
Title: ISSUE UPDATE: SUSPENSION OF DEPORTATION FOR SALVADORAN REFUGEES (Feb. 26, 1986)
Contact: Charles Kamasaki or Dan Purtell at (202) 628-9600

I. SUMMARY

Legislation which would temporarily suspend deportation of Salvadoran refugees currently in the United States has gained considerable momentum over the past several months. New information related to conditions of civil strife in El Salvador, strengthened support of the legislation from human rights spokespersons and several key members of Congress, and growing pressure in local communities for prompt action to protect Central American refugees have increased chances that the bill will reach a vote before the end of the 99th Congress. This Issue Update, which updates a National Council of La Raza Fact Sheet ("Temporary Suspension of Deportation for Salvadoran Refugees," February 27, 1985), briefly describes the legislation and explains recent developments' impact on the status of the bill.

II. BACKGROUND

Between 40,000-50,000 civilians have been killed since civil war erupted in El Salvador in 1979. Intense combat between government and rebel forces and a war-torn economy have displaced approximately one-fourth of the country's population: 525,000 have left their homes but remain in El Salvador; nearly 250,000 are in Mexico, Guatemala, and other countries in the region; and 300,000-500,000 Salvadorans now live in the United States.

Controversy over the Salvadoran population in the United States centers on whether the U.S. government is justified in its treatment of the overwhelming majority of Salvadorans as undocumented, deportable aliens. Many observers contend that these immigrants are "refugees" under definitions provided in the Refugee Act of 1980; the current Administration has argued that Salvadorans are economic immigrants who do not qualify for Refugee Act protection. While stating that Salvadorans who truly face persecution can seek political asylum, the Immigration and Naturalization Service (INS) consistently denies between 96 and 98 percent of Salvadoran asylum applications. Since 1980, over 25,000 Salvadorans have been returned to their homeland; approximately 400 Salvadorans are deported each month.

Since 1983, religious, civil liberties, and human rights organizations have called on the Administration to grant Extended Voluntary Departure (EVD) status to Salvadorans. EVD, which is granted by the Attorney General on the recommendation of the Secretary of State, has been used in the past to provide temporary haven for nationals of countries experiencing very dangerous conditions. Poles, Afghans, Ethiopians, and Ugandans are now covered by EVD; in the past, Cubans, Chileans, and Nicaraguans have also been granted EVD status. The Administration, however, has refused to grant EVD status to Salvadorans. For that reason, Representative Joe Moakley (D-MA) and Senator Dennis DeConcini (D-AZ) introduced legislation to provide safe haven for Salvadorans in this country.

The Moakley-DeConcini bill now has 174 House cosponsors and 27 Senate cosponsors. The bill would: temporarily suspend deportation of those Salvadorans in the United States on the date of the legislation's enactment; mandate a study, to be conducted by the General Accounting Office (GAO), of the situation of displaced Salvadorans; and end the temporary suspension after review of the GAO report by appropriate Congressional committees (most likely one-and-one-half to two years after enactment). Proponents of the legislation argue that it would allow Congress to "err on the side of caution" until able to make a better informed decision about how to treat Salvadorans in this country.

III. RECENT DEVELOPMENTS AND STATUS OF LEGISLATION

Although substantial obstacles to movement of the Moakley-DeConcini bill remain, several recent developments could lead to full House and Senate consideration of the legislation this year. The Senate bill (S. 337) has been reported out of the Immigration Subcommittee, and awaits action in the Judiciary Committee. In the House, hearings were held on H.R. 822 in November; mark-up of the bill has been scheduled for March 25.

There are indications that key members of Congress will press for action on the legislation. Representative Peter Rodino (D-NJ), chairman of the House Judiciary Committee, recently sent a letter to Attorney General Edwin Meese urging the Administration to grant EVD to Salvadorans. The letter, dated February 6, states, "In my judgement, this humane measure should have been taken six years ago. Let us not compound our error by continuing to ignore the tragic plight of many Salvadorans in this country." In the Senate, informed observers note that powerful members of the Judiciary Committee now support the legislation; efforts are underway to "call up" the bill for committee consideration.

Three major themes have developed in the debate over the situation of displaced Salvadorans. First, new information has called into question the Administration's claim that Salvadorans now in this country are economic, rather than political, immigrants. Second, several events over the past few months point to a resurgence of violence in El Salvador, undermining arguments that safe haven is unnecessary because conditions in El Salvador have substantially improved. Third, recent accounts of efforts of the Intergovernmental Committee on Migration to monitor the fate of Salvadoran deportees have raised doubts about the accuracy of ICM data, upon which the Administration's arguments rest.

Motivations Behind Migration

Officials of the U.S. Department of State and the Immigration and Naturalization Service (INS) assert that most of the Salvadorans in the United States entered before the outbreak of civil war. Migration from that country to the United States, it is argued, was very heavy during the 1970s. INS Western Regional Director Howard Ezell wrote recently:

The exodus of Salvadorans to the United States began a full decade before civil strife broke out in that country in 1979. During that period, an estimated 250,000 of the 500,000 El Salvadorans now in the United States entered this country illegally.

