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Kathleen M. Smith

SALVADORANS IN THE UNITED STATES— CAUGHT IN A WEB OF UNRESOLVED TENSION

KATHLEEN M. SMITH*

I. INTRODUCTION

Since civil war broke out in 1979, the plight of the Salvadoran people has been well documented.[1] The United States Department of State which tends to be restrained in its reporting states that,

> [h]uman rights conditions in El Salvador are strongly affected by the ongoing civil strife. The achievement of a stable public order sufficient to protect individual rights has been disrupted by guerilla military operations, partisan hatreds, acts of revenge, fear and a prevailing uncertainty characterized by violence. This situation contributes to and is complicated by, the ineffective operation of the judicial system, caused in part by corruption and intimidation.[2]

The Department of State report also details the use of death squads[3] and repeated attacks on civilians and villages which the Salvadoran government has proven powerless to halt.[4]

The chaos and turmoil endemic to El Salvador has forced thousands to flee and many of these turn to the United States in the hopes of finding security and safety.[5] The United States has not, however, responded with open arms. Current refugee and asylum laws have provided but a modicum of relief, and there exists no special program for the admittance of Salvadorans for even temporary periods. Only three percent of Salvadorans who petition for asylum have been granted relief and 25,000 have been deported since 1979. This lack of positive response appears surprising at first purview in light of the legislative history of the Refugee

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* J.D. 1986, Antioch School of Law; B.A. 1979, College of the Holy Cross.

[1] See, *Country Reports on Human Rights Practice* (published annually by the United States Department of State), *Amnesty International Report* (published annually by Amnesty International), *The Annual Report of the Inter-American Commission on Human Rights* (published by the Organization of American States), *Report on Human Rights in El Salvador* (published by Americans Watch and the American Civil Liberties Union).

[2] *Country Reports On Human Rights Practices for 1984* at 512-513.

[3] In the second half of 1984 forty-six deaths per month were attributable to death squad activities. *Id.* at 513.

[4] For a detailed description of the failure of the Salvadoran government to establish a judicial system which can adequately respond to human rights violations *see*, Petitt and Popkin, *Justice in El Salvador: An Eyewitness Account*, Los Angeles Lawyer, November 1984, at 38.

[5] Estimates of Salvadorans in the United States range from 300,000 to 500,000 *Salvadorans in the United States*, National Immigration and Alien Rights Project (1984).

Act of 1980 which reflects a commitment to providing refuge and resettlement and in light of past responses to emergency situations in other countries.

When, however, the United States' approach to immigration (especially refugee) issues and its implementation of immigration laws are examined more closely, the dirth of responses to the Salvadoran plight becomes less bewildering. The Salvadoran people, because of their numbers and their political backgrounds, are caught in the tangle of tensions which underlie the United States' attitude toward immigration and the administration of immigration laws. The Refugee Act itself and the history of immigration laws in the United States reveal a deep tension—that between the desire to serve humanitarian concerns and the needs of foreign policy and domestic concerns. The coalescing of this tension with the Salvadoran crisis has stymied any positive response and has resulted in the deportation of thousands of Salvadorans back to their war-ridden native land.[6] This Note will consider this tension in the context of the history of immigration laws in this century and its effects on the Salvadoran plight. In conclusion, the bills pending in the House and Senate will be examined to determine if a resolution to this tension is offered.

II. Background of the Refugee Act of 1980

The Refugee Act of 1980 in several ways represents a dramatic departure from past immigration laws. To comprehend the significance of the intent of the Act it is useful to briefly survey past immigration law in order to consider the Refugee Act in an historical perspective.[7]

Until the late nineteenth century, immigration law was virtually nonexistent, resulting in an open-door policy for immigrants. Toward the end of the century, however, Congress passed restrictive legislation aimed at excluding "undesirables" such as convicts, lunatics and idiots. This was followed by laws which sought to exclude specific ethnic and racial groups. In 1889, the Chinese Exclusion Act was passed and was followed in 1908 by laws excluding the Japanese, and in 1917 by legislation which excluded most others of Asian origin.[8] In 1924, the Johnson Reed Act systematized discrimination on the basis of national origin by implementing quotas with allotments varying according to the country of origin. This policy continued in the Immigration and Nationality Act of

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[6] *The Quality of Mercy*, America, September 21, 1985, at 126.

[7] Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980).

