pending for close to twelve years. Despite the challenges they have faced, the Nicaraguan community has greatly contributed to the economic and cultural growth and prosperity of South Florida.

Extension of the Nicaraguan Review Program for an additional year is the only just and proper action at this time. It would allow those who have been unable to apply to have their cases reopened and reviewed in a fair and just manner.

As you make your final decision, please keep in mind the many families who have so much at stake, as well as the tremendous contributions this community has made to our society. I thank you in advance for your consideration of this most important matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Newt".  
Newt Gingrich

Newt Gingrich  
Sixth District  
Georgia

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A handwritten signature in dark ink, appearing to read "Newt".  
Newt Gingrich

Date: Sun, 8 Jun 1997 17:22:57 -0400 (EDT)  
From: John Trasvina <trasvina@usdoj.gov>  
To: trasvina@justice.usdoj.gov

Sunday June 8 2:42 PM EDT

## Gingrich Offers Support to U.S. Nicaraguans

By Patricia Zengerle

MIAMI (Reuter) - House Speaker Newt Gingrich says he's sent a letter to Attorney General Janet Reno asking her to extend for a year a special program protecting the immigration status of Nicaraguans in the United States.

"It is totally wrong to punish innocent people," he said at a meeting on immigration and other issues with Miami-area political and community leaders. The letter to Reno was dated June 6 and distributed on Saturday.

The meeting was attended by most of Miami's leading Republicans, among them Reps. Ileana Ros-Lehtinen and Lincoln Diaz-Balart and Jeb Bush, the son of former President George Bush and a narrow loser in Florida's gubernatorial election in 1994.

Many members of Miami's Latin American community, traditionally dominated by staunchly Republican Cuban-Americans, have questioned recently what they see as the Republican Party's hostility to newcomers.

In particular, some have protested plans to make English the official U.S. language, eliminate government benefits to legal immigrants and allow deportation of tens of thousands of Central Americans who came to the United States during the civil wars of the 1980s.

An estimated 40,000 Nicaraguans living in the Miami area are at risk of being kicked out of the United States under the tough new immigration rules.

The Miami Nicaraguans have filed suit against the government, saying they are taxpaying workers who should not be deported to a country that remains unstable by a government that offered them asylum. Immigrant advocates have argued many of them fled their homeland at the behest of the Reagan and Bush administrations as a form of protest of the ruling leftist Sandinistas.

During the meeting, Gingrich said he opposed forcing new laws retroactively on immigrants already in the United States, although he said he favored making changes that would affect new immigrants, including development of a private insurance system for legal residents.

"It's one thing to say about the future, let's set ground rules we all understand," he said.

After the meeting, immigrant activists gave Gingrich's remarks reserved approval. Haydee Marin, Nicaraguan human rights ambassador to the United Nations, said she was pleased he had made a commitment to immigrants from Nicaragua in public.



June 11, 1997

### The Truth About Deportations to Central America

Dear Colleague:

Hundreds of thousands of Central American migrants entered the U.S. illegally during the 1980s. Due to civil unrest in Nicaragua and El Salvador, Congress and the Administration extended various forms of *temporary* protection until such time as the unrest subsided, at which time these migrants were to return.

Temporary Protected Status (TPS) for El Salvador and the Nicaraguan Review Program ended several years ago. The process of gradual return of these migrants to their homelands should thus be well underway. As a result of litigation, many (but not all) of these migrants have won the right to remain in the U.S. for an adjudication of their asylum claims. However, once this adjudication is complete, those who are not granted asylum should return.

Critics unfairly charge that under the 1996 Immigration Act, "the rules have been changed in the middle of the game." Nothing could be further from the truth. These aliens arrived here illegally, knowing they could be deported. As a humanitarian gesture, we extended *temporary*, not permanent protection. While some may be eligible for "suspension of deportation" or other discretionary relief from deportation, such relief is not an entitlement.

The 1996 Immigration Act restored the original understanding of discretionary relief and ensured that it would not be used as a back-door form of amnesty. To be effective, these new rules must apply across the board. But aliens who were in proceedings before the April 1, 1997, effective date of the new Act will, for the most part, have their cases heard under the rules applicable before April 1.

Finally, those who charge that we are being "unfair" to Central American immigrants should consider these facts: From 1991-1995, we admitted 296,000 aliens from Central America as immigrants and deported a mere 26,000. Our profound generosity in immigrant and refugee policy is too often forgotten by those who criticize our legitimate efforts to enforce our immigration laws.

Sincerely,

Lamar Smith  
Chairman  
Subcommittee on Immigration and Claims

# National Immigration Forum

## Fax Cover Page

Date: 7/31  
To: Leeann Shimabakuro  
Of: Domestic Policy Council  
Fr: Qamar  
Re: \_\_\_\_\_  
\_\_\_\_\_

Total number of pages INCLUDING this page: 14



# **FAIRNESS FOR CENTRAL AMERICANS**

## ***What People Are Saying...***

### **FROM THE CONGRESS...**

#### **120 Democratic and Republican Members of Congress**

"We are writing to urge you to take immediate action to allow these individuals [Central Americans] to have a fair hearing regarding their immigration status... These residents have now suffered in legal uncertainty for a decade in the United States... During their long wait, many of these refugees have become productive residents of the U.S. Many have also started families and are now the parents of U.S. citizens... The new and more stringent requirements are having disastrous effects on these individuals. In addition, mass deportations will create great strains on Central America. (Letter to President Clinton, June 18, 1997)

#### **House Speaker Newt Gingrich (R-GA)**

"...many Nicaraguans fled their homeland and Sandinista tyranny, only to arrive in the United States to be confronted by bureaucratic indecision. In many instances, these cases have been pending for close to twelve years. Despite the challenges they have faced, the Nicaraguan community has greatly contributed to the economic and cultural growth and prosperity of South Florida... Please keep in mind the many families who have so much at stake, as well as the tremendous contributions this community has made to our society. (Letter to Attorney General Reno, June 6, 1997)

#### **Senator Spencer Abraham (R-MI)**

"Today's action [Attorney General's announcement] is an important first step in the right direction to ensure that those affected receive the fair treatment they deserve." (Press Release, July 10, 1997)

#### **Senator Edward Kennedy (D-MA)**

"Attorney General Reno's humanitarian action will make an enormous difference in the lives of thousands of courageous law abiding refugees who fled military death squads and other flagrant injustices in the 1980's." (Press Release, July 10, 1997)

#### **Senator Bob Graham (D-FL) and Senator Connie Mack (R-FL)**

"We maintained that reforms of our immigration law should not unfairly change the rules mid-steam for those aliens currently in the United States and abiding by the laws of the land, such as those Nicaraguans who had come forward and applied for suspension of deportation at the encouragement of the Immigration and Naturalization Service... Many of the Nicaraguans in this situation are valued members of their communities, with deep roots in the state of Florida." (Letter to Attorney General Reno, July 11, 1997)

## **FROM THE ADMINISTRATION...**

### **President Bill Clinton**

"[President Clinton] noted that the United States opened its doors to thousands of 'boat people' from Vietnam, 'where our country did not prevail,' and should not treat differently a region where U.S.-backed democracies have emerged. 'After all, the United States government was heavily involved with a lot of these countries during the time of all this upheaval,' Mr. Clinton said. 'I'm not so sure ... the Congress will be unwilling to recognize the fact that these Central American countries are in a rather special category.'" ("Clinton Delays Deportations Until Fall," *The Washington Times*, May 9, 1997)

### **Attorney General Janet Reno**

"We must recognize the special circumstances of individuals whose cases were pending when the new law was enacted, and avoid any unfairness that could come from applying new rules to pending cases. We want to ensure that the 1996 immigration law will not have an unduly harsh effect on those individuals who have made vital contributions to their local communities here in the United States, while putting down deep roots in our nation and abiding by our laws." (Press Release, July 10, 1997)

## **FROM THE EDITORIAL PAGES...**

### ***Chicago Tribune***

"Atty. Gen. Janet Reno's July 11 order to halt the deportation of nearly 180,000 Central American refugees prevented a gross injustice and reinforced a fundamental principle of fairness: You can't change the rules in the middle of the game... Speaker Gingrich says he will support legislation to correct this egregious possibility." ("Reno Rides to the Rescue of Refugees", July 19, 1997)

### ***Los Angeles Times***

"These immigrants fled their countries because of upheavals in which the United States had a hand and they have built lives here; some who came as children are very American young adults... other persecuted groups, from Cubans to Vietnamese, were welcomed en masse." ("A Raw Deal for Refugees: Central Americans Find the Rules for Asylum Changed in Mid-game," April 13, 1997)

### ***Sun-Sentinel, Ft. Lauderdale, Florida***

"The civil wars in their countries, in which the U.S. had a role of varying degrees, had made life untenable there so they came here - many to South Florida - and put down roots, created families, held jobs, paid taxes and abided by this country's laws... Reno and [U.S. District Judge] King have acted honorably to prevent a stain on U.S. honor and fairness. Now it's up to Congress, which should react responsibly." ("Congress Should Back Reno Order, Let Immigrants Present Their Cases," July 13, 1997)

### ***The Washington Post***

"What must be remembered is that many of these refugees are in the United States because of special asylum and status-review programs set up for victims of civil wars in which U.S. foreign policy interests were intimately bound. That is why the Attorney General's action drew applause from House Speaker Newt Gingrich and other backers of Reagan-era Central American policy." ("The Central American Refugees," July 14, 1997)

***The San Diego Union-Tribune***

"Immigrants who do have TPS [temporary protective status] should be dealt with on a case-by-case basis. Setting the cap at 4,000 was too arbitrary. If more than 4,000 of these war immigrants can convince a judge that they risk permanent harm by returning home, more than 4,000 should be allowed to stay." ("U.S. Obligations: The Fate of Central America's War Immigrants," May 14, 1997)

***San Antonio Express-News***

"The economy of El Salvador - up to 12 percent of its gross national product - depends heavily on the flow of money from immigrants in this nation to their families back home. Stopping it, economists and other observers contend, could cause the rickety Salvadoran economy to collapse." ("Salvadoran Refugees Hit Hard by Reform," April 28, 1997)

***The Sacramento Bee***

"[These immigrants] are anything but a burden to the American taxpayer, and the fact that they came here in the first place in part because of U.S. policies that helped sustain the wars in their countries only makes imperative what is also right." ("Deportation Dilemma," May 15, 1997)

**OTHER VOICES...****U.S. District Judge James Lawrence King**

"Seldom, if ever, has such a dramatic, heartrending and powerfully persuasive case of irreparable harm to literally tens of thousands of human beings been presented to this federal court." (Preliminary Injunction, June 24, 1997)

**Saul Solorzano, Director of Central American Resource Center**

"This news will be a tremendous joy to the community... We have to be nervous about the final outcome, but this is a chance for Congress to close a murky chapter in American foreign Policy. ("Reno Challenges 1996 Law As Harsh on Immigrants," *The Washington Post*, July 11, 1997)

**Luis Zufiga, Cuban American National Foundation**

"There is no difference between Cubans... and Nicas. We all fled from dictatorship. The United States must support us equally." ("Cubans Back Nicaraguan Protesters," *The Miami Herald*, June 14, 1997)

Prepared by the National Immigration Forum, 202-544-0004  
July 24, 1997

# IMMIGRATION FAX

Central American Update # 2

July 28, 1997

*Implementing the 1996 Immigration Act  
Analysis by the National Immigration Forum*

THIS FAX CONTAINS 5 PAGES

## **FIVE REASONS WHY THE ADMINISTRATION AND CONGRESS SHOULD DO RIGHT BY CENTRAL AMERICAN REFUGEES**

*Throughout the late 1980's and 1990's, Central American refugees fleeing civil wars were given permission to live and work in this country legally while it was dangerous for them to return home. These refugees, now having lived here for at least seven years, are eligible to apply to remain in the U.S. permanently—a form of relief called "suspension of deportation." However, the 1996 immigration act changed the rules of this relief and, if applied retroactively, will make it impossible for these Central Americans to qualify. Recently, the Attorney General said that she would review how the law should be applied, and will decide whether the rules should be changed on those who were here prior to the new immigration act (see attached backgrounder). Here's why the Congress and the Administration should do the right thing:*

### **1) Give Refugees a Fair Hearing**

When Congress passed and the President signed the 1996 immigration law, they did not intend to force out of the country tens of thousands of Nicaraguans, Salvadorans and Guatemalans who are legally residing in the United States. These refugees have sunk roots, worked hard, and obeyed our laws. They should, at a minimum, have a full and fair hearing. The Congress and the Administration need to take action to avert a mass deportation and give this defined group of Central American refugees their day in court.

### **2) Don't Change the Rules in the Middle of the Game**

It is patently unfair to change the rules in the middle of the game on those who are already in the pipeline and have played by the rules. These refugees were promised by the federal government that they could live and work in the U.S. legally until they could apply for waivers from deportation as soon as they became eligible. Now, the new immigration law may make it nearly impossible for these refugees to avoid deportation.

### **3) Prevent the Destabilization of Central America**

The sudden repatriation of tens of thousands of Central Americans would seriously threaten the stability of the region. Nicaragua, El Salvador, and Guatemala are fledgling democracies struggling to get on their feet after decades of civil war. They are in no position to absorb so many people so quickly, nor to lose the millions of dollars those residing in the U.S. send to family members in Central America. With

ongoing violence, political instability, and high unemployment providing the kindling, a massive repatriation could be the spark that re-starts the fires of violent civil conflict.

#### **4) The Refugees Have Earned the Right to Be Treated Fairly**

Having fled civil war and political oppression, and having arrived with little but the clothes on their backs, they have built new lives, opened businesses, purchased homes, grown families, obeyed our laws, and established themselves as valuable residents of our nation. They are required to pay taxes, but they are not eligible for government benefits. Now, all they ask for is an opportunity to have their day in court. They deserve no less.

#### **4) Keep Families Together**

Many Central Americans with temporary legal status are parents who now have U.S. citizen children who have never lived in Central America. Forcing the parents to leave the country will compel these individuals to make an agonizing choice: return to their country of origin and leave their children behind with permanent resident relatives; or uproot U.S. citizen children and return to an unstable homeland these kids have never seen. No family should be put in such a situation.

## BACKGROUND

July 24, 1997

### RELIEF FROM DEPORTATION FOR CENTRAL AMERICAN REFUGEES

On July 10, 1997, the Attorney General announced that she would vacate and review a decision of the Board of Immigration Appeals (BIA) in the Matter of N-J-B. The BIA had decided to apply a provision of the 1996 immigration act retroactively to immigrants who had applied for a form of relief from deportation. The 1996 immigration law changed the rules, making it much more difficult to get relief. Most affected by the Attorney General's announcement will be thousands of Central Americans from El Salvador, Nicaragua, and Guatemala who have been in this country legally under temporary protection from deportation while civil wars in their countries made it dangerous for them to go home. As the years went by and these Central Americans established roots in this country, they expected to have a chance to apply for relief from deportation under pre-existing rules.

**Relief From Deportation – Changing the Rules Midstream.** The Central American war refugees have been permitted to stay in this country for a number of years under various forms of *temporary* protection from deportation because the President, the Congress, and the Courts recognized the danger in sending people back to countries racked with civil war and brutal political violence. Nicaraguans received special consideration under the "Nicaraguan Review Program." Salvadorans were granted "Temporary Protected Status," and when that expired were allowed to stay by "Deferred Enforced Departure." Salvadorans and Guatemalans were put in line for consideration of asylum claims when a court settlement in the "American Baptist Churches" lawsuit (ABC) provided a remedy to the unfair treatment they received when the asylum process in this country was tainted by political considerations.

They were here for many years. In the course of their stay, many set down firm roots here—marrying U.S. citizens, having children, starting businesses and buying homes. After so much time, they became eligible for *permanent* settlement here under a provision of law known as "Suspension of Deportation." Our laws recognize that, once an immigrant has been in this country for a very long time and has built up so many "equities," she should be allowed to stay, if she can show that hardship would result if she were uprooted and sent back to her home country. Specifically, under pre-existing rules, an individual could apply for "suspension of deportation," if he could establish continuous residence in the U.S. for seven years or more, "good moral character," and that deportation would result in extreme hardship to himself or to his U.S. citizen or permanent resident family members.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 made it much more difficult to obtain this kind of relief from deportation. To obtain what's now called "cancellation of removal," an individual must show *10 years* of residency, good moral character, and that deportation would result in "*extreme or exceptional hardship*" to a U.S. citizen or permanent resident spouse, child, or parent. *Hardship to the immigrant applicant no longer counts.*

Compounding the new tougher hurdles, the new law stipulates that once removal proceedings begin against an immigrant, time spent in the U.S. *does not count* towards the 10 years of residency required to qualify for this relief—even if these proceedings last many years or are suspended due to some form of temporary protection from deportation. The new law also places a limit of 4,000 per year the number of immigrants granted relief from deportation who can adjust their status to become permanent residents of the U.S.

**What the Attorney General's Decision Means.** The Attorney General has decided only to review the BIA's decision. Should the Attorney General decide that the BIA was not correct in applying the law retroactively, applicants for relief from deportation—including the Central American war refugees—may have their applications considered on a case by case basis, under the pre-existing rules. That is, they would still have to show that they have resided in the U.S. for at least seven years, are of good moral character, and that their deportation would be an extreme hardship to themselves or a U.S. citizen or legal permanent resident family member. A decision not to apply the new rules retroactively is not a blanket grant of amnesty. Immigrants would still have to show that they are individually entitled to the relief. In the meantime, while the case is under review in the Justice Department, immigration judges are not bound to apply the law retroactively.

**Why Is This Significant?** Whether or not to apply the new law retroactively will have a profound effect. Individuals who would qualify for relief from deportation under pre-existing rules will not be uprooted from family, jobs, and the country which they now consider home. Additionally, there is a broader significance which effects the relationship between our country and the now newly stabilizing countries of Central America.

As the Central American war refugees moved their way up economically, the money that they sent back home assumed an increasingly significant role in the economic development of the Central American countries emerging from civil war. Leaders of these countries have recognized the stabilizing influence of their expatriate citizens in the U.S., and have pointed out to the Clinton Administration that sending tens of thousands of people back to countries just emerging from civil war will prove enormously destabilizing. Jobs will have to be found for all, and in the meantime, resentment may build to a point where these countries may again be plunged into war—triggering another exodus of refugees for countries to the North, including the U.S.

**The Writing on the (Court) Wall.** Advocates and immigrants are not the only ones suggesting that changing the rules midstream on immigrants seeking relief from deportation is unfair. On June 24, 1997, a federal district court in Florida issued a preliminary injunction in a class action lawsuit covering individuals in Georgia, Alabama, and Florida who would be denied suspension of deportation because of the INS's retroactive application of the 1996 Act. The court found that the retroactive application of the new rules pertaining to cancellation of removal is not consistent with the 1996 Act, and ordered INS not to enforce the BIA's N-J-B decision and to stop deporting individuals covered by the class. A trial to decide on a permanent injunction will begin in January of 1998. If the lawsuit is ultimately won by the immigrants, they will be eligible to apply for suspension of deportation under the rules that pre-dated the changes made by the 1996

Act. In acknowledging the irreparable harm that would result if INS's interpretation of the law were not halted, Judge James King said, "[s]eldom, if ever, has such a dramatic, heartrending and powerfully persuasive case of irreparable harm to literally tens of thousands of human beings been presented to this federal court."

