

HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

//
ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

EXAMINING LEGISLATION THAT WILL PROVIDE RELIEF FOR HAITIAN
REFUGEES

MIAMI, FL

DECEMBER 17, 1997

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HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT

WEDNESDAY, DECEMBER 17, 1997

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION,
COMMITTEE ON THE JUDICIARY,
Miami, FL.

The subcommittee met, pursuant to notice, at 10:25 a.m., in the Dade County Commission Chambers, Stephen P. Clark Center, Miami, FL, Hon. Spencer Abraham (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. SPENCER ABRAHAM, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator ABRAHAM. We will begin the hearing at this time. I want to welcome everybody to this special field hearing of the Senate's Immigration Subcommittee, which we are conducting today in Miami.

We have quite a lot of ground to cover. I want to begin with two brief apologies. First is that I have been struggling with some kind of Michigan wintertime bug. I'm not sure which one it is, but we have a fair number of them in the cold weather, and so my voice is a little bit stressed today. If I'm not as audible as I would like to be, I hope you will bear with me.

Also, because of other commitments, I have to be back in Michigan later today, so it is, therefore, going to be my hope that we can finish our business today by approximately 12 noon so that I can be on that flight. So I'm going to ask all the panelists, as a consequence, to please help us out.

We normally in the committee, whether it's on the road or in Washington, limit opening remarks to 5 minutes and we'll adhere to that rule today so that we can get through the large number of witnesses we have, each of whom has been invited here because I think they have some very unique perspectives to help us in building the record, which I think can form the basis for us to proceed legislatively.

Before we hear from our first panel, I just want to make some opening comments, and I will enter my formal statement into the record. Briefly, I want to cover a few things that I think are essential starting points.

First of all, in 1996 we passed legislation, the illegal immigration bill, which was designed to address a variety of specific problems with respect to illegal immigration. I believe many aspects of the

legislation were very appropriate, and I think we're beginning to gain some positive benefits from that.

Unfortunately, various sections of that legislation, woven together, whether it was the design or not of people who voted for the legislation in total, have had some perverse impacts on a variety of different fronts that have been, as a consequence, issues to be addressed by those of us in the 105th Congress. The combination of the changes to the suspension of deportation procedures and the cap of 4,000 per year on those who could be suspended and adjusted, was together a very devastating set of procedures with regard to people who had been in various processes seeking to have their status adjusted here in the United States.

That, combined with the ruling known as the NJB ruling by the immigration courts, those actions, taken together, posed obviously some very severe potential hardships for varieties of individuals who were in the United States seeking to have their status adjusted to permanent legal status.

This year in the Congress, a variety of efforts to try to begin to address the problems that stemmed from the NJB ruling and those changes to the immigration laws were undertaken. In the Senate, I worked with Senators Mack and Graham on legislation, the goal of which was to try to, in an across-the-board fashion, attempt to not retroactively apply these standards to people who already were in proceedings. And in the House, various actions moved forward as well.

We won't go into all the details of these various efforts today. Suffice it to say that, as we came to the end of the calendar year of the 1997 session of the 105th Congress, it became clear that we were not going to be able to pass legislation that would cover everyone who was going to be adversely affected by the retroactive application of these provisions.

A decision, I think, was reached, and a compromise was ultimately made to address as many as was possible in an initial piece of legislation. As I think everyone knows, for the most part that meant people from Central America, particularly Guatemala, Honduras, Nicaragua, El Salvador, Cuba, and Eastern Europe. For a variety of us, it was our view that this was the first step toward an effort to more broadly address people who were retroactively affected.

In my view, as I mentioned before, what took place this year in the ending days of the session was only a start. And while it might be right to differentiate the individual type of relief granted to people from different countries, I don't think anyone should be left out of the process. I don't believe we should retroactively apply these rules to anyone.

With that said, I want to make it very clear that my opposition to the retroactive application of the new standards of relief should extend to anyone, regardless of their nationality. During the debate, I tried to make it clear that, in my view, retroactivity was particularly unjustified with respect to refugees from countries not covered by the compromise who have equities similar to those of the Nicaraguans, Salvadorans, and Guatemalans. In recent years, many people came to the United States under a legal or quasi-legal status, fleeing tyrannical regimes that were either enemies of the

United States or allies whose domestic abuses were countenanced because of the country's strategic significance in the struggles for world freedom that were going on at the time.

I noted during the debates that retroactive application of the new standards would likely force some of these people to leave, despite the roots they have laid down, and the fact that the conditions they were returning to remained dangerous.

Under U.S. law, one traditional way in which relatively large numbers of individuals paroled into the country have gained permanent residence has been for Congress to pass a special law that permits this to happen. The Cuban Adjustment Act extended parole to any Cuban who reached the United States and made the parolees eligible for permanent residence a year and one day after entry. The relief accorded to asylum applicants and others from Cuba and Nicaragua in this year's Central American relief bill is in that tradition as well.

The 1986 immigration act allowed nationals of Haiti and Cuba who resided continuously in the United States to adjust to permanent residence. In the aftermath of the Tiananmen Square crackdown, Congress passed a law granting lawful permanent residence to many of the Chinese nationals who were here in the United States at that time. Shortly after that, Congress through statute permitted a large number of Soviet and Vietnamese refugees who were admitted under parole authority to apply for permanent residence. In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act permitted Polish and Hungarian refugees admitted under the Attorney General's parole authority to apply for and gain permanent residence.

U.S. immigration law, in my judgment, should not turn on arbitrary distinctions between members of different nationalities. Rather, it should treat like cases alike, regardless of nationality. Thus, in evaluating the merits of the bill we have before us today, we must ask ourselves: Would this legislation help people who are in circumstances similar to those aided by previous bills passed by Congress and signed by the President? What are the consequences of not enacting this legislation? What are the equities built up in this country by the individuals affected by the bill?

If the legislation would help people who are similarly situated to others aided by similar congressional acts, if the consequence of not enacting it will be to draw arbitrary distinctions among nationalities, and if the individuals affected have built up significant equities in this country, then we should move forward and enact legislation promptly, in my judgment.

The goal of this hearing is to help us answer these and other important questions so we can establish a record as Congress moves forward in deciding the fate of the legislation involved.

I am pleased that the current legislative work on Haitians and this hearing seem to be bringing people together from a number of different communities, and a number of the different groups who we worked with in the last battle with respect to the Central American legislation. I am happy that a number of people who were involved in those efforts are here today supporting the efforts to provide relief to the Haitians as well.

It is our hope that we will be able to address the Haitian relief issue in Congress this year. I obviously can only speak for the Senate side, but when this debate took place regarding the Central American legislation, I made it very clear that I was certainly planning to include the Haitian community in that legislation, to move forward with respect and with promptness with respect to Haitians. That's why, instead of waiting until next year to have a hearing, we are here today, so that we can begin the next session of Congress with a record already in place.

I would like to conclude by making a couple of comments. I would like to thank Senator Graham, who is here today. He and Senator Mack on the Senate side have been, in my judgment, exceptionally strong leaders with respect to each of the communities involved. I know there are people here from their constituencies, from the different communities within their constituencies, and I would like to say that each of these Senators has worked, in my opinion, without partiality to any group. They have been tireless on a variety of fronts on the Senate side in their efforts to make sure that the voices of their constituents were heard and heard with equal weight.

Similarly, I want to complement Congressman Lincoln Diaz-Balart and Congresswoman Ileana Ros-Lehtinen because they, too, have been very avid from the beginning and have tried to address comprehensively these issues.

When you chair one of these subcommittees, you obviously hear from different members. You differentiate between those who are sincere and those who are just simply going through the motions. The two Members of Congress from Florida that I mentioned have repeatedly been in touch with me from the very beginning of this process and have worked very closely with us as we have attempted to address these problems.

I also want to compliment and thank my colleague from Michigan, who has joined us here, my friend Congressman John Conyers. Thanks for coming all the way down here to be with us. I know this is an issue that is of importance to him and one of his top legislative priorities. Congressman Conyers happens to also be the ranking minority member on the House Judiciary Committee, so I think his involvement and presence here in support of the legislation is very vital.

Finally, although they could not be here—I did mention Connie Mack. But I also want to mention Carrie Meek. Because we set this hearing up after she had made other plans, she could not be in attendance. But she will be represented here today by her chief of staff, who will be entering a statement into the record on her behalf. I hope you will let her know that, while we miss her today, obviously her leadership on this issue is greatly appreciated.

With that said, it's time for us to hear from our first panel of witnesses. I did, as I said earlier, ask that people limit their opening statements to 5 minutes. I think it will help us to get through the many witnesses we have today.

The panel is obviously one well known to everybody here. We will begin with Senator Bob Graham of Florida, to be followed by Congressman Conyers, Congresswoman Ros-Lehtinen, Congressman

Diaz-Balart, and to enter a statement on behalf of Carrie Meek, Peggy Demon.

Senator Graham, thank you, and thank you for your hospitality in having us here in Florida. I think it was your initial suggestion to me that we hold the hearing in Miami and we're delighted that you made that suggestion.

[The prepared statement of Senator Abraham follows:]

PREPARED STATEMENT OF SENATOR SPENCER ABRAHAM

Welcome to this hearing of the Senate Subcommittee on Immigration. The subject of today's hearing is the "Haitian Refugee Immigration Fairness Act," whose lead sponsor is Senator Bob Graham of Florida. Senator Connie Mack who could not be here today, is the lead cosponsor of the bill. My colleague from Michigan, Representative John Conyers, who is also the Ranking Member of the House Judiciary Committee, has introduced the companion bill in the House of Representatives. Representative Carrie Meek, who had the first bill on this subject, has introduced similar legislation with the same goal of providing relief to Haitian refugees. Florida Republican Representatives Lincoln Diaz-Balart and Ileana Ros-Lehtinen are cosponsors of both bills.

Over the past year, Congress has been addressing a number of issues arising out of the 1996 Immigration law. One of the most prominent issues involved some changes that the 1996 law made to an important mechanism for obtaining the status of permanent resident. This mechanism, known as "suspension of deportation," has been available for the past forty years for people who had been in this country for a long time without that status. Last year's law made it much harder to get. Moreover, it did so not only for new people coming in. The new rules applied retroactively to anybody not in deportation proceedings by April 1, 1997. And at least in the preliminary view of the INS and the Department of Justice, and some of the sponsors of the 1996 law, some of those new rules applied even to some people already in deportation proceedings at that time.

An effort began to prevent these rules from applying retroactively to individuals here before passage of the 1996 Act. I supported that effort in my role as Chairman of the immigration subcommittee. The most numerous group affected by the law consisted of those who fled civil war and persecution in Central America during the 1980's. That is where much of the legislative energy became focused. I should note that the original bill to help the Central Americans helped everyone else in deportation proceedings and did not adversely affect anyone of any other nationality.

The legislation went through various permutations, and as often happens in the legislative process, compromises emerged that altered the original contours of the legislation. In its final form, the bill provided different types of relief to a number of groups of people based on whether the individuals involved met very specific criteria. Those groups were Nicaraguans, Cubans, Salvadorans, Guatemalans, and asylum seekers from Eastern Europe and the former Soviet Union. The legislation, however, also explicitly codified the preliminary administrative interpretation that retroactively applied to people from other countries the more restrictive new rules for obtaining relief.

I opposed the retroactive application of the new standards of relief to all individuals, regardless of their nationality. I also made clear that in my view, retroactivity was particularly unjustified with respect to refugees from countries not covered by the compromise who have equities similar to those of the Nicaraguans, Salvadorans, and Guatemalans. In recent years, many people came to the United States under a legal or quasi-legal status, fleeing tyrannical regimes that were either enemies of the U.S. or allies whose domestic abuses were countenanced because of the country's strategic significance in the struggles for world freedom going on at the time. I noted that retroactive application of the new standards would likely force some of these people to leave despite the roots they have laid down and the fact that conditions they are returning to remain dangerous.

Others Members whose support was needed if any legislation was to be enacted however, particularly in the House of Representatives, were only willing to go as far as the final version of the legislation. Despite my reservations I supported the agreement because on the whole it advanced the cause of fairness and the promise that America will make good on its commitments far better than if we were simply to do nothing. It was better to provide relief to the tens of thousands of individuals who deserved that relief, even if we could not include everyone.

After an agreement was reached in the House on the Central Americans, efforts emerged to include Haitians in the bill. Those efforts did not prove successful at that time. However, the efforts spawned the legislation before us here today.

The background of the current situation for Haitians is well known to many in Miami. On September 30, 1991, a bloody military coup ousted Haiti's elected President Jean-Bertrand Aristide and, in effect, turned over power to General Raoul Cedras. This coup followed a long history of repressive military dictatorship including the 29-year reign of Francois "Papa Doc" Duvalier and his son Jean-Claude "Baby Doc" Duvalier. The violence and repression of the new regime, and the bloodshed surrounding the coup which has been so much a part of Haiti's troubled history, prompted thousands of Haitians to flee their homes and head by boat for the United States.

Following considerable discussion and a large degree of controversy in this country, many of these individuals were intercepted by the U.S. Coast Guard and detained at Guantanamo Bay, Cuba. There they were screened for asylum, and some 11,000 of them were found to have a credible fear of persecution and were paroled into the United States. The others were repatriated. The screening program was then abandoned, leading to additional controversy. The new Administration briefly reinstated it, resulting in parole of an additional much smaller group of Haitians from Guantanamo. It was later dropped after a direct intervention in Haitian affairs that resulted in Aristide's return to power. The parole of these individuals was extended up until September of this year. Many are still pursuing asylum claims that have yet to be decided. Meanwhile, during this entire period a number of individuals made their way to the United States or remained here on existing visas and applied for political asylum.

Under U.S. law, one traditional way in which relatively large numbers of individuals paroled into the country have gained permanent residence has been for Congress to pass a special law that permits that to happen. The Cuban Adjustment Act extended parole to any Cuban who reached the United States and made the parolees eligible for permanent residence a year and one day after entry. The relief accorded asylum applicants and others from Cuba and Nicaragua in this year's Central American relief bill is in that tradition as well. The 1986 immigration act allowed nationals of Haiti and Cuba who resided continuously in the U.S. to adjust to permanent residence. In the aftermath of the Tiananmen Square crackdown, Congress passed a law granting lawful permanent residence to many of the Chinese nationals who were here in the U.S. at that time. Shortly after that, Congress through statute permitted a large number of Soviet and Vietnamese refugees who were admitted under parole authority to apply for permanent residence. In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act permitted Polish and Hungarian refugees admitted under the Attorney General's parole authority to apply for and gain permanent residence.

I should note that in none of these cases were the green cards granted to these individuals "offset" by cuts elsewhere in America's legal immigration system, although in the case of the Tiananmen Square Chinese nationals, they were treated as if they had received employment visas that were otherwise going unused.

U.S. immigration law should not turn on arbitrary distinctions between members of different nationalities. Rather it should treat like cases alike regardless of nationality. Thus in evaluating the merits of the bill we have before us we must ask ourselves: Would this legislation help people who are in circumstances similar to those aided by previous bills passed by Congress and signed by the President? What are the consequences of not enacting this legislation? What are the equities built up in this country by the individuals affected by the bill? If the legislation would help people who are similarly situated to others aided by similar Congressional acts, if the consequence of not enacting it will be to draw arbitrary distinctions among nationalities, and if the individuals affected have built up significant equities in this country, then we should move forward and enact it promptly.

The goal of this hearing is to help us to answer these and other important questions so we can establish a record as Congress moves forward in deciding the fate of this legislation.

I am pleased that the current legislative work on Haitians and this hearing seem to be bringing people together and that a number of the key proponents of the Central American legislation are here today supporting the effort to provide relief to Haitians. It is our hope that we will be able to address the Haitian relief issue in Congress early next year.

PANEL CONSISTING OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA; HON. JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN; HON. ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA; HON. LINCOLN DIAZ-BALART, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA; AND PEGGY DEMON, ON BEHALF OF HON. CARRIE MEEK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

STATEMENT OF HON. BOB GRAHAM

Senator GRAHAM. Thank you, Mr. Chairman.

In deference to your request for a 5-minute limitation on statements, I would like to request permission to file my full statement and I will give an abbreviated version of it this morning.

To this community, I want to express my appreciation for Senator Spencer Abraham. Throughout this process, Senator Abraham was open and receptive to understanding the issues and to help shape solutions to very serious human problems. It is no overstatement to observe that we would not be here today with the changes that have so benefited many members of this community had it not been for Senator Abraham's tremendous commitment to this cause.

I also want to thank Senator Abraham for scheduling this meeting on the 17th of December, and doing it in Miami. By scheduling it today, we get almost a 7-week jump on the next session of Congress, which starts the end of January, which should accelerate the time that the full Senate and House of Representatives will be able to consider this matter.

By doing it in Miami, we bring the Senate to a community that will be most affected, and has the greatest range of human experience and insights, to contribute to what would be appropriate national policy as it relates to the Haitian community in the United States.

With that, Mr. Chairman, as you know, on November 9 of this year, with the sponsorship of yourself, Senators Mack, Kennedy, Moseley-Braun, and Moynihan, the Haitian Refugee Immigration Fairness Act was introduced into the U.S. Senate. The goal of this bipartisan legislation is simple—to provide for the permanent resident status adjustment of Haitian nationals and their spouses who were paroled into the United States or filed for asylum before December 31, 1995. This was legislation that not only had been developed by those colleagues in the Senate, but also by the Administration.