[8] In fiscal 1983, 3,175 Salvadorans were deported back to El Salvador and an additional 1,627 agreed to be deported voluntarily in the face of the possibility of a formal order of deportation. *Id.* at 4.

1952 (INA)[9] which also failed to make any provision for the admittance of refugees. Intermittently during this period, legislation was passed in response to emergencies which provided for limited refugee admissions. The Displaced Persons Act of 1948 is a typical legislative response to a crisis. The Act, which was prompted by the upheaval caused by World War II, provided for the admission of only those displaced persons who could meet stringent requirements, resulting in the exclusion of the majority of Jews who had entered Germany, Austria and Italy. Subsequent amendments alleviated the restrictions somewhat, but continued to reflect a desire to ensure that few "racial outcasts" would be able to immigrate.[10] In addition to the Displaced Persons Act, this era is marked by special enactments to admit anti-communist refugees. In 1953, Congress attempted to stabilize the admission of refugees with the passage of the Refugee Relief Act. The RRA provided for the admission of victims of certain national disasters and for the admission of refugees from communist dominated countries of Europe and the Middle East. This Act was expanded in 1957 to include refugees who had been persecuted because of race, religion or politics, but once again relief was limited to those who came from communist countries or countries in the Middle East. Finally, in 1965 Congress amended the INA to establish the first permanent statutory basis for the admission refugees.[11] The amendments, however, in many ways continued the restrictionist theme of earlier, temporary legislation by providing for separate quotas for immigrants from the Eastern and Western Hemisphere. To meet the statutory definition of a refugee, however, an alien still had to prove that she/he had departed from a communist dominated country or from a country in the general area of the Middle East.

The 1965 amendments comprise the last significant legislation until the Refugee Act of 1980. As this brief summary indicates, the legislation enacted up to 1980 reveals a consistent concern with controlling the nationality and ideology of immigrants. Immigration legislation was viewed as a tool to enforce an agenda of political and nationalistic goals rather than a means of fulfilling the United States' humanitarian responsibility to the plight of refugees. Indeed, the legislation passed during this period shows little indication of the recognition of a general humanitarian obligation on the part of the United States to refugees.

The inadequacy of the United States' response to world-wide refugee

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[9] 1 C. GORDON & H. ROSENFIELD, IMMIGRATION LAW AND PROCEDURE § 1.5 (1984).

[10] For a thorough study of the history leading up to the Refugee Act of 1980 and the legislative history of the Act itself see, Anker and Posner, *The Forty-Year Crisis: A Legislative History of the Refugee Act of 1980,* 19 SAN DIEGO LAW REVIEW, 9-89 (1981).

[11] Immi. & Nat. Act of 1952, Pub. L. No. 82-414, 66 Stat. 163, 8 U.S.C. § 1101-1157 (1952).

crises was felt almost immediately following the passage of the 1962 amendments, and was further underscored in 1968 by the United States' ascension to the United Nations Protocol Relating to the Status of Refugees (U.N. Protocol).[12] The U.N. Protocol defines a refugee without reference to national or ideological criteria,[13] and requires that no signatory state shall expel a refugee to any country where the refugee's life or freedom would be threatened because of "race, religion, nationality, membership of a particular social group or political opinion." Signatories also accept an affirmative duty to facilitate the assimilation and naturalization of refugees.

The gap between the international definition of refugees status which expressed humanitarian goals and the restrictive definition embodied in United States law was further emphasized by the executive branch's repeated use of parole power to admit large numbers of refugees who were otherwise ineligible.[14] This parole power was enacted as part of the 1952 Act to provide a means of benefiting individual aliens in emergency situations. As a result of repeated crisis, and the lack of any efficient legislative mechanism, hundreds of thousands of refugees were paroled into the country by the executive branch.

The ideological restrictions and hemispheric quotas laid out by the INA were increasingly criticized in the face of the international community's embracement of humanitarian goals as the basis for determining refugee admissions embodied in the U.N. Protocol. The INA's policies were also criticized because so many refugees were being paroled into the country by the executive branch as a result of Congress' failure to provide an adequate response to refugee crises. Not surprisingly, the 70s was marked by repeated Congressional attempts to pass immigration reform which would do away with uncontrolled ad hoc admissions of refugees and which would establish a truly humanitarian basis for providing refugee relief. Hearings held by Congress during this period repeatedly emphasized humanitarian goals and each proposed bill came closer to adopting the U.N. Protocol definition of refugee.