The alleged presence of large numbers of undocumented Salvadorans in this country prior to 1979 is then offered as proof of economic motives for migration.

These arguments are contradicted by recent studies, including government reports, which conclude that the vast majority of undocumented Salvadorans now in the United States entered after the outbreak of civil war. For example, a special study conducted by the U.S. Bureau of the Census estimated that in 1980 only 94,000 Salvadorans were in the United States, and that over 40 percent of this group were legal immigrants. This figure contrasts sharply with the accepted estimate of 300,000-500,000 Salvadorans in the country today. A researcher at the Massachusetts Institute of Technology has further substantiated the connection between this increase in immigration and civil unrest in El Salvador. William Stanley, a Ph.D. candidate at MIT, matched data on Salvadoran immigration with levels of documented human rights abuses, and concluded that there is "strong empirical evidence, based on the actual behavior of Salvadorans, that fear of political violence is the predominant motive behind the decisions of Salvadorans to migrate to the U.S. since 1979."

Current Conditions in El Salvador

Some observers argue that violence in El Salvador has dropped dramatically since the peak years 1981-1983, and that temporary suspension of deportations is therefore unnecessary. In April 1985, then-Assistant Secretary of State for Human Rights and Humanitarian Affairs Elliot Abrams told the Senate Immigration Subcommittee that the "situation in El Salvador gets better and better." Mr. Abrams, who as Undersecretary of State for Inter-American Affairs remains the Administration's chief spokesperson on the issue, added that the human rights office of the Archdiocese in San Salvador did not believe that deportees faced a pattern of persecution upon return to their country.

In fact, organizations which monitor international human rights documented gradual decreases in death squad activity in El Salvador in 1984. However, recent evidence suggests that violence, both random and specific, continues and appears to be increasing. For example:

- . After the acknowledged reduction of extremist violence in 1984, Tutela Legal (the Catholic Church's human rights office) documented a substantial increase in both death squad activities and disappearances in 1985;
- . New tactics on both sides of the struggle have led to random destruction and loss of life. News reports have chronicled an increase in indiscriminate bombings by the government air force in rebel-held areas; rebels have in turn stepped up their campaign of sabotage, targeted assassinations, and kidnappings.
- . On October 6, 1985, the New York Times reported that "Someone is killed for political reasons virtually every day Rebel sabotage frequently knocks out electricity and there is seldom an evening when gunfire or an exploding bomb does not echo in some part of the capital. At least 4,000 soldiers, guerrillas, and civilians are estimated to have been killed or wounded in the [last] year...."

Finally, San Salvador Archbishop Arturo Rivera y Damas wrote Congress in November 1985 and urged members to suspend deportations of Salvadorans in the United States (see NCLR Issue Update: "Immigration Reform and Related Issues III,"

December 20, 1895). The Archbishop stated that "war is a part of the daily life of our population throughout the country, and the profundization of the military conflict offers a future of greater pain, uncertainty and suffering for the grand majority of Salvadorans."

Monitoring of Deportees

The Intergovernmental Committee on Migration (ICM), a Geneva-based refugee assistance organization, has been using U.S. State Department grants to assist deported Salvadorans upon their return and to collect information regarding the fate of returnees. Some observers argue that ICM findings discredit the case for safe haven: during a seven-month period in 1985, over 2,000 deportees were assisted by ICM, and only two deaths were documented by the group. Administration representatives relied heavily on these data during testimony against the Moakley-DeConcini bill before the House Immigration Subcommittee.

However, close examination of ICM reports has raised doubts about the credibility of this information. In the ICM monitoring system, returnees are interviewed at the airport, and are asked to complete and return questionnaires after their return home. A major problem with reliance on this system is that, in a substantial proportion of cases, returnees are neither heard from nor located after their return. A recent survey, conducted in late 1985, attempted to locate 1,100 deportees who arrived in El Salvador between March 1 and July 30; 47 percent of the total group could not be located. Further, within a high-risk group of returnees -- 57 percent of the original 1,100, who returned to "conflictive" zones -- only 12 percent could be located. Yet, despite these major gaps in knowledge of the fate of deportees, the U.S. State Department has cited these surveys to support its contention that nearly all returnees are safe and in good health.

In January 1986, ICM Washington, D.C., Mission Chief Gretchen Brainerd also pointed out that follow-up responses are strictly voluntary, further diminishing the value of the studies. "We don't consider this a scientific data base," she said.

In addition to these developments, controversy continues to build around the U.S. Sanctuary Movement. The Arizona trial of churchworkers indicted on charges of illegally smuggling undocumented Central Americans into the country has generated substantial media coverage. Also, over the past few months several major cities have adopted resolutions voicing concern over the situation of Salvadorans and other Central American refugee populations. These events are expected to create greater pressure for action in Congress on the Moakley-DeConcini bill.

IV. NCLR POSITION

The National Council of La Raza firmly supports the Moakley-DeConcini bill, and is working to move the legislation through Congress. Given widespread and increasing violence in El Salvador, the National Council believes that the proposed legislation represents an essential, modest, and responsible approach to a very serious human rights problem. For further information, please contact NCLR Director of Policy Analysis Charles Kamasaki or Immigration Policy Analyst Dan Purtell at (202) 628-9600.