**The Path to an Ultimate Resolution.** The situation of the Central Americans is unique. They had been allowed to stay here and received work authorization while they were temporarily protected from deportation. They had been encouraged to seek a resolution to their situation under the pre-existing rules for suspension of deportation. Congress changed the rules in 1996 and now the question is, will we treat these people fairly, or will we apply the rules of the new law retroactively, making it a near certainty that these immigrants, who now have firm roots in the U.S., will be sent back to countries they have not seen for a decade or so.

The Clinton Administration has indicated that it is willing to consider fair treatment of these individuals. To follow through, the Administration must take a number of actions. These actions include deciding that the rules for cancellation of removal in the 1996 Act will not be applied retroactively to these people, and allowing individuals to proceed with requests for relief from deportation and be judged by the legal standards that applied under the pre-existing law. They could also include providing some form of temporary relief to calm community fears—until there is clarification on whether the new or the pre-existing rules apply. The administration could also continue to grant relief from deportation beyond the 4,000 annual cap placed by the new law on persons seeking to become permanent residents by this route.

These and other administrative steps are within the power of the Attorney General to implement as the law is now written. Ultimately, the final step in the saga of these immigrants will require legislation—which will allow these immigrants to adjust to permanent resident status without regard to the 4,000 visa annual cap which now promises to put many into a decades-long backlog should they be granted relief from deportation.

# IMMIGRATION FAX

Central American Update # 3

July 30, 1997

*Implementing the 1996 Immigration Act  
Analysis by the National Immigration Forum*

THIS FAX CONTAINS 4 PAGES

## CENTRAL AMERICANS, COMING TO WASHINGTON, SPUR LEGISLATION, POLITICAL FIGHT ABOUT HELPING THESE REFUGEES REMAIN IN THE COUNTRY

*On July 24, Central American war refugees, including many Nicaraguans now living in the Miami area, came to Washington to ask for a resolution to their status in the United States. These refugees have been living in the U.S. legally, under various forms of temporary protection from deportation, for many years. A provision in the 1996 immigration act now threatens them with mass deportation. Their request is to be treated fairly under rules pre-existing the 1996 law—rules they always have been told they would be judged by.*

*Taking action on this issue, Senators Mack (R-FL), Graham (D-FL), and Kennedy (D-MA) have introduced a bill, on behalf of the Clinton administration, which would allow these refugees to apply for relief from deportation and be judged on a case by case basis.*

*Talk of legislation or administrative action to help these refugees has already touched off a debate in Congress, especially within the Republican party, which is split on this issue.*

*Attached are stories on the immigrants travels to Washington, the legislation that has been introduced, and the fight that has begun in Congress.*

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National Immigration Forum  
220 I Street, N.E., Suite 220 ♦ Washington, DC 20002-4362  
(202) 544-0004 ♦ Fax: (202) 544-1905

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**INSIDE THE NEW CONGRESS - July 26, 1997****As thousands of Nicaraguans descend on the Hill...****REPUBLICANS BEGIN FIGHT OVER CENTRAL AMERICAN IMMIGRANTS**

At a time when the GOP needs to be uniting as a party, a small technical debate over the fate of thousands of Central American immigrants could again divide Republicans, Capitol Hill sources say. Republicans already are sparring about whether to deport thousands of immigrants who fled to the United States during the 1980s. A flurry of letters have already been sent back and forth to members and the administration and the activity should increase as several members yesterday unveiled legislation helping that group of aliens.

The GOP last year nearly split wide open as a comprehensive piece of legislation covering legal and illegal immigrants made its way through Capitol Hill. Republican leaders eventually reigned in reformers and got them to back down enough so that a bill could be passed and signed into law.

Under that bill, more than 200,000 Guatemalans and El Salvadorans and 40,000 Nicaraguans are at risk of being deported, immigration proponents say. Attorney General Janet Reno earlier this month took steps to stop the mass deportation of that group — and begin the intra-party struggle.

After Reno's announcement, more than 100 lawmakers from both parties signed a letter supporting the administration's move and asking if they can go farther to help those Central American immigrants.

But two immigration opponents, Reps. Ron Packard (R-CA) and Elton Gallegly (R-CA), immediately responded to Reno's announcement by circulating a "Dear Colleague" letter that claimed the Clinton administration was being "soft on illegal immigration" and that officials should have addressed their concerns regarding the Central American immigrants when the bill was finalized. More than 15 members signed that letter. "Our intent was to let the administration know our objections," says a staffer close to the issue. "If they do act on this, there's going to be a fight over here."

In response to the Packard-Gallegly letter, a handful of members, led by Reps. Luis Gutierrez (D-IL), Chris Smith (R-NJ), Peter Deutsch (D-FL) and Xavier Becerra (D-CA), asked their colleagues not to sign the Gallegly "Dear Colleague."

The issue has come to a head this week as thousands of Central American immigrants came to rally and lobby on the Hill. Several lawmakers, including Senate Republican Conference Chairman Connie Mack (R-FL), Bob Graham (D-FL), Rep. Lincoln Diaz-Balart (R-FL) and Ileana Ros-Lehtinen (R-FL), attended the rally. Mack, Graham and Ted Kennedy (D-MA) on Thursday (July 24) unveiled a proposal tackling that issue. The Mack-Graham-Kennedy plan is similar to an administration proposal passed along to lawmakers earlier this week, Hill sources say. "This is just clarifying legislation for those in the pipeline," says a staffer involved in the effort.

Diaz-Balart also released a proposal, but at press time it was unclear if the Florida Republican followed the administration's proposal or drafted his own plan.

Diaz-Balart and some other Republicans feel strongly that the Justice Department could have done more in helping this group of immigrants — leading to a possible rift between another faction.

"This is kind of a hot potato," says one GOP staffer of the issue. "No one wants to be left with this on their hands."

# UNITE!

A MERGER OF THE AMALGAMATED CLOTHING & TEXTILE WORKERS UNION & THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION

October 29, 1997

CC Elena Kagan  
Leanne

Shimabukuro

The Honorable William Jefferson Clinton  
The White House  
Washington, D.C. 20500

FYI  
From M Echaveste

Dear Mr. President

I am writing to express the support of UNITE, the Union of Needletrades, Industrial and Textile Employees, for current efforts to address the extraordinary circumstances of certain Central American refugees, but to state our concern about some elements of the proposed resolution. I hope you will keep our views in mind as you consider legislation on this issue.

As you know, many Central Americans fled long civil wars in their homelands and were given safe haven in the United States under various temporary protected statuses. Most of these refugees have made new lives for themselves, raised families here and become contributing members of communities all across the country. Many have joined the ranks of our union and other unions. Under the provisions of the 1996 immigration law, most of these refugees face imminent deportation. Because of their unique situation, that would be unjust. We have strongly supported special legislation to address their plight. The legislative package that is currently under consideration, however, includes some measures that we find unacceptable.

We are deeply concerned about the inclusion of a provision that would eliminate the "other worker" category of employment-based immigrant. In addition to our belief that this is substantively poor policy, it also bears no relationship to the plight of Central American refugees. It represents a change in our legal immigration system specifically rejected in the 1996 immigration law debate. And using a carefully crafted bill designed to solve a particular immigration problem as a vehicle for major change in our legal immigration system would set a regrettable precedent.

For the same reasons, we oppose the retroactive application of the "cancellation of removal" provisions in the 1996 law.

Thank you very much for your consideration.

Sincerely,



Jay Mazur, President

1710 Broadway  
New York, NY 10019-5299  
Tel 212 265-7000

Fax 212 265-3415 CC: Maria Echaveste, Assistant to the President and Director of Public Liaison

UNION OF NEEDLETRADES, INDUSTRIAL AND TEXTILE EMPLOYEES, AFL-CIO-CLC

JAY MAZUR President

ARTHUR LOEY Secretary-Treasurer

BRUCE RAYNOR Executive Vice President

EDGAR ROMNEY Executive Vice President



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FILE No. 672 07/09 '97 15:34 ID:

Newt Gingrich  
Sixth District  
Georgia

(202) 225-0600



Office of the Speaker  
United States House of Representatives  
Washington, DC 20515

July 8, 1997

President William J. Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

DPC  
RECD

Dear Mr. President:

I am writing today out of growing concern about the continued lack of safety in the District of Columbia. This is especially pertinent in light of the recent spate of murders that have occurred over the past weekend. As you know, I am deeply committed to saving the District and helping it realize its full potential -- becoming a capital city that all Americans can be proud of. Achieving this goal means restoring not only its fiscal health but its social health as well.

I am as troubled by the death of the 7-year-old boy shot while sitting in his father's car as I am about the recent murders in Georgetown. Enough is enough. When the nation's capital bears witness to six deaths in one holiday weekend and has had over 27,000 crimes against persons and property committed so far this year, we are living in the midst of a human tragedy that should trouble all Americans.

The time for merely talking about this problem has long since passed. The citizens of this city need action, and they need it now. It has become painfully apparent that relying only on the local entrenched bureaucracy will not be enough to get the job done. I challenge you to come up with a comprehensive action plan within the next thirty days that deals with the full scale of the problem and lays out how you would make the city safer for its residents and guests.

I look forward to hearing from you soon.

Sincerely,

Newt Gingrich  
Speaker of the House

OFFICE OF THE DEPUTY ATTORNEY GENERAL  
U.S. DEPARTMENT OF JUSTICE  
WASHINGTON, D.C.

FACSIMILE TRANSMISSION SHEET

TO:

Leeanne Shimbakuro  
Attention: Essence

Fax #:

( ) 456-7028 Voice #: ( ) \_\_\_\_\_

FROM:

John T. Morton, Special Assistant to the Deputy Attorney General  
Office of the Deputy Attorney General Room #4207  
U.S. Department of Justice, Main Justice Building  
Washington, D.C. 20530

FAX #: (202) 514-9077 Voice #: (202) 514 - 4203

THIS TRANSMISSION CONTAINS \_\_\_\_\_ SHEETS INCLUDING THIS SHEET

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Special

Note (s):

Latest draft of Gingrich letter.  
Need comments, if any, a.s.a.p.

-John

If any page (s)  
are missing, please call sender at the above voice number for re-  
transmission.

###

Dear Speaker Gingrich:

Thank you for your June 6, 1997, letter requesting extension of the Nicaraguan Review Program. I share your concerns about the Nicaraguans and others who have been living in this country for many years who are adversely affected by the new immigration law (IIRIRA). In particular, I am concerned about ensuring a fair transition to the new tighter rules applicable to the relief from deportation formerly known as suspension of deportation.

Although the Nicaraguan Review Program expired in 1995, and subsequent transitional measures expired in June of this year, the Department is committed to working with Congress to make sure that the transition to the new immigration law accounts for the special circumstances of certain immigrants who were present in the United States when the law was enacted. Of particular concern are Nicaraguans and other Central Americans who may have fled their countries during periods of civil war, and who have received temporary protection from deportation and other special legal treatment in this country for significant periods of time.

To ensure fair treatment of transitional cases under the new immigration law, I am vacating and taking under review the decision of the Board of Immigration Appeals in Matter of N-J-B-, Interim Decision 3309 (BIA, February 20, 1997). This decision prevented many aliens who were in immigration proceedings before April 1, 1997, from having their applications for suspension of deportation considered. It interpreted a provision of the new law as requiring these existing cases to meet one of the tighter standards for relief from deportation which requires a suspension applicant to have accumulated a requisite amount of time in the U.S. by the time they are served with a charging document (the "stop-time" rule).

Though the new law clearly makes this stop-time rule applicable to cases filed after April 1, I believe that the legal question of its application to pre-April 1 cases deserves my careful review. If the decision is reversed, many who were in proceedings as of April 1 will simply be afforded the opportunity to apply for suspension, but reversal will not require that any affected cases be granted. While the case is under review, I will take immediate steps to protect against deportation persons who might have been able to claim suspension but for the N-J-B- decision.

In addition, the Administration will submit to Congress shortly a proposal for amendments to the Immigration and Nationality Act which are necessary to ensure a better transition to the new, tighter rules applicable to the relief formerly known as suspension of deportation. This proposal allows those whose cases were already in the pipeline the opportunity to seek suspension under the standards that applied before the 1996 immigration reform law took effect, eliminating any unfair application of the new rules governing suspension-type relief to cases in proceedings before April 1, 1997. These transitional cases would be exempted from the stop-time rule, described above, that accrual of necessary time in the U.S. stops when a charging document is served. They would also be exempted from the new 4,000 yearly cap on grants of suspension-type relief. Post-April 1 cases, however, would continue to be governed by the new standards.

Also, in recognition of the special circumstance of the persons covered by the Bush Administration's settlement of the *ABC* litigation in 1991 and the Reagan Administration's Nicaraguan Review Program, the proposed amendments apply the pre-April 1 rules to such persons. These are, in effect, "pipeline" cases and I believe that their applications for relief should be judged under the earlier substantive standards.

None of the amendments dictates that any of the affected persons will be granted relief. Every application for relief from deportation must still be considered, case-by-case, by an immigration judge.

If these legislative proposals are not enacted, the Administration is prepared to consider any available administrative option, including Deferred Enforced Departure, to protect from deportation nationals of El Salvador or Guatemala who were *ABC* class members and nationals of Nicaragua who were in the Nicaraguan Review Program who would have been eligible for suspension but for the new rules. Deferred Enforced Departure is based on the Presidential authority over foreign affairs and has previously been used to achieve foreign policy objectives.

I look forward to working closely with you to secure the enactment of transitional legislation which will eliminate any unfair application of the new rules restricting relief from deportation.

*more active*

Dear Speaker Gingrich:

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I look forward to working closely with you to secure the enactment of transitional legislation which will eliminate any unfair application of the new rules restricting relief from deportation.

*moreover*

67028 PASS TO: Lee Anne

## Gingrich and Nicaraguans

Background: Rep. Gingrich reportedly wrote to AG Reno on behalf of thousands of Nicaraguans who are here illegally and are subject to deportation. During the Reagan Administration, AG Meese ordered that these deportation of illegal Nicaraguans be suspended, and that order was in effect rescinded some years ago (during the Clinton Administration). However, during an interim period, INS has continued to permit Nicaraguans here illegally to obtain work authorization, but this will end this month. At the same time, the new immigration law makes it much harder for these illegal Nicaraguans -- as well as all illegals -- to make hardship applications to stay in the U.S.

The President has expressed concern about changes in the law that make these hardship applications harder to file for a range of people (beyond Nicaraguans); thus -- without focusing on Nicaraguans per se -- we should note that Gingrich's sentiments are similar to our own.

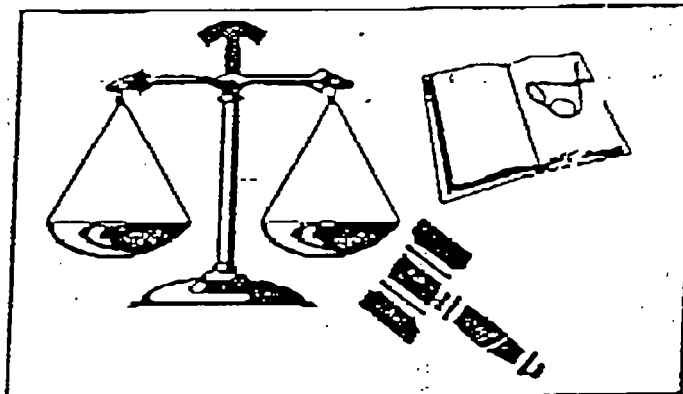
## Points:

- We have not seen the Gingrich letter, but will study it carefully.
- We have seen the Speaker's comments, and -- as the President has indicated -- we very much share the Speaker's concerns about harsh aspects of the recently enacted immigration law that could have serious humanitarian implications for families here.
- Thus, we were encouraged by the Speaker's sentiments, and hope that they can form the basis for an Executive-Congressional dialogue that looks at ways to ameliorate these harsh measures without undermining immigration control.

## U.S. DEPARTMENT OF JUSTICE

## OFFICE OF LEGISLATIVE AFFAIRS

## FACSIMILE COVER SHEET



TO:

Leanne ShimabukuroDPC

FAX NO.:

456-7028

FROM:

John Trasviña

PHONE

202/514-2111FAX: 202/305-2643

DATE:

6/27

NO. OF PAGES:

10

(EXCLUDING COVER)

COMMENTS:

The letter.

**Congress of the United States**  
**Washington, DC 20515**

June 18, 1997

President Bill Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Dear President Clinton:

As you know, approximately 250,000 Guatemalans, Salvadorans and Nicaraguans currently residing legally in our nation are now at risk of being deported because of recent changes in immigration law. We are writing to urge you to take immediate action to allow these individuals to have a fair hearing regarding their immigration status.

In the 1980s, approximately 200,000 Guatemalans and Salvadorans, now known as the "ABC Class," fled their countries because of civil war. They came to America as refugees seeking safety for themselves and their families. Likewise, approximately 40,000 Nicaraguans, many of whom traveled here with the forbearance of the Reagan and Bush administrations, sought refuge in the United States from the civil war in their home.

These residents have now suffered in legal uncertainty for a decade in the United States. Various court rulings and actions by the Immigration and Naturalization Service have delayed their asylum hearings and prevented them from adjusting their status. During their long wait, many of these refugees have become productive residents of the U.S. Many have also started families and are now the parents of U.S. citizens.

The INS is finally beginning to hear asylum claims on these cases. Unfortunately, under the new immigration law, these individuals face requirements to stay in the U.S. that are vastly different, and much more difficult to meet, than those in place when they arrived. Quite simply, for these immigrants, the rules have been changed in the middle of the game.

The new and more stringent requirements are having disastrous effects on these individuals. Denial of asylum is splitting apart families and causing great personal and economic hardship for these individuals. In addition, mass deportations will create great strains on Central America. Moreover, these deportations represent a betrayal of our nation's commitment to allow these individuals to receive a fair hearing under the immigration rules that applied to them when they entered our country.

Page 2

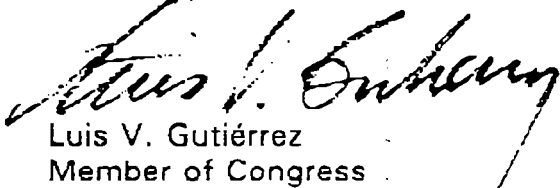
Letter to President Clinton

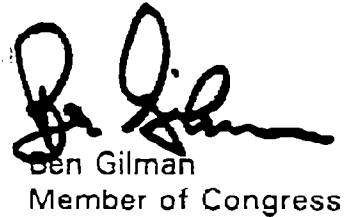
We hope you will take a simple step that represents fairness and common sense. Since the legal uncertainty that these immigrants are experiencing is caused by an administrative decision we believe that legal authority exists to solve this crisis through executive action.

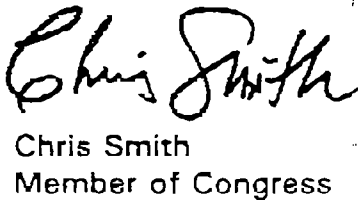
We urge you to allow these Guatemalan, Salvadoran and Nicaraguan refugees a hearing under the immigration laws that applied to them when they arrived in the U.S. Such a policy will not represent a guarantee that any individual will be allowed to stay. But it does guarantee them a just and equitable hearing. We strongly believe that these people and their families deserve this treatment from our government.