Finally, after many false starts, the Refugee Act of 1980 was introduced and passed.[15] The Refugee Act adopts the U.N. Protocol definition of refugee and provides for the discretionary grant of asylum to

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[12] H.R. REP. NO. 581, 81st Cong., 1 Sess. 15 (1950).

[13] The Immigration and Nationality Act Amendments of 1965. Pub. L. No. 89-234, 79 Stat. 911 (1965).

[14] The 1967 Protocol Relating to the States of Refugees (United Nations, 606 *Treaty Series* 267) adopted the provisions of the 1951 Convention Relating to the Status of Refugees (United Nations 189 *Treaty Series* 137).

[15] ". . . the term "refugee" shall apply to any person who: . . . owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or

those aliens who meet the definition of refugee status and are physically present in the United States.[16] The Act also prohibits the deportation of any alien to a country where the Attorney General determines that "such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group or political opinion."[17] Thus, the humanitarian goals of the Refugee Act of 1980 are expressed by the provision of two sources of relief for those fleeing their homeland—the discretionary grant of asylum and the mandatory withholding of deportation.

In addition to crystalizing humanitarian goals, the framers of the Refugee Act of 1980 clearly foresaw that the new law would provide for the orderly administration of these goals. The immigration bureaucracy however, has been less than successful at orderly implementing the spirit and intent of the Refugee Act of 1980. Part of the reason for this failure is found in the very structure of the immigration bureaucracy.[18] Unlike other administrative agencies, immigration is fragmented among six major units in four departments and the office of the President. This fragmentation is significant because it severely inhibits the immigration bureaucracy's ability to compete effectively for the federal funds needed to administer the United States' immigration laws. As a result, most departments are understaffed, record-keeping is notoriously poor, and most importantly, the immigration bureaucracy lacks the flexibility to respond to any significant increase in immigrant flow.[19] Applications for asylum and withholding of deportation have been backlogged almost since the implementation of the Refugee Act. In the face of a mounting workload it is inevitable that the agency's own administrative goals—processing its workload as expeditously as possible—should come to obscure the underlying humanitarian intent of the law it administers.

The procedures established for applying for relief also contribute to the divergence from the original intent of the Refugee Act of 1980. The present procedure provides that an alien who is not in deportation or exclusion proceeding may apply to a district director of the Immigration and Naturalization Service for asylum. The district director then interviews the alien applicant and thereafter forwards the application and any

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political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country." United Nations 189 Treaty Series 137.

[16] In 1976 for example, parole power was used to admit the greatest number of refugees who had ever been admitted at one time. Over 130,000 Indochinese were paroled into the United States. Senate Committee on the Judiciary, Review of U.S. Refugee Resettlement Programs and Policies, 96th Cong. 1st Sess. 10 (1979).

[17] 8 U.S.C. 1101 *et seq.*, 66 Stat. 163.

[18] 8 U.S.C. 1101(a)(4)(2).

[19] 8 U.S.C. 1253(h).

supporting documentation to the Bureau of Human Rights and Humanitarian Affairs (BHRHA) at the Department of State. The BHRHA then issues an advisory opinion on the application and returns the applicant's file to the district director who makes the final decision.[20] If a request for asylum or withholding of deportation is raised before an immigration judge, he/she too is required to request an advisory opinion from the BHRHA. Once the opinion is received, the judge holds an adversary hearing to make a determination on the claim. If the application is denied, the decision may be appealed to the Bureau of Immigration Appeal.[21]

This bifurcated system between the Immigration and Naturalization Service and Department of State is unnecessary and is the source of much needless delay. The Department of State's advisory opinions generally consist of a pro forma recommendation of denial of relief and are recognized by district directors and immigration judges who make the actual determination whether to grant relief. Furthermore, the delay incurred while waiting for such opinions merely serves to add to the mounting backlog of applications.[22]

The spector of a mounting workload has also at times overtaken humanitarian concerns in the procedures followed by the INA when apprehending Salvadorans who have entered the country illegally. In one case, a District Court found that the majority of Salvadorans who were apprehended by the INS were coerced into agreeing to depart voluntarily from the country and were never informed of their right to apply for asylum or withholding of deportation.[23]

Thus, the implementation of the humanitarian goals of the Refugee Act of 1980 has not been possible in the face of the conflict between the intent of the Act which anticipates thoughtful adjudication of claims, and the need of INS as an administrative agency to conquer its growing workload with few increases in resources. This unresolved conflict has had an especially detrimental effect on those who seek to resettle in the United States.[24] For many refugees the granting of asylum or withholding of deportation offers the only possibility for admission to the United

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[20] At a House Appropriation Subcommittee in 1977, Representative Joshua Eilberger, Chair of the Subcommittee on Immigration, Naturalization and International Law, testified that "the INS at the present time is totally incapable of administering the enforcing the provisions of the Immigration and Nationality Act." Hearings before the Subcommittee on State, Justice and Commerce, and the Judiciary of the House Appropriations Committee, 95 Cong. 1 Sess. part 7, at 444.