This bill seeks to provide justice and fairness to a very important group of Haitians who, because of their credible asylum claims, were flown to the United States by our Government during the 1990's. It also includes those who have had pending asylum cases since 1995.

In an era in which much legislation considered in Congress has a distinctly partisan tone, I am very proud that we have developed a bipartisan, humane solution that has the potential to have a positive impact on the lives of thousands of people.

Mr. Chairman, as an example of this community support, I have letters which I would request permission to file, particularly from

the Central American community, letters which include one from Baunic, "Bloque de Apoyo a la Unidad Nicaraguense", speaking of the commitment of that important Nicaraguan organization for this legislation, as well as a letter from Ana Navarro, an eloquent and dedicated spokesman for the Nicaraguan community, sharing her support for the Haitian community, and a very supportive letter from Fraternidad Nicaraguense.

The reason that this legislation is so important can best be seen in human, personal terms. You will have on the second panel several people who can communicate their own experience. But let me speak for one who could not be here today, Miss Alexandra Charles.

Alexandra is a Haitian orphan who came to the United States on a tourist visa when she was 10 years old. She came after Haitian officials had invaded her home and, with Alexandra looking on, brutally murdered her mother.

Alexandra is now 18 years old and she is self-supporting. She holds down two jobs. The reason she could not be here today is because she is working at one of those two jobs. She also attends Miami-Dade Community College, where she is studying accounting. She is a model student and member of our community.

Alexandra has over a dozen relatives who are lawful permanent residents or U.S. citizens, including her grandparents and her American-born brother. She has virtually no relatives in Haiti.

Like many individuals with similar circumstances, Ms. Charles was granted a suspension of deportation last year, but the relief was withdrawn after the Board of Immigration Appeals ruled that the 1996 immigration act retroactively affected cases like hers.

Today, Alexandra Charles' future in the United States looks grim. Without congressional help, this bright young woman's hopes of gaining the legal residence that she needs to finish her college degrees are slim.

Mr. Chairman, this case is just one of thousands involving hard-working, law-abiding Haitians, people who will fall through the cracks if legislation is not passed to protect those who have a legitimate claim to an asylum hearing.

Mr. Chairman, in deference to the restraints of this hearing, I will conclude with that one example of thousands. I again express my thanks for your holding this hearing today. I urge prompt attention by the Senate and the full Congress to this matter of justice in our immigration law.

Thank you.

[The prepared statement of Senator Graham follows:]

PREPARED STATEMENT OF SENATOR BOB GRAHAM

Thank you, Chairman Abraham, for calling this important hearing today in Miami-Dade County.

I greatly appreciate the opportunity to appear before you concerning the fair and just treatment of Haitians in the United States.

On November 9, 1997, I introduced the "Haitian Refugee Immigration Fairness Act." The goal of this bipartisan legislation is simple—to provide for the permanent resident status adjustment of certain Haitian nationals and their spouses who were paroled into the United States or filed for asylum before December 31, 1995.

I am pleased that Senators Mack, Kennedy, Moseley-Braun, Moynihan and yourself, Mr. Chairman, have joined in support of this legislation. Our bill seeks to pro-

vide justice and fairness to a very important group of Haitians who, because of their credible asylum claims, were flown to the United States by our government during the 1990's. It also includes those who have had pending asylum cases since 1995.

In an era when much legislation considered in the Congress has a partisan tone, I am very proud that we have crafted a bipartisan, humane solution that has the potential to have such a positive impact on many people's lives.

The support for this legislation crosses party lines and the lines separating the branches of our government. I commend President Clinton's statement halting the deportation of Haitian nationals while Congress considers this legislative remedy.

The endorsement of our effort also crosses national lines. I am proud to share with you letters from the Nicaraguan and Central American community supporting our goals.

I submit letters of support from *Fraternidad Nicaraguense* and *Baunic* (*Bloque de Apoyo a la Unidad Nicaraguense*) speaking of the "just cause" we have undertaken here today, and the sense of brotherhood they feel they share with the Haitian community; they have both suffered struggle and unrest.

Likewise, a letter from Ana Navarro, an eloquent spokesperson for the Nicaraguan community, shares her support for the Haitian community, describing them as "neighbors and friends" who have "borne and raised children in" Miami and have made "important economic, social and cultural contributions to South Florida."

The reason this legislation is so important can best be seen on a human, personal level, perhaps through the eyes of Ms. Alexandra Charles.

Alexandra is a Haitian orphan who came to the United States on a tourist visa when she was ten years old, after Haitian military officials invaded her home and, with Alexandra looking on, brutally murdered her mother.

Alexandra is now eighteen years old and is self supporting. She holds down two jobs and attends Miami-Dade Community College, where she studies accounting. She is a model student and member of our community.

Alexandra has over a dozen relatives who are lawful permanent residents or United States citizens, including her grandparents and her American-born brother. She has virtually no relatives in Haiti.

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Today, Alexandra Charles' future in the United States looks grim. Without Congress' help, this bright young woman's hopes of gaining the legal residency that she needs to finish her college degree are slim.

This case is just one of thousands involving hard working, law abiding Haitians—people who will fall through the cracks if legislation is not passed to protect those who have a legitimate claim to an asylum hearing.

I know that Nestilia Robergeau and Louciana MiClisse, Haitian nationals who will be on the second panel, also have compelling personal stories.

I also am here to share my personal story of how deeply moved I was by my travels to Haiti, and my experiences at Guantanamo. I came to know many individuals who fled horrible political persecution, and came to be housed in the sparse, harsh environment of military tents on an unused runway.

There were countless individuals enduring these hardships without complaint, and still, according to officers, medical personnel, non-governmental agency officials, and others, the Haitian nationals' main worry, even in the midst of these harsh conditions, were for other family members.

Close to forty thousand Haitian nationals fled the political unrest of their homeland and came to stay for a time at Guantanamo. All were extensively screened by immigration officials, and of that forty thousand, fewer than 12,000 were flown to the United States to pursue their asylum claim. These were the strongest claims for political asylum—and many of the human stories we are hearing now.

I will advocate strongly for this bill in the House and Senate, but Alexandra, Nestilia and Louciana are the best spokespersons.

Through their experiences, we see the necessity that Congress take swift action on the Haitian Refugee Immigration Fairness Act.

Mr. Chairman, this legislation covers an extremely small number of people in comparison with the Central American Adjustment Act that President Clinton recently signed into law.

The Guantanamo Haitians and the Haitian asylees have established families with U.S. citizen children, opened businesses, built homes, educated themselves, and greatly strengthened the communities in which they live.

On behalf of Alexandra Charles and the entire Haitian community, I commend your dedicated work on this bill, and I ask you to continue the fight for fairness

and justice by continuing in your strong support of the Haitian Refugee Immigration Fairness Act of 1997 (S. 1504) and working to ensure its passage.

Thank you, Mr. Chairman.

BAUNIC,
Miami, FL, December 12, 1997.

Hon. BOB GRAHAM,
Hon. CONNIE MACK,
*U.S. Senate,
Washington, DC.*

DEAR SENATORS: We are writing this letter today, not only to thank you once more for all your help in our recent immigration adjustment act. Your support was decisive and essential for this victory. But we are now worried about our Haitian brothers. They have also had a long and suffering struggle, and we also feel it is time it comes to an end.

Their situation is very similar to that of the Central Americans, they went through a civil war, they experienced persecution back home, they came here and the United States allowed them to stay.

We think that the solution has to be a similar one, too. That is why the Nicaraguan community is backing the efforts being done in both the Senate and the House of Representatives to alleviate the problem.

Once more you are joined in a just cause and you can count on our full support. We thank you for caring.

MILTON R. GONZALEZ,
Director.

FRATERNIDAD NICARAGUENSE—NICARAGUAN FRATERNITY,
Miami, FL, December 14, 1997.

Senator SPENCER ABRAHAM,
*U.S. Senate,
Immigration Subcommittee,
Washington, DC.*

DEAR SENATOR ABRAHAM: The Nicaraguan Fraternity, has pledged full support to the cause of the Haitian Community in the U.S. and we will stand by the side of our Haitian refugee brothers and sisters to obtain a legislation which will provide for a permanent residence status for them. Our position is unwavering.

As you are aware, Haiti has a fragile economy and it is recovering from the devastating effects of a civil struggle that required the U.S. to send troops to Haiti in order to bring stability and guarantee the rights of the Haitian citizens.

Our people were sad to see that the Haitian community was left out of the provisions of the Nicaraguan Adjustment and Central American Relief Act ("NACARA"). Our community did face a civil war, and suffered the impact of a civil struggle.

The members of the Nicaraguan exile community, which like our Haitian brothers and sisters are hard-working and law abiding people, were also forced to leave our homeland against our will. We believe that Haitians should have not been overlooked in NACARA even though we, as the Haitian exile community, were direct victims of the wars and civil strife that was the sequel of Communism in this Hemisphere.

We believe that, as in the case of Nicaraguans, very many meritorious cases for political asylum in the U.S. were improperly denied to the Haitians by the U.S. Immigration Service, because they have taken a position to make "blanket" denials of such applications with regard to some groups. Absent a legislation to help Haitians out from their purgatory with the I.N.S., they will be deported from the U.S. after decades of physical presence in the U.S. which will separate families that are born in the U.S. from Haitian parents.

We give our most felt support for the Haitian Community and we will ask all of our American friends to help out in giving this community a deserved solution to a critical problem.

With faith in God we will succeed with this just cause! Thanking you for your support to our cause.

Sincerely,

ALFONSO OVIEDO-REYES,
Attorney, Nicaraguan Fraternity.

NORA BRITTON-SANDIGO,
Executive Director, Nicaraguan Fraternity.

LAW OFFICES OF MICHAEL A. BANDER, P.A.,
Miami, FL, December 12, 1997.

Senator BOB GRAHAM,
*U.S. Senate,
Washington DC.*

DEAR SENATOR GRAHAM: I write to express my most sincere gratitude for your efforts on behalf of the Nicaraguan community. The Nicaraguan Adjustment and Central American Relief Act (NACARA) brings tranquility and justice to tens of thousands of Nicaraguan immigrants in the United States. Thousands of American children born to undocumented Nicaraguan parents will truly have a Merry Christmas, in large part as a result of your labor in defense of their parents' rights.

On a personal note, this has been a very rewarding experience, yet it has been a bittersweet victory. I'm still deeply concerned by the imminent threat of deportation which thousands of Haitians in our community face as a result of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Our victory will not be complete unless and until, Haitians are granted relief from their immigration dilemma.

I want to congratulate you and the other co-sponsors, for introducing legislation addressing the Haitian immigration issue. It is a fair and noble thing to do. Personally and on behalf of the Nicaraguan community, I want to express our support for your legislation.

A number of Haitians in the United States are similarly situated to the Nicaraguans and Cubans positively affected by NACARA. Like Nicaraguans and Cubans, many of the Haitians who have reached our shores, came to this country fleeing fierce political persecution and instability. In fact during the Bush Administration, close to ten thousand Haitians, commonly referred to as the Bush Haitians, were allowed into the United States after being intercepted by the Coast Guard and taken to the Guantanamo Naval Base where they were screened by the Immigration Service and found to have a credible fear of persecution. It would be a travesty of justice for these Haitians to now be forced to return to the country they risked their lives to flee from.

Like Nicaraguans, many of these Haitians who today face deportation, have been in this country for many years and have established their lives and pursued their dreams in this country. They attend school, own homes, are employers, employees and clients in South Florida. They have borne and raised their children in our community. They are our neighbors and friends. The Haitian community has made many important economic, cultural and social contributions to South Florida. Our community would suffer great detriment from massive deportations of Haitians.

Just like Nicaraguans, Haitians were adversely affected by IIRAIRA. Prior to the passage of IIRAIRA, some Haitians who have been in this country for over seven years could have pursued a form of relief known as Suspension of Deportation, which required (1) seven years of continuous presence in the United States; (2) good moral character; and (3) extreme hardship to the applicant or the applicant's U.S. citizen or legal permanent resident spouse, parent or child if the applicant is deported. IIRAIRA eliminates Suspension of Deportation and replaces it with Cancellation of Removal, which requires: (1) ten years of continuous presence; (2) good moral character; and (3) extreme and unusual hardship no longer on the applicant him/herself, but rather only on the applicant's U.S. citizen or legal permanent resident spouse, parent or child. This is a much more difficult standard to meet. Furthermore, Section 309(c)(5) of IIRAIRA includes a retroactively applied transitional rule which halts the tolling of time upon receipt of an Order To Show Cause (OSC). Most aliens receive an OSC before being in the United States for ten years, and thus would be prima facie ineligible and effectively barred from applying for Cancellation of Removal.

Section 309(c)(5) of IIRAIRA was interpreted by the Board of Immigration Appeals in the precedent case *Matter of N-J-B*. This erroneous and retroactive interpretation was codified in NACARA. Thus, the law which results in happiness and

justice to thousands of Nicaraguans and Cubans, further closes the door on a limited number of similarly situated Haitians. This situation needs to be expediently addressed and remedied.

As I previously discussed, South Florida where a large Haitian population resides will be seriously affected by their deportation, but the country of Haiti will also suffer devastating consequences. Haiti is the poorest country in the Western Hemisphere. The sudden influx and repatriation of thousands of Haitians will wreak havoc on the fledgling democracy and economy of that Caribbean nation. The United States has invested significant funds and troops in restoring democracy in Haiti. Deporting thousands of Haitians would be a mistake of gargantuan proportions. It would jeopardize the modest progress Haiti has made in recent years.

Domestic and Foreign policy concerns, as well as basic concepts of justice, freedom and fairness, call for an urgent solution to the Haitian immigrant crisis. Establishing equal treatment to the Haitians is a noble and necessary battle, and one we must win, for the sake of our community, for the sake of our country and for the sake of thousands of Haitians who came to this country to escape the horror of their homeland and to pursue the American dream in the land of the free.

Warm Regards,

ANA NAVARRO.

Senator ABRAHAM. Senator Graham, thank you.

Before Congressman Conyers speaks, I have been handed a little note here that indicates we have a couple of local community leaders who are here. I just want to thank them for helping us make today's facilities available and for participating and being with us.

Commissioner Barbara Carey is here. I'm sitting in her seat, so she's going to get priority over all of us here today. We also have State Representative John Cosgrove, who I know I took a picture with earlier. Representative, it's nice to see you.

Finally, we have just been joined by the Mayor of Miami-Dade, Alex Penelas. I know you wanted to make a comment and welcome the group. Mayor, we appreciate your hospitality and are very much grateful for this chance to come down today.

STATEMENT OF HON. ALEX PENELAS, MAYOR OF MIAMI-DADE, FL

Mayor PENELAS. Thank you, Mr. Chairman. It is certainly a pleasure to have you and all of our congressional delegation and other Members of Congress with us, and we want to welcome all of you to Miami-Dade County to our beautiful chamber, and certainly to those of you from out of town, I hope you are enjoying our spectacular weather these last few days.

I want to thank each of you for holding this very important hearing on this issue. With me, I want to introduce at this time, as you mentioned, Commissioner Barbara Carey. She will not be speaking, but I will be speaking for her and I know other members of our Miami-Dade County Commission who are very, very interested in this issue.

As each of you know, and certainly our local delegation does, the diversity of Miami-Dade County ensures us strong economic ties to global markets, a rich, culture-drawing tourism industry, and an enhanced quality of life for everyone. In fact, this county, Mr. Chairman, really is almost a microcosm of the world. People from 156 different countries call Miami-Dade County home.

However, when there is an imbalance, divisiveness can be crippling. Your focused attention on securing equality for tens of thousands of Haitians, who live and work right here in Miami-Dade

County, is welcomed. And more importantly, action in this congressional session is strongly encouraged.

As is demonstrated by the proposed legislation and participation in today's hearing, south Florida, indeed, has a very, very dedicated congressional delegation. I understand that the legislative process can be very challenging, and I am grateful for the accomplishments of this session, which have including restoring supplemental security income and other benefits to immigrants, and granting amnesty to Nicaraguans, Salvadorans, Guatemalans, and eastern Europeans.

Let me emphasize in conclusion, because I certainly appreciate your time and courtesies of allowing me to speak for a few moments this morning, this community supports wholeheartedly congressional and executive branch efforts to secure equitable treatment for Haitians. The Haitians are very much a critical part of our community and we are grateful that the Congress has embraced them.

I want to thank you, Mr. Chairman. I would like to put into the record a letter signed by my colleague, Commissioner Carey, in lieu of her statement, and I want to thank all of you for allowing us this opportunity this morning.

[The letter of Commissioner Carey was not available at presstime.]

Senator ABRAHAM. Mayor, thank you very much. We thank you both and appreciate your hospitality. Your sentiments will be reflected. As I indicated earlier, our goal today is to build the record on the impact of this legislation.

We will now turn to our friend from Michigan, who as I said earlier is someone who I know cares very much about this legislation. Congressman John Conyers.

STATEMENT OF HON. JOHN CONYERS, JR.

Representative CONYERS. Good morning, Chairman Abraham, and to my colleagues. I am delighted to be here.

I can't help but think this is the Christmas season. We're all coming together in such a grand spirit. We have a very definitive statement from your mayor, who Miss Ros-Lehtinen and I observed is a very young fellow. [Laughter.]