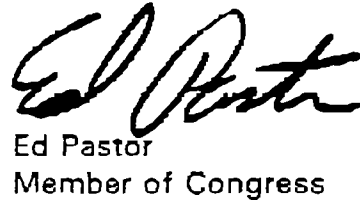
We look forward to your response on this very urgent matter. Thank you for your attention to this request.

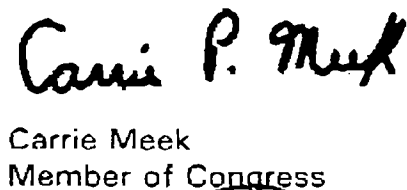
Sincerely,

  
Luis V. Gutiérrez  
Member of Congress

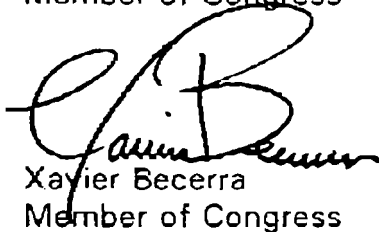
  
Ben Gilman  
Member of Congress

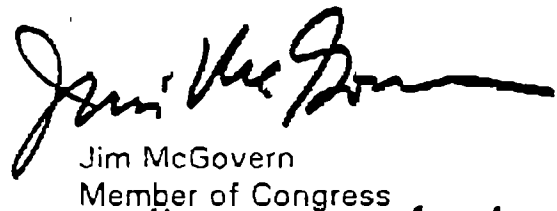
  
Chris Smith  
Member of Congress

  
Ed Pastor  
Member of Congress

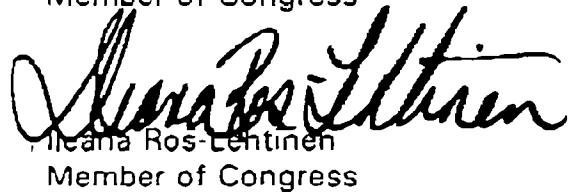
  
Carrie Meek  
Member of Congress

  
Thomas Davis  
Member of Congress

  
Xavier Becerra  
Member of Congress

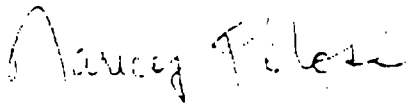
  
Jim McGovern  
Member of Congress

  
Ron Dellums  
Member of Congress

  
Ilana Ros-Lentini  
Member of Congress

Page 3

Letter to President Clinton



Nancy Pelosi  
Member of Congress



Bob Menendez  
Member of Congress



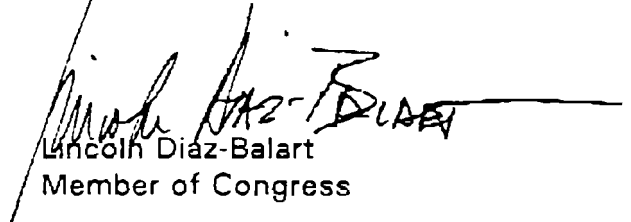
Bob Filner  
Member of Congress



Pete Stark  
Member of Congress



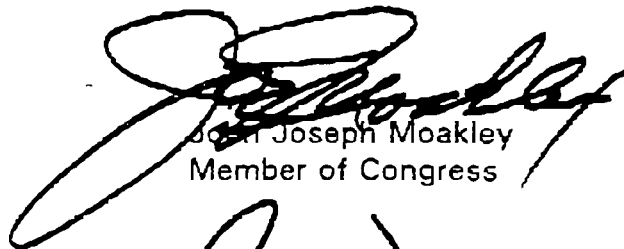
Elizabeth Furse  
Member of Congress



Lincoln Diaz-Balart  
Member of Congress



Tom Lantos  
Member of Congress



John Joseph Moakley  
Member of Congress



Howard Berman  
Member of Congress



Connie Morella  
Member of Congress



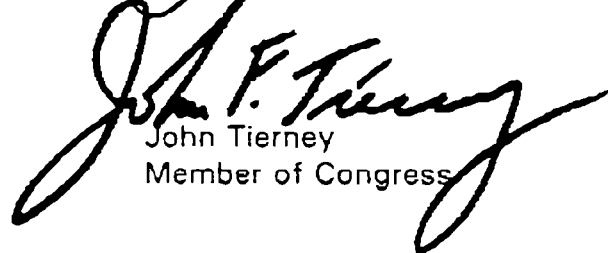
Zoe Lofgren  
Member of Congress



Jerry Costello  
Member of Congress



Bernard Sanders  
Member of Congress



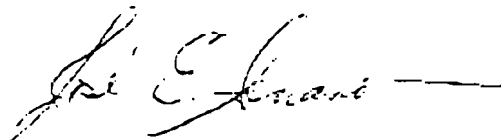
John Tierney  
Member of Congress

Page 4

Letter to President Clinton



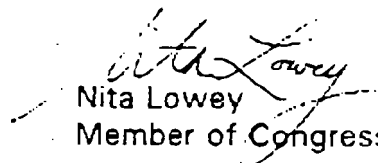
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Member of Congress



José Serrano  
Member of Congress



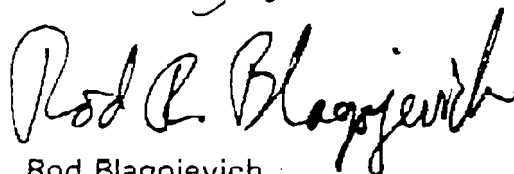
Peter Deutsch  
Member of Congress



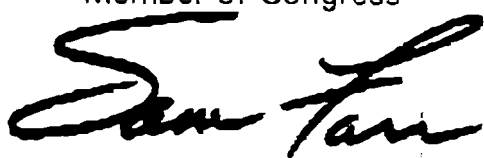
Nita Lowey  
Member of Congress



Lucille Roybal-Allard  
Member of Congress



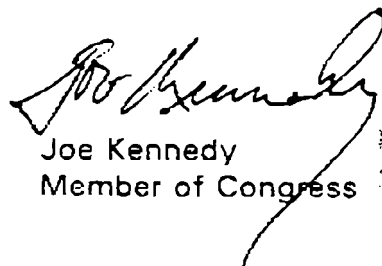
Rod Blagojevich  
Member of Congress



Sam Farr  
Member of Congress



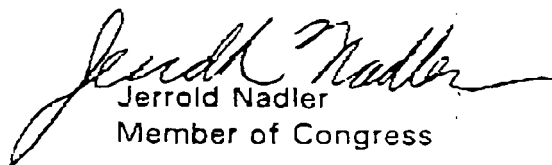
Lane Evans  
Member of Congress



Joe Kennedy  
Member of Congress



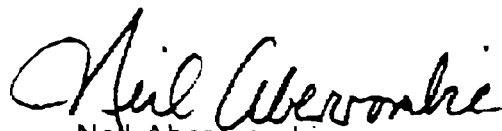
Martin Meehan  
Member of Congress



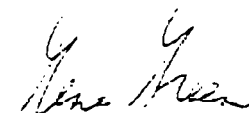
Jerrold Nadler  
Member of Congress



Barbara Kennelly  
Member of Congress



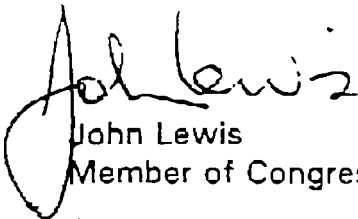
Neil Abercrombie  
Member of Congress



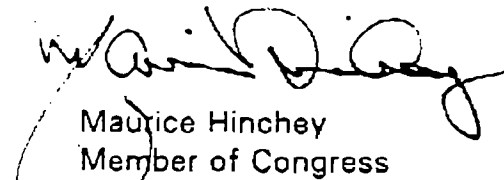
Gene Green  
Member of Congress

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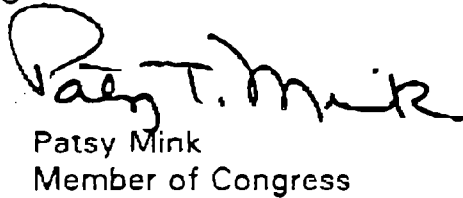
Letter to President Clinton



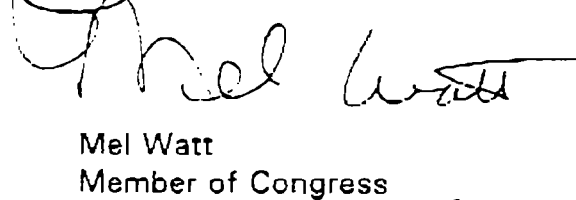
John Lewis  
Member of Congress



Maurice Hinchey  
Member of Congress



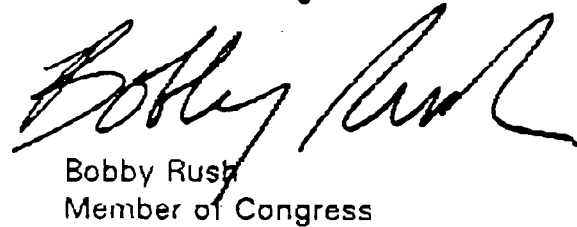
Patsy Mink  
Member of Congress



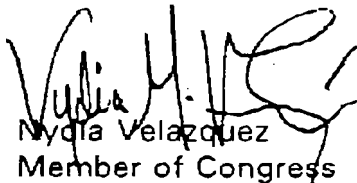
Mel Watt  
Member of Congress



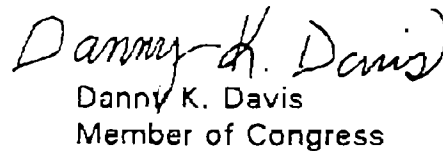
Tom Sawyer  
Member of Congress



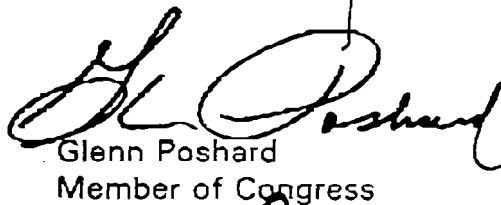
Bobby Rush  
Member of Congress



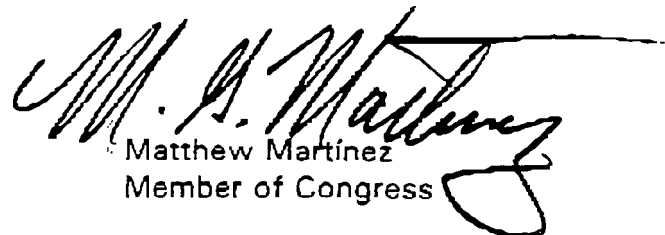
Nydia Velazquez  
Member of Congress



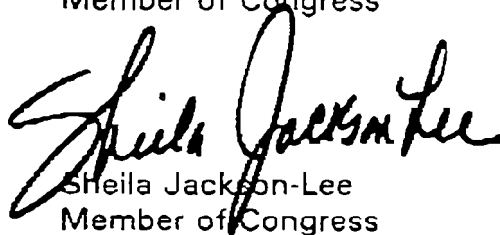
Danny K. Davis  
Member of Congress



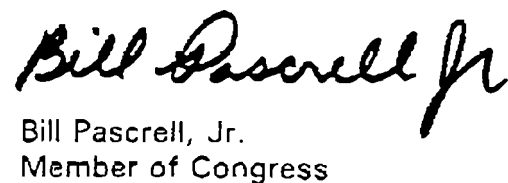
Glenn Poshard  
Member of Congress



Matthew Martinez  
Member of Congress



Sheila Jackson-Lee  
Member of Congress



Bill Pascrell, Jr.  
Member of Congress



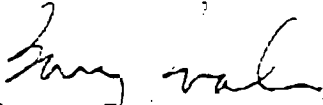
Harold Ford  
Member of Congress



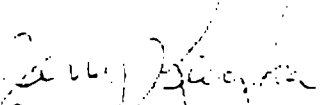
Robert Wexler  
Member of Congress

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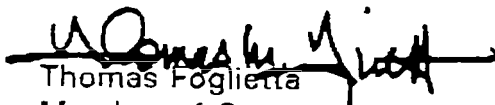
Letter to President Clinton



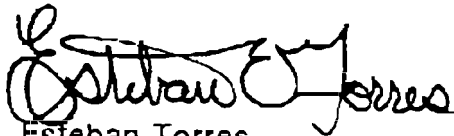
Barney Frank  
Member of Congress



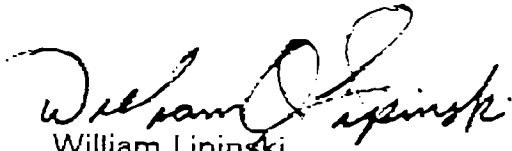
Gerald Kleczka  
Member of Congress



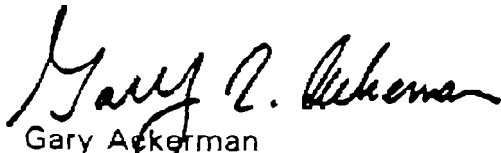
Thomas Foglietta  
Member of Congress



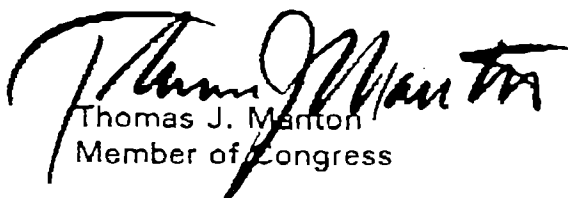
Esteban Torres  
Member of Congress



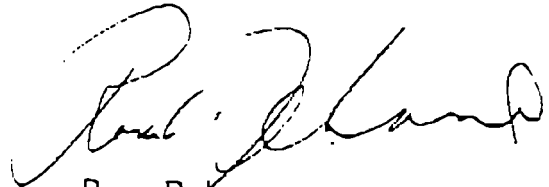
William Lipinski  
Member of Congress



Gary Ackerman  
Member of Congress



Thomas J. Manton  
Member of Congress



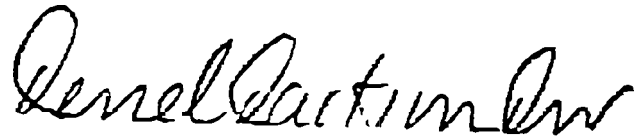
Rosa DeLauro  
Member of Congress



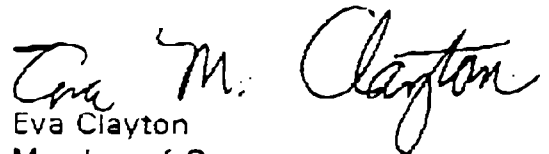
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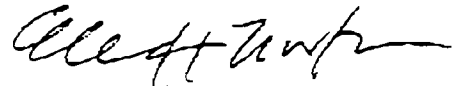
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Member of Congress



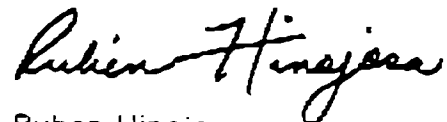
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Member of Congress



Eva Clayton  
Member of Congress



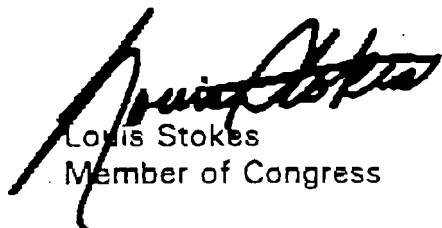
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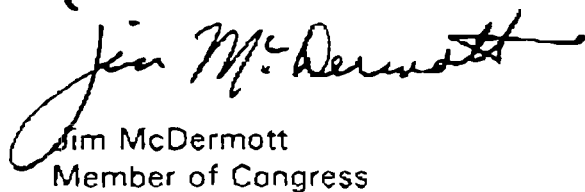
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Member of Congress

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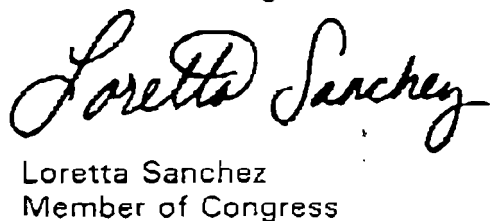
Letter to President Clinton



Louis Stokes  
Member of Congress



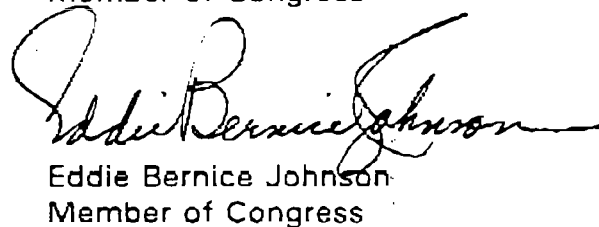
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Member of Congress



Loretta Sanchez  
Member of Congress



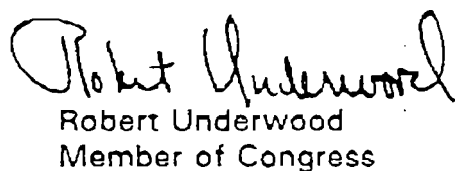
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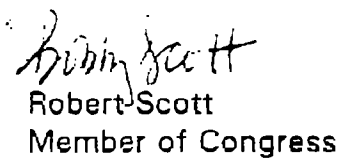
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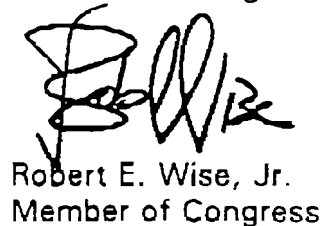
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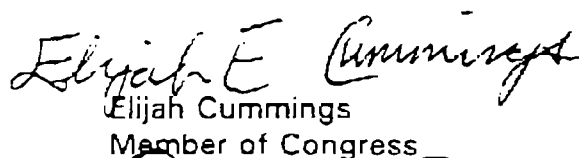
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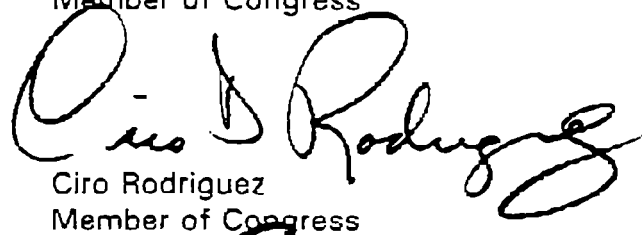
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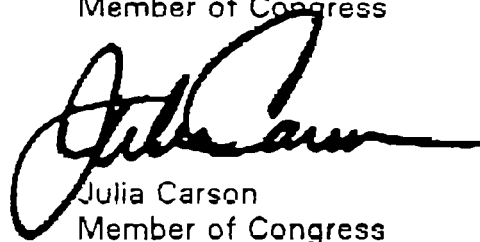
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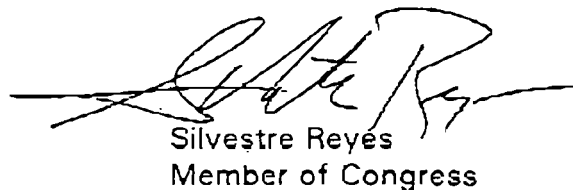
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Member of Congress