[21] For a comprehensive study of problems of the INS in accomplishing its agency mission *see*, MORRIS, IMMIGRATION THE BELEAGURED BUREACRACY (Brookings Institution, 1985).

[22] 8 C.F.R. 208.1.

[23] 8 C.F.R. 208.10(b).

[24] Many commentators maintain that the State Department's advisory opinion are given considerable weight by the INS. (See e.g. Kwizban, "Restricting the Asylum Process" 19 SAN DIEGO

States. The INA's ability to efficiently administer applications for such relief defeats the humanitarian intent of the Refugee Act which strove to affirm that the United States is a country of refugee for all deserving people

III. Tension Between Humanitarian Goals and Foreign Policy Concerns

Although the administration of the Refugee Act by INS has had a detrimental effect on all those seeking relief, the Salvadorans in particular are victims of a far more fundamental struggle which characterizes the United States' mixed goals in dealing with refugees. The tension between humanitarian goals and foreign policy concerns which is evident in the United States' current immigration laws and reform proposals has evolved from the tension evident in earlier struggles to enact immigration legislation—that between domestic concerns and foreign policy concerns. The history of immigration policy is marked by the legislative branch's advancement of domestic concerns in the face of the executive branch's struggle to further foreign policy aims. As early as the late nineteenth century these opposing forces came to blows. In 1868, for example, the executive branch seeking to improve relations with China, signed the Burlingame Treaty which provided that nationals of both countries would be allowed to freely travel and immigrate without restriction. Congressmen from Western States, seeking to please their constituents who feared the influx of Chinese workers, had a different agenda, however. Shortly after the signing of the Treaty, Congress passed legislation to specifically exclude Chinese immigration.

The struggle between foreign policy and allegedly domestic concerns continued throughout this century as the executive branch continually advocated the abolition of quotas in an effort to advance specific foreign policy goals and to improve this country's image in the international community. Congress, for the better part of the century, continued to strive to preserve the jobs of Americans and to maintain the status quo of the nation's ethnic mix and accordingly passed legislation with the intent of furthering these domestic goals. Gradually, however, as the United States increasingly assumed the position as the major world power and with repeated pressure from the executive branch, Congress came to accept that the nation's immigration policy must accord with the nation's foreign policy interests. The abandonment of national origin quotas in the 1965 amendments to the INA signaled Congress' recognition of its

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Law Journal 91 (1981)); at present, however, the advisory opinions consist of little more than a form letter to which the alien's name and country of origin is added.

responsibility to consider foreign policy goals when implementing immigration legislation.[25]

Although the executive's motive for interest in immigration issue has been consistently based on its desire to further foreign policy goals, pressure from the executive on the legislative has, in the past, acted as a force for making immigration laws more humanitarian. Foreign policy goals have generally been consistent with less restrictive, hence more humanitarian, laws.

Congress' efforts in the 70s to revise immigration laws which culminated in the passage of the Refugee Act of 1980 marked a new phase in the legislative branch's approach to immigration. For the first time Congress recognized that the United States' immigration policy should be based, at least in part, on humanitarian consideration rather than exclusively domestic or foreign goals. To a large degree the executive branch shared these goals, and the cooperation between the two branches greatly facilitated the passage of the Refugee Act.