He also happens to be a Democrat, which made me feel a little better. As for the weather, people have been apologizing. But where I came from, and where you come from, this is fabulous weather. No apologies are necessary for me.

And so it is in the spirit of the bill that we introduce that we come together for refugee immigration fairness. I can't tell you how much I sincerely appreciate the initiative that you have begun that would take this out of the several hundred bills that will shortly be introduced on the opening day of our second session. So I join with my colleagues, hoping that we can move forward.

Even as we meet, there are very important developments taking place. We have just now had the deferred enforcement departure now available for the next 12 months for Haitians, which is, I think, a very positive signal. We have just had this young gentleman who was deported, John Herroa John [phonetic], has just

been released. I take these as all good signs. We are working together in a bipartisan way.

It is not only the spirit of the season, Senator Graham, but it is also the spirit that should form immigration legislation in our country. I am glad to see this happening. I join with all of you.

I would just add a couple other points. The first is that we want to make sure that the deportation process is, in fact, with reference to Haitians, suspended. There is a place not too many blocks from here where there are proceedings going on that we want to make sure they've caught up with the directives that are flowing from the National Government.

Additionally, you should know that I have talked with our Director of INS, Doris Meissner. She has agreed with me to review all of the INS court procedures involving Haitians. That is a task so large that I bring it to all of our doorsteps because it's going to need both the committees that Lamar Smith chairs on Judiciary, and that you chair in the Senate, and perhaps our individual staffs as well, to review these cases.

What I have in mind there is trying to make sure that the court cases and the law comport with what is the policy at the time that some of these persons come before the INS court proceedings. So I embark upon that with great enthusiasm.

I also want the record to reflect that the District Director of the Miami INS, Mr. Robert Wallace, may or may not be comporting with the INS memo of the 19th of November because, to the disappointment of many of the Haitians and Haitian-Americans that he met with, he announced on December 5 that he could and would deport Haitians on a case-by-case basis. I don't have to tell you what kind of feeling that left the folks with. So I think that part of our extracurricular detail is to make sure that we're all aware of that.

I thank you for your time, and I am very pleased to join you at this hearing.

[The prepared statement of Representative Conyers follows:]

PREPARED STATEMENT OF REPRESENTATIVE JOHN CONYERS, JR.

Thank you Senator Abraham for sponsoring S. 1504 and holding this important hearing. I also would like to acknowledge Representatives Diaz-Balart and Ros-Lehtinen who are original co-sponsors of H.R. 3049, the House companion bill I have introduced. In addition, I want to thank Senator Carol Moseley-Braun and Representative Meek who could not be here to testify but have worked tirelessly for equitable treatment of Haitian refugees and asylum seekers. Finally, I like to acknowledge the efforts of Representatives Mel Watt who is the Ranking Member of the Immigration Subcommittee and Representative Alcee Hastings and Senator Bob Graham.

Last month, Congress passed and President Clinton signed into law the D.C. Appropriation bill¹ which included the "Nicaraguan and Central American Relief Act," granting Nicaraguan and Cuban aliens residing in the United States permanent residency. At the same time, certain Eastern European, Guatemalan and Salvadoran aliens in this country were given the opportunity to apply for suspension of deportation under the standards set forth in the Immigration and Nationality Act prior to its amendment last Congress. Many of us, including me—were uncomfortable with the disparate treatment granted to these immigrant communities. However, I was profoundly disappointed that the bill did not include any relief whatsoever for similarly situated Haitian refugees who fled persecution in their country

¹P.L. 105-100.

and sought protection in the United States. S. 1504 and H.R. 3039, the "Haitian Refugee Immigration Fairness Act of 1997," will resolve this inequity.

I. HISTORY OF MISTREATMENT OF HAITIAN REFUGEES

The history of the United States immigration policy toward Haitians has been marked by insensitivity and discrimination. For ten years, including the last four of the Duvalier dictatorship and six years of military juntas, the United States, forcibly returned Haitian refugees fleeing persecution in their country, without giving them the opportunity to apply for asylum.² After a September 1991 coup in which the Haitian military overthrew the democratically elected President Jean Bertrand Aristide, the number of persons fleeing Haiti by boat for the United States rose dramatically.³ By November 1991, with an estimated 1,500 Haitians already dead and military repression at full throttle, the Bush Administration announced it was resuming forced repatriation without granting asylum interviews.

Public outcry from human rights organizations and the United Nations High Commissioner for Refugees forced a modest compromise, allowing Haitian refugees to be brought to the U.S. naval base at Guantanamo Bay, Cuba, for INS interviews. Under this agreement, if a Haitian refugee could show a "credible fear"⁴ of persecution, they were paroled⁵ into the United States to apply for asylum. Those who did not meet the "credible fear" standard were returned to Haiti. Between September 1991 and May 1992, over 30,000 Haitians were interviewed and approximately one-third were found to meet "credible fear" standard and were paroled into the United States to seek asylum.⁶ In May 1992, President Bush issued the "Kennebunkport Order," ending the asylum screening process at Guantanamo. As a result of that Order, interdicted Haitian refugees were once again forcibly returned to Haiti without an asylum screening, in direct violation of international law.

Shortly before his inauguration, President-elect Clinton announced that the United States would continue the Bush interdiction and return policy, citing safety concerns for the large number of Haitians predicted to set sail if this policy were reversed.⁷ In May 1994, the Clinton Administration adopted a revised policy, which granted Haitians intercepted at sea the opportunity to apply for refugee status.

In the fall of 1994, the democratically elected government was restored and the in-country refugee program was ended. In January 1995, Guantanamo Bay was closed and most refugees returned to Haiti voluntarily.⁸ However, about 100 Haitian refugees were paroled into the United States because it was determined that they could not safely return.

The Haitian refugees who were paroled in to the U.S. through Guantanamo Bay by both the Bush and Clinton Administrations are now in the U.S. legally, but their "parolee" status is temporary and must be renewed each year by the Attorney General. Parolees must also "renew" their work authorizations, making it difficult for them to obtain long-term employment.

II. S.1504/H.R. 3049, THE "HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1997"

S. 1504/H.R. 3049, the "Haitian Refugee Immigration Fairness Act of 1997," is a bi-partisan, bi-cameral effort. The House bill has already been co-sponsored by Representatives Meek, Diaz-Balart, Ros-Lehtinen, Watt, Hastings, Brown and Waters.

²This process was the result of an arrangement, brokered in 1981, by which the government of Jean Claude Duvalier and the Reagan Administration permitted U.S. authorities to board Haitian vessels and to return to Haiti any passengers determined not to have a well founded fear of persecution. Under this arbitrary arrangement, in the 10 years, from 1981 to the coup in 1991, the United States granted asylum to exactly 8 of 24,559 Haitian refugees applying for political asylum.

³Most of the refugees were young people who were involved in the pro-democracy movement.
⁴The "credible fear" differs slightly from the current statutory standard, but it was functionally the same, a low threshold screening standard below well-founded fear.

⁵In the context of immigration law, parole is a temporary status granted by the Attorney General. Each paroled Haitian must complete the asylum process and be approved for permanent admission. See 8 U.S.C. 1182 (a)(9)(b)(5)(A).

⁶Haitian refugees became an issue in the 1992 presidential campaign, when presidential candidate Bill Clinton criticized the Bush Administration policy of interdiction and direct return.

⁷Both the Guantanamo screening process and the direct return policy were challenged in federal court. This litigation culminated in a June 21, 1993, decision by the Supreme Court, in *Sale v. Haitians Centers Council*, 509 U.S. 155 (1993), finding that neither the nonrefoulement obligation of Article 33 of the United Nation Convention Relating to the Status of Refugee nor the withholding provision of the Immigration and Nationality Act applied on the high seas.

⁸Most of those who did not return voluntarily were sent back involuntarily, after having been screened under a standard designed to identify persons who could not yet return in safety. The remainder of Haitian refugees in safe haven, approximately 100 persons, were later paroled into the U.S.

This legislation will permit Haitian nationals who filed for asylum before December 31, 1995, or were paroled into the United States prior to December 31, 1995, to adjust their status to lawfully admitted permanent residents. Haitian nationals who meet this criteria must file for this adjustment by April 1, 2000.

H.R. 3049 also requires the Attorney General to issue regulations staying deportation of Haitians who are applying for a status adjustment under the legislation. The Attorney General may also in her discretion authorize employment during the pendency of their adjustment of status application.

The Clinton Administration strongly supports legislative efforts to provide relief for Haitian refugees. On November 14, 1997, at the signing of the Nicaraguan and Central American Relief Act, he stated, "[Haitians] deserve the same treatment that this legislation makes possible for other groups [and] we will seek passage of this * * * legislation."

III. NEED FOR LEGISLATION

It is imperative that Congress move quickly on S. 1504/H.R. 3049. Although the Clinton Administration has agreed to hold deportations of Haitians in abeyance temporarily, this administrative relief cannot last forever. It is up to us in Congress to enact legislation providing these individuals with the legislative certainty they need and deserve.

There are a number of public policy reasons supporting legislative action. First and foremost, as a matter of racial and political fairness, it is essential that we have a policy that does not arbitrarily distinguish between America's immigrant communities. Like the immigrant groups assisted in the D.C. Appropriation bill, Haitians were fleeing a cruel and dangerous dictatorship yet received no relief. The situation in Haiti continues to be unstable. The United Nations High Commissioner for Refugees, Amnesty International and other international human rights organization have concluded that the Government of Haiti is unable to meet the basic obligations of protecting its citizens and asylum seekers could still face persecution upon return.

Second as a matter of humanity, the Haitians we have permitted to enter this country have become an integral and vital part of our communities. They are now our neighbors, co-workers, and in many cases have become part of our families. To uproot these courageous individuals who risked their very lives to flee a military dictatorship would be a gross inequity and would distort this country's historic commitment to refugees. The majority of these Haitians have settled in Miami, New York, and Boston, and these communities would be particularly harmed by the sudden removal of Haitian residents and taxpayers.

Finally, as a matter of international comity, we cannot risk the chaos that would result by unilaterally deporting thousands of persons back to Haiti. I have been to Haiti on many occasions, and I can testify firsthand that the economic and political situation in that nation is incredibly precarious. Our country has risked the lives of our young soldiers and expended millions of taxpayer dollars and our international prestige in a worthwhile effort to restore a stable democracy to Haiti. We risk all of this by suddenly allowing the reintroduction of these individuals to that fragile nation. Not only would they create massive pressures on the job market and the government's relief obligations, but the Haitians would no longer be able to send badly needed funds to their families from their work in the United States. (And of course, if a military regime was ever returned to power in Haiti, the very lives of these individuals could again be placed at risk.) In sum, repatriation would not serve the domestic policy of Haiti or the foreign policy of the United States.

IV. CONCLUSION

As Ranking Member of the House Judiciary Committee, I pledge to do everything within my power to work with Chairman Hyde and Immigration Subcommittee Chairman Lamar Smith to seek expedited consideration of this essential legislation. I look forward to working with you Senator Abraham, and the other Members testifying today to bring equity and compassion to our immigration laws and to the Haitians who are legally residing in this country.

Senator ABRAHAM. Thank you, John. We appreciate your coming down.

As I said, we appreciate how much priority you have placed on this legislation, which is important. Obviously, we need to have the House support, and also because, again, the communities in our State may not be as directly affected, so having leadership from

places where it isn't simply a local issue I think helps us to build a case more broadly.

Representative CONYERS. Mr. Chairman, could I just point out that I talked to Chairman Henry Hyde this morning, who is also reviewing this legislation and will be talking with me about it before our session starts.

Senator ABRAHAM. Great. We look forward to working with our House colleagues on this. Obviously, this is legislation that's moving in both chambers. Today we're theoretically, having a hearing in regard to Senator Graham's bill, but we are obviously interested in the House's perspectives, too.

We will now hear from Congresswoman Ros-Lehtinen. I met your father here today, so now I feel like I know the whole family and we appreciate his coming today as well. We welcome you, sir.

STATEMENT OF HON. ILEANA ROS-LEHTINEN

Representative ROS-LEHTINEN. Thank you so much, Spencer, for holding this hearing in our wonderful city.

As Americans, we believe that the United States is the world's greatest democracy. Indeed, it is. It's the birthplace of human rights, a country so wonderful in its liberty and its sovereignty that people from all other nations want to come and live here.

In this great country, we uphold human rights. We respect human rights, regardless of an individual's choice of religion, political ideology, ethnicity, race or gender. We defend the rights of freedom of thought and expression, due process, and the just protection of the law. We vehemently condemn torture, beatings, rape, arbitrary imprisonment, and murder.

Yet 600 miles southeast of the coast of Florida, these brutal practices, which we denounce as Americans abiding in a free country, were once a standard part of everyday life for the native Haitian. The inhabitants of this island were inhumanely abused, tormented, persecuted and, indeed, even murdered. Historically, Haiti has endured authoritarian regimes and political turmoil, characterized by widespread violence.

Even today troubles continue. According to a country report on Haiti by our own State Department,

Cases in which the national police mistreated detainees, sometimes severely, increased dramatically in 1996. The UN/OAS International Civilian Mission documented 86 instances of mistreatment in the first 5 months of the year alone, and such violations of human rights continued throughout the year.

Previously, as the situation in Haiti deteriorated to an intolerable extent, Haitians desperately fled their homeland in search of refuge and safety. In an effort to improve the situation in Haiti, we intervened with the rebuilding of institutions and infrastructure, the promotion of the respect for human rights, and the fostering of Haiti's social and economic development.

In the midst of this turmoil, Haitian immigrants made Miami and other U.S. cities their home. They became our neighbors, raised their families, worked among us, paid their taxes, attended our schools. They aspired to live the American dream, much like each of our ancestors did when they first arrived to the new world.

Unfortunately, these Haitians, who have established communities, have built their businesses, and have been a vibrant and

positive part of Miami's development, today live in fear of being deported. They fear being removed from their new home in America and of being separated from their American family members and friends.

I thank my dear colleague from south Florida, the Honorable Carrie Meek, for bringing a glimpse of light into the lives of these many Haitian refugees. She has introduced House bill 3033, which will adjust the immigration status of certain Haitian nationals who were provided refuge in the United States. I have cosponsored her bill in hopes that Congress will realize the need for Haitians to be treated fairly.

Prior to H.R. 3033, Congresswoman Meek also introduced another bill, H.R. 2442, the Fairness for Immigrants Facing Persecution in Their Native Country Act of 1997. I also joined her in this effort, which would have amended the Immigration and Nationality Act to authorize the Attorney General to cancel the removal and adjust the status of certain Haitian and Central American aliens.

I also thank my colleague, Congressman John Conyers, whose bill, H.R. 3049, I have also cosponsored. Congressman Conyers has been a leader in the cause for Haitian equity for many years, and Congress always looks to him for guidance on setting immigration policy that is fair to all. His bill, entitled The Haitian Refugee Immigration Fairness Act of 1997, will allow Guantanamo Bay Haitian parolees to become legal permanent residents and permit Haitian asylees who were not otherwise covered by this act to seek equitable relief.

For the United States-Haitian exile community who fled because their lives were in danger, we say "Chay La Tro Lou". This Creole expression simply means, "The weight is too heavy."

We join our congressional colleagues in our efforts to ease the burden of this weight of the refugee Haitian community by helping to create a law that will restore this immigration inequity that has been made against them.

In this upcoming session of Congress, my colleagues and I will renew our efforts to bring justice and permanent residence to the many refugees whose lives were once endangered in Haiti and who have since found safety and become part of our wondrous democratic nation.

On a closing note, Senator Abraham, I want to thank you for your leadership on this issue. You, along with Senators Graham and Mack, have been the voice of reason in the Senate in establishing immigration policy. You have written countless articles in national and international publications, reminding our colleagues and, indeed, all the residents of our country, that immigrants helped build our great Nation. They create jobs, they pay taxes, they work hard. You give speeches everywhere you go, and I have heard you many times, in favor of a more compassionate yet reasoned approach to immigration. We thank you for your leadership and your support, and we thank you for holding this hearing.

Thank you, Senator.

Senator ABRAHAM. Thank you.

We will now turn to Congressman Lincoln Diaz-Balart, who I have repeatedly told people who have inquired, he and I, actually, in addition to our mutual interest in the issues before us today,

have a secret pact. We are planning to actually run on the Republican ticket for President and Vice President in the year 2000. It will be the "Abraham Lincoln" ticket. [Laughter.]

It worked once. Why not try it again.

Congressman Diaz-Balart.

STATEMENT OF HON. LINCOLN DIAZ-BALART

Representative DIAZ-BALART. Thank you, Mr. Chairman. I accept. [Laughter.]

Mr. Chairman, with your consent, I would submit my written remarks for the record.

Senator ABRAHAM. Without objection.

Representative DIAZ-BALART. I will abbreviate them at this point.

I would like to simply join my colleagues who have spoken, as well as the mayor, in thanking you for your leadership on this issue, and the extraordinary way in which you have already demonstrated that you are seeking to change for the better our immigration laws and protect the great traditions of this Nation. Despite the fact you've been chairman for a short period of time, you have already made a tremendous mark and we thank you for your leadership.