Ciro Rodriguez  
Member of Congress



Julia Carson  
Member of Congress



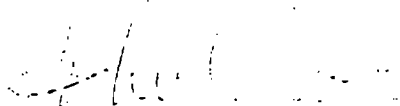
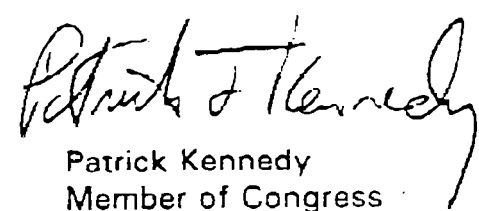
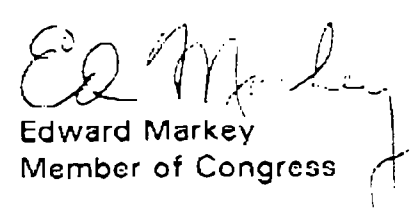
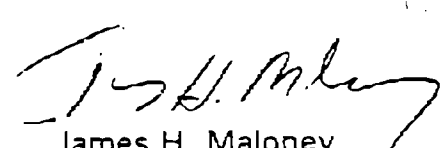
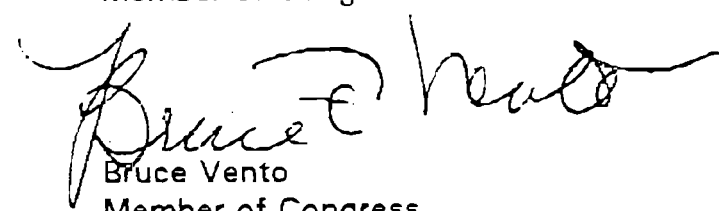
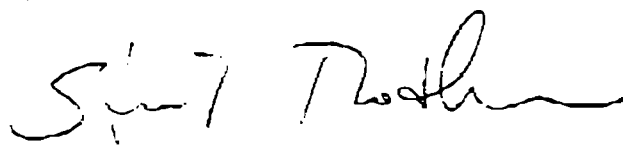
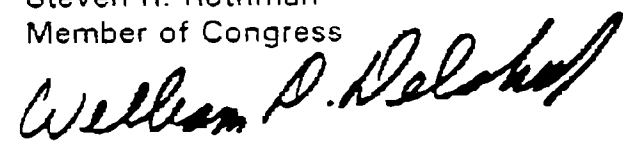
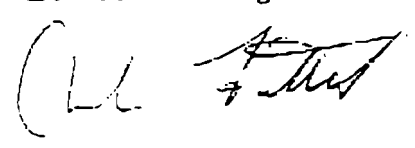
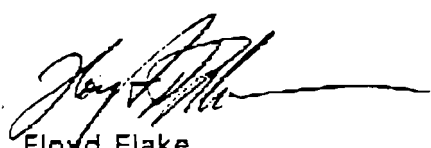
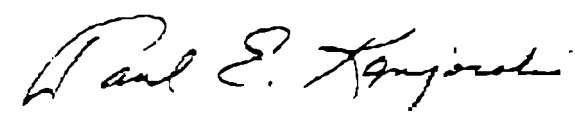
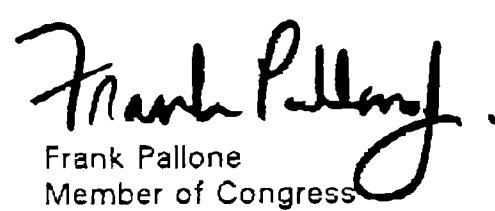
Silvestre Reyes  
Member of Congress



Martin Frost  
Member of Congress

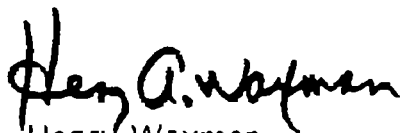
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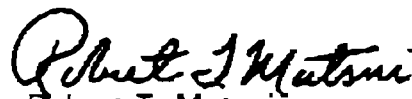
  
John Oliver  
Member of Congress  
Patrick Kennedy  
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Edward Markey  
Member of Congress  
James H. Maloney  
Member of Congress  
Bruce Vento  
Member of Congress  
Steven R. Rothman  
Member of Congress  
William Delahunt  
Member of Congress  
Cynthia McKinney  
Member of Congress  
Chakah Fattah  
Member of Congress  
Floyd Flake  
Member of Congress  
Paul Kanjorski  
Member of Congress  
Robert Andrews  
Member of Congress  
Frank Pallone  
Member of Congress  
Diana DeGette  
Member of Congress

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Letter to President Clinton



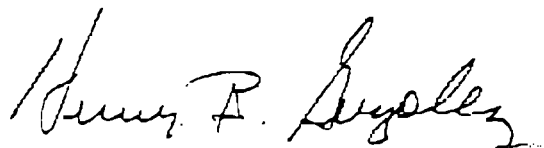
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Member of Congress



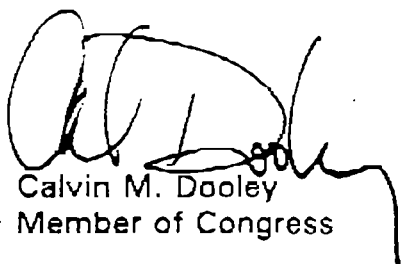
Robert T. Matsui  
Member of Congress



Alcee Hastings  
Member of Congress



Henry B. Gonzalez  
Member of Congress



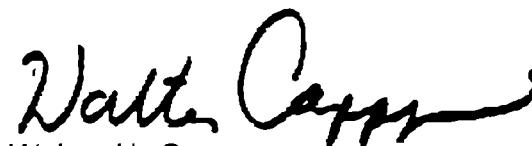
Calvin M. Dooley  
Member of Congress



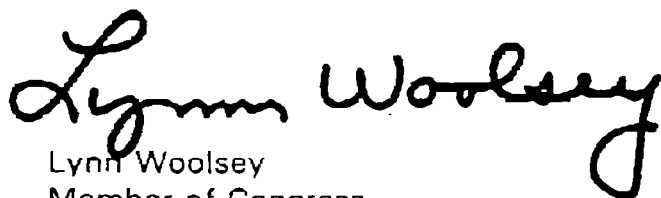
Vic Fazio  
Member of Congress



David Minge  
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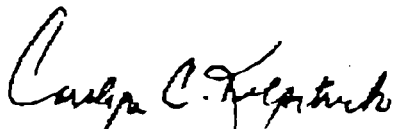
Walter H. Capps  
Member of Congress



Lynn Woolsey  
Member of Congress



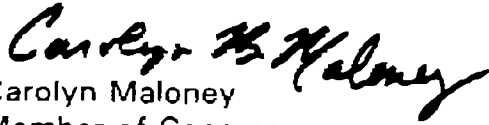
John LaFalce  
Member of Congress



Carolyn Kilpatrick  
Member of Congress

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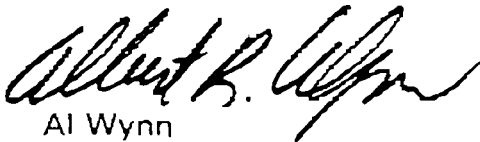
Letter to President Clinton



Carolyn Maloney  
Member of Congress



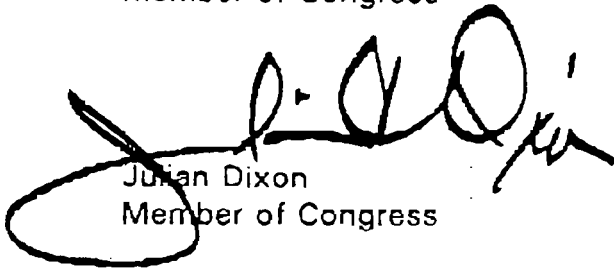
Earl Blumenauer  
Member of Congress



Al Wynn  
Member of Congress



Corrine Brown  
Member of Congress



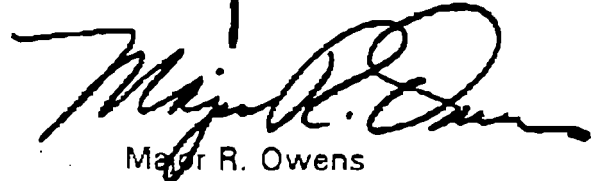
Julian Dixon  
Member of Congress



Sanford Bishop  
Member of Congress



Donald Payne  
Member of Congress



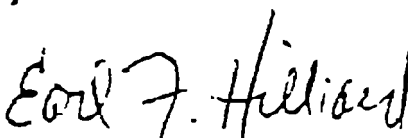
Major R. Owens  
Member of Congress



Donna M. Christian-Green  
Member of Congress



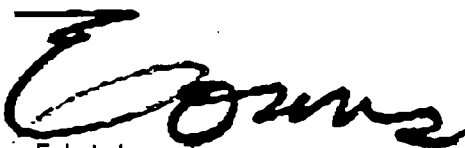
David Bonior  
Member of Congress



Earl Hilliard  
Member of Congress



Bennie G. Thompson  
Member of Congress



Edolphus Towns  
Member of Congress



John Edward Porter  
Member of Congress

DRAFT

7/9/97 10:15pm

The Honorable Newt Gingrich  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

I am pleased to submit for your immediate consideration and enactment the "Immigration Reform Transition Act of 1997". This legislative proposal is designed to ensure that the complete transition to the new cancellation of removal provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) can be accomplished in a fair and equitable manner consistent with our law enforcement needs and national security interests.

This legislation provides a better transition to the new rules applicable to immigration relief formerly known as suspension of deportation. In particular, it avoids any unfairness that could come from applying new rules to pending cases involving individuals who have long ties to the United States. Also, it recognizes the continuing effects of special legal measures taken by my predecessors over the last decade with regard to those Central Americans who entered the United States in the 1980s in response to civil war and political persecution.

These measures -- the Nicaraguan Review Program which, under successive administrations from 1985 to 1995, protected roughly 40,000 Nicaraguans from deportation while their cases were under review and the American Baptist Church v. Reno litigation which resulted in a 1990 court settlement protecting roughly 190,000 Salvadorans and 50,000 Guatemalans -- would be effectively nullified under the unduly restrictive rules of IIRIRA. Such a result would come at great cost to families, our communities at home, and our international interests throughout the Americas.

This legislation will delay the effective date of IIRIRA's new provisions so that pending immigration cases will continue to be considered and decided under the old suspension of deportation rules as they were long known prior to April 1, 1997 while the new law would apply fully to cases commenced after that date. This legislation, of course, dictates no particular outcome of any case. Every application for suspension of deportation or

cases pending  
before  
April 1,  
1997?  
cases pending  
before the  
effective  
date of  
the new  
law?

cancellation of removal must still be considered on a case-by-case basis by an immigration judge. It simply restores a fair opportunity for those whose cases have long been in the system or have other demonstrable equities.

Under the old suspension of deportation rules, immigration relief could be granted, in the discretion of an immigration judge, to an individual who had been present in the United States for seven years, showed good moral character, and demonstrated that deportation would cause extreme hardship to the individual or to a spouse, parent or child who was a United States citizen or a lawful permanent resident. Under the new law, the grounds for relief were significantly narrowed in two ways. First, the individual must show continuous physical presence for ten years. Second, the hardship that must be demonstrated must be "exceptional and extremely unusual." No longer is hardship to the individual alone relevant. This legislation will apply these new standards only to new cases. *And after the effective date of the new law.*

In addition to continuing to apply the old standards to old cases, it exempts these cases from the new 4,000 annual cap on the number of suspensions of deportations (renamed cancellations of removals). It also exempts from the cap cases of battered spouses and children who receive cancellation. Finally, the legislation extends to all individuals included in the 1990 ABC settlement the substantive standards (e.g., seven years continuous physical presence, extreme hardship) previously available to suspension applicants ~~whether or not they were formally placed in proceedings prior to April 1, 1997.~~ *step* Those individuals whose time to move to reopen their case following a removal order may have otherwise elapsed are granted 180 days in which to do so.

My Administration is committed to working with you for its enactment. If, however, we are unsuccessful in the goal you and I share of just and proper action, I am prepared to use my inherent foreign policy authority to take additional available administrative steps, including [considering] a grant of Deferred Enforced Departure which would provide time-limited protections from deportation for qualified individuals. Enactment of this legislation ensures a smooth transition to the full implementation of IIRIRA and prevents harsh and avoidable results.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

William J. Clinton

The White House, July, \_\_, 1997

# ***FAIRNESS FOR CENTRAL AMERICANS***

## ***What People Are Saying...***

### **FROM THE CONGRESS...**

#### **House Speaker Newt Gingrich (R-GA)**

"...many Nicaraguans fled their homeland and Sandinista tyranny, only to arrive in the United States to be confronted by bureaucratic indecision. In many instances, these cases have been pending for close to twelve years. Despite the challenges they have faced, the Nicaraguan community has greatly contributed to the economic and cultural growth and prosperity of South Florida... Please keep in mind the many families who have so much at stake, as well as the tremendous contributions this community has made to our society. (Letter to Attorney General Reno, June 6, 1997)

#### **120 Democratic and Republican Members of Congress**

"We are writing to urge you to take immediate action to allow these individuals [Central Americans] to have a fair hearing regarding their immigration status... These residents have now suffered in legal uncertainty for a decade in the United States... During their long wait, many of these refugees have become productive residents of the U.S. Many have also started families and are now the parents of U.S. citizens... The new and more stringent requirements are having disastrous effects on these individuals. In addition, mass deportations will create great strains on Central America. (Letter to President Clinton, June 18, 1997)

#### **Senator Connie Mack (R-FL) chief sponsor of Senate bill**

"Ten years ago, in the mountains of Nicaragua, I spoke to thousands of young men who were fighting for freedom. I told them then we would not forget them, and I tell you now we will not forget you." ("Plan to Protect Refugees Gets Bipartisan Support," *The Washington Post*, July 25, 1997)

#### **Representative Lincoln Diaz-Balart (R-FL) chief sponsor of House bill**

"At a minimum, these immigrants deserve consideration under the rules in existence when they applied. Since being admitted to the U.S., these immigrants have made substantial contributions in their communities and many have children who are American citizens. My bill ensures that these immigrants obtain basic procedural justice in recognition of their historically unique circumstances." (September 4, 1997)

#### **Senator Spencer Abraham (R-MI)**

"Today's action [Attorney General's announcement] is an important first step in the right direction to ensure that those affected receive the fair treatment they deserve." (Press Release, July 10, 1997)

#### **Senator Edward Kennedy (D-MA) chief sponsor of Senate bill**

"Attorney General Reno's humanitarian action will make an enormous difference in the lives of thousands of courageous law abiding refugees who fled military death squads and other flagrant injustices in the 1980's." (Press Release, July 10, 1997)

**Senator Connie Mack (R-FL) and Senator Bob Graham (D-FL) chief sponsors of Senate bill**  
"We maintained that reforms of our immigration law should not unfairly change the rules mid-steam for those aliens currently in the United States and abiding by the laws of the land, such as those Nicaraguans who had come forward and applied for suspension of deportation at the encouragement of the Immigration and Naturalization Service... Many of the Nicaraguans in this situation are valued members of their communities, with deep roots in the state of Florida." (Letter to Attorney General Reno, July 11, 1997)

### **FROM THE ADMINISTRATION...**

#### **President Bill Clinton**

"[President Clinton] noted that the United States opened its doors to thousands of 'boat people' from Vietnam, 'where our country did not prevail,' and should not treat differently a region where U.S.-backed democracies have emerged. 'After all, the United States government was heavily involved with a lot of these countries during the time of all this upheaval,' Mr. Clinton said. 'I'm not so sure ... the Congress will be unwilling to recognize the fact that these Central American countries are in a rather special category.'" ("Clinton Delays Deportations Until Fall," *The Washington Times*, May 9, 1997)

#### **Attorney General Janet Reno**

"We must recognize the special circumstances of individuals whose cases were pending when the new law was enacted, and avoid any unfairness that could come from applying new rules to pending cases. We want to ensure that the 1996 immigration law will not have an unduly harsh effect on those individuals who have made vital contributions to their local communities here in the United States, while putting down deep roots in our nation and abiding by our laws." (Press Release, July 10, 1997)

### **FROM THE EDITORIAL PAGES...**

#### ***Washington Times***

"All the refugees want is a hearing based on the conditions at the time when they were granted temporary stay...giving the Central American refugees the fair shake they deserve will also mean giving their countries a chance to stabilize, which, after all, has been the aim of U.S. policy in the region since the Reagan years. That's a good deal all around, for them and for us." ("Righting an Immigration Wrong," August 22, 1997)

#### ***The Miami Herald***

"One [issue] that [Congress] needs to address is the plight of longtime immigrants who unjustly face deportation because of an unfair, un-American law. These people [Guatemalans, Salvadorans, and Nicaraguans] fled U.S.-supported civil wars in their homelands during the 1980s. many have been issued work permits repeatedly and have established families and businesses. They send billions of dollars to loved ones back in their homelands, helping keep struggling economies afloat and dampening illegal immigration to the United States." ("Fix cruel Immigration Law," September 3, 1997)

#### ***The Washington Post***

"What must be remembered is that many of these refugees are in the United States because of special asylum and status-review programs set up for victims of civil wars in which U.S. foreign policy interests were intimately bound. That is why the Attorney General's action drew applause from House Speaker Newt Gingrich and other backers of Reagan-era Central American policy." ("The Central American Refugees," July 14, 1997)

### ***Sun-Sentinel, Ft. Lauderdale, Florida***

"The civil wars in their countries, in which the U.S. had a role of varying degrees, had made life untenable there so they came here - many to South Florida - and put down roots, created families, held jobs, paid taxes and abided by this country's laws... Reno and [U.S. District Judge] King have acted honorably to prevent a stain on U.S. honor and fairness. Now it's up to Congress, which should react responsibly." ("Congress Should Back Reno Order, Let Immigrants Present Their Cases," July 13, 1997)

### ***Los Angeles Times***

"These immigrants fled their countries because of upheavals in which the United States had a hand and they have built lives here; some who came as children are very American young adults... other persecuted groups, from Cubans to Vietnamese, were welcomed en masse." ("A Raw Deal for Refugees: Central Americans Find the Rules for Asylum Changed in Mid-game," April 13, 1997 )

### ***Chicago Tribune***

"Atty. Gen. Janet Reno's July 11 order to halt the deportation of nearly 180,000 Central American refugees prevented a gross injustice and reinforced a fundamental principle of fairness: You can't change the rules in the middle of the game... Speaker Gingrich says he will support legislation to correct this egregious possibility." ("Reno Rides to the Rescue of Refugees," July 19, 1997)

### ***The San Francisco Chronicle***

"Thousands of refugees fleeing danger were given permission to live and work in the United States...They followed the rules, all the while planting roots, bearing children who are U.S. citizens, paying taxes, buying homes. Amending the law will not guarantee that these refugees may stay in the United States. What it will give them is a fair hearing on a case-by-case basis." ("Latino Refugees Face Unfair Deportation," September 8, 1997)

### ***San Antonio Express-News***

"The economy of El Salvador - up to 12 percent of its gross national product - depends heavily on the flow of money from immigrants in this nation to their families back home. Stopping it, economists and other observers contend, could cause the rickety Salvadoran economy to collapse." ("Salvadoran Refugees Hit Hard by Reform," April 28, 1997)