The hearings on immigration reform in the 70s indicate, however, that a new tension was emerging between foreign policy and humanitarian goals. The implementation of foreign policy goals through immigration legislation no longer encompassed less restrictive immigration laws. The State Department, in hearings on the Refugee Act, expressed reluctance to endorse a nondiscriminatory definition of refugee which might imply that a "friendly country persecuted some of its inhabitants."[26] The State Department warned that so labeling an ally presented a matter of "considerable sensitivity."[27] For the most part, however, the executive branch saw the provision of the Refuge Act as consistent with the nation's foreign policy goals. Another witness for the State Department testified that,

> It is decidedly in our foreign policy interests to project in countries around the world the image of the U.S. humanitarian assistance for refugees. Such humanitarian assistance is a flowing example of the purposes and processes of the free democracy which we are, and of the free society which make such assistance possible.[28]

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[25] 8 U.S.C. 1157. For a comprehensive study of refugee admissions since the enactment of the Refugee Act *see, Of Special Humanitarian Concern: U.S. Refugee Admissions Since Passage of the Refugee Act* (Refugee Policy Group, 1985).

[26] *Orantes Hernandez v. Smith*, 541 F. Supp. 351 C.D. Cal. (1982). The Supreme Court has held that once an alien enters this country she/he is entitled to the due process guarantees of the Constitution. *See, United States ex. rel. Vajtauer v. Commissioner*, 273 U.S. 103, 106 (1927), *Bridges v. Wixon*, 316 U.S. 135, 153-154 (1945); *Wong Yang Sung v. McGrath*, 337 U.S. 33, 49-50 (1950).

[27] See, Anker and Posner, *The Forty Year Crisis: A Legislative History of the Refugee Act of 1980* 19 SAN DIEGO LAW REVIEW 19, 12-30 (1981).

[28] Proposed Amendments to the Immigration and Nationality Act: Hearings on H.R. 9112,

Since the Refugee Act's passage, however, it has become increasingly clear that the spirit of humanitarian reform embodied in the Act is opposed to the nation's foreign policy concerns as articulated by the executive branch. The Act rests on the fundamental premise that all those who possess a well-founded fear of persecution should be admitted nondiscriminatorily without reference to the refugee's ideology or the ideology of the country which the refugee is fleeing. The Reagan administration refuses to accept this premise and instead seeks to supplant the goal of providing refuge to all who are deserving with another goal—that of encouraging democracy in Latin America[29] in part by ignoring the abuses of friendly countries like El Salvador. That these two goals may be reconciled is a futile consideration as long as the executive insists that they cannot. The Reagan administration's support of the Salvadoran government has caused it to close its eyes to the fact that natives of a friendly country are indeed being persecuted. The posture is especially incongrous in light of the Department of State's documentation of the turmoil pervasive in El Salvador.[30]

The priorities of the executive branch do not, however, adequately explain the legislative branch's failure to respond to the Salvadoran crisis. Indeed, the history of immigration law indicates that the goals of the legislative branch have generally won out over those of the executive branch. The solution to the riddle of the legislative branch's inaction is to be found in the executive branch's characterization of the Salvadoran crisis. Salvadoran refugees are not labeled as refugees from a friendly country who must be denied relief to further foreign policy goals. Instead, Salvadorans are characterized as threats to the jobs of American workers and drains on social service.[31] The effect of this characterization

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H.R. 15092 and H.R. 173370 Before Subcomm. No. 1 of the House Comm. on the Judiciary, 91st Cong. Sess. 40 (1980).

See, also Anker and Posner, *The Forty Year Crisis: A Legislative History of the Refugee Act of 1980*," 19 SAN DIEGO LAW REVIEW 19, 22-24 (1981).

[29] *See*, "The Need for Continuity in U.S. Latin American Policy; Motley, Department of State Bulletin, April 1985, 67-73. The article is based on a statement by the author (who is Assistant Secretary for Inter-American Affairs) before the House Foreign Affairs Committee on January 29, 1985. The author summarizes the U.S. foreign policy toward Latin American and states, " . . . Americans expect something fundamental of these government; that we stand firmly with our friend . . . as recently as a year ago, many in the United States, in Western Europe and even in Latin American believed El Salvador was caught in an endless war between guerilla of the left and death squads of the right. . . . It would be naive to claim that all is now reformed, centrist and peaceful in El Salvador. But the progress is dramatic and undeniable. And U.S. firmness on principles and in behalf of our Salvadoran friends to have had a lot to do with it."

[30] Hearings on H.R. 3056 Before the Subcomm. on Immigration, Citizenship and Int'l Law of the House Comm. on the Judiciary, 95 Cong., 1st Sess. p. 16 (1977).