Our south Florida community, as my colleagues have stated, and the mayor, has been enriched, Mr. Chairman, to an extraordinary degree by the Haitian immigration that has reached our shores. The Haitian community has made significant contributions to our community, and Haitians in our community have become an integral part of south Florida. I am confident that, as you listen to the subsequent panel, this fact will become even more evident.

I could dedicate these minutes in their entirety to the accomplishments and contributions of the Haitians in the United States. However, in fairness to elemental justice, which I think is the core of the issue we are discussing today, I am compelled to share what I consider to be some of the arguments that I believe merit seeking legislative relief for Haitian refugees in the United States.

It has been estimated, Mr. Chairman, by the Immigration Service that there are approximately 11,000 Haitians that came into the United States through the Guantanamo Naval Base in 1991 through 1993. These refugees were paroled into the United States after having demonstrated to have a credible asylum claim. Only 1/3 of those interviewed were admitted.

After having been admitted, these refugees filed asylum petitions, oftentimes during lengthy processing times, for Immigration to evaluate their claims. Prior to the arrival of the Haitian refugees from Guantanamo, several thousand Haitians, also due to the political instability that my colleague, Congresswoman Ros-Lehtinen, referred to, sought refuge in the United States and submitted their claims for asylum. It is estimated that approximately 4,000 of these asylum claims are still pending.

Common sense, as well as justice, dictates that these two groups of Haitians should certainly not have been penalized and should be entitled to relief.

I am pleased, as was referred to by our distinguished colleague, Congressman Conyers, that the White House, in fulfillment of the agreement that was reached with the Congress at the time of the

legislation that you were so tremendously helpful for, that we were able to pass in the last session, that the White House has made an announcement with regard to suspension of deportation of Haitians, while we consider in Congress our legislative relief for the Haitian community. The Administration committed, as you know, that Haitians will not be deported while we pursue this legislation.

A bipartisan coalition has been formed in the House and Senate, with which I am proud to work, and certainly within which I would consider myself to be, to achieve an equitable result for the Haitian community in the United States as soon as possible. These steps have made possible, I am convinced, Mr. Chairman, a better understanding, along with hearings such as this, of the plight of the Haitian refugees in the United States, and that understanding will continue to grow in Congress.

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Thank you very much.

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I could dedicate my entire testimony to enumerate the accomplishments and contributions of Haitians in the United States, however, in fairness to elemental justice, which is at the core of this issue, I am compelled to share with you this morning some of the strong arguments that merit seeking legislative relief for Haitian refugees in the United States.

It has been estimated by the INS that there are approximately 11,000 Haitians that came into the U.S. through the Guantanamo Naval Base in 1991-1993. These refugees were paroled into the U.S. after having demonstrated to an INS officer at the naval base to have a credible asylum claim. Only a third of those interviewed were admitted. After having been admitted these refugees filed asylum petitions, often times enduring a lengthy processing time for INS to evaluate their claims.

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some perspective as to what took place during the time in which a number of the refugees came to the United States.

We will then hear from Miraan Sa, who is representing Amnesty International today, and finally, we will hear from Cheryl Little, who is the executive director of the Florida Immigrant Advocacy Center in Miami.

I thank you all for being here. I know a number of people on this panel are testifying before a Senate hearing for the first time, or maybe publicly speaking for the first time, but I want to make sure everybody in the audience understands that we're here to hear these people and they're going to do their best. Nobody should feel uncomfortable. Nestilia, we will begin with you.

PANEL CONSISTING OF NESTILIA ROBERGEAU, HAITIAN REFUGEE, ATLANTA, GA; LOUCIANA MICLISSE, HAITIAN REFUGEE, HOMESTEAD, FL; BISHOP THOMAS G. WENSKI, AUXILIARY BISHOP OF THE ARCHDIOCESE OF MIAMI, ON BEHALF OF MOST REVEREND JOHN C. FAVALORA, ARCHBISHOP OF MIAMI AND MEMBER OF THE NATIONAL CONFERENCE OF CATHOLIC BISHOPS COMMITTEE ON MIGRATION; GROVER JOSEPH REES, FORMER INS GENERAL COUNSEL; MIRAAN SA, AMNESTY INTERNATIONAL, MIAMI, FL; AND CHERYL LITTLE, EXECUTIVE DIRECTOR, FLORIDA IMMIGRANT ADVOCACY CENTER, MIAMI, FL

STATEMENT OF NESTILIA ROBERGEAU

Ms. ROBERGEAU. Good morning, Mr. Chairman, members of the committee, ladies and gentlemen. My name is Nestilia Robergeau. Thank you, Senator Abraham and the Senate Immigration Committee very much for giving me this opportunity to speak to you on my behalf and on the behalf of the Haitian community. Thank you so much for caring about us, and taking the time to learn about me, my problems, and the problems of people in situations like mine. The Haitian Refugee Immigration Fairness Act that you are currently considering would help me and my little brother very much, as well as many other people like us.

I am 25 years old and I was born in Haiti. I entered the United States on April 8, 1992 from Guantanamo Bay, Cuba. I was resettled by Church World Service. I had a good life in Haiti. I attended school in Port-au-Prince and I was a strong supporter of President Jean Bertrand Aristide. My older brother, Andrigue, was also a big Aristide supporter. He and I came up with the idea of forming a youth group after Aristide was elected. We wanted to show our support for him and help contribute to our country.

The group was called the Youth Organization of Boucan. Grand Boucan is my hometown in southwestern Haiti. I was the secretary of our group and my older brother was the president. The group helped children from Grand Boucan who could not afford to go to school and who did not have enough food to eat. The youth group collected money to buy food, school supplies, shoes, clothes, and help pay school tuition for these kids.

Unfortunately, even this kind of work can get you into trouble in Haiti. The military really hated Aristide and the people who supported him. After the coup in late September 1991, things got

really bad. I was very afraid. Our group could no longer meet. The military would chase people in the streets, attack them, beat them, rape them, arrest them and kill them. They came after people like me and communities like ours who had supported President Aristide.

One night, men started yelling to be let into our house. A few moments later, I heard a noise that sounded like they had smashed in the door. The next thing I knew, there were several soldiers in my room. They threatened to kill me. They assaulted me and raped me. I was terrified. I was bleeding.

Afterwards, I was so afraid that I wanted to leave Port-au-Prince immediately, but it was impossible. When I was finally able to leave for Grand Boucan, my sister, Jocelyn, was left behind. That was the last time I saw my sister or my mother. I have not had any contact with them ever since and I fear that something terrible has happened to them.

Even when I arrived in Grand Boucan, I was not safe. Shortly thereafter, my brother, Andrigue, was killed by the Ton Ton Macoutes, who were working with the military. I was absolutely terrified that I would also be killed. Following his murder, I went into hiding in the woods where I stayed about a month until I could escape on a small boat.

I was so grateful and happy when the U.S. ship saved us from our little boat. It was like a miracle when the ship came. They brought us to the camp at Guantanamo Bay. It was not easy for us there, but we could feel safe because we did not have to worry about people coming to rape us, beat us, or kill us. I didn't have to be scared any more.

After several months, I was permitted to come to the United States. I was so happy that I was getting a chance to go to a place where I could work and study without worrying about being attacked or killed any more.

Since coming here, my application for asylum has been filed, but I am still waiting to be called by Immigration for my asylum review. Meanwhile, I was able to continue my education. I graduated from Homestead Senior High School in 1993 and later attended a secretarial training program from April 1994 until August 1996, where I received numerous honors. I still have hope that I will be able to attend college in the future. I plan on studying to become a registered nurse so I can help people.

Currently, I live in Atlanta, GA and work as a cashier at Harris Teeter, which is a supermarket, and at Wendy's. Most days, I work from 7 o'clock in the morning until 10 o'clock in the evening. I am a member of Bethel Baptist Church, where I attend services as often as I can, at least once and sometimes twice a week. I have my own apartment and I support myself and my little brother, Michelet Robergeau. He also came through Guantanamo Bay. He attends Wheeler High School, where he is a junior. Michelet is a Mormon and attends prayer meetings and services almost daily.

Ever since I have been here I have lived in fear of being sent back to Haiti. Nothing has been settled in my life. I am afraid to return to the place where the men attacked me and the men who killed my older brother still live and can still hurt me and my little brother.

The law that you are considering today would help us immensely. The Haitians who would be helped by this law have all fled terrible tragedies, but now they go to work and pay taxes like everybody else. We deserve a chance to have a secure future. We have hoped for some permanent solution to our problems for a long time.

Please protect me and my little brother. Please don't force us or any other Haitians to go back to Haiti. I would be forever grateful if you gave us a chance to continue being good members of society here in the United States where it is safe. I have suffered so much in the past. Please help me and others like me make a better future.

Thank you for your time, and thank you for listening to me today.

Senator ABRAHAM. Thank you, Miss Robergeau. I know how tough this has to be for you and others who are here today.

Miss Miclisse, thank you for being here, too. It's your turn.

STATEMENT OF LOUCIANA MICLISSSE

Ms. MICLISSSE. Good morning. My name is Louciana Miclisse. I would like to thank Senator Abraham and the Immigration Subcommittee for giving me this opportunity. The proposed law would help my family and me very much.

After I came to the United States, my Aunt Nadia told me that my father and mother had died because they were sick. But recently, my aunt told me I was ready to know the truth. She told me that the military had shot and killed my father and that's why she took me out of Haiti. They killed him because he was a leader in a group which supported democracy. Someone also shot and killed my mother. This hurts me very much. I do not understand how they could take my father and mother away from me like that.

I am afraid to go back to Haiti. I am afraid the people who killed my parents will kill me, also. Now all I have is my aunt Nadia who came with me to the United States. She is like a mother to me.

Living in the United States has been wonderful for me. I love my school. I am on the honor roll in the fourth grade at West Homestead Elementary School. I make good grades so that I can go to medical school. I have decided that I want to be a doctor when I grow up so that I can help people from dying.

I heard that most children in Haiti do not go to school. I would be so sad if that happened to me. I also love my church. I participate in our Haitian dance group and I get to help take up the offerings on Sundays sometimes. I am very thankful to live in a country where I have enough food to eat. I hear that most children in Haiti are hungry.

I understand that even though my parents were killed, my application for asylum may be denied. Then I would have to go back to Haiti. That is why I am asking you to help me. Please pass the law that will allow my family and me to stay in the United States where we are safe. Thank you very much.

Senator ABRAHAM. Thank you, Louciana.

Bishop Wenski.

STATEMENT OF BISHOP THOMAS G. WENSKI

Bishop WENSKI. Good morning, Senator. I was in Michigan last week and I think I got that same bug that you have.

I am Thomas G. Wenski, auxiliary Bishop of the Archdiocese of Miami. I am testifying today on behalf of Archbishop John C. Favalora. The Archbishop was to appear before you on behalf of the National Conference of Catholic Bishops Committee on Migration, of which he is a member, and in his capacity as Archbishop of the Archdiocese of Miami. Unfortunately, he was unable to be present today because he recently fractured a bone in his arm. But I am happy to be here to represent him because, before becoming Auxiliary Bishop of Miami, I worked among Haitians here in south Florida since 1978.

I speak Creole. I have been a pastor, and I still am a pastor of three Haitian Catholic parishes here in Dade and Broward County. In that capacity, I have also visited several locations, the Guantanamo base, rendering pastoral services to the Haitians there, as well as those here in Florida.

I would like to submit the remarks prepared by the Archbishop for the record, and I will present an abbreviated version of that.

Senator ABRAHAM. Thank you. The statement will be submitted in full.

Bishop WENSKI. We commend you for your efforts, especially on behalf of legal immigrants and refugees, your efforts on this particular matter. We welcome the opportunity to present the views of the United States Catholic Conference [USCC] and the Archdiocese of Miami on the urgent need to provide justice and fairness to Haitian nationals living in our midst. These brave souls have faced duress, extreme hardship, and political strife in their native land. They sought and were extended the protection of the U.S. Government at a time of great need.

But now they find themselves in legal limbo or in danger of imminent return to a troubled Haiti due to the interaction of two dynamics: one, our Government's inability to adjudicate in a timely fashion their long-standing claims for asylum, and two, a number of ill-conceived provisions in last year's Illegal Immigration Reform and Immigrant Responsibility Act. These factors have resulted in many Haitian nationals here facing removal from the United States without reasonable consideration. Many of them find themselves in this position even though they were previously found by our Government to have a credible fear of persecution.

The Catholic Church has long spoken out for Haitians and has maintained a commitment to those who have sought refuge. During his 1983 visit to Haiti, Pope John Paul II called on the church and others of good will to help find ways to ensure that the Haitian people have opportunities to live a "truly human life".

In 1982, Cardinal Bevilacqua, the Archbishop of Philadelphia, testified before the Senate Subcommittee on Immigration and Refugee Policy about the incarceration of Haitian asylum seekers. He made clear at that time that "these good people are of special concern to the church, which has sought for so long to relieve their misery and to open the door to a life filled with hope rather than despair."

USCC officials testified before Congress in 1989, 1991, and again in 1994, on behalf of the Haitians. Our message has been clear and consistent, that those who have existed in this state of uncertainty cannot live a truly human life until a resolution is provided by you and your colleagues in Congress. It is imperative that we not ignore Haitians in the shadows or push them further into the shadows with continued inaction.

I note, Mr. Chairman, that earlier this year Congress passed and the President signed into law the Nicaraguan Adjustment and Central American Relief Act, which provided relief for certain Nicaraguans and Cuban refugees and other Central Americans and eastern Europeans that are in this country. The Catholic Conference strongly supported this legislation and we applaud Congress and the President for enacting this important law. We were disappointed, however, when the final legislative remedy did not provide relief to similarly situated Haitians residing in the United States.

I commend you for stepping forward and holding this hearing today, and ask that you take back to your colleagues the message that the United States Catholic Conference, which represents the Bishops of all the United States, strongly urges Congress to move expeditiously to provide similar relief for Haitians.

It is with the aim of ensuring that Haitian nationals are treated with dignity and justice that the Catholic Church in the United States has maintained a commitment to Haitians seeking protection in the United States. This commitment has been reflected through the work of the bishops' national Office of Migration and Refugee Services. We have been historically one of two national groups which have assisted the United States Government in the resettlement of Haitian asylum seekers.

In our case, we have done so through Catholic diocesan social service agencies across the country. Individuals were referred to us for resettlement by the then contracting agency, Community Relations Service, Department of Justice. We received and resettled well over 10,000 Haitians. Diocesan resettlement programs, especially those in Miami, Palm Beach, Brooklyn, Boston, and New York, where the majority of the Haitians settled, provided or arranged pro bono legal representation for these people as they pursued requests for political asylum. Right now, our legal program here in the Archdiocese of Miami alone represents some 6,000 Haitian clients, among them 3,500 hit ball (?) clients, seeking resolution of their immigration situation. We do this while utilizing the service of four attorneys.

As I am sure you're aware, there is ample precedent for Congress to take action to provide for adjustment of refugee-like populations to lawful permanent resident status. We did this earlier this year for Nicaraguans and Cubans, and Congress has done this on other occasions in this decade for other populations. Such examples are found in P.L. 102-404, the Chinese Student Protection Act of 1992, and last year's legislative on behalf of Poles and Hungarians.

You have the statement, and as these two young children pointed out, we're dealing not with just statistics but real live people. In my parish here in Miami I have several youngsters. One young man, if he keeps up his grades, will be valedictorian of his class,

his high school class, and yet he has no status, no papers, no chance for the future. That represents a tragedy, not only for the Haitians involved, but for all America, because these people have and are in a position to contribute to the welfare of this country.

Thank you.

[The statement of Archbishop Favalora follows:]

PREPARED STATEMENT OF MOST REVEREND JOHN C. FAVALORA

Good morning, Mr. Chairman, and welcome to Miami.

I am Thomas G. Wenski, Auxiliary Bishop of the Archdiocese of Miami. I am testifying today on behalf of Archbishop John C. Favalora of Miami. Archbishop Favalora was to appear before you on behalf of the National Conference of Catholic Bishops Committee on Migration, of which he is a member, and in his capacity as Archbishop of the Archdiocese of Miami. Unfortunately, he was unable to be present due to an unanticipated illness.

I cannot let my appearance before this Subcommittee pass without taking a moment to commend you, Mr. Chairman, for your efforts on behalf of legal immigrants and refugees. Your courageous leadership during the 104th Congress was instrumental in defeating attempts to make severe cuts in legal immigration. This current Congress, too, has faced difficult immigration issues. We appreciate your continued leadership in this Congress on these important issues. Your efforts to maintain responsible admissions policies and other legislative endeavors on behalf of newcomers to our country are greatly appreciated by the Church. Your leadership, and that of the Subcommittee you chair, have added critically important voices to a debate that has often otherwise been mired in misconception and emotionalism.

Today, I welcome this opportunity to present the views of the United States Catholic Conference (USCC), representing the Catholic Bishops in the United States, and the Archdiocese of Miami on the urgent need to provide justice and fairness to Haitian nationals living in our midst. These brave souls have faced duress, extreme hardship and political strife in their native land. They sought and were extended, the protection of the U.S. government at a time of great need. But they now find themselves in legal limbo or in danger of imminent return to a troubled Haiti due to the interaction of two dynamics; (1) our government's inability to adjudicate in a timely fashion their longstanding claims for asylum aid (2) a number of ill-conceived provisions in last year's Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). These factors have resulted in many Haitian nationals here facing removal from the United States without reasonable consideration. Many of them find themselves in this position even though they were previously found by our government to have a credible fear of persecution.