### ***The San Diego Union-Tribune***

"Immigrants who do have TPS [temporary protective status] should be dealt with on a case-by-case basis. Setting the cap at 4,000 was too arbitrary. If more than 4,000 of these war immigrants can convince a judge that they risk permanent harm by returning home, more than 4,000 should be allowed to stay." ("U.S. Obligations: The Fate of Central America's War Immigrants," May 14, 1997)

### ***San Jose Mercury News***

"The convoluted rules applying to this group of Central Americans deserve to be junked. Congress should order the INS to handle their cases under the old, less stringent rules, and to quickly get them out of deportation limbo." ("Immigration Cruelty: U.S. is Reneging on Visa Promise to Thousands of Central Americans Who Have Waited for Years," September 5, 1997)

### ***The Sacramento Bee***

"[These immigrants] are anything but a burden to the American taxpayer, and the fact that they came here in the first place in part because of U.S. policies that helped sustain the wars in their countries only makes imperative what is also right." ("Deportation Dilemma," May 15, 1997)

## **OTHER VOICES...**

**Mayors Alex Penelas (D-Dade County, FL), Willie L. Brown, Jr. (D-San Francisco, CA), Richard M. Daley (D-Chicago, IL), Susan Hammer (D-San José, CA), Sharpe James (D-Newark, NJ), Norman B. Rice (D-Seattle, WA), and Wellington Webb (D-Denver, CO), Marion S. Barry, Jr. (D-Washington, DC)**

"Most of the Central American immigrants affected by these proposals live in our metropolitan areas. During the 1980's, they fled civil war and political oppression and arrived in our cities with little but the clothes on their backs. Since then, they have found jobs, bought homes, opened businesses, paid taxes, and built new lives for themselves and their families. They have proven to be valuable residents of our cities and country." (Letter to President Clinton, September 1997)

**Mayor Richard J. Riordan (R-Los Angeles, CA)**

"These immigrants [Central Americans] have become productive members of our communities and our workforce, contribution to our city's economic, cultural, and social vitality. Eligible applicants deserve the right to appear before immigration judges to argue their individual cases." (Letter to President Clinton, July 14, 1997)

**U.S. District Judge James Lawrence King**

"Seldom, if ever, has such a dramatic, heartrending and powerfully persuasive case of irreparable harm to literally tens of thousands of human beings been presented to this federal court." (Preliminary Injunction, June 24, 1997)

**Saul Solorzano, Director of Central American Resource Center**

"This news will be a tremendous joy to the community... We have to be nervous about the final outcome, but this is a chance for Congress to close a murky chapter in American foreign Policy." ("Reno Challenges 1996 Law As Harsh on Immigrants," *The Washington Post*, July 11, 1997)

**Luis Zuñiga, Cuban American National Foundation**

"There is no difference between Cubans... and Nicaraguans. We all fled from dictatorship. The United States must support us equally." ("Cubans Back Nicaraguan Protesters," *The Miami Herald*, June 14, 1997)

Prepared by the National Immigration Forum, 202-544-0004  
September 8, 1997

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## Righting an immigration wrong

Back in the 1980s when communist regimes and insurgencies swept through Central America, it was clear to many here that those nations were badly in need of help. The Reagan administration took up the cause of the Contras in Nicaragua, offered support for the beleaguered government of El Salvador, even invaded Grenada to prevent communism from gaining foothold in the hemisphere. Despite the best efforts of Democrats to undermine the effort, it was a remarkably successful policy. Today, democracy dominates the region, and economic reconstruction is taking shape.

But there is one forgotten chapter of the story, which could have a less than happy ending. That's the over 300,000 refugees from El Salvador, Nicaragua and Guatemala, who ended up in the United States, fleeing persecution, danger and poverty in their home countries, victims of forces far beyond their control.

The status of the refugees was not exactly legal, but not exactly illegal either. They were granted various forms of temporary protection from deportation, which in accordance with the law would become permanent if certain conditions were met: seven years of continuous residency, a record of good behavior, and proof of hardships awaiting in their native countries. As a consequence, the refugees settled, had children, many becoming a part of the U.S. workforce that Washington knows very well indeed, the nannies, housekeepers and gardeners that so many have come to rely on.

That was until the 1996 Immigration Act changed everything — and did so retroactively. Aimed not so much at the Central Americans but at deterring new refugees, the law capped the number of grantees at 4,000, changed the conditions, and mandated immediate deportation of those who were rejected. To obtain what is now known as "cancellation of removal," a refugee must now have been in the country for 10 years, show good character and demonstrate "extreme or exceptional hardship" to

a U.S. citizen or resident, be that a spouse, child or parent — but, oddly, not to the refugee himself.

Also, the clock "stops ticking" on those 10 years, the moment the INS removal proceedings start. That means that if you applied in good faith after your seven years in the country (as per the 1986 law), and got rejected for having accumulated too little time (in accordance with the 1996 law), you would now be out of luck because you could not accumulate more time. If this sounds Kafkaesque, it's because it surely is.

About 1,000 people were deported before the outcry from the Latin American community and the governments in the region caused the Clinton administration to reverse course. On July 10, Attorney General Janet Reno vacated a Board of Immigration Appeal's decision in a test case, and the deportations were halted, though last week one Nicaraguan was deported, the first since the attorney general's decision. Bills in the House and Senate will be taken up when Congress comes back to fix the unintended consequences of the 1996 Immigration Act and to grant relief from the 4,000 annual cap. All the refugees want is a hearing based on the conditions at the time when they were granted temporary stay — in other words eliminate the element of retroactivity in the law, which indeed only seems fair.

But there is not only the refugees to think of here. If we want the fragile economies of Central America to recover, governments in the region will need breathing space. Nicaragua, for instance, has an unemployment rate of 60 percent and cannot afford to absorb its 250,000 refugees in the United States. Nor indeed can the country afford to without the remittances sent by Nicaraguans here to their families at home. In other words, giving the Central American refugees the fair shake they deserve will also mean giving their countries a chance to stabilize, which, after all, has been the aim of U.S. policy in the region since the Reagan years. That's a good deal all around, for them and for us.

# The Washington Post

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MONDAY, JULY 14, 1997

## *The Central American Refugees*

ATTORNEY GENERAL Janet Reno has stepped in to challenge a ruling that could break an implicit bargain the United States made with Central American refugees in the 1980s and send thousands of them out of the country after years of living in limbo.

The particular issue is whether refugees who fled the wars in Nicaragua and El Salvador should get credit for years spent awaiting adjudication for permanent status. Last year's immigration law, as interpreted by the Justice Department's Board of Immigration Appeal, imposed harsher requirements on refugees seeking to avoid deportation. Previously, relief was given to those who had lived here for seven years, were of good moral character and who would suffer hardship if they were returned to their native countries. The new law lengthened the requirement to 10 years, defined "hardship" more stringently and implied that applicants who had received a deportation order before the law's April 1 effective date could not count the time awaiting a ruling as part of their 10 years in the country. It is this "retroactivity" issue that the Clinton administration is bucking, administratively now and later through legislation.

What must be remembered is that many of these refugees are in the United States because of special asylum and status-review programs set up for victims of civil wars in which U.S. foreign policy interests were intimately bound. That is why the attorney general's action drew applause from House Speaker Newt Gingrich and other backers of Reagan-era Central American policy. Opponents, such as Rep. Lamar Smith (R-Tex.), architect of much of last year's immigration crackdown, view Ms. Reno's challenge as a bow to Central American leaders who implored President Clinton not to send deportees back to strain their economies.

Moreover, immigration adjudication needs to be humane as well as efficient. Applications for permanent status can drag on for years, during which time the foreign resident sinks roots, starts a family, launches a business or develops a serious medical problem. Applying some human understanding to the travails of foreign residents whose applications are "in the pipeline" need not guarantee an excess of permanent residency by those who should be temporary. It simply allows a fairer transition while the decision process creaks along.

# The Miami Herald

www.herald.com

WEDNESDAY, SEPTEMBER 3, 1997

10A THE HERALD, WEDNESDAY, SEPTEMBER 3, 1997

## Fix cruel immigration law

**F**resh from summer recess, Congress returns this week to tackle substantive issues anew. One that it needs to address is the plight of long-time immigrants who unjustly face deportation because of an unfair, un-American law.

Enacted by the same Congress that brought you anti-immigrant welfare reform, a new 1996 immigration law denies the *chance* to gain legal status to hundreds of thousands of Central Americans and others who have lived peaceably in the United States for years. Some of the new law is so shameful that Senior U.S. District Judge James Lawrence King, in a class-action suit in Miami, has ruled that it violates the due-process rights of some 40,000 Nicaraguans with more than seven years in this country.

After Judge King forbade the Immigration and Naturalization Service to deport these class members, Attorney General Janet Reno commendably extended the same protection nationwide to cover an estimated 150,000 Salvadorans and 80,000 Guatemalans as well. These people also fled U.S.-supported civil wars in their homelands during the 1980s. Many have been issued work permits repeatedly and have established families and businesses. They send billions of dollars to loved ones back in their homelands, helping keep struggling economies afloat and dampening illegal immigration to the United States.

### **TASK FOR CONGRESS** Legislators back in session should reverse punitive and unjust new immigration rules.

Unjust immigration law should be corrected. To their credit, a number of legislators have submitted various proposals with that intent, the best of which was authored by U.S. Rep. Lincoln Diaz-Balart, R-Miami.

An administration-backed bill, proposed by Sens. Bob Graham, D-Miami Lakes, Connie Mack, R-Cape Coral, and Edward Kennedy, D-Mass., removes a retroactive "stop-time" rule that unfairly prevents many longtime immigrants from gaining resident status. But an onerous provision that denies immigrants judicial review is most offensive and quite possibly unconstitutional.

Under Mr. Diaz-Balart's legislation, immigrants in deportation proceedings before the new law went into effect last April 1 would rightly qualify for relief under previous, more-favorable rules. The same would apply to Nicaraguans, Guatemalans, and Salvadorans who filed asylum claims before April 1990; many of them have been hurt by tremendous INS backlogs. (It would be better if the asylum provision extended to Haitians and other immigrants, too). Folks covered by the bill also would be exempt from an arbitrary cap that limits to 4,000 the deportations that may be canceled annually.

Much as its earlier budget legislation restored significant welfare benefits to legal immigrants, let Congress now reverse a cruel immigration law's punitive provisions.

TITLE: RENO RIDES TO THE RESCUE OF REFUGEES  
DATE: 07/19/97  
SOURCE: Chicago Tribune; TRIB  
EDITION: NORTH SPORTS FINAL; N; SECTION: EDITORIAL; PAGE: 22  
(Copyright 1997)

Atty. Gen. Janet Reno's July 11 order to halt the deportation of nearly 180,000 Central American refugees prevented a gross injustice and reinforced a fundamental principles of fairness: You can't change the rules in the middle of the game.

Pleas for her to intercede had come from all political quarters, including U.S. Rep. Luis Gutierrez (D-Ill.) and House Speaker Newt Gingrich, and revolved around the retroactive enforcement of immigration reforms Congress enacted last fall.

The story of the refugees who fled to the U.S. during the mid-1980s to escape civil wars in El Salvador, Guatemala and Nicaragua is quite typical. The vast majority were admitted with some sort of temporary permit that was supposed to be sorted out later. It all took place with the full knowledge of the U.S. government, which in most cases also issued work permits.

A similar precedent was the exodus of Cuban refugees during the early 1960s, who came to Florida by the tens of thousands with nothing more than "visa waivers." As the years passed, the refugees obtained permanent visas, and most became U.S. citizens.

When peace finally came to Central America during the early 1990s, some refugees returned to their war-ravaged countries. But most stayed here, tending new families, homes and careers. Most also began applying for permanent status after the required seven-year residency in the U.S.

This legal process was upended by the immigration reform law approved last year--and the subsequent interpretation by an administrative law court--that changed the requirements for refugees seeking permanent residence.

Unable to maintain their temporary status indefinitely or qualify for permanent visas under the new law, the refugees now faced deportation.

Speaker Gingrich says he will support legislation to correct this egregious possibility.

Earlier this year, Congress effectively reversed another attempt at retroactive legislation by restoring benefits for elderly and disabled legal immigrants who already were in the country when the welfare reform law was passed.

Depending on who's talking, last year's reforms were a justifiable response to the explosion in the number of illegal immigrants during the past decade or a deplorable outbreak of nativist hysteria.

The one thing everyone seems to agree on, however, is that changing legal requirements after the fact goes against the grain of basic, all-American fair play.

TITLE: CONGRESS SHOULD BACK RENO ORDER, LET IMMIGRANTS PRESENT THEIR CASES  
DATE: 07/13/97  
SOURCE: Sun-Sentinel Ft. Lauderdale; FLSS  
EDITION: FINAL; SECTION: EDITORIAL; PAGE: 4G  
CATEGORY: EDITORIAL  
(Copyright 1997)

Attorney General Janet Reno stepped in decisively to halt the planned deportation of nearly 300,000 Central Americans who live in the United States. Combined with a compassionate ruling two weeks ago by U.S. District Judge James Lawrence King, Reno's bold decision means these immigrants who fled civil wars are more likely to be treated fairly on a case-by-case basis to determine if they can remain in this country.

A sense of abrupt unfairness hung over the earlier attempt, following a dubious interpretation by the Board of Immigration Appeals, to boot out of the country Nicaraguans, Salvadorans and Guatemalans who were granted special asylum when they arrived here, mostly in the 1980s. The civil wars in their countries, in which the U.S. had a role of varying degrees, had made life untenable there so they came here - many to South Florida - and put down roots, created families, held jobs, paid taxes and abided by this country's laws.

Despite their special status, they were and are illegal immigrants and therefore vulnerable to being deported. When the new immigration law went to effect April 1, these immigrants learned the rules had been changed on them in midstream.

The previous rules said that they'd be eligible for "suspension of deportation" if they had lived in the U.S. for at least seven years, had good moral character and could show that being returned to their homeland would cause them "extreme hardship." The new law, as interpreted, bumped up the length of residency to 10 years, increased the degree of hardship to be proved and otherwise made it tougher to comply.

Judge King rightly criticized the retroactive aspect of these new rules and ordered deportations stopped until a Jan. 5 trial. Now Reno has taken a further step, a giant one, to settle the dispute permanently and fairly.

Within a week, Reno said, the White House will send proposed legislation to Congress that would allow the Immigration and Naturalization Service to consider each case individually. Congress ought to approve the legislation, but if it doesn't, Reno won't hesitate to recommend that Clinton act unilaterally under a legal provision to defer any enforced deportations.

It shouldn't come to that. House Speaker Newt Gingrich supports Reno's decision, and it now seems quite likely that each case of potential deportation will be scrutinized individually.

That almost certainly means many of the Central Americans will be allowed to stay here, which would be just and right for people who are contributing to this society. They were forced out of their homelands in the first place because, in part, the U.S. injected itself into their countries.

Reno and King have acted honorably to prevent a stain on U.S. honor and fairness. Now it's up to Congress, which should react responsibly.

# Immigration cruelty

U.S. is reneging on visa promise to thousands of Central Americans who have waited for years

**A** MID civil war and chaos in the '70s and '80s, hundreds of thousands of Central Americans fled to the United States. Told they could qualify for refugee visas, many have stood in line since, waiting for their immigration papers to be approved. This year, Uncle Sam closed the window and said to many: Go away.

The Justice Department began shipping them back to their countries until Attorney General Janet Reno this summer intervened.

Changing immigration rules midstream is both unjust and cruel, particularly to Central Americans who have over the years been shunted from one program to another. It's time for Congress to clear the ambiguity, and speed the chance for the estimated 300,000 immigrants to become permanent residents.

It would not be unreasonable to offer a blanket amnesty to those who applied under now-defunct programs for Salvadorans, Guatemalans, Nicaraguans. At the very least, justice demands that

their applications be heard under the previous set of rules.

The complications in their cases have been largely bureaucratic. In the 1980s, the litmus test for refugee status was tinged by politics. People escaping from a regime the United States sought to undermine, Nicaragua, were far more likely to be granted asylum than were those fleeing neighboring dictatorships that Washington was propping up. To correct this inequity, the INS granted a reprieve to Salvadorans and Guatemalans.

Then it waited seven years, until last April, to begin hearing applications. In the meantime, Congress revamped immigration law and greatly narrowed the doorway for legalizing people already in the United States. The INS made those changes retroactive, so about 1,000 Central Americans at the head of the line were declared illegal and deported.

Many of those now facing deportation had been encouraged to come out of the shadows and register for the previous protective programs. To do that, they were issued deportation papers first. Oh, just ignore those orders, they were

told; it's just an administrative procedure so that you can get an asylum interview.

Now, it turns out, those assurances were a sham. Not only are those papers important; the date they were issued effectively prevents many immigrants from qualifying for legalization under the new law.

Such cavalier treatment is not only shameful; it also discredits the government and adds to widespread immigrant distrust of the INS and U.S. government.

The convoluted rules applying to this group of Central Americans deserve to be junked. Congress should order the INS to handle their cases under the old, less stringent rules, and to quickly get them out of deportation limbo.

## Editorial

*The opinion  
of the  
Mercury  
News*

**ARTICLES  
ON  
CENTRAL AMERICANS**

IT IS APRIL 1, AND ZILDGHIAN JARQUIN should be thinking about graduation. No. 2 in her high school class, Zildghian (pronounced Zil-gin) should be worrying over her salutatorian speech.

Instead, she is preparing another speech entirely. Only this one is not about idealism and high hopes for the future. It is about disillusionment and despair. She is not going to speak before friends and family as a shining example of America's next generation, but to a group of poker-faced journalists, as a poster child for heartbroken immigrants everywhere.

Even before it is her turn to speak, Zildghian has started crying, tears streaming silently down her cheeks. She tries to conceal her face behind her hand, behind her masses of long, wavy, dark hair, but there is nowhere to hide in the small, crowded room, and everyone can watch her weep.

This is the day that a new immigration law goes into effect, a law that means Zildghian must leave her mother and the new townhouse they bought last year, forget her dreams of medical school, give up her new job designing Internet Web pages, drop her volunteer work with the Miami Coalition, say goodbye to the city where she has lived most of her life, and return to Nicaragua, a homeland as foreign to her as it is to her American classmates.

When it is her turn to talk about this, she can't at first get any words to come. She is, after all, only 17, a young girl confronting a row of TV cameras and a room full of grown-up reporters. Finally, she takes a deep breath and chokes back her tears. Compared with what the United States has ordered her to do, talking to reporters may not be so hard.

"Well, as you can see, I'm very devastated," she begins. "I personally don't think that I deserve this. I believe this is a very cruel law, that many people who are legal citizens are out there stealing cars, doing drugs, selling drugs to kids, you know, getting them addicted so they can make money.

"But I'm over here trying to make something of myself, doing well in school. I have future plans. I wanted to go to medical school and now, because of this new law, I can't even do that. They didn't think about all the bad things that could happen, you know. They don't realize what they're doing to us.

"All they're thinking about is, 'Oh yes, immigrants, immigrants, oh, my God, there's so many of them out here, let's just get rid of all of them.' But they didn't realize what they're doing to us."