[31] This characterization of refugees as "economic" implies that the Refugee Act was not in any way intended to benefit those who are motivated in any way by the lure of financial betterment. Although the legislative history of the Refugee reveals that it was not intended to benefit purely

is twofold. First, the way to respond to a threat is to defend the rights of those threatened. Hardworking Americans owe nothing to those who seek to immigrate to take away jobs. The acceptance of the characterization of Salvadorans as economic refugees thus provides an easy scapegoat for many ills in society and masks the true conflict between foreign policy and humanitarian goals. The second result of characterizing Salvadorans as economic refugees is the interjection of domestic concerns into the debate. In this context, the need the Salvadoran people is ignored and is replaced by an emphasis on Americans and the perceived detrimental effect of the influx of Salvadorans on domestic concerns.[32] Since the general public accepts this characterization as valid, the legislative branch is forced to respond to the concerns of its constituenties and is thrown back to its former role of seeking to advance domestic concerns through immigration legislation. In contrast to past perceptions, however, domestic concerns and foreign policy goals are seen as fully compatible. In this case, the politically desirable response is inaction. Thus, the humanitarian goals evidenced by the passage of the Refugee Act have become obscured by the administration's foreign policy concerns and the framing of those concerns in the context of domestic needs.[33]

IV. PROPOSED LEGISLATION

Since the passage of the Refugee Act of 1980, various forces in Congress have sought to enact further reform.[34] The Simpson-Mazolli bill, for example, came close to passage in 1984 but died when a joint House and Senate committee failed to resolve their differences. The present Congress is also trying to enact reform. In September 1985[35] and April 1986, the House Judiciary Subcommittee on Immigration, Refugee and International Law prepared similar legislation for mark-up.[36] The major goal of both bills is the control of illegal immigration through penal sanc-

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economic refugees, State Department witness expressed concern about the mixed motives of most refugees and advised the legislative not to specifically include those who were motivated in part by economic consideration. *See*, Anker and Posner, A LEGISLATIVE HISTORY OF THE REFUGEE ACT OF 1980," 19 SAN DIEGO LAW REVIEW 19, 38-40 (1981).

[32] The validity of the assumption that immigrants have a detrimental effect on the economy and other domestic concerns is far from certain. One study suggests that contentions concerning the detrimental effect of the welfare immigrants serve to mask natavistic prejudices. *See*, Bean and Sullivan, *Confronting the Problem* SOCIETY, May/June 1985, at 67-73.

[33] The American Civil Liberties Union persuasively contends that the grant of special relief for Salvadorans in the form of the grant of extended voluntary departure does not conflict with the nation's foreign policy goal of maintaining close ties with El Salvador. *See, Salvadoran in the United States*, National Immigration and Alien Rights Project (1984) at 58-62.

[34] For a study of the possible effects of various proposed reforms *see*, Porter and Kincaid, *Alternate Outcomes of Reform* SOCIETY, May/June 1985, at 73-76.

[35] S. 1200.

[36] H.R. 3810.

tions for employers who hire illegal aliens. In response to criticism from Hispanic groups that such sanctions will result in discrimination, the bills also provide for the creation of a new office of special counsel within the Justice Department to investigate charges of discrimination stemming from the sanctions. The legislation would also require that the states screen applicants for welfare and other social programs to verify that such applicants are United States citizens or lawful permanent residents. The bills' final major provision provides that aliens who have resided in this country since January 1, 1982 shall be granted temporary resident status. (The Senate bill provided that the alien must have resided in this country since January 1, 1980.)

Surely the proposed legislation, if enacted, will benefit a large number of Salvadorans who reside illegally in the United States and finally provide them with relief. The grant of such amnesty however effectly ignores the humanitarian needs of Salvadoran refugees. The proposed legislation implicitly presumes that Salvadorans present in the United States are not refugees—hence the arbitrary cut-off dates can be justified. Rather than seeking to fulfill the humanitarian promises of the Refugee Act of 1980, the amnesty sanction appears to constitute an attempt to aid the INA in the accomplishment of its administrative tasks by alleviating the mounting backlog of applications for relief.

The other major provisions of the proposed legislation, employer sanctions and checks on social programs, indicate that once again the legislative branch has returned to its preoccupation with domestic concerns.[37] In this instance, the domestic goals of the legislature are in harmony with the administration's foreign policy goal. In the face of these forces lies the unanswered plight of the Salvadorans.

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[37] The proposed reforms have been criticized as failing to deal with immigration problems by merely adding layers of control. *See* Levy, *There Is No Immigration "Reform" Bill* THE NATIONAL LAW JOURNAL, April 28, 1986, at 15.