The Catholic Church has long spoken out for Haitians and has maintained a commitment to those who have sought refuge. During his 1983 visit to Haiti, Pope John Paul II called on the Church and others of good will to find ways to ensure that the Haitian people have opportunities to live a "truly human life."¹ In 1982, Anthony Cardinal Bevilacqua, the Cardinal Archbishop of Philadelphia, testified before the Senate Subcommittee on Immigration and Refugee Policy about the incarceration of Haitian asylum seekers. In testimony concerning Haitians in 1984—then Archbishop Bevilacqua made clear that "these good people are of special concern to the Church which has sought for so long to relieve their misery and to open the door to a life filled with hope rather than despair."² USCC officials testified before Congress in 1989, 1991, and again in 1994 on behalf of the Haitians. Our message has been clear and consistent that those who have existed in this state of uncertainty cannot live a "truly human life"³ until a resolution is provided by you and your colleagues in Congress. It is imperative that we not ignore Haitians in the shadows or push them further into the shadows with our continued inaction.

I note, Mr. Chairman, that earlier this year Congress passed and the President signed into law the Nicaraguan Adjustment and Central American Relief Act, which provided for the adjustment of status of certain Nicaraguan and Cuban refugees and for equitable consideration of the immigration claims of Salvadoran, Guatemalan,

¹ Pope John Paul II, "Something Must Change Here," Homily presented at Duvalier Airport in Port-au-Prince, Haiti, March 9, 1983.

² Statement of the Most Reverend Anthony J. Bevilacqua before the Subcommittee on Immigration, Refugees, and International Law, the Committee on the Judiciary, U.S. House of Representatives, May 9, 1984.

³ Pope John Paul II, "Something Must Change Here," Homily presented at Duvalier Airport in Port-au-Prince, Haiti, March 9, 1983.

and certain Eastern European immigrants who are in this country. The United States Catholic Conference strongly supported legislation to accomplish this end, and we applaud Congress and the President for enacting this important law. However, we were disappointed when the final legislative remedy did not provide relief to similarly situated Haitians residing in the U.S. I commend you for stepping forward and holding this hearing today, and I ask that you take back to your colleagues the message that the United States Catholic Conference strongly urges Congress to move expeditiously to provide similar relief for Haitians.

It is with the aim of ensuring that Haitian nationals are treated with dignity and justice that the Catholic Church in the U.S. has maintained a commitment to Haitians seeking protection in the United States. This commitment has also been reflected through the work of the Bishops' National Office of Migration and Refugee Services/USCC. Historically, we have been one of two national groups which have assisted the U.S. government in the resettlement of Haitian asylum seekers. In our case, we have done so through Catholic diocesan social service agencies across the country. Individuals were referred to us for resettlement by the then contracting agency, Community Relations Service, Department of Justice. We received and resettled well over 10,000 Haitians. Diocesan resettlement programs, especially those in Miami, Palm Beach, Brooklyn, Boston and New York, where the majority of the Haitians settled, provided or arranged pro bono legal representation for these people as they pursued requests for political asylum. Our legal program here in the Archdiocese alone, represents more than 1,000 Haitian clients seeking resolution of their immigration situation. We do this while utilizing the services of only two attorneys.

As I am sure you are aware, there is ample precedent for Congress to take action to provide for adjustment of refugee-like populations to Lawful Permanent Resident (LPR) status. Not only did Congress do so earlier this year for Nicaraguans and Cubans, Congress has done so on other occasions in this decade for other populations. Two such examples are found in P.L. 102-404, the Chinese Student Projection Act of 1992, and in last year's IIRIA legislation, which provided for adjustment of status for Poles and Hungarians. Certainly, this provides ample precedent for S. 1504, the legislation which is the subject of today's hearing, its companion measure, H.R. 3049, and H.R. 3303. I note that all three of these bills have bipartisan lists of co-sponsors, and they all would provide an excellent basis for resolving the plight of Haitians here in the U.S.

Earlier this year, Mr. Chairman, Archbishop Favalora delivered a statement on the effects of the 1996 immigration reform legislation on southern Florida. He pointed out at that time that tens of thousands in southern Florida were facing the loss of their work permits and possible deportation. He spoke then particularly of Nicaraguans, and others similarly situated—including other Central Americans and Haitians. These are individuals who found themselves in an uncertain situation as a result of U.S. policy and the complexities of immigration law, but who could not move their cases forward expeditiously or apply for other forms of humane and compassionate relief. The Archbishop appealed to both the executive and legislative branches to address this issue. Not only did he speak out for the Archdiocese of Miami but so, too, did our brother bishops from around the country. This was accompanied by statements and other communications of the National Conference of Catholic Bishops Committee on Migration and the President of the National Conference of Catholic Bishops United States Catholic Conference, Bishop Anthony M. Pilla, of Cleveland as recently as November 4th of this year, the National Catholic Conference of Bishops Committee on Migration spoke of its support for legislation to provide relief for affected Nicaraguan, Salvadoran, Guatemalan and Haitian nationals, all of whom fled persecution in their countries of nationality and thus are similarly situated.

I would like to take a moment to talk about one individual here in the Archdiocese of Miami who would be tragically affected if legislation is not passed. Jean Baptiste is a twenty-five-year-old Haitian national who arrived in the United States on August 15, 1988, at the age of sixteen. Since his arrival he has lived with his United States citizen uncle, his cousin, and a woman whom he considers his sister. He cared for his young cousin while his uncle worked long hours. It was his responsibility to take care of the home as well as make sure his young cousin completed his school work. His own performance in school resulted in a perfect attendance certificate for his junior and senior years of high school. He played football and graduated from North Miami Senior High School in 1992, completed a course in electric wiring at Lindsey Hopkins Technical Educational Center in 1993, and in 1994 went on to attend college at North Dakota State College of Science (NDSOS). While there, he played for the NDSOS football team and also demonstrated, according to his coach, "very good academic potential." In a statement to the court this year he said: "I dream of having the chance to return to school. I want to look forward to my fu-

ture, yet it's difficult with the uncertainty of my status here in the U.S. I want a chance to succeed. I am what one would consider a people person, so I dream of attaining a degree in counseling. I want to help others help themselves. I have learned a lot from many people and I would like the opportunity to pass that knowledge on to someone who can use it. All I'm asking is for a chance, a chance to partake and appreciate a sound education and a rewarding future. I thank you for your time and look forward to hearing from you."⁴ Jean Baptiste has been living in the United States for nearly ten years, he speaks fluent English and has become immersed in the American culture. Yet our immigration laws may return him to Haiti.

Haitians are a part of the rich and vibrant diversity of southern Florida, particularly Miami, and their contributions to this community and to our nation should not be underestimated. Many fled to this country after having tried to build and defend a democracy not unlike our own. They are men, women and children. They have opened businesses, established homes, raised children, paid taxes, served in our military, and, in the bettering of their lives, they have contributed to the greater good of this nation.

We must remain mindful of the consequences for Haiti of a mass return of Haitians to that country. Haiti is truly involved in a struggle to maintain its fledgling democracy. Newspaper headlines over the last year have included; "Ton ton Macoutes Mount Destabilization Campaign", "Killings Surge in Haiti as Elections Near", and "Haiti's Elections: U.S. had hoped for Jefferson, Got Duvalier." In a November 30, 1996, letter to the Secretary General of the United Nations the then President Preval requested that the mandate of the OAS/UN International Civilian Mission to Haiti be extended until December 31, 1997. This request is evidence that Haiti's own government recognized its limitations and weaknesses in protecting the rights of its own citizens and fulfilling its basic obligation as a state to protect its citizens. Clearly, further pressures on the Government of Haiti, such as the return of nationals, would only jeopardize any forward progress. We must not ignore the risk to those individuals who would be returned to Haiti. The United Nations High Commissioner for Refugees wrote in an August 14, 1997, letter to Mr. John Evans, Director of the Resource Information Center of the Immigration and Naturalization Service: "While the efforts of the Government of Haiti and the international community to institute reforms are laudable, this Office believes that it would be inappropriate to conclude generally that Haitian asylum-seekers would no longer face persecution upon return to Haiti. In light of these indications, asylum applications from Haitians should continue to be considered on their individual merits, taking into account any claims of past persecution, current country conditions, and the potential for continued human rights abuses."⁵ These are critical factors to take into account in determining the need for this legislation.

I would like to emphasize that the legislative proposals being considered during today's hearing would provide nothing more than justice and fair play to Haitian nationals. Two of the bills—H.R. 3049 and S. 1504, could provide an opportunity for permanent residence for those Haitian nationals who requested political asylum in the United States before 1995, and those who were paroled into the United States after being found by the Immigration and Naturalization Service to have a credible fear of persecution upon return to Haiti. In addition, they would extend protection to the spouses and children of those who are found eligible for this relief. The third bill, H.R. 3303 would extend this same opportunity to all Haitian nationals here prior to December 31, 1995. Most importantly, these measures would provide access to relief for those harmed as a result of the unintended consequences of last year's immigration reform legislation and others left in limbo due to our government's inaction.

If your hearing today contributes to further Congressional efforts to bring equitable relief to the Haitians among us, then I and my brother bishops will be heartened. We eagerly look forward to Congressional action on this issue early in the next session.

In closing, Mr. Chairman, I ask that you and other members of the Subcommittee urge the Administration to halt the immigration proceedings of these individuals while a legislative solution is being pursued. While we have heard of assurances that this will be done, we remain concerned. For instance, the legal program in the Archdiocese has 40 cases scheduled before the Executive Office of Immigration Review, "EOIR", for the month of January with an expectation of receiving between four and ten interviews a week with the asylum corps. I have been informed that our attorneys have been urging the government trial attorneys and immigration

⁴Notarized Statement of Jean Pierre Jean Baptiste.

⁵August 14, 1997, UNHCR Regional Representative's letter to the Director of the Immigration and Naturalization Service's Resource Center regarding "Current Country Conditions in Haiti."

judges to continue these cases with work authorization. This would keep the cases before the immigration judges for immediate action. But there appears to be no clear policy and/or directive that has been enunciated in regard to these proceedings. Direction is needed from the Executive Director of EOIR and the INS to continue these cases in proceedings and reschedule asylum interviews for a future date pending legislative action. This would preclude the return of individuals to Haiti, calm panic and confusion in the community so individuals will not be afraid to appear before INS, and prevent duplicative work by INS and EOIR.

I thank you, Chairman Abraham, for providing me this opportunity to express the views of the United States Catholic Conference, the Bishops' Committee on Migration, and the Archdiocese of Miami. I applaud you for your leadership on behalf of the Haitian people.

Senator ABRAHAM. Bishop Wenski, thank you very much.

Mr. Rees, it's your turn.

STATEMENT OF GROVER JOSEPH REES

Mr. REES. Mr. Chairman, my name is Grover Joseph Rees. I was General Counsel of the INS between 1991 and 1993. I worked in Guantanamo and in Port-au-Prince, in our in-country processing centers.

When we paroled 11,000 Haitians into the United States, I am painfully aware that we also denied the opportunity to many thousands more people to come to the United States during that time.

The American tradition of generosity toward people who have fled persecution is an essential part of our political culture. I want to add my thanks to you, Senator, to those who have gone before. I often say that when I was learning how to be a conservative Republican, you didn't have to be against immigrants, and you were supposed to be in favor of refugees. There are people who have been trying to change that rule in the middle of the game, and almost singlehandedly you have reaffirmed on the conservative Republican side that this generosity, this welcome to people who are in trouble because they share our values, is an American tradition, a bipartisan tradition. I also thank the others who testified for their commitment, and Senator Graham.

Until the first 150 years of our history, we didn't need any special refugee laws because the general rule was that you could come in, unless we thought there was something terribly wrong with you. The string of anti-immigration laws that were passed in the 1920's had the tragic effect of keeping thousands of people who had managed to escape from Nazi Germany from finding safety and freedom here in the United States.

As it happens, the most vivid instance of this exclusion happened right here in Miami. The ship, the St. Louis, carrying several hundred German Jews, was moored in sight of Miami for several days and was finally denied permission to land. Those people had to return to occupied Europe, where many died in concentration camps.

It was in an effort to ensure that this sort of thing would never happen again that Congress began passing specific refugee legislation in the 1940's and 1950's, culminating in the Refugee Act of 1980. The general rule is that refugee policy trumps immigration policy, that even if you are not somebody who passes the social and economic tests to be an immigrant, refugee laws subordinate those social and economic policies to the moral principle, that we cannot return anybody to persecution.

The most important refugee protection law arguably, however, is not any of the specific refugee laws, laws that have the word "refugee" in their title. Rather, it is the Attorney General's power to parole people into the country; that is, to allow for their provisional entry, even though no law specifically provides for their admission.

Over the past 40 years, over a million escapees from brutal regimes have been allowed into the United States under the parole power. In some cases, these people might have been unable to bear the burden of proof, to prove that they were refugees. In other cases, they could have borne that burden of proof but there was simply too many of them. They had to be moved too quickly.

The refugee admission process is a complicated one. It can take months, or even years, and the problem is we can't always plan for the existence of refugees. The only people who can plan for whether people are going to be persecuted are the persecutors themselves. So that in refugee policy, as in war and peace, one of the costs of being the "good guys" is that you have to play defense rather than offense. You have to be reacting to situations that are not of your own making, and you have to react quickly and you have to react by doing the right thing. The parole power is often better suited to that kind of quick reaction than the formal refugee admission process.

Now, the problem with parole is that once people get here, they don't have any formal status in the United States. They don't have the right to work, they don't have the right to be reunited with their families, they can never become citizens, unless something else is done for them. In general, that has been adjustment of status, and we have allowed hundreds of thousands of people under a list of laws that have already been mentioned several times by other witnesses here, beginning with the Hungarian Freedom Fighters in 1957, who were paroled and then allowed to adjust, going right up to the Nicaraguans and the other Central Americans just a couple of months ago.

Now, I suggest, Mr. Chairman, that the Haitians that have been paroled into the United States between 1991 and 1994 have all of the equities that these other people who have been paroled in under refugee-like situations have. They came in at a time when their country was governed by a particularly brutal regime. In the words of President Clinton a few weeks before he finally changed the policy of direct return, they are "chopping people's faces off down there." Their asylum cases have taken years to adjudicate. They have built families here. Some have been here 6 years.

Finally, if there is any country to which we don't need to send some kind of a message, that we're not "softies" by returning a few thousand people, it is Haiti. I hope that we will never again repeat the experience of the St. Louis. The return of some of those Haitians who got in sight of Miami was tragically reminiscent of that, and I am proud to support this legislation.

Thank you.

[The prepared statement of Mr. Rees follows:]

PREPARED STATEMENT OF GROVER JOSEPH REES

Mr. Chairman and members of the Subcommittee:

My name is Grover Joseph Rees. Between 1991 and 1993, when over 11,000 Haitians were paroled into the United States and many thousands of others were forc-

ibly returned to Haiti, I served as General Counsel of the United States Immigration and Naturalization Service. It is in this former capacity that I have been invited to testify. Because I am currently employed by another branch of the government, I should make clear that I speak only for myself.

The American tradition of generosity toward people who have fled persecution on account of political opinion, religion, race, and similar characteristics is an essential part of our political culture. Until the early part of this century, there was no need for special laws allowing for the admission of refugees, because our immigration laws provided open admission to anyone who was not a criminal or a member of certain other categories deemed threatening to public health or safety.

The passage of national origin quotas and other strict limits on immigration to the United States in the 1920s had the effect of preventing many thousands of people who had managed to escape from Nazi Germany during the 1930s from finding safety in the United States. The most dramatic instance of such exclusion was the forced return to Europe of several hundred Jewish passengers on the *Saint Louis*, a vessel which had been moored for several days in sight of Miami, unsuccessfully seeking permission to land. Many of these passengers later died in concentration camps.

In order to ensure that immigration restrictions would never again result in the return of refugees to persecution, Congress enacted the Displaced Persons Act of 1948, the Refugee Relief Act of 1953, and other refugee-specific legislation culminating in the Refugee Act of 1980. The general rule of such legislation is that refugee policy trumps immigration policy: even if someone is deemed inadmissible under the social and economic policies that govern the immigration laws, the refugee laws subordinate these policies to the paramount moral principle that we must not deliver that person into the hands of his persecutors. Our law also recognizes that in many circumstances, not returning these people to persecution means allowing them to remain in the United States and eventually to become Americans.

Arguably, however, the most important refugee protection law is not any of the laws that explicitly mention the word "refugee." Rather, it may be the Attorney General's power to "parole" people into the United States—that is, to let them enter on a provisional basis even though no law specifically provides for their admission. Over the past forty years over a million escapees from brutal regimes have been allowed into the United States under the parole power. In some cases, these people might have been unable to meet the burden of proof required to establish refugee status in a formal proceeding, yet the conditions in the countries from which they had escaped afforded no certainty of safe return. In most cases, however, the parole power was used because of its relative speed and flexibility. The Refugee Act lays out a careful and detailed plan for annual refugee admissions. Unfortunately, however, the only people who can really plan for the existence of people in danger of persecution are the persecutors themselves. Routine processing of refugee cases can take months or even years, and requires the co-operation of a first asylum country or sometimes of the very country in which the refugee has a well founded fear of persecution. Such processing is better suited to people who are already out of harm's way, living in a refugee camp in a safe third country, than to people who are still in imminent danger. In refugee policy as in matters of war and peace, the need to play defense rather than offense—to react to situations not of our own making, and to react quickly, and to react by doing the right thing—is among the costs of being the United States of America.