What they are doing to Zildghian and thousands of other young people in South Florida is taking them on a dizzying roller-coaster ride, with the possibility that the final destination will be a forced departure from the United States and a return "home." The problem is that, for many, Miami is

the only home they know. For the past eight, 10, even 12 years they have stood in Dade County public school classrooms and pledged allegiance to the flag of the United States of America, with liberty and justice for all. They may be Nicaraguan or Haitian or Cuban by birth, but they are American by allegiance. It came as a cruel betrayal to discover that the country they had thought was their own doesn't want them.

Even in Dade County, where more than half of the residents are immigrants, it has been difficult to get people to understand the human consequences of the sweeping new immigration law. Maybe, thought immigrant advocates, the stories of real people like Zildghian would touch the hearts of Americans who pay little mind to street demonstrations and lawsuits. Maybe, seeing what was happening to people like Zildghian would persuade the government to change the law. The advocates have made some progress. First U.S. District Judge James Lawrence King in Miami and then U.S. Attorney General Janet Reno slammed on the brakes. Nobody in Zildghian's position will be forced out of the country. At least not right away.

Ten days after the attorney general's dramatic



KIM S. GARNICK / Special to The Herald

Zildghian, 17, waited more than half her life for the government to tell her whether she could stay. While she was waiting, she became an American — in all but name.

## AMERICAN

announcement, Zildghian is surprised to learn from Tropic that Reno has stepped into the case.

"I haven't heard anything about it," she says.

For her, the legal maneuvering is too complicated to understand; she doesn't even try to follow the news. Friends describe her as intensely practical, and she is practical about this: It is only an incremental development; it does nothing to resolve the uncertainty in her life. She has real news, news she can grasp: "Guess what?" she says. "I got into Barry!"

Now she has to figure out if there is any way, without being a legal permanent resident of the United States, that she can afford to go there. For her, the operative word is still maybe. Maybe Congress will change the law and let her get on with her life in the country she considers her home. And maybe it won't.

### The Rules Are Different Here

Zildghian isn't an illegal immigrant. Nor is she a legal immigrant. For 10 years, Zildghian and her family have jumped through every bureaucratic hoop the United States has asked them to. They



KIM S. GARNICK / Special to The Herald  
Teresa Jarquin talks with daughter Zildghian, 17, and son Jairo, 25, in their Miami home. They fled Nicaragua's civil war 10 years ago, when kids Jairo's age were being plucked off the street by both sides and forced to fight.

have filed income tax returns and have never taken welfare. They've been granted new work permits every year by the Immigration and Naturalization Service.

Zildghian was 7 years old when, fleeing her country's civil war, she first entered the United States and applied for legal permission to stay. She has been waiting more than half her life for an answer. While she was waiting, she became an American — in all but name.

And all over South Florida,

tens of thousands of others did likewise. Because the government allowed them to enter the country and to work while they waited, they built new lives in this country. They bought houses. They started businesses. They gave birth to American children. They went to school, learned English and started new careers.

Many, like Zildghian, were on the verge of finally escaping from immigration limbo when the U.S. government stopped them cold, with a last-minute provision of the Illegal Immigration Reform and

Immigrant Responsibility Act of 1996 that makes it impossible for them to gain legal status.

Zildghian is a casualty of a national mood that has turned against immigrants, a philosophy that the best way to deter future immigrants from entering illegally is to make life more difficult for those who are already here, even those who did not sneak in illegally.

"It's easy to get lost in the human interest side of the story because that's easy to write and it's easy to see that," says Allen Kay, spokesman for Rep. Lamar Smith, R-Texas, the main author of the law. "But you have to look at policy. These are individuals who were admitted to the United States under temporary conditions and the expectation was that they would return home to their countries. It's time for them to live up to their agreement."

It's the United States that isn't living up to its agreements, immigrant advocates argue. "The bottom line," says Cheryl Little, executive director of the Florida Immigrant Advocacy Center, "is that people who have lived in our community for years, who are hard-working, who pay taxes, who played by all the rules, [are] suddenly being told, 'The rules have changed. We're slamming the door in your face.'"

### The World According to Cosby

Zildghian doesn't remember Nicaragua. "That part of my life is back there somewhere," she says. She digs deeper into the recesses of her mind for any memory of her native land. "The grapes were like \$1 and the eggs were like 50 cents," she finally offers.

Her memory of the U.S. television shows of the late 1980s and early 1990s from which she learned English is considerably clearer: *Punky Brewster*, *Diff'rent Strokes*, *Silver Spoons*, *Growing Pains*, *Bill Cosby* ("I loved that show!").

As young as she was, adjustment to a new country wasn't that hard. "I remember I would get picked on because I didn't know English," Zildghian says of her early days in Miami. She recalls one little girl in particular who would switch to English when another friend came up; then the two playmates would laugh at her.

But within a few years she had mastered English, which she now speaks better than she does Spanish. "I learned it pretty quick," she says. "By the third, fourth grade, I was already catching on."

She caught on so quickly that after 2½ years, Zildghian no longer needed to be in the special classes for non-native speakers. Most immigrants attend these classes for four or five years,

says Annette Marcus, who was Zildghian's fifth-grade teacher, and who now hires the teen to baby-sit her 3-year-old daughter.

Marcus remembers Zildghian as tall and a little bit awkward, especially in physical education classes, speaking English with perfect grammar but with a strong accent, which she has since lost. The little girl was unfailingly thoughtful and polite, characteristics she has not lost.

"I mispronounced her name horribly for a long time, and she never corrected me because she was so sweet," Marcus says.

Even at age 10, she was so serious about her school assignments that Marcus once found her working in her English workbook during a class video and pizza party.

The next year she was in the gifted program. Jeff Marcus, Annette's husband and Zildghian's elementary school art teacher, helped her get into the photography magnet program at Allapattah Middle School, where she won awards for her black-and-white nature photography.

"She's brilliant," says Jeff Marcus. "She's one of the most driven and motivated students I've ever run across."

Zildghian excelled in school, especially in her favorite subjects of math, science and English. She was student of the year her junior year at the University of Miami/Knight Center School of Applied Technology and was senior vice president of the student government. In her job at Galaxygate, she helps build Internet Web pages for businesses.

The week before the tearful press conference, she answered phones for WLRN-TV's fundraising telethon. She has spent hours at Regis House counseling other young people with drug or pregnancy problems. She has worked as a volunteer for the Miami Coalition, the United Way, St. John Bosco Church and her high school.

What motivated her to volunteer?

"I liked it," she responds.

On Feb. 24, the United States gave her a year to leave the country.

"I liked it," she responds.

On Feb. 24, the United States gave her a year to leave the country. Reno's decree means she probably won't have to go. But she won't be able to get on with her American life, either, because she still won't be a legal resident.

"It's ridiculous," says Jeff Marcus. "This is one that's going to be a positive influence on society. This is a

### Hand the Girl a Tissue

Zildghian is very much the all-American girl. She carries a beeper, an essential accessory of Miami youth. She has a car, a white Toyota Corolla she bought with money she earned working in a restaurant. She has a golden

cocker spaniel named Sunshine. And she has a boyfriend, 21-year-old Moises Santiago, who graduated from Miami High. The two spend their time doing the usual: hanging out at Bay-side, going to nightclubs, seeing movies, taking the dog to the park. The teenagers they know, say Zildghian and Moises, aren't going around getting into trouble. Staying straight, doing the right thing — "It's never been hard for me," she says.

Life had been going great for Zildghian, her mother and her 25-year-old brother, Jairo. In 1995, her mother, whose immigration case was being considered separately, won permanent residency. She bought a new townhouse in Melrose Park, which Zildghian and her mother decorated together — white tile floor, off-white Haitian cotton couches, Zildghian's framed *quince* picture on the wall.

When they closed on the townhouse, Zildghian translated all the closing documents for her mom, who speaks little English.

Because of her excellent grades, Zildghian's chances at scholarships and financial aid looked very good. She was hoping to attend Barry University, a private Catholic school, because it was small and close to home.

She had just one more hurdle to surmount on her way to a degree in science and then medical school: She needed to become a legal permanent resident of the United States.

Zildghian doesn't understand why her case lagged so far behind her mother's. But she wasn't worried. Her residency hearing on Feb. 18, 1997, was expected to be a formality. With flawless English, stellar aca-

demic record and extensive community service, she and her lawyer thought she would have no trouble.

It didn't go exactly as Zildghian hoped, but she still wasn't upset. The INS had no objections, but the judge wanted her to come back the next week with her income tax records. After 10 years in the United States, one more week wouldn't matter.

What Zildghian and the judge and her lawyer didn't know was that up in suburban Washington, D.C., an obscure arm of the U.S. Justice Department was weighing her future and that of thousands of other South Floridians. And, on Feb. 21, the Board of Immigration Appeals dropped a bombshell. The new, tougher immigration law — advertised as a way to deter future illegal immigration — would be applied retroactively, even to people who came during the 1980s upheaval in Nicaragua with the tacit approval of the U.S. government.

In all, the lives of perhaps 40,000 people who had been living in South Florida for years were thrown into turmoil.

Zildghian's lawyer, Gons Nachman of the Florida Immigrant Advocacy Center, heard about the ruling within hours at a Miami conference of the American Immigration Lawyers Association. The conference grew very quiet as the lawyers realized that thousands of their clients had just had their lives upended. "I was picturing Zildghian," Nachman says. "I didn't know how I was going to tell her."

Rather than have her be surprised in court when the judge refused to hear her case, he told her himself, in his office, the day she was to return to court. He tried to be positive. "I told her that this would not be the end of it," he said, that the lawyers would fight the decision all the way to the U.S. Supreme Court.

"She was kind of quiet, for obvious reasons," Nachman says. "She did ask me about college."

Zildghian remembers the day "like it was yesterday," she says. Nachman's attempt to soften the blow didn't work. "I was still shocked," she says. "I was devastated. I was, like, I couldn't believe it."

The hearing was at 4 p.m. The news — that she no longer qualified for U.S. residency — sounded even harsher delivered by Judge Phillip Montante.

"He said, 'I'm sorry. I can't do anything for you. My hands are tied,'" Zildghian remembers.

She cried. The judge apologized several times and handed Zildghian some tissues. Nachman had trouble talking. "It was a very sad moment," he says. "You're the advocate. You're supposed to be able to help her. But I didn't have any tools to help her."

The judge was as generous as he could be — he gave Zildghian a year to leave the country voluntarily.

Suddenly a young woman bound for medical school was facing a stark choice: go back to an unstable country where she has little chance of a professional career, or seek out a menial job as an illegal worker in Miami's burgeoning underground economy.

She skipped her appointment at Barry University to discuss scholarships and financial aid. Without being declared a lawful permanent resident, she was ineligible for either.

"At first I was giving up," she says. "I was just freaking. I wasn't even going to apply."

And the same experience was repeated over and over in Miami's immigration courts, as people who had qualified for legal residency just days before were told that they no longer

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would even get a hearing. Some of those who had won their cases last fall had their favorable rulings reversed, and they were thrust back into an immigration limbo from which most escape routes had been barred.

The ruling meant wives and children might win residency, while husbands and fathers who were the breadwinners would have to return home and reapply for admission. It meant the end to dreams of professional careers for hundreds of students like Zildghian who had already been educated at Dade County taxpayers' expense and were ready to start contributing to their adopted country.

It disqualified doctors and delivery-truck drivers, a pharmacy student, a city of Miami computer programmer, an assistant pastor and youth group leader, a mother who has two children in the U.S. Army, and an 18-year-old Haitian college student who came here at age 10 after seeing the military murder her mother.

**Catch-22**

Under the old immigration law, anyone who had been in the United States for seven years — illegally or not — could apply to become a legal permanent resident. The immigrant had to prove that he or she had good moral character, and that deportation would be a hardship.

Under the new law, an immigrant must have been here 10 years and must prove that leaving the United States would result in "exceptional and extremely unusual hardship" not to himself or herself, as before, but to a U.S. citizen or legal permanent resident spouse, parent or child.

Since Zildghian's mother is a legal permanent resident, she may still be able to do that. But Reno's decision to intervene — blocking the threat of imminent deportation — also may clear the way for people whose cases were pending before April 1, people like Zildghian, to qualify under the old law. But now, only 4,000 people in her situation can be granted legal residency each year. There may be 250,000 people who qualify, people who fled wars in Nicaragua, El Salvador and Guatemala a decade ago and have been living in limbo in the United States ever since. As things now stand, it would take more than 60 years for all of them to become residents.

The unlucky majority most likely won't be deported, and they will be permitted to work. But it will be difficult for them to get loans from banks, to join the U.S. military or to do what Zildghian wants to do — get the grants, loans and scholarship she needs to go to college and medical school. In short, people who want nothing more than to assimilate and join the mainstream of American life have been forced to wait on the sidelines. Again.

**A Wink and a Nod**

In Managua, where Zildghian lived until 1987, power failures were frequent and running water was cut off completely two days a week. But as with many families, what moved the Jarquins to leave was fear of having to send their young son to war.

"They would go around to the houses and get the young boys. I forget which kind of government," Zildghian says now, confused between the Sandinista government and the U.S.-supported Contra rebels who competed to exert control over their lives.

Jairo was 14, not old enough to be officially drafted, but old enough for his parents to fear an unofficial draft. They knew teenagers were being snatched off the streets and sent straight to the battlefield. "When they came back, they came back dead," says Teresa Jarquin.

Like many parents, the Jarquins sent their son alone to Miami to live with a relative. But they decided they didn't want him living here without them. Zildghian and her mother got three-month tourist visas. Her father and another brother, unable to get visas, walked across the Mexican border and made their way to Miami.

They applied for political asylum within a month — giving them the right to stay until their asylum case was decided. They were granted Social Security cards and work permits. The case was put off for months and then years. Before it could be heard, her parents separated and her father and middle brother returned to Nicaragua.

Teresa, Jairo and Zildghian remained in Miami. Their request for political asylum was denied in 1991, along with thousands of other similar cases. They could have appealed, but appeals are expensive. They agreed to return voluntarily to Nicaragua the following year, but the "voluntary" departure was never really meant to be enforced; U.S. policy effectively barred the deportation of Nicaraguans. Under the "wink and nod" policy of the time, Teresa Jarquin's work permit was never revoked. Meanwhile, Zildghian was doing well in school, and Nicaragua remained unstable. "I stayed. I stayed,"

## AMERICAN

Teresa says.

U.S. lawmakers periodically debated what to do about the Central American war refugees, but they never could settle upon a policy. Finally, in 1995, the INS began a public-relations campaign, urging Nicaraguans — even those whose asylum cases had been denied — to come forward and apply for permanent residency.

It took Teresa Jarquin some time to find a lawyer who would take their cases without pay, but she finally did and won residency in 1995. Zildghian's case was reopened the same year, and for two years she waited for the INS to schedule her hearing. She was still waiting when the rules changed.

### A Change in the Program

Zildghian and Moises are seated next to each other in a booth at the Swensen's across from the University of Miami, eating hot fudge sundaes, their favorite. They joke and giggle,

telling about how many times they ran into each other — at Calle Ocho, at Miami High, his alma mater, at Burger King — before they finally started dating.

He answers the question about her favorite music groups: Grupo Mania, a merengue band from Puerto Rico, and Bachata, from the Dominican Republic. And slow music, he says. Air Supply and Whitney Houston, she says.

Do they dance? He squirms. She says, "I love to, but he's kind of like . . ." He shrugs and tries to explain he doesn't really know how, he's embarrassed . . . "You know how," she admonishes him. "He knows how to dance, and he won't dance," she says in frustration.

Moises is just back from two months in Puerto Rico, visiting his mother. The two of them are just now facing the phone bills from their daily calls. Zildghian would love to see Puerto Rico,

and technically there's no reason she can't go — she's legally present in the United States and going to Puerto Rico theoretically requires no immigration formalities.

But travelers returning from Puerto Rico are interviewed by immigration agents searching for people from other countries who are trying to enter illegally. Moises was quizzed at length upon his return to Miami. Jacqueline Corporan, a lifelong U.S. citizen born in Puerto Rico, spent three days in the Krome Detention Center in February before she was able to convince immigration officials her passport wasn't a fake.

They have decided that this is a good time for Zildghian to go to Puerto Rico. So they're going to vacation in Florida — her job is on summer hiatus and she is in-between work permits. They'll drive to Key West, cameras in hand, with Zildghian's brother, then to Busch Gardens in Tampa with Zildghian's mother, and maybe take a cruise to nowhere.

Both love dogs, and they swap stories about Sunshine. "When I took him to my house, he was all scared," Zildghian remembers. Now he's much bolder, grabbing food away from a neighbor's party and bringing it home to them, managing to get up on the table to eat her brother's Chicken McNuggets, following a duck all the way into the water at the park. "That dog is so funny," she says, laughing.

She hasn't discarded the idea of being a veterinarian, but she wants to limit her practice to certain animals, like dogs and cats. She'd love to have a tiger or a leopard. No lizards and snakes on the patient list, though. Baby animals of all kinds would be even better. "I think they're so cute," she says.

When Zildghian speaks of Nicaragua, she speaks as any American would of a backward

Third World country she knows only from geography books. Raised in Little Havana, she envisions a level of crime unimaginable even to a child of urban Miami. "Over there, you're wearing gold earrings, they'll snatch them off your ears," she says.

"My dad tells me there are kids begging at every stoplight," she says. She talks to her father, who runs a small mini-mart in Managua, once every month or two. But he has another family, including a baby, and has already told her he can't send her to college.

She doesn't normally follow the news much, but she does know about the student demonstrations at Managua universities that have turned violent, another reason to fear Nicaragua.

And even if she could get into a Nicaraguan university and pay the fees, could she study university-level material in Spanish? "No," she says. "I'll be so lost. It's going to be like learning a new language."

"I have my life made up here," she says. "All my dreams are here. . . . Over there in Nicaragua, even doctors can't get jobs."

Zildghian doesn't like talking about her immigration case. But her lawyers have told her that allowing the press to interview her will help others, so she puts aside her natural shyness and tries to answer the questions about a legal process she only partly comprehends. As her mother explains some of the intricacies, she closes her eyes, appearing almost to doze off.

"I try not to think about it," she says. "If I follow too close and I hear bad news, I'm going to be like, 'Oh, my God.' So I just hear what people tell me."

Most of her friends were born in the United States, so they're not living with the same uncertainty.

"All they tell me is not to

worry about it, that everything's going to come out OK, and if I need anything to call them — and to have faith." Most of the time, she says, she does.

After the press conference, Zildghian appeared on Spanish-language TV, though the English stations and the local newspapers didn't give it much coverage. And she never did give her salutation speech at graduation. She asked if she could do something else instead.

So she stood before the assembled graduates, their families and friends in the downtown Knight Center. Then she led them all in the Pledge of Allegiance. ☛

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TERESA MEARS is a Miami freelance writer.

TITLE: Salvadorans, Guatemalans anxiously seek U.S. asylum  
BYLINE: Anna Cearley  
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In the midst of a civil war in Guatemala, a group of military men stationed in a remote mountain village invited the local soccer team to a match.

It sounded innocent enough. But Rufino Miguel Morales, now living in Vista, was skeptical. He was afraid the game was an excuse to round up villagers that the military suspected were leftists.

So even though he was a team member, he decided to stay away. Morales' team won. And a few days later, the team member who kicked the winning goal was found dead -- his lips, ears and one leg cut off.

Morales and his other teammates feared they would be next. Perhaps, Morales started to think, the military would suspect him of being a leftist because he did not show up for the game. He fled his village and arrived in the United States in 1992, where he sought asylum. Last year, asylum officers determined that Morales would be at personal risk if he returned to his home country, and they granted him approval to stay here legally.

"It is a great relief," he said. "I do not want to return there."

At least 240,000 Guatemalans and Salvadorans who fled their countries' civil wars prior to 1991 are hoping to share that relief.

A court settlement put on hold asylum proceedings of Guatemalans and Salvadorans who arrived prior to 1991 so that the INS would meet certain criteria, such as training a special team of asylum officials. The team started tackling those cases earlier this year by sending out notices to applicants to attend interviews at specified dates and times.

Morales, whose immigration proceedings went faster because he arrived here after 1990, spoke before several hundred Guatemalans in North County this year to let them know what to expect and to encourage them to attend their interviews.

But the notices have not reaped a strong response. About 25 percent of 4,000 interviews scheduled so far in the American Southwest have actually taken place, said INS authorities. Immigrant-rights officials say a number of factors explain the low-show rate.

Many applicants, who depend on farming and other labor jobs, may find it difficult to take a day off, they say. Others have limited transportation. Some may be evading the interviews

while others simply may not understand their importance.

"It's almost impossible to expect them to understand completely a legal system as archaic and complex as political asylum when the legal process is completely foreign to many in the United States," said Jeffrey Ponting, an attorney with the California Rural Legal Assistance, a migrant advocacy group.

Immigration officials estimate that with such logistical challenges, it will take them about two years to get through the applications. Meanwhile, for many Guatemalans and Salvadorans, the process is forcing them to recall painful events that often involve the death of families and friends.

These days, civil wars no longer rip through El Salvador and Guatemala. Peace accords went into effect in El Salvador in 1992, and in Guatemala just last year.

But during the 1980s, with the Cold War in full swing, the countries became localized stages of the global conflict between East and West. Human-rights violations were rampant during the wars, many of them committed by death squads against guerrillas and civilians.

Many fled to the United States in the 1980s. An estimated 1 1/2 million Guatemalans and Salvadorans now live in this country.

In San Diego County, only several hundred Salvadorans opted to stay. An estimated 5,000 to 15,000 Guatemalans, however, are believed to live in the area, working in agriculture or seeking jobs.

The lawsuit that allowed some of them to remain here with limited hassle for such a long time was that of American Baptist Churches (ABC) vs. Thornburgh.

High asylum denial rates -- between 97 and 99 percent -- for Salvadorans and Guatemalans prompted religious organizations to provide refuge to the immigrants. When indictments were issued against church representatives in several states for doing so, the groups filed the suit in 1985.

Under the 1991 settlement, the U.S. government agreed to train special asylum officers to resolve pending applications. The officers would be well versed in the history of the countries and up to date with the countries' current situations.

In addition, the settlement called for all asylum proceedings interrupted by the lawsuit's filing to be started again.

And it affirmed that immigration officials could not use ideological considerations and foreign policy concerns in determining whether an applicant has a well-founded fear of persecution, the reason for receiving asylum.

The Los Angeles region of the INS, based in Anaheim, now has 80 trained asylum officers

who specialize in ABC cases but also conduct asylum cases from other countries.

The officers were given training on the two countries' political conditions and on how to conduct interviews and determine their decisions. They started hearing cases -- those that showed up for the interviews -- in April.

Nationwide, about 3,500 of the estimated 240,000 ABC cases have been reviewed since April. An estimated 9 percent -- a little more than 300 -- have received preliminary approvals.

INS authorities say one factor that could have been scaring away applicants was that between April and July, those whose cases were denied would have had little recourse to prevent deportation.

But Attorney General Janet Reno determined in July that ABC applicants, among other immigrants, may apply for suspension of deportation if their cases are denied. That allows them to seek other options through the immigration system to reside here legally.

To inform the Guatemalan community about the importance of the INS interview process, California Rural Legal Assistance recently sponsored educational forums at several North County churches.

Many immigrants come from communities in Guatemala where the army and guerrillas were active. Survival became a tricky and dangerous game of trying to convince both sides that they were supporters. Generally they could do so for only so long until they either had to take sides unwillingly or leave the country.

Attorney Ponting said that to gain asylum, applicants must show they have been persecuted in the past and fear future persecution based on race, religion, nationality, membership in a social group or political opinion.

To explain this and other aspects of the asylum process, the forums in North County included mock interviews featuring Morales, who played the role of himself. Ponting played an INS officer.

Afterward, Morales said it remains difficult to talk about the events that led to his departure. He formerly lived with his father in a hamlet called Nuevas Maravillas, outside the town of Sibinal.

To this day, he has no idea where his father is or whether he is even alive.

His wife, Blanca Olivia Ramirez-Martinez, also does not know where many of her family members are. She met her husband on a bus going through Mexico after she fled from her Guatemalan village of Chalhuitz.

There, soldiers had taken her father from her side as the two walked to market. She never

saw him again. A few days later, soldiers came to the village and killed 25 of the men before burning villagers' homes. One of those killed was forced to dig his own grave. She also received asylum in 1996.

Supervisory asylum officer Joseph Roma said the ABC asylum officers understand that peace on paper doesn't necessarily mean that peace has been integrated into the society.

"We look at these on a case by case basis," he said. "We look to see if the applicant has been persecuted in the past and at the changed country conditions.

"Even if there is durable and fundamental change we still may grant (asylum) where the harm was so atrocious that it would be inhumane to send anyone back to the country where they were persecuted."

During the workshops, done in Spanish and translated into the Indian dialect of Kanjobal, Ponting provided other tips to applicants to smooth over cultural rifts that could trip up applicants. An estimated 300 Guatemalans in North County are believed to be ABC applicants.

Ponting said there is a tendency among some to defer to authority figures. But sometimes efforts to be acquiescent to officials can play against the applicants.

Another tendency Ponting focused on was that of eye language. Casting one's gaze downward is viewed as a demonstration of respect in some cultures, but here in the United States it can come off as being somewhat shifty.

So Ponting reminded those at the meetings to practice a firm gaze. He also walked them through some of the Byzantine twists of immigration law.

Pascual Marcos, 26, listened carefully. Afterward, he said he understood better the immigration process. But he said he dreads retelling his story and fears even more the possibility of being forced to return to Guatemala.

"It's difficult to think about since there were many killings of innocent people," he said. "Even though there is peace, my people still aren't really free."

ART: 1 PIC;

Caption: New home: Rufino Miguel Morales and his wife, Blanca Olivia Ramirez-Martinez, received asylum in the United States with the help of California Rural Legal Assistance.

(A-22);

Credit: HOWARD LIPIN / Union-Tribune

REGION: US NME; UNITED STATES; NORTH AMERICA

DESCRIPTORS: ASYLUM; KILLINGS; LATIN AMERICA; SAN DIEGO; USA; WAR;;  
LAW ENFORCEMENT

# Cubans back Nicaraguan protesters

By MARIA TRAVIERO  
Herald Staff Writer

Supported by numerous Cuban exile groups, about 1,000 Nicaraguans rallied Friday outside the district offices of the U.S. Immigration and Naturalization Service, 7880 Biscayne Blvd.

Shouting, "We're not leaving; we're staying" and "We want permanent status," the Nicaraguans restated their demand for legal residence in this country.

South Florida Cubans support the Nicaraguans because their cause is just, said Hugo Arza, leader of the Cuban Patriotic Junta.

"Today, Nicaraguans are deported; tomorrow, it could be us," he said.

On Thursday, U.S. District Court Judge James Lawrence King postponed ruling on a lawsuit by 40 Nicaraguans that asks the federal government to halt the deportation of undocumented Nicaraguans and other immigrants and to stop applying the new immigration reform law retroactively.

INS officials agreed to abide by King's request that no one be deported until he can issue a decision, which he promised to do "as soon as I reasonably can."

Jose Basulto, founder of Brothers to the Rescue, urged Cuban protesters to back the Nicaraguans because "they are brothers who, like us, have suffered the ravages of communism."

To Luis Zuñiga of the Cuban American National Foundation, "there is no difference between Cubans, Haitians and Nicas. We all fled from dictatorship. The United States must support us equally."

A delegation of two Nicaraguans and two Cubans delivered a note to INS authorities, asking for a halt to the deportation of Nicaraguans.

The note also asked for the release of all Nicaraguans held at the Krome Detention Center and that Pablo Vanegas, a Nicaraguan prisoner transferred from Krome to a Pensacola prison, be returned to Florida. Late Friday, the INS announced it would return Vanegas to Krome.

The rally marked the first time that Cuban groups joined Nicaraguans publicly in their quest for permanent status. In recent weeks, many callers to Spanish-language radio talk shows criticized openly what they called the Cuban community's indifference to the Nicaraguans' plight.

Salvador Castellon, a leader of the Support Bloc for Nicaraguan Unity, said the rally

was not as large as he and other organizers had wished for. Many of his compatriots took Thursday off from work to participate in a demonstration outside federal court in Miami, he explained, and could not afford to take off another day.

Besides, he said, to many Nicaraguans, showing up at the INS offices "is like walking into a wolf's jaws."

*Herald staff writer Andres Viglucci contributed to this report.*

Goal permanent residents for as many as possible

amnesty not possible —

war refugees, go home  
anti-immigrant sentiment

new law —

cap no

move the goalposts

NTB

Clinton - Costa Rica

- action in community

- Dems in Congr

- Reps SF

AG changes court decision

legislation — cap

— no retroactive

— include as many people as possible

Leg strategy

Admin

MOMENTUM MATTERS

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## **FIVE REASONS WHY THE ADMINISTRATION AND CONGRESS SHOULD DO RIGHT BY CENTRAL AMERICAN REFUGEES**

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*Throughout the late 1980's and 1990's, Central American refugees fleeing civil wars were given permission to live and work in this country legally while it was dangerous for them to return home. These refugees, now having lived here for at least seven years, are eligible to apply to remain in the U.S. permanently—a form of relief called "Suspension of Deportation." However, the 1996 Immigration Act changed the rules of this relief and, if applied retroactively, will make it impossible for these Central Americans to qualify. Legislation has been introduced in Congress to clarify that the new rules for what is now called "Cancellation of Removal" would not be applied retroactively. In the meantime, the Attorney General is reviewing the law, and will soon decide whether the law mandates that the rules should be changed on those who were here prior to the new immigration law (see accompanying background). Here's why the Congress and the Administration should do the right thing:*

### **1) Give Refugees a Fair Hearing**

When Congress passed and the President signed the 1996 immigration law, they did not intend to force out of the country tens of thousands of Nicaraguans, Salvadorans and Guatemalans who are legally residing in the United States. These refugees have sunk roots, worked hard, and obeyed our laws. They should, at a minimum, have a full and fair hearing. The Congress and the Administration need to take action to avert a mass deportation and give this defined group of Central American refugees their day in court.

### **2) Don't Change the Rules in the Middle of the Game**

It is patently unfair to change the rules in the middle of the game on those who are already in the pipeline and have played by the rules. These refugees were promised by the federal government that they could live and work in the U.S. legally until they could apply for waivers from deportation as soon as they became eligible. Now, the new immigration law may make it nearly impossible for these refugees to avoid deportation.

### **3) Prevent the Destabilization of Central America**

The sudden repatriation of tens of thousands of Central Americans would seriously threaten the stability of the region. Nicaragua, El Salvador, and Guatemala are fledgling democracies struggling to get on their feet after decades of civil war. They are in no position to absorb so many people so quickly, nor to lose the millions of dollars those residing in the U.S. send to family members in Central America. With ongoing violence, political instability, and high unemployment providing the kindling, a massive repatriation could be the spark that re-starts the fires of violent civil conflict.

#### **4) The Refugees Have Earned the Right to Be Treated Fairly**

Having fled civil war and political oppression, and having arrived with little but the clothes on their backs, they have built new lives, opened businesses, purchased homes, grown families, obeyed our laws, and established themselves as valuable residents of our nation. They are required to pay taxes, but they are not eligible for government benefits. Now, all they ask for is an opportunity to have their day in court. They deserve no less.

#### **5) Keep Families Together**

Many Central Americans with temporary legal status are parents who now have U.S. citizen children who have never lived in Central America. Forcing the parents to leave the country will compel these individuals to make an agonizing choice: return to their country of origin and leave their children behind with permanent resident relatives; or uproot U.S. citizen children and return to an unstable homeland these kids have never seen. No family should be put in such a situation.

## RELIEF FROM DEPORTATION FOR CENTRAL AMERICAN REFUGEES

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Congress is now considering legislation to clarify that a provision of the 1996 Immigration Act will not be applied retroactively to immigrants who had applied for a form of relief from deportation. The 1996 immigration law changed the rules, making it much more difficult to get relief. Most affected by the Attorney General's announcement will be thousands of Central Americans from El Salvador, Nicaragua, and Guatemala who have been in this country legally under temporary protection from deportation while civil wars in their countries made it dangerous for them to go home. As the years went by and these Central Americans established roots in this country, they expected to have a chance to apply for relief from deportation under pre-existing rules.

**Relief From Deportation – Changing the Rules Midstream.** The Central American war refugees have been permitted to stay in this country for a number of years under various forms of *temporary* protection from deportation because the President, the Congress, and the Courts recognized the danger in sending people back to countries racked with civil war and brutal political violence. Nicaraguans received special consideration under the "Nicaraguan Review Program." Salvadorans were granted "Temporary Protected Status," and when that expired were allowed to stay by "Deferred Enforced Departure." Salvadorans and Guatemalans were put in line for consideration of asylum claims when a court settlement in the "American Baptist Churches" lawsuit (ABC) provided a remedy to the unfair treatment they received when the asylum process in this country was tainted by political considerations.

They were here for many years. In the course of their stay, many set down firm roots here—marrying U.S. citizens, having children, starting businesses and buying homes. After so much time, they became eligible for *permanent* settlement here under a provision of law known as "Suspension of Deportation." Our laws recognize that, once an immigrant has been in this country for a very long time and has built up so many "equities," she should be allowed to stay, if she can show that hardship would result if she were uprooted and sent back to her home country. Specifically, under pre-existing rules, an individual could apply for "suspension of deportation," if he could establish continuous residence in the U.S. for seven years or more, "good moral character," and that deportation would result in extreme hardship to himself or to his U.S. citizen or permanent resident family members.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 made it much more difficult to obtain this kind of relief from deportation. To obtain what's now called "cancellation of removal," an individual must show *10 years* of residency, good moral character, and that deportation would result in "*extreme or exceptional hardship*" to a U.S. citizen or permanent resident spouse, child, or parent. *Hardship to the immigrant applicant no longer counts.* Compounding the new tougher hurdles, the new law stipulates that once removal proceedings

begin against an immigrant, time spent in the U.S. *does not count* towards the 10 years of residency required to qualify for this relief—even if these proceedings last many years or are suspended due to some form of temporary protection from deportation. The new law also places a limit of 4,000 per year the number of immigrants granted relief from deportation who can adjust their status to become permanent residents of the U.S.

**The Attorney General Acts.** On July 10, 1997, the Attorney General announced that she would vacate and review a decision of the Board of Immigration Appeals (BIA) in the Matter of N-J-B. The BIA had decided to apply the 1996 Immigration Act retroactively to immigrants who had applied for Suspension of Deportation. Should the Attorney General decide that the BIA was not correct in applying the law retroactively, applicants for relief from deportation—including the Central American war refugees—may have their applications considered on a case by case basis, under the pre-existing rules. That is, they would still have to show that they have resided in the U.S. for at least seven years, are of good moral character, and that their deportation would be an extreme hardship to themselves or a U.S. citizen or legal permanent resident family member. A decision not to apply the new rules retroactively is not a blanket grant of amnesty. Immigrants would still have to show that they are individually entitled to the relief. In the meantime, while the case is under review in the Justice Department, immigration judges are not bound to apply the law retroactively.

**Why Is This Significant?** Whether or not to apply the new law retroactively will have a profound effect. Individuals who would qualify for relief from deportation under pre-existing rules will not be uprooted from family, jobs, and the country which they now consider home. Additionally, there is a broader significance which effects the relationship between our country and the now newly stabilizing countries of Central America.

As the Central American war refugees moved their way up economically, the money that they sent back home assumed an increasingly significant role in the economic development of the Central American countries emerging from civil war. Leaders of these countries have recognized the stabilizing influence of their expatriate citizens in the U.S., and have pointed out to the Clinton Administration that sending tens of thousands of people back to countries just emerging from civil war will prove enormously destabilizing. Jobs will have to be found for all, and in the meantime, resentment may build to a point where these countries may again be plunged into war—triggering another exodus of refugees for countries to the North, including the U.S.

**The Writing on the (Court) Wall.** Advocates and immigrants are not the only ones suggesting that changing the rules midstream on immigrants seeking relief from deportation is unfair. On June 24, 1997, a federal district court in Florida issued a preliminary injunction in a class action lawsuit covering individuals in Georgia, Alabama, and Florida who would be denied suspension of deportation because of the INS's retroactive application of the 1996 Act. The court found that the retroactive application of the new rules pertaining to cancellation of removal is not consistent with the 1996 Act, and ordered INS not to enforce the BIA's N-J-B decision and to stop deporting individuals covered by the class. A trial to decide on a permanent injunction will begin in January of 1998. If the lawsuit is ultimately won by the immigrants, they will be eligible to

apply for suspension of deportation under the rules that pre-dated the changes made by the 1996 Act. In acknowledging the irreparable harm that would result if INS's interpretation of the law were not halted, Judge James King said, "[s]eldom, if ever, has such a dramatic, heartrending and powerfully persuasive case of irreparable harm to literally tens of thousands of human beings been presented to this federal court."

**Legislation: The Path to an Ultimate Resolution.** The situation of the Central Americans is unique. They had been allowed to stay here and received work authorization while they were temporarily protected from deportation. They had been encouraged to seek a resolution to their situation under the pre-existing rules for suspension of deportation. Congress changed the rules in 1996 and now the question is, will we treat these people fairly, or will we apply the rules of the new law retroactively, making it a near certainty that these immigrants, who now have firm roots in the U.S., will be sent back to countries they have not seen for a decade or so.

While Congress is debating the legislation that will ultimately be needed to clarify how these individuals are to be treated, the Clinton Administration must take further actions allowed by the ambiguous wording of the 1996 Act. These actions include deciding that the rules for cancellation of removal in the 1996 Act will not be applied retroactively to individuals who have already applied for Suspension of Deportation. This would allow these individuals to proceed with requests for relief from deportation and be judged by the legal standards that applied under the pre-existing law. Administrative actions might also include providing some form of temporary relief to calm community fears—until there is clarification on whether the new or the pre-existing rules apply. The administration could also continue to grant relief from deportation beyond the 4,000 annual cap placed by the new law on persons seeking to become permanent residents by this route.

These and other administrative steps are within the power of the Attorney General to implement as the law is now written. Ultimately, however, the final step in the saga of these immigrants will require legislation—which will allow these immigrants to adjust to permanent resident status without regard to the 4,000 visa annual cap which now promises to put many into a decades-long backlog should they be granted relief from deportation.