The most serious problem with the use of the parole power for refugee protection is that it gives refugees no formal status in the United States. They have no right to work, to be reunited with their families, or to become citizens. They often live in constant fear that a change in policy will result in their sudden removal from the United States. Some of these problems can be alleviated by other administrative devices. In the end, however, we must choose whether to deport these people or to let them adjust their status to that of lawful permanent residents.

In the vast majority of cases, we have chosen to let these refugees adjust to legal status. Some of them, such as those with close relatives already in the United States, have been able to adjust under the general immigration laws. Most, however, have required special legislation allowing their adjustment, and Congress has frequently enacted such legislation:

- The first large-scale use of the parole power to allow the entrance of people with refugee characteristics was in 1957, when President Eisenhower announced that parole would be used for people who had escaped Hungary during the 1956 Soviet invasion. The next year Congress enacted the Hungarian Refugee Act of 1958 to allow these freedom fighters and their families to adjust to permanent resident status after two years of residence in the United States. In 1960, Congress enacted the Fair Share Refugee Act, which specifically authorized the use of parole for thou-

sands of refugees in specific national groups, mostly from Europe, and provided that these refugees could adjust their status after two years of residence.

- The Cuban Refugee Adjustment Act of 1966 allowed for the adjustment of hundreds of thousands of people who had paroled into the United States from Cuba. The law initially required two years of residence prior to adjustment, but a 1976 amendment modified this to one year. This law remains in force and has allowed for the adjustment of over a half-million escapees from the Castro regime.

- The Indochinese Refugee Act of 1977 provided for the adjustment to lawful permanent resident status of thousands of parolees from Viet Nam, Cambodia, and Laos. Again, hundreds of thousands of people availed themselves of this provision.

- A general "Refugee Parolee provision" of a 1978 appropriations bill provided for the adjustment of parolees with refugee characteristics, without respect to nationality, including those who entered after the date of enactment through October 1980. Among the principal beneficiaries of this provision were escapees from Communist China to Hong Kong, about 15,000 of whom had been paroled into the United States under a 1962 Presidential order. Soviet Jews paroled under a 1971 Attorney General directive were also beneficiaries of this provision, as were Vietnamese, Cambodians, and Laotians who entered after the 1979 deadline set by the Indochinese Refugee Act.

- The Immigration Reform and Control Act of 1966 (IRCA) contained a provision allowing the adjustment of about 40,000 Haitians who had been paroled in the late 1970s and early 1980s prior to the 1981 initiation of the "Alien Migrant Interdiction Program" which provided for the direct return to Haiti of almost all Haitians who attempted to reach the United States by sea between 1981 and 1991—as well as several thousand Cubans who had escaped via Mariel in 1980 and who had been disqualified from adjustment under technical provisions of the Cuban Refugee Adjustment Act.

- The Lautenberg Amendment of 1989 provided for the adjustment of parolees from the former Soviet Union and Southeast Asia who are members of certain specified groups, including Jews, Evangelical Christians, and Ukrainian Christians from the former Soviet Union and re-education camp survivors and former U.S. government employees from Viet Nam. Congress has extended this provision five times, most recently last month.

- The Chinese Student Protection Act of 1992 provided for the adjustment of status of nationals of the People's Republic of China who had been admitted or paroled into the United States and who were in the United States during or shortly after the Tiananmen massacre.

- Most recently, just last month Congress enacted legislation to permit the adjustment of Nicaraguans (typically parolees) who entered the United States on or before December 1, 1995. The legislation also permits the adjustment of certain Cubans who do not qualify for adjustment under the 1966 act, and for nationals of El Salvador, Guatemala, and the former Soviet Union and Eastern Europe who can establish seven years of residence, good moral character, and "extreme hardship" if removed from the United States.

This list is not exhaustive, but illustrates that adjustment of status has been the rule rather than the exception for people who have been paroled into the United States in large numbers under country-specific programs in response to a refugee-generating situation in their home country. In many of these cases, the United States could have chosen instead to require that each parolee establish his or her refugee status in an asylum proceeding, but this might have taxed an already overburdened asylum adjudication system to the breaking point. Moreover, delays in the asylum system have often resulted in situations in which a parolee who could have obtained asylum if his or her case had been adjudicated within a year or two can no longer do so when the case finally comes up for adjudication. Although these applicants may no longer face imminent danger in their home countries, so much time has passed that their jobs, families, and lives are now in the United States, with no real prospect of re-establishing them in their countries of origin. In these circumstances asylum is no longer the appropriate remedy but this does not mean that no remedy is appropriate.

Haitians who were paroled into the United States between 1991 and 1994 have many of the equities that characterize groups who have been granted adjustment of status by special legislation since 1957. They came at a time when their country was being ruled by a particularly brutal regime. In the words of President Clinton, a few weeks before he finally reversed our policy of direct forcible return, "They are chopping people's faces off down there." Moreover, the overwhelming majority of these Haitians were paroled only after a finding that they individually faced a "credible fear of persecution"—that is, that they would have a reasonably good chance of success if allowed to apply for asylum in the United States. That their asylum

cases have never been adjudicated is not their own fault, but the consequence of an asylum system that is now working better than it was in 1991 but that still encounters delays and backlogs. Although the particular danger these people were fleeing—the illegal government that ruled from 1991 until 1994 is no longer in power, those who returned would still return to an environment rife with violence—some random, some politically targeted. Moreover, like many of the groups who benefited from prior legislation, these people have built their lives here in the United States. Some have been here six years. Many have children who are United States citizens and who speak English better than they speak Creole. These are American families; they have contributed to our economy and been shaped by our society.

Finally, I would like to suggest yet another reason for keeping these people here in the United States. These are the lucky ones, the people who were allowed in just before, and in a few cases just after, the period of direct return that lasted from 1992 to 1994. During part of that period we not only forcibly returned people who were interdicted in international waters, but, due to a particularly egregious 1993 Justice Department legal opinion, we even began interdicting them within the territorial waters of the United States and denying them the benefits of our asylum laws. Like the passengers on the Saint Louis, hundreds of Haitians actually saw Miami before they were forced back into the hands of their oppressors. Perhaps the continuing presence of their brothers and sisters as productive members of our society will remind us that whatever it was we were afraid of back in 1992 and 1993, it was not worth the sacrifice of our American tradition of welcoming people who have managed to escape from dangerous places in search of safety and freedom.

Senator ABRAHAM. Thank you, Mr. Rees, and thank you for your historic perspective as well.

I think one of the problems we've had in our deliberations in recent years about immigration policy is that we sort of lose sight of the history, particularly of some of the incidents that you mentioned. We tend to behave too often as if immigration issues are new. They're not new. The same debate, the same arguments against immigration that we hear today were made before, whether it was in the 1930's or in the 1850's.

I think it's vital that we continue to keep people focused on that history, because if they understand it, they realize that all the claims and all of the criticisms and all of the allegations, all of the assertions of bad things that immigration would bring about, were proven unfounded each time that debate has happened. And yet the same arguments are back before us again.

Miss Sa, thank you very much for being here. We appreciate it. We will turn to you at this time.

STATEMENT OF MIRAAN SA

Ms. SA. Good morning. Once again, my name is Miraan Sa and I am here representing Amnesty International USA, as a former member of their board of directors, and as a member of the National Refugee Steering Committee.

Also, in order to stay within my time limits, I have prepared a shorter statement based on my longer written statement.

Senator ABRAHAM. We will introduce everybody's full statements into the record.

Ms. SA. Thank you.

First I would like to thank you for inviting Amnesty International USA here today at this hearing. We welcome the opportunity to testify about the current human rights situation in Haiti.

The statement before the Senate Subcommittee on Immigration focuses on current human rights concerns in Haiti, to highlight the problems that Haitians could face if returned to Haiti. Amnesty International has long been concerned with human rights viola-

tions there, including the time of the Duvaliers reign up to the present time. These concerns have been documented by Amnesty International over the years in reports, campaign materials, and press releases. The information which follows is based on our research, which might include such things as trial observations, interviews with released prisoners, meetings with government officials, and fact-finding missions sent out to conduct on-the-spot investigations.

For example, I was a member of the Amnesty International delegation to the United States Naval Base in Guantanamo Bay, Cuba in September 1994, to look at the desperate situation facing Haitian asylum seekers there.

Other types of research Amnesty International conducts to document human rights concerns, such as those details which follow in this testimony, may also include eye-witness testimony, reports from legal experts, letters from prisoners and their families, and information from other organizations around the world.

Conditions in Haiti are still far from being stable, and have worsened in recent months. Although there has been a significant decrease in the scale of ongoing human rights violations since Aristide was returned to power in October 1994, serious problems persist. Progress in establishing institutions that can guarantee respect and protection of human rights has been patchy and slow, especially in establishing an effective justice system.

The question of impunity for past and current human rights abuses has not been seriously addressed in Haiti. Impunity grounded to human rights violators in Haiti is a serious concern because it has to do with an exemption from punishment that has serious implications for the proper administration of justice. It occurs when investigations are not pursued and when perpetrators of human rights violations are not held to account. Amnesty International believes that impunity such as we see in Haiti cloaks a self-perpetuating cycle of violence resulting in continuing violations of human rights.

Specifically, this has meant that in Haiti most of the perpetrators of human rights violations that characterized the military government of General Cedras are still at large. In some cases, they still wield power in local communities, though in general these perpetrators do not have formal positions of responsibility. Following the return of President Aristide, there were attempts to disarm some of the armed groups. These attempts were not wholly successful and many of these persons still have access to arms.

The present government led by President Preval faces ongoing problems. The political and security situation remains extremely fragile, particularly in the absence of strong institutions that can guarantee respect and protection for human rights.

Following the resignation of Haiti's Prime Minister in June 1997, President Preval has been unable to name a new prime minister acceptable to the Haitian Parliament. Although a new candidate is currently under consideration, there are still signs that the crisis may continue for some time and hinder passage of a draft bill regarding judicial reform.

In the meantime, the judicial system remains generally incapable of seriously addressing the question of impunity, both for common

crimes and human rights violations. The implications of continuing impunity in Haiti are serious. Some 85 to 90 percent of all those in detention have not been brought to trial. Although a few trials of human rights violators have taken place, in most cases the defendant was either tried in absentia or acquitted for lack of evidence. In most of these cases, there were also indications that those involved in the trial—for example, court officials, lawyers, witnesses, and jury members—may have been subjected to pressures, such as threats or the offer of bribes.

In such circumstances, victims and witnesses in particular are very reluctant to come forward and provide testimony. The net result of the failure of the Haitian authorities to seriously address these issues is that many of those known to be responsible for human rights violations under the military are still at large and often still in a position to pose a threat to those who have sought their prosecution.

On a more positive note, the Justice ministry is putting significant resources and effort into bringing to court one particularly notable case, the Raboteau massacre in April 1994. It is expected to come to trial in early 1998 in Gonaives. We welcome this initiative, which will be a major test of whether the current justice system, when given the necessary support, can guarantee fair trials in such cases. If human rights violators are brought to justice as a result of the Raboteau trial, this will send a strong message that such behavior will not be tolerated.

While not underestimating the enormity of the task in establishing a brand new police force in Haiti, we are concerned by the human rights record so far. We welcome the efforts of the inspector general of police to identify and remove those responsible for human rights violations. However, few, if any, of them have been brought to trial and serious violations are continuing. There have been reports of torture and ill-treatment by police, in some cases resulting in death. Shootings by police, in some instances fatal, have also been reported in circumstances suggesting excessive use of force or extrajudicial execution.

Clearly, our conclusion is that anyone returning to Haiti cannot be assured that they will be protected by the existing Haitian justice system from former officials who occasioned their flight. In a June 1997 letter to the Florida Immigrant Advocacy Center, we stated that any blanket assessment that the change in government can allow all who fled the country to return without fear or harm is, therefore, incorrect in our view.

Given the concerns raised above, such assurances would appear to fall far short of what would guarantee safe return. By changing the status of Haitians identified as having a credible fear of persecution, a practical effect of the Haitian fairness legislation would be to prevent the repatriation of anyone to a potentially perilous and risky situation. Amnesty International USA believes that this bill would be a positive proposal and represents one way of helping to guarantee that no one would be returned to a country where serious human rights concerns remain.

Thank you for letting me go over the time limit.

[The prepared statement of Ms. Sa follows:]

PREPARED STATEMENT OF MIRAAN SA

I. INTRODUCTION

Amnesty International USA welcomes the opportunity to testify about the current human rights situation in Haiti. Amnesty International is a worldwide movement with over 1,000,000 members in more than 100 countries and territories. The International Secretariat in London serves as its headquarters and research center with more than 300 permanent staff and 95 volunteers all who represent over 50 countries. Amnesty International's mandate focuses on protecting human rights such as freeing all prisoners of conscience; ensuring fair and prompt trials for political prisoners; ending extrajudicial executions; stopping disappearances; abolishing torture, the death penalty and other cruel, and inhuman or degrading treatment of prisoners. Amnesty International's researchers in London investigate and report on human rights violations like those just described, and members around the world work on behalf of people who face such human rights abuses through many different kinds of actions.

Conditions in Haiti are still far from being stable, and have worsened in recent months. In September 1991 President Jean-Bertrand Aristide, Haiti's first democratically-elected president, was overthrown in a military coup led by General Raoul Cedras. The three years after this coup were followed by gross and systematic human rights violations at the hands of the security forces. In October 1994 President Aristide returned to power in Haiti following the arrival in the country of a United States-led Multinational Force. In February 1996 democratically-elected René Préval succeeded Aristide as President of Haiti.

There had been a significant decrease in the scale of ongoing human rights violations since October 1994, but serious problems persist. Progress in establishing institutions that can guarantee respect and protection of human rights has been patchy and slow, especially in establishing an effective justice system. Amnesty International has long been concerned with human rights violations in Haiti, including the time of the Duvaliers reign up until the present time. These concerns have been detailed by Amnesty International over the years in reports, campaign materials, and press releases. This statement before the Senate Subcommittee on Immigration focuses on current human rights concerns in Haiti.

II. CURRENT CONCERNS

The question of impunity for past and current human rights abuses has not been seriously addressed in Haiti. Impunity has to do with an exemption from punishment that has serious implications for the proper administration of justice. It occurs when investigations are not pursued and when perpetrators of human rights violations are not held to account. Amnesty International believes that impunity such as we see in Haiti cloaks a self-perpetuating cycle of violence resulting in continuing violations of human rights.

Specifically, this has meant that in Haiti most of the perpetrators of human rights violations that characterized the military government of General Cedras are still at large. In some cases they still wield power in local communities, though in general these perpetrators do not have formal positions of responsibility. Following the return of President Aristide there were attempts to disarm some of the armed groups. These attempts were not wholly successful and many of these persons still have access to arms.

The present government led by President Préval faces ongoing problems. Among the problems are serious splits in the Lavalas movement which supported both ex-President Aristide and President Préval, growing popular discontent over the economic situation, and the outcome of the senatorial elections which took place in April 1997. These factors have weakened government authority. The political and security situation remains extremely fragile, particularly in the absence of strong institutions that can guarantee respect and protection for human rights.

Following the resignation of Haiti's Prime Minister in June 1997, President Préval has been unable to name a new prime minister acceptable to the Haitian parliament. Although a new candidate is currently under consideration, there are still signs that the crisis may continue for some time. As a result much parliamentary work, including the approval of budgets, has been virtually paralyzed and the passage of a draft bill regarding judicial reform, first introduced in August 1996, has been stalled. Despite the fact that this draft bill has been seen and amended by both the Chamber of Deputies and the Senate, it would appear that the final amended version has yet to be agreed upon by both houses.

In the meantime the judicial system remains generally incapable of seriously addressing the question of impunity, both for common crimes and human rights viola-

tions. The implications of continuing impunity in Haiti are serious. Some 85-90 percent of all those in detention have not been brought to trial. Although a few trials of human rights violators have taken place, in most cases the defendant was either tried in absentia or acquitted for lack of evidence. In most of these cases there were also indications that those involved in the trial (e.g. court officials, lawyers, witnesses and jury members) may have been subjected to pressures, such as threats or the offer of bribes. In such circumstances, victims and witnesses in particular are very reluctant to come forward and provide testimony. The net result of the failure of the Haitian authorities to seriously address these issues is that many of those known to be responsible for human rights violations under the military are still at large and often still in a position to pose a threat to those who have sought their prosecution.

On a more positive note, the Justice Ministry is putting significant resources and effort into bringing to court one particularly notable case, the Raboteau massacre in April 1994. It is expected to come to trial in early 1998 in Gonaives. Amnesty International welcomed this initiative which will be a major test of whether the current justice system, when given the necessary support, can guarantee fair trials in such cases. If human rights violators are brought to justice as a result of the Raboteau trial, this will send a strong message that such behavior will not be tolerated. However, even if the Raboteau trial results in the conviction of human rights violators, without a revamping of the justice system, there is little indication of a political will to support such trials or that other cases will receive the same attention.