**S. 1076, "Immigration Reform Transition Act of 1997"**  
**H. R. 2302, "Immigration Technical Revisions Act of 1997"**  
**Summary**

**Background:** The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) changed the rules for a form of relief from deportation, called "Suspension of Deportation," available to certain immigrants who have been living in the U.S. for many years. To qualify for Suspension of Deportation, an individual needed to prove seven years of residency in the U.S., good moral character, and that deportation would result in "extreme hardship" to herself, or to a U.S. citizen or permanent resident spouse, child, or parent.

IIRIRA made it much more difficult to obtain this kind of relief from deportation. To obtain what's now called "cancellation of removal," an individual must show *10 years* of residency, good moral character, and that deportation would result in "*extreme or exceptional hardship*" to a U.S. citizen or permanent resident spouse, child, or parent. *Hardship to the immigrant applicant no longer counts.* Compounding the tougher hurdles, the new law stipulates that once removal proceedings begin against an immigrant, time spent in the U.S. *does not count* towards the 10 years of residency required to qualify for this relief—even if these proceedings last many years or are suspended due to some form of temporary protection from deportation. The new law also places a limit of 4,000 per year on the number of immigrants granted relief from deportation who can adjust their status to become permanent residents of the U.S.

Legislation has been introduced in both the House and Senate which would protect certain Central American refugees and others from the retroactive application of this provision. In the Senate, S. 1076 was introduced on July 28th on behalf of the Clinton Administration. A similar bill, H.R. 2302, was introduced in the House on July 30th. Both bills would prevent the new rules of IIRIRA from being applied to cases that were pending when the law went into effect on April 1, 1997.

**Application of pre-IIRIRA Rules to Certain Salvadorans, Guatemalans, and Nicaraguans Not Already In Proceedings:** Both bills provide a special rule to allow a limited number of Salvadorans, Guatemalans, Nicaraguans and their close family members to be considered for cancellation of removal under the less stringent rules that existed prior to April 1, 1997, even if they are not now in deportation or removal proceedings. These persons will have to show seven years of continuous residence in the U.S., good moral character, and that their deportation would result in extreme hardship to themselves or a U.S. citizen or permanent resident spouse, child, or parent. Persons covered by this special rule include –

-  Salvadorans who entered the U.S. prior to September 20, 1990 and who either applied for benefits under the ABC lawsuit settlement or for Temporary Protected Status on or before October 31, 1991;
-  Guatemalans who entered the U.S. on or before October 1, 1990 and who registered for benefits under the ABC settlement by December 31, 1991;

- ☞ Spouses or unmarried sons or daughters of Salvadorans described above if they entered the U.S. prior to September 20, 1990;
- ☞ Spouses or unmarried sons or daughters of Guatemalans described above if they entered the U.S. on or before October 1, 1990;
- ☞ Nicaraguans, Guatemalans, or Salvadorans who filed asylum applications before April 1, 1990, which had not been denied, granted, or referred as of April 1, 1997.

**The Stop Time Rule (S. 1076 only):** IIRIRA makes relief from deportation a much more difficult prospect under what is now called "cancellation of removal." The 1996 Act increased the pre-requisite time of continuous residence in the U.S. from seven to 10 years. Once removal proceedings have begun against a person, however, no more time accumulates towards those 10 years, no matter how long the person remains in this country. S. 1076 repeals a section of IIRIRA which has been interpreted to apply this "stop-time" rule retroactively to anyone who has been placed in deportation or removal proceedings.

**Annual Cap on Cancellation of Removal and Adjustment of Status:** IIRIRA places a cap of 4,000 on the number of immigrant visas each year that may be made available to persons who are granted cancellation of removal. These bills make clear that the cap would apply only in cases commenced on or after April 1, 1997—the date the new "cancellation of removal" became effective. Exempted from the cap would be suspension of deportation cases commenced prior to April 1, 1997, regardless of nationality.

**Limitation on Judicial Review (S. 1076 only):** S. 1076 stipulates that the decision of the Attorney General whether to grant or deny this relief is final, and cannot be reviewed by a federal court. Ordinarily, an immigrant applying for a benefit may appeal a decision to a federal court if he or she thought the Immigration Judge and, on appeal, the Board of Immigration Appeals (BIA) decided incorrectly.

**Motions to Reopen:** Individuals who might benefit from the provisions of these bills will have 180 days from the time a removal order becomes final to file a motion to re-open their case and apply for Suspension of Deportation or Cancellation of Removal under the less stringent rules that were in effect prior to April 1, 1997.

**Original Co-Sponsors, S. 1076:** Connie Mack (R-FL), Bob Graham (D-FL), Edward Kennedy (D-MA).

**Original Co-Sponsors, H.R. 2302:** Lincoln Diaz-Balart (R-FL), Ileana Ros-Lehtinen (R-FL), Benjamin Gilman (R-NY), Christopher Smith (R-NJ), David McIntosh (R-IN), Mark Souder (R-IN), Peter King (R-NY), Luis Gutierrez (D-IL), Robert Menendez (R-NJ), Carrie Meek (D-FL), Peter Deutsch (D-FL), Ed Pastor (D-AZ), Howard Berman (D-CA).

## **HISTORY OF THE ISSUE**

### **ABC Lawsuit -- 1990**

In December 1990, the INS settled the American Baptist Churches (ABC) law suit. The ABC law suit is a class action law suit brought by Salvadoran and Guatemalan nationals against the INS. Class members alleged that because the U.S. government was supporting the governments of El Salvador and Guatemala at this time, asylum applicants from those countries were winning asylum at extremely low rates of 2-5%, despite the pervasive and well documented human rights violations.

The INS settled the law suit and agreed to provide class members with new asylum interviews along with certain well defined procedural safeguards to ensure that applicants received a fair opportunity at winning political asylum.

Though the lawsuit settled nearly 7 years ago, the INS did not begin interviews of ABC applicants until April, 1997.

### **Temporary Protected Status (TPS) -- 1991**

At the same time as the ABC settlement, a legislative remedy for Salvadorans was passed by Congress. In January, 1991, Salvadorans began to register for temporary relief through a newly created legislative program known as Temporary Protected Status (TPS). TPS was passed as a part of comprehensive immigration legislation--the Immigration Act of 1990--and was signed into law in November, 1990 by President Bush.

Nearly 200,000 Salvadorans registered for TPS. By registering for TPS, Salvadorans were automatically registering to be part of the ABC class.

Guatemalans were not covered under TPS. Instead, they were required to register for inclusion in the ABC class in a separate process. There were approximately 50,000-60,000 Guatemalans who registered in the ABC class.

Because of the 1996 law, it is important to note that as a condition for registering for TPS, nearly all Salvadorans had an INS charging document, known as an "Order to Show Cause" issued to them. The OSC's were not filed with the Immigration Court and were considered at the time to be an administrative act without significance.

### **Deferred Enforced Departure (DED) -- 1992-1994**

TPS officially ended in June, 1992, however, it was extended for a numbers of years, under a different name, Deferred Enforced Departure (DED). DED was different than TPS only in that it was administrative relief created by the Reagan and Bush administrations, not legislative relief. It provided Salvadorans with the same protection from deportation and with U.S. work authorizations. The last DED extension ended in December 31, 1994.

Since the end of DED, Salvadorans and Guatemalans have had to submit INS asylum applications, or update their application already on file. They had not been called for ABC asylum interviews until April, 1997.

## Nicaraguan Review Program -- 1996

In May, 1996, the INS instituted the "Phase Out Policy" of the Nicaraguan Review Program. Originally, this program was set to end on September, 1996, but it was extended until May, 1997. This program encouraged Nicaraguans who were out of status and now had been in the U.S. for more than seven years to apply to reopen their cases and apply for "Suspension of Deportation" (explained below). Tens of thousands of Nicaraguans came forward, pursuant to the INS' suggestions, and applied to reopen their deportation proceedings.

## New Legislation Impacts Salvadorans, Guatemalans and Nicaraguans -- 1996

In September, 1996, Congress signed into law a restrictive immigration bill that significantly limited a form of relief from deportation known as Suspension of Deportation. Before the 1996 law, Suspension of Deportation was provided to those seeking relief from deportation if they showed:

- they resided in the U.S. for at least 7 years;
- they have good moral character; and,
- that the applicant or his/her legal resident or U.S. citizen close family members would suffer extreme hardship if the applicant were deported.

The law changed the requirements so that an applicant must now show:

- 10 year residency, and
- that "exceptional and extreme" hardship be shown only to the U.S. citizen or legal resident parent, spouse or child of the applicants. The hardship to the applicant of Suspension of Deportation is no longer relevant.

In addition, Congress legislated a "cap" of only 4,000 cases per year in which suspension may be granted. There is no statutory language on what to do with applicants granted suspension when the cap is reached.

## DOJ's Original Interpretation of the New Law Puts Relief Further out of Central Americans' Hands

The legislative changes in requirements for Suspension of Deportation and the cap had a profound impact on the ability of Central Americans to apply for this important relief from deportation. The Administration, however, further put this relief out of the reach of Central Americans by choosing to apply the law retroactively. The Department of Justice has pressed a case known as the NJB decision. Under that case, the DOJ is arguing that the new law would only count the time from when the immigrant arrived in the U.S. until receiving the "Order to Show Cause" in determining eligibility for suspension. Note that the great majority of these refugees received "Order to Show Cause" before being in the U.S. seven years. With this interpretation, the DOJ had effectively blocked Central Americans access to winning relief from deportation. It is estimated that 60,000 Nicaraguans (40,000 in South Florida alone), 190,000 Salvadorans, and 50,000 Guatemalans are affected.

# Central American Refugees Living Across the United States Face Unfair Mass Deportation

## **LOCATION OF AFFECTED CENTRAL AMERICAN REFUGEES**

Below is a list of U.S. cities with estimated numbers of refugees from Nicaragua, El Salvador and Guatemala who may face mass deportation, should a provision of the new immigration law be applied retroactively. Not all Central Americans who are potentially effected are included in these estimates. The numbers represent individuals who filed an asylum claim with the INS, or who registered for a program providing temporary protection from deportation. Refugees may actually live in outlying areas near to these INS offices.

|                                                       |         |
|-------------------------------------------------------|---------|
| <b>Los Angeles, California</b> . . . . .              | 137,100 |
| <b>Miami, Florida</b> . . . . .                       | 71,200  |
| <b>Washington, DC (Arlington, Virginia)</b> . . . . . | 30,100  |
| <b>New York City, New York</b> . . . . .              | 22,100  |
| <b>Houston, Texas</b> . . . . .                       | 16,200  |
| <b>San Francisco, California</b> . . . . .            | 11,846  |
| <b>Providence, Rhode Island</b> . . . . .             | 8,500   |
| <b>Northern New Jersey</b> . . . . .                  | 8,500   |
| <b>Atlanta, Georgia</b> . . . . .                     | 3,100   |
| <b>Portland, Oregon</b> . . . . .                     | 2,300   |
| <b>Omaha, Nebraska</b> . . . . .                      | 2,100   |
| <b>Memphis, Tennessee</b> . . . . .                   | 1,300   |
| <b>Phoenix, Arizona</b> . . . . .                     | 1,200   |
| <b>Seattle, Washington</b> . . . . .                  | 1,100   |
| <b>Denver, Colorado</b> . . . . .                     | 1,100   |
| <b>Kansas City, Missouri</b> . . . . .                | 900     |
| <b>Bloomington, Minnesota</b> . . . . .               | 600     |
| <b>Salt Lake City, Utah</b> . . . . .                 | 450     |

Source: INS

# **Salvadoran-American National Network**

**1459 Columbia Road, NW**

**Washington, D.C. 20009**

The Salvadoran-American National Network was established in 1994 to coordinate advocacy efforts of direct service providers and civic organizations across the country on behalf of thousands of families who fled the wars in Central America in the late 1980's and early 90's.

An immediate concern of the Salvadoran-American National Network is a provision of the 1996 Immigration Act which may result in the deportation of hundreds of thousands of immigrants who have lived and worked legally in the U.S. for years. The Network is in support of pending legislation to ensure that applicants are given a fair chance for relief from deportation under the rules that existed prior to the 1996 Immigration Act.

Another priority of the Salvadoran-American Network is to ensure a favorable and permanent solution to the plight of thousands of Central American families. In order to accomplish this goal, the Network has launched the National ABC Campaign with the following objectives:

- Encourage the Executive Branch of the United States and the U.S. Congress to bring about a permanent and favorable solution to the present legal limbo of political asylum applicants under the ABC program.
- Educate, organize, and mobilize members of the ABC Class.
- Develop alliances with organizations and governments.
- Coordinate the advocacy efforts of national and local agencies.
- Develop media strategies to draw attention to the plights of Central Americans.
- Promote a responsible U.S. Foreign Policy to strengthen the rule of law and the rooting of democracy in Central America.

For additional information on the Salvadoran-American National Network's ABC National Campaign contact Pedro Avilés at 202/234-7009.

## **Current Active Membership of the Salvadoran-American National Network**

**Cambridge, MA, Centro Presente, Comité Pro-Residencia ABC, AFSC. Chicago, IL, Centro Romero. Houston, TX, CRECEN. Los Angeles, California, CARECEN, ASOSAL. Miami, FL, AFSC-Miami. Newark, NJ, AFSC. New York, NY, Centro Salvadoreño. North Bergen, NJ, Comité en Unión para Salvadoreños. San Francisco, California, NCCIR. Washington, D.C., CARECEN. Worcester, MA, Comité Salvadoreño Centro de Las Americas.**

Q and A

Q: How many people will be affected by these decisions?

A: INS' best estimate is that as many as 280,000 people might be eligible to appear before an immigration judge to request suspension. INS estimates that perhaps about 160,000 might actually decide to apply for suspension. These numbers of course are very, very rough estimates.

Q: Are you going to reverse NIB?

A: What I am going to do is exercise my authority to review the decision. After I have done so, I will announce my decision. Moreover, given my determination to review the BIA decision, and the significance of that decision to so many people, I will immediately vacate the BIA decision. As a result, that decision will no longer dictate the Department's position on application of the stop-time rule to proceedings initiated before April 1.

Q: What other reason would you have for certifying the case to yourself?

A: The BIA's decision was a close case and deserves my careful review.

Q: If Congress doesn't pass it, what relief can you offer qualified candidates for suspension?

A: The Administration is prepared to consider all administrative options, which would include DED, deferred enforced departure.

Q: We've heard that if the legislation doesn't pass you will ask the President to grant Deferred Enforced Departure to the central Americans. Is this true?

A: The Administration is strongly committed to easing the harsh effects of the new immigration law, and therefore is prepared to consider all administrative options if our legislation is not enacted. Such administrative options certainly would include DED, but since DED is only a temporary form of relief from deportation, and would be much narrower than our legislative proposal, we only would consider it as a last resort.

Q: Is the President prepared to grant DED?

A: We are hopeful that Congress will pass our legislative proposal making such a move unnecessary. However, as I previously said, we are not foreclosing any options at this point.

Q: If you grant DED, will it be offered to all qualified individuals who were in the pipeline prior to April 1, or only to Central Americans?

OR only 7.  
A: It would be premature to speculate on the scope of DED at this point. We prefer to have Congress pass our legislation, which would offer broader relief than DED could afford. [OR???? DED is an action that the President may take based upon his authority to conduct foreign relations. Thus, it would apply only to nationals of certain countries and not to all applicants for suspension of deportation. [The impact of forced departures on the U.S. interests in peace, stability and democracy in Central America is relevant to consideration of DED for those nationals.]

Q: How long can a DED grant be for?

A: The duration of DED would be determined by the President. DED has typically been granted by the President for periods of 12 months, 18 months, or 24 months. DED is renewable and has been renewed in the past when previously invoked.

Q: Would people granted DED be able to work legally in the U.S.?

A: Yes.

Q: Are you seeking changes in the other standards for cancellation [7 v 10 years, demonstrating hardship to U.S. citizen not just to one's self]?

A: The legislation only makes adjustments to the application of the standards, not to the standards themselves. If the new legislation is enacted, the new standards will apply only to new cases and not retroactively to pending cases or cases filed by members of the ABC class.

✓ Q: Will these moves end the ABC lawsuit?

A: The ABC lawsuit settled in 1990. INS will continue to adhere to its obligations under that settlement agreement.

Q: Does this mean you are not going to appeal Tefel? Why has the government been wasting time pursuing Tefel in the first place?

A: We are still considering our options for appeal because the decision also involves other legal issues.

Q: Congressman X says this is really just a disguised amnesty program. Is it?

A: Not at all. Persons still will have to meet the suspension criteria and appear before an immigration judge who has the discretion to grant or deny the application.

Q: If you reverse NJB and get rid of the cap for people in the pipeline prior to April 1, won't you be offering suspension to 100,000 people? Isn't that tantamount to an amnesty?

- A: Not at all. Persons still will have to meet the suspension criteria and appear before an immigration judge who has the discretion to grant or deny the application.
- Q: When will the WH introduce its bill?
- A: The Administration plans to introduce the legislation next week.
- Q: If the legislation isn't passed by Oct 1 what will you do about those whose cases have been pending because of the cap? Will INS just round them up and ship them back to their countries or ask them to appear for deportation? Does INS have the resources to deal with huge new numbers of deportations.
- A: INS has repeatedly said that under no circumstances will there be mass removals or targeting of any nationalities. And as I said before the Administration is prepared to consider all administrative options, which would include DED, deferred enforced departure, if the legislation does not become enacted.
- Q: How will next year's 4,000 suspension slots be allocated?
- A: Our legislation would exempt cases filed before April 1 from the cap. Cases filed after April 1 will still have to meet the tougher new criteria of the 1996 immigration law. We are still looking at how we would allocate the 4,000 slots if it looked like those grants might exceed the cap.
- Q: We understand from previous statements you made to the Nicaraguan President and others that OLC had recommended against certification of the NJB case. Are you now overruling OLC or questioning their advice?
- A: OLC has been at the heart of this matter from the beginning and has always thought that it presented a close and difficult question. I have been working with them as well as with the INS lawyers in reviewing and analyzing the complex issues involved in this matter in an open, thorough, and thoughtful manner.
- Q: Who in Congress already has signed on to help get the legislation passed?
- A:
- Q: Will any Republicans help with the legislative push aside from the Republican Cubans?
- A:
- Q: What are the bill's real chances of enactment?
- A:
- Q: Why haven't you done anything about the cap before if you're so concerned about its

harsh effect?

- A: We announced several months ago that suspension cases that were eligible except for the cap were being continued until September 30 to give us time to work with Congress on a legislative modification of the cap.
- Q: Why doesn't the President use his DED authority now and not wait for the legislation?
- A: DED would be a much more limited type of relief. Persons receiving suspension of deportation adjust to permanent resident status. DED, however, does not qualify a person for permanent resident status.
- Q: Why did it take the President so long to fulfill his promise to the Central Americans?
- A: As we have told the Central Americans, the Administration has been actively and carefully studying the complex and technical issues related to the implementation of the 1996 immigration law and looking at options as a priority matter. In addition, we announced several months ago that suspension cases that were eligible except for the cap were being continued until September 30 to give us time to work with Congress on a legislative modification of the cap.
- Q: What feedback have you gotten from Congress on the legislative proposal?
- A: We are proceeding vigorously with Congress now. Over the past few months, we have received requests from over 125 Members and Senators to look at what we could do administratively or legislatively. We will continue to work with them for a just and proper resolution of these cases.