Even with the expected trial for the Raboteau massacre problems have emerged. One of the so far 22 defendants in the Raboteau case has escaped from prison and not yet been recaptured. Prison escapes in such cases are quite a common phenomenon, partly, it would appear, because of the ongoing presence of former military in the prison service and the police force. There have also been recent reports of threats against people involved in bringing such cases to trial, both victims and justice officials. Similar threats have reportedly been made against some people who provided testimony to the Haitian National Truth and Justice Commission which presented its report in February 1996. There has been no serious follow-up to the commission's report, again leaving those who testified to it defenseless and open to reprisals from those identified by the report as being responsible for human rights violations. Amnesty International welcomed the announcement by President Preval in September 1991 that a follow-up committee was to be established, albeit belatedly. However, so far it has not received any concrete evidence that such a committee was created or that there has been any other follow-up to the Truth commission's report.

While not underestimating the enormity of the task in establishing a brand new police force in Haiti, Amnesty International is concerned by the human rights record so far. It welcomes the efforts of the Inspector General of Police to identify and remove those responsible for human rights violations. However, few if any of them have been brought to trial and serious violations are continuing. There have been reports of torture and ill-treatment by police, in some cases resulting in death. Shootings by police, in some instances fatal, have also been reported in circumstances suggesting excessive use of force or extrajudicial execution. Frustration with the inadequacies of the justice system have been blamed for at least some of the abuses committed by the police, some of whom are said to have resorted to torture or killing because they do not trust the judicial system to deliver justice. For apparently similar reasons, there appears to have been a recent resurgence of incidents where the general population has resorted to taking the law into their own hands and attacked or killed suspected criminals themselves. As a result of continuing concern on the part of the international community regarding the human rights record of the Haitian National Police and its ability to ensure law and order, the UN Security Council voted in November to replace the UN Transitional Mission in Haiti (UNTMIH), whose mandate ended on 30 November 1997, with the UN Police Mission in Haiti (MIPONUH). This will be a 300-strong force whose task is to provide assistance, to train and monitor the Haitian National Police, and to help with their day-to-day work but not in patrolling activities.

III. CONCLUSION

Amnesty International's conclusion is that anyone returning to Haiti cannot be assured that they will be protected by the existing Haitian justice system from former officials who occasioned their flight. Given the concerns raised above such assurances would appear to fall far short of what would guarantee safe return. Any blan-

ket assessment that the change in government can allow all who fled the country to return without fear or harm is therefore incorrect in our view.

By changing the status of Haitians identified as having a credible fear of persecution, a practical effect of the Haitian Refugee Immigration Fairness Act (S. 1504) would be to prevent the repatriation of anyone to a potentially perilous and risky situation. Amnesty International USA believes that such legislation would be a positive proposal and represents one way of helping to guarantee that no one would be returned to a country where serious human rights concerns remain.

Senator ABRAHAM. Miss Sa, thank you.

You were searching for the "in conclusion" paragraph, and hopefully you found it. [Laughter.]

That has happened to me on numerous occasions.

Before we hear from Miss Little, I also have been presented with a statement on behalf of Congressman Alcee Hastings to be entered into the record, which we will as well.

[The prepared statement of Representative Hastings was not available at presstime.]

Senator ABRAHAM. Miss Little, I apologize to you and to everyone else because of our time constraints. We will now turn to you.

STATEMENT OF CHERYL LITTLE

Ms. LITTLE. Senator Abraham, I want to begin by thanking you for your demonstrated concern about the Haitians and other immigrant groups in the United States. Thank you also for inviting me to testify.

It has been suggested that Haitians don't deserve the same permanent legal resident status that Congress recently afforded Central Americans and other groups because Haitians have been treated better than immigrants from nearly every other country. Unfortunately, this is not true.

We have a responsibility to look at the facts in evaluating the claim that Haitians don't need protective legislation. In this context, I would like to discuss the reasons why Haitians cannot rely on the asylum process to resolve their immigration status and the history of discrimination against Haitians in the immigration process.

First, the asylum process in the United States. Despite well-documented political oppression in Haiti, Haitians have historically been granted asylum at a very low rate. Between June 1983 and March 1991, only 1.8 percent of Haitian asylum applicants were granted asylum by the INS. Among nationalities submitting the largest number of asylum applications, this was the lowest approval rate.

Despite the bloody outcome of the aborted election in Haiti in 1987, not a single Haitian was granted asylum that year by the INS. Between 1986 and 1991, only 28 Haitians were granted asylum.

Given the grave political situation in Haiti following the 1991 ouster of President Aristide, the number of Haitians granted asylum after that was alarmingly low. The approval rates remained far below the approval rates for other nationalities.

The 11,000 Haitians screened into the United States from Guantanamo after INS officials found they had a credible fear of persecution following the 1991 coup are in real danger of being denied asylum. Many have already been denied such relief. Earlier this

month, the Miami asylum office director stated that the current approval rate for Haitian applicants is less than 15 percent.

Historically, the INS has relied on State Department opinion letters and reports which minimized the extent of political oppression in Haiti. The INS has taken an unreasonably optimistic view of the political situation there, and has prematurely concluded that country conditions in Haiti have changed to such an extent that asylum is not warranted. This view is sharply contradicted, as you just heard, by recent letters from Amnesty International and also by a letter from the United Nations High Commissioner for Refugees.

Haitians outside the United States who wish to apply for refugee status or are trying to reach the United States to apply face even greater obstacles. Only in 1992 did the United States begin to process refugee applications in Haiti for admission to the United States. But even that process was fundamentally flawed and the approval rates for Haitian refugees were dramatically lower than those for all other nationalities. Refugee processing in Haiti was dropped at the end of 1994, barely months after President Aristide returned to Haiti.

Additionally, Haitians attempting to flee Haiti and seek asylum are not permitted to reach the United States. In September 1981, the Reagan Administration established a program to interdict Haitian asylum seekers arriving by boat. While the 1981 agreement clearly specified that bona fide refugees were not to be returned to Haiti, only 28 of the 23,000 Haitians intercepted in the following decade were deemed by the INS qualified to apply for asylum in the United States.

Shortly after the 1991 coup, a lawsuit was filed challenging the repatriation of Haitians without any meaningful consideration of their asylum claims. The 10,000-plus interdicted Guantanamo Haitians who were screened in in 1991 and 1992 were only allowed to come to the United States after a Federal judge issued a temporary injunction prohibiting their forcible return.

INS asylum officers in Guantanamo found that this group had a credible fear of persecution, but were under heavy pressure to decrease the number of Haitians screened in. Many more Haitians were forcibly returned and screened in as a result.

Following the Supreme Court decision in 1992, Haitians interdicted at sea were repatriated without any investigation into the likelihood of their persecution in Haiti. Amnesty International and the UNHCR condemned the forced return and said they knew of several cases in which asylum seekers returned to Haiti and were persecuted upon their return.

In 1994, President Clinton permitted intercepted Haitians to be taken to Guantanamo rather than forcibly repatriated. According to U.S. Government officials, Guantanamo's facilities at peak times during 1994-95 held over 32,000 Cubans and close to 22,000 Haitians. While the United States Government paroled into the United States virtually all of Guantanamo's Cuban refugees, it forcibly returned to Haiti almost all of Guantanamo's Haitian refugees.

Among these were 356 children who arrived there unaccompanied by an adult, many of whom had witnessed close family members being murdered by Haiti's paramilitary forces.

In its 1996 annual report, the Inter-American Commission on Human Rights, Organization of American States, concluded that the U.S.'s interdiction and repatriation policy toward Haitians violated the following provisions of the American Declaration of Rights and Duties of Man: the right to life, the right to liberty, the right to security of the person, the right to equality before the law, the right to resort to the courts, and the right to seek and receive asylum.

Sadly, Haitians have been forced to return to the courts in attempting to put an end to discriminatory treatment. In lawsuit after lawsuit filed since the early 1980's, Federal courts have criticized INS's treatment of Haitian asylum seekers. Courts have invalidated and condemned a special Haitian program designed specifically to adjudicate and to deny, as quickly as possible, the asylum claims of Haitians, the systematic detention of Haitians, the transfer of Haitians to remote and hostile locations where translators and attorneys were not available, the INS policy in conducting mass exclusion hearings behind closed doors and denying Haitians access to their attorneys, and a blatant pattern of discrimination and denial of constitutional rights.

In conclusion, the history of the U.S. Government's treatment of Haitians gives no cause to believe that Haitians should pin their hopes on asylum processing. That is why a grant of residence under proposed legislation is so critical and why Haitians should be granted treatment equal to Nicaraguans and Cubans under the recently passed legislation.

Thank you very much. I also have a longer statement for the record.

[The prepared statement of Ms. Little follows:]

PREPARED STATEMENT OF CHERYL LITTLE

I want to thank you, Senator Abraham, for your demonstrated concern about the Haitians and other immigrant groups in the United States. Thank you also for inviting me to testify.

I am the Executive Director of the Florida Immigrant Advocacy Center, a non-profit organization with 17 attorneys and 4 offices. FIAC provides free legal services to immigrants of all nationalities, including many Haitians. Prior to this, I coordinated work on Haitian asylum cases in South Florida for Florida Rural Legal Services. Before that, I was the Directing Attorney at the Haitian Refugee Center. I also taught an Immigration Workshop this semester at the University of Miami Law School.

It has been suggested that Haitians don't deserve the same permanent legal resident status that Congress recently afforded Central Americans and other groups because Haitians have been treated better than immigrants from nearly every other country. Unfortunately, this is not true.

We have a responsibility to look at the facts in evaluating the claim that Haitians don't need protective legislation. In this context, I would like to discuss the reasons why Haitians cannot rely on the asylum process to resolve their immigration status and the history of discrimination against Haitians in the immigration process.

ASYLUM PROCESS IN THE UNITED STATES

Despite well documented political oppression in Haiti, Haitians have historically been granted asylum at a very low rate. Between June 1983 and March 1991, only 1.8 percent of Haitian applicants were granted asylum by the INS. Among nationalities submitting the largest number of asylum applications, this was the lowest approval rate. For example, the approval rate during that period for China was 69.0 percent and for the former Soviet Union, 74.5 percent. The overall approval rate for all applicants was 23.6 percent.

Despite the bloody outcome of the aborted election in Haiti in 1987 not a single Haitian was granted asylum that year by the INS. Between 1986 and 1991, only 28 Haitians were granted asylum. In 1986, 5 Haitians were granted asylum; in 1988, 8; in 1989, 11; in 1990, 3; and in 1991, 1. These figures are generous, since many other Haitians who would have applied for asylum did not do so because the odds were so great against their claims being fairly considered.

Even when approval rates for Haitians increased after reform of the asylum system in the early 1990's and after the coup d'etat ousting President Aristide, they remained far below the approval rates for other nationalities. For example, the 30.6 percent approval rate for Haitians in 1992 still lagged far behind the approval rate for Chinese applicants (84.8 percent) and applicants from the former Soviet Union (49.8 percent).

Given the grave political situation in Haiti following the 1991 ouster of President Aristide, the number of Haitians granted asylum in the aftermath of the coup was alarmingly low. In 1992, 120 Haitians were granted asylum by the INS; in 1993, 636; in 1994, 1060; in 1995, 749; and in 1996, 1,491. Moreover, any meaningful increase in the approval rate was temporary. On December 5, 1997 the Miami Asylum Office Director stated that the current approval rate for Haitian applicants is less than 15 percent.

The 11,000 Haitians screened into the U.S. from Guantanamo after INS officials found they had a credible fear of persecution following the 1991 coup d'etat have been, and continue to be, in real danger of being denied asylum. Preliminary assessments by asylum officers in Miami recommended grants of asylum in 33 out of the first 43 of these cases. However, in a May 26, 1992 memorandum to the Associate Deputy Attorney General, the Director and Assistant Director of the Asylum Policy and Review Unit ("APRU") in Washington disagreed with 18 of the recommendations to approve, but with only one recommendation to deny. They also expressed concern that the grant rate was "higher than expected." Special incentives were given to asylum officers to deny these cases, specifying that "INS could be encouraged to * * * [count] a completed denial as a double case completion and a completed grant as a single case completion for purposes of * * * officer evaluation."

Indeed, even before asylum officers had interviewed many of the screened-in applicants after their arrival in the U.S., the INS Deputy Commissioner remarked in January, 1992 that it was expected that 90 percent of these cases would be denied. A 1992 Harvard Law School report on the asylum process expressed concern that "special foreign policy pressures" had been influencing treatment of these cases.

Many Haitians screened in from Guantanamo, who clearly were deserving of asylum, have been denied such relief. For example, one young woman who, on account of her political activity, was beaten and repeatedly raped by a member of the Haitian military following the 1991 coup d'etat was nonetheless denied asylum.

Historically, State Department opinion letters and reports relied upon by the INS have minimized the extent of political oppression in Haiti and taken an unreasonably optimistic view of the political situation there. The INS has relied upon the State Department reports on Haiti even when they are contradicted by human rights organizations such as Amnesty International and Human Rights Watch. Likewise, the INS has prematurely concluded that country conditions in Haiti have changed to such an extent that asylum should now be denied, even for people who have suffered past persecution, on the basis of State Department reports. The INS has also taken a narrow and legally improper view of the circumstances that warrant the grant of asylum to victims of past persecution by not taking into account the humanitarian concerns that warrant a grant of asylum even if country conditions have changed.

Attorneys who represent asylum applicants of different nationalities are familiar with the difference in treatment accorded to Haitians compared to applicants from communist countries. Relatively mild mistreatment of Cubans in their homeland, for example, may result in a grant of asylum while gross mistreatment of Haitians does not.

ASYLUM SEEKERS AND REFUGEE PROCESSING OUTSIDE THE UNITED STATES

Haitians outside the U.S. who wish to apply for refugee status or are trying to reach the U.S. to apply for asylum face even greater obstacles.

From 1981 to 1989, over 99 percent of refugees admitted to the U.S. were from communist countries. When also taking into account refugees from Iran and Iraq during that period, the number reaches 99.9 percent. Virtually all, if not all, of those admitted as refugees from the Caribbean were Cuban.

Only in 1992 did the U.S. begin to process refugee applications in Haiti for admission to the U.S. But even that process was flawed, as Haitian refugee applicants

were required to openly approach the U.S. embassy in Port-au-Prince, thereby putting their lives in jeopardy. Even after sites outside the capital were opened, people in rural areas typically had no way to get there to apply. In any event, few people qualified because the threshold for approval was so high. The approval rates for Haitians were dramatically lower than those for all other nationalities. Refugee processing in Haiti was dropped at the end of 1994, barely months after President Aristide returned to Haiti.

Additionally, Haitians attempting to flee Haiti and seek asylum are not permitted to reach the U.S. In September, 1981, the Reagan Administration reacted to the migration of Haitian asylum seekers arriving in boats by establishing a program to interdict them. The Reagan Administration determined that the amount of undocumented Haitians coming to the U.S. had "threatened the welfare and safety of communities," despite the fact that Haitians comprised less than two percent of the undocumented population of the U.S. at that time.

While the 1981 agreement clearly specified that bona fide refugees were not to be returned to Haiti, INS determined that only twenty-eight of the 23,000 Haitians intercepted in the decade following the program's inception were qualified to apply for asylum in the U.S. Twenty of these were brought to the U.S. after INS instituted several changes in the pre-screening interdiction process, which took affect March 1, 1991, after President Aristide took power.

Shortly after the 1991 coup d'etat, a lawsuit was filed challenging the repatriation of Haitians without any meaningful consideration of their asylum claims. The interdicted Guantanamo Haitians who were "screened-in" in 1991 and 1992 were only allowed to come to the U.S. after a federal judge issued a temporary injunction prohibiting their forcible return. And thousands more were forcibly returned. INS conducted 36,596 screening interviews at Guantanamo between October 1991-June 1992 and "screened in" 10,319 Haitians, only 28 percent. Several interpreters at Guantanamo provided sworn statements detailing the heavy pressure placed on asylum officers by the U.S. Department of State to decrease the number of Haitians screened in.

In 1992 the Eleventh Circuit Court of Appeals upheld the U.S.'s argument that Haitians had no legally enforceable rights in the U.S. because they were outside U.S. territory, even though this was because the U.S. prevented Haitians from freely reaching the continental U.S. In a brief two sentence order issued without comment on January 31, 1992, the Supreme Court voted to permit repatriations and shortly thereafter President Bush issued an Executive Order from Kennebunkport, Maine, permitting INS to repatriate Haitians interdicted at sea without any investigation into the likelihood of their persecution in Haiti ("Kennebunkport Order").

Amnesty International expressed outrage at the forced returns. In a January 1992 report, Amnesty International said it had received reports of grave human rights violations after the coup d'etat. Amnesty stated they knew of "several cases in the past years where asylum-seekers who were refused asylum in the USA and returned to Haiti were imprisoned and in some cases ill-treated on their return."

The United Nations High Commissioner for Refugees ("UNHCR") similarly condemned the repatriations, expressing fear that those returned would be exposed to real danger. Just before the Supreme Court decision allowing repatriations to continue, UNHCR confirmed that dozens of Haitian refugees returned to Haiti due to faulty procedures were persecuted upon their return and forced to flee a second time. The UNHCR said that they and U.S. government officials had documents detailing the harassment, beating, torture, and murder of returned Haitians for the "crime" of having fled. After the UNHCR publicly confirmed that they had evidence of returnees being persecuted, they were informed they could no longer conduct interviews of the Haitians at Guantanamo without a military presence. Even Haitians who had been "screened in" by INS officials were erroneously repatriated, including at least 38 unaccompanied children and a sixteen year old girl, Marie Zette, who was killed in her bed by Ton ton Macoutes the first night after her forced return.

In 1994, after mounting pressure from the Congressional Black Caucus and other groups, President Clinton permitted intercepted Haitians to be taken to Guantanamo rather than forcibly repatriated. According to U.S. Government officials, Guantanamo's facilities at peak times during 1994-95 held as many as 32,362 Cubans and 21,638 Haitians. While the U.S. Government paroled into the U.S. virtually all of Guantanamo's Cuban refugees, it forcibly returned to Haiti almost all of Guantanamo's Haitian refugees.

Among Guantanamo's Haitian refugees were 356 children who arrived there unaccompanied by an adult. Most of these children had witnessed close family members being murdered by Haiti's paramilitary forces, and some of them had barely escaped Haiti with their own lives. Conditions for the children in the camps were deplorable,

and some attempted suicide. By June 1995 the majority of these children had been forcibly repatriated. Many are living on the streets in Haiti today and at great risk. Indeed, at least one was raped following her forcible return.

In its 1996 Annual Report, the Inter-American Commission on Human Rights, Organization of American States, concluded that the U.S.'s interdiction and repatriation policy toward Haitians violated the following provisions of the American Declaration of the Rights and Duties of Man: the right to life, the right to liberty, the right to security of the person, the right to equality before the law, the right to resort to the courts, and the right to seek and receive asylum.

Although in the past few years the U.S. has also interdicted Cubans trying to come to the U.S. by boat and returned them to Cuba, Cubans have immigration options open to them that are denied to Haitians. They may apply for refugee status in Cuba. In addition, under an agreement with the Cuban government, at least 20,000 visas must be given to Cubans to come to the U.S. each year. And Cubans who are admitted or paroled into the U.S. may apply for permanent resident status after one year under the Cuban Adjustment Act even if they came to the U.S. for purely economic reasons. None of these options is open to Haitians.

HISTORY OF DISCRIMINATION

Haitians were forced to turn to the courts in attempting to put an end to the discriminatory practices directed against them. In the early 1980's, a landmark suit was filed on behalf of over 4,000 Haitians requesting political asylum. The INS, through procedures in effect at that time, had denied all 4,000 applications. The court found that U.S. government agencies had set up a "Haitian Program" designed specifically to adjudicate, and to deny, as quickly as possible the asylum claims of Haitians, a program which "in its planning and executing [was] offensive to every notion of constitutional due process and equal protection."

The court concluded that the backlog of 6,000-7,000 Haitian cases—which the government had argued constituted the reasons for instigating the Haitian Program—was not a result of a massive influx of Haitians to South Florida over a short period, but rather was primarily attributable to a slow trickle of Haitians over a ten-year period and to the confessed inaction of the INS in dealing with these cases. Moreover, the court concluded that the INS was engaging in scare tactics, noting that the INS Deputy Commissioner encouraged government attorneys to point out "The dimensions of the Haitian threat" and called the Haitian cases a threat to the community's social and economic well-being. The court also found that the discriminatory treatment of Haitians was nothing new, but rather that it was part of a pattern of discrimination which began in 1964.

Despite the federal court's absolute condemnation of the U.S. government's Haitian policy, Haitians continued to be dismissed solely as economic migrants and the government continued to demonstrate its bias against the Haitians through improper screening and arbitrary detention. In late May 1981, INS began to systematically detain Haitians entering the U.S. This was a fundamental change from the established policy of detaining only those persons deemed likely to abscond or pose a threat to national security.

In July of 1981, the State of Florida brought an action against the Federal Government due to the overcrowded conditions at Krome Service Processing Center, the INS detention facility in Miami. During litigation, the government promised that efforts would be made to keep the population at Krome at or under 1,000 people. In order to abide by this representation, the INS transferred Haitians out of Krome whenever the population exceeded 1,000.

Advocates for the Haitian refugees again turned to the courts for help, and again the courts noted the INS's callous disregard for the rights of Haitian refugees. A federal court judge in 1982 characterized the transfers as "a human shell game in which the arbitrary Immigration and Naturalization Service has sought to scatter [Haitians] to locations that * * * are all in desolate, remote, hostile, culturally diverse areas, containing a paucity of available legal support and few, if any, Creole interpreters."

A successor judge in the same case subsequently ruled that the Haitians were "impacted to a greater degree by the new detention policy than aliens of any other nationality * * *." Unlike other aliens, the Haitians were subject to mass exclusion hearings behind closed doors, improperly denied access to their attorneys and deported in a manner INS itself admitted was faulty. The detention policy was found to be invalid and the court ordered the release of over 1,000 Haitians, provided they were deemed neither a security risk nor likely to abscond.

The government appealed the district court decision and in a historic decision, an Eleventh Circuit Court of Appeals panel found that statistical evidence disclosed

that the federal government had engaged in a "stark pattern" of discrimination against the Haitian asylum seekers. This was the first time in the history of American law that the federal government was found to discriminate on the basis of race or national origin under the Constitution in a non-employment context. Although the Court of Appeals en banc later vacated the decision on the grounds that Haitians had no constitutional rights, they never disturbed the factual findings of the panel opinion.

Despite the court's order that INS stop illegal transfers of Haitians to remote areas of the country, such transfers continued. In May 1989, a federal judge in Miami blocked the forced transfer of dozens of Haitians, this time from Krome to Louisiana and Texas during a "lock down" of the INS facility. The judge found that the circumstances under which the transfers took place violated the Haitians' due process rights.

Haitians have also documented their mistreatment at Krome, which led to a 1990 FBI and Justice Department investigation into allegations of physical and sexual abuse by Krome officers. While Justice Department officials claimed in March 1991 that the investigation was completed, to date no findings have been made public.

In late September 1992, Amnesty International USA criticized the lengthy detention of Haitians at Krome, claiming that governments should reveal legitimate grounds for any detention of asylum seekers. During the summer of 1992, Florida Senators Bob Graham and Connie Mack unsuccessfully pushed for legislation to limit detention at Krome to ninety days.

Haitians at Krome have engaged in serious hunger strikes to protest their treatment. One of these occurred in January 1993 following the arrival of fifty-two Cubans who had "commandeered" a Cuban commuter flight from Havana to Varadero, Cuba, diverting it to Miami. All the Cubans were released from Krome within forty-eight hours, while the Haitians remained in custody. To the Haitians this was a painful reminder of the double standard of treatment.

Haitians attempting to come here legally have also been discriminated against. In a decision subsequently upheld by the U.S. Supreme Court, a federal district court judge ruled that Haitians who sought to legalize their status under the farm worker amnesty program of 1986 were denied a "meaningful opportunity to be heard." In addition, based on the largest, most ambitious fraud investigation ever undertaken by the INS, the U.S. government charged mostly poor, uneducated Haitian farm workers with committing fraud in their applications for residency under the amnesty program ("Operation Cucumber"). Federal judges hearing criminal charges against the Haitians criticized the government for bringing the charges, and the government was forced to dismiss all of the cases.

Haitian children have not been spared the discriminatory policy directed against Haitians attempting to come to the U.S. legally. Haitian children eligible for family-sponsored visas were stranded in Haiti for months following the 1991 coup d'etat, while their applications were subjected to heightened scrutiny imposed on no other nationality. This group included children who had lived with their parents in the U.S. for years, attended school here, and had little familiarity with Haiti or its language.

CONCLUSION

In conclusion, the history of the U.S. government's treatment of Haitians gives no cause to believe that Haitians should pin their hopes on asylum processing. That is why a grant of residence under proposed legislation is so critical.

Haiti today is a fragile democracy at best. In a June 1997 letter, Amnesty International officials concluded that "[A]ny blanket assessment that the change in government can allow all who fled the country to return without fear of harm is * * * incorrect in our view." The United Nations High Commissioner for Refugees similarly concluded in August 1997 that "the weakness of Haiti's institutions, inherited from decades of political repression, undermine the capacity of the State to meet the basic obligation to protect its citizens * * *. This office believes it would be inappropriate to conclude generally that Haitian asylum seekers would no longer face persecution upon return to Haiti."

Haitians who fled oppression have for years lived, worked, built businesses, paid taxes, and raised children born here. Not only will their forced return to Haiti disrupt their lives, but it will also have a devastating effect on Haiti's fragile economy. Haitian President Rene Preval has asked that Haitians be given equal treatment with the Nicaraguans, and that the United States recognize the current economic and political situation in Haiti. Congress and the White House have taken similar considerations into account in supporting protective legislation for Central Americans.

We believe that similarly situated groups should be treated equally. Nicaraguans and Cubans who arrived in the United States as of December 1995 will be given residence under the new law. Haitians deserve no less than that.

AMNESTY INTERNATIONAL USA,
San Francisco, CA, June 3, 1997.

Re the current situation in Haiti

Ms. CHERYL LITTLE,
Florida Immigrant Advocacy Center, Inc.,
Miami, FL.

DEAR MS. LITTLE: With respect to your inquiry about the current situation in Haiti, the following is information from Amnesty International's researcher in London. Conditions in Haiti are still far from being stable. There appears to have been little progress in establishing an effective justice system. The question of impunity for past and current human rights abuses has not been seriously addressed. Some of the perpetrators of such abuses are still at large and in some cases still wield power in local communities, though in general they do not have formal positions of responsibility. Many of these still have access to arms, as the attempts at disarming some of the armed groups in Haiti following the return of President Aristide were not wholly successful.

In addition, concern remains that the new police force may not be up to the job of ensuring law and order once the UN forces leave. Added to this situation is growing popular discontent over the economic situation and serious splits in the Lavalas movement. Both of these factors have weakened government authority.

Our conclusion is that anyone returning to Haiti cannot be assured that they will be protected by the existing Haitian justice system from former officials who occasioned their flight. Any blanket assessment that the change in government can allow all who fled the country to return without fear of harm is therefore incorrect in our view.

I hope this information is useful for the analysis of political asylum claims. Should any further information be necessary, please feel free to contact our office.

Sincerely,

NICHOLAS J. RIZZA,

National Refugee Coordinator, Amnesty International USA.

Senator ABRAHAM. Miss Little, I want to assure you it will be included. I compliment you on having gotten so much of what you have brought here today into the record as it was.

In light of the time, let me explain how I'm going to proceed here. First of all, the way hearings operate, we have both an optional question period during the hearing itself, but also members of the subcommittee are also empowered to submit written questions to panelists, which I will be doing to this panel.

Also, I would just extend to my colleagues who are here today, if you would like to have questions directed at this panel, although not members of the subcommittee, please just get them to me and I will put them out under my name, so that we can build the record that I know everybody is anxious to have us accomplish.

I have one or two questions I do want to ask here. I will make them brief, in light of the time.

First, Mr. Rees, I just want to clarify for myself, the point you made about parolees I think is a fairly important one here. That is, in the absence of some type of specific legislation, parolees' fates would be inevitably at great risk; is that correct?

Mr. REES. Ultimately, when you've been paroled into the country, one of two things has to happen. You have to go back typically to your home country, or you have to be able to adjust your status to that of a lawful permanent resident.

Senator ABRAHAM. I mean, in the absence of an adjustment to status option, which we have largely reduced in the 1996 bill.

Mr. REES. Well, some people can do it under other laws. Sometimes you have a relative here and gradually you become eligible for that petition. Sometimes you can get asylum. But what happens to the people when country conditions have changed somewhat, they have built their lives here in this country, they are now products of our society. So Congress has, in almost every instance, chosen to enact special legislation for large groups of people like this.

Senator ABRAHAM. And would you be able to provide us in written form, based on your experiences as General Counsel at INS, a certain chronology of some of those previous actions?

Mr. REES. That is in my complete statement, which I was—

Senator ABRAHAM. I alluded to some of those provisions, and I think Bishop Wenski mentioned some of them as well. But I think it's very important for the record to reflect that. What we're trying to establish here is not something that has never before happened in American history. It's something which has frequently followed situations where large numbers of people who have been paroled in as a result of or in the wake of some type of action and—

Mr. REES. Senator, it's safe to say that that is the rule rather than the exception, when we have paroled in large numbers of people under country-specific programs. There has been subsequent legislation to allow adjustment.

Senator ABRAHAM. Thank you.

Bishop Wenski, do you want to follow up on that?

Bishop WENSKI. In the absence of that, by having these parolees here and not enabling any access to become residents and eventually citizens, what we have, in effect, is a new, legally sanctioned underclass, because they can't become part of society and they can't become citizens or exercise the options of citizens. The last time we did that we called it Jim Crow and the United States hasn't recovered from that yet. So it doesn't behoove us to start doing new underclasses.

Senator ABRAHAM. And in your testimony—you sort of touched on your own parish and your experiences here. Would it be fair to characterize your experiences as one that would exude a vote of confidence, that the contributions of Haitians to our community here have been the kinds of positive contributions that we look to, whether—

Bishop WENSKI. Sure. Again, when we look at the record of the Haitians here in this community over the past 18 years, we see that they have, indeed, when given the chance, contributed to the development of this community.

I know people that I received on the shores in the late 1970's, and I visited at Krome, that were detained in the 1980's, but now, 10 or 12 years later, they're homeowners. In the process of a relatively short amount of time, they were able to realize what, for most people, is the American dream. I think that says something about their abilities to succeed in this society and to contribute to it.

Senator ABRAHAM. Thank you.

Miss Little, I know that you are familiar with the various screening processes that did take place at Guantanamo, in terms of what refugees had to demonstrate in order to be paroled.

Would you, again for the purposes of our record, perhaps elaborate on that briefly?

Ms. LITTLE. Yes. Well, prior to the lawsuit that was filed by the Haitian Refugee Center, unfortunately the screening process was quite pathetic. But after that, I believe that a very stringent process was in place. There were trained asylum officers who had knowledge about the ongoing country conditions in Haiti, who had access to reports from the Government, reports from the ground. They were asking the asylum applicants detailed questions to determine their credibility, to determine the strength of their claims. I believe there was supervisory review.

I think, given what I just described, there is no question that those Haitians should have been granted refugee status. We were all very painfully aware of the political situation in Haiti at that time.

Senator ABRAHAM. Would you like to comment further on that, Mr. Rees?

Mr. REES. Yes. I would like to say that, although I basically agree with Miss Little, some of us within the Government before that lawsuit was filed were working to try to make sure that that process was a fair one. We certainly had some ups and downs and there were some times, before and after the lawsuit, when frankly it was not a fair process.

Ms. LITTLE. Yes, and I will recognize that certain officials of our Government took the steps that needed to be taken to correct the process.

Senator ABRAHAM. Miss Sa, we all were, I think, greatly touched by the testimony of our first two witnesses on this panel. I'm not going to ask either of them any questions here. But I would like to ask you, if you could, to comment for the record from the perspective of your organization.

If the ultimate result here was that nothing happened, and if as a consequence of that people like our first two witnesses here today, Miss Miclisse and Miss Robergeau, were required to go back to Haiti, would you feel very confident that they could do that securely and safely?

Ms. SA. Well, stories like Nestilia and Louiciana are, unfortunately, not isolated incidents in Haiti's past. I think we would say there are several factors that would seem to very clearly indicate that Haitian refugees sent back could very well face reprisals by perpetrators of human rights violations. In fact, these may be the very same people that they fled from.

Some very specific examples of why this might be true is—some examples I included, and some of which I couldn't include in my oral statement—is that where there have been trials, clearly people have been called as witnesses and people participating in those trials have faced reprisals, not just in the instances of the few trials that have come to play, but also when the Haitian National Truth and Justice Commission was involved in hearing testimony, some of the people who came there have also faced threats or other kinds of reprisals. Also, in the pending trial of the Roboteau massacre, there is clear evidence that there are already problems, even though the trial has not occurred.

So the unstable situation, fostered by the lack of an effective judicial system in the continuing community would clearly indicate some grave concerns if the Haitians were repatriated.

Senator ABRAHAM. In short, you would not sleep well if you thought these young ladies were to go back.

Ms. SA. Absolutely not, which is why Amnesty International was very happy to come here today, to be able to provide some information that would assure the Senators that it would be a good decision to seek some guarantees that—

Senator ABRAHAM. We appreciate your contribution.

Again, we have to—Bishop Wenski.

Bishop WENSKI. As in Archbishop Favalora's remarks, I would point out that the very fact that the Preval government has requested the OAS and UN civilian mission to Haiti to be extended also is evidence that the Haitian Government, although democratically elected, at this point itself recognizes its own limitations and weaknesses in being able to protect the rights of people like these two young ladies.

Senator ABRAHAM. Thank you.

I again apologize that we've had some time limits on us today. I want to thank everybody on this panel, but I especially want to thank both of you for your courage and bravery and being willing to talk about obviously very painful experiences in your families and your own lives.

Where we go from here, for those of you in the audience who obviously will be interested in what the next steps are, a hearing is the beginning of the process of legislation. If hearings don't occur, then bills don't begin to move forward. So as I indicated in my opening statement, my goal was to get this hearing underway early before we began the second session of the 105th Congress, so that we could hit the ground running when we go back in January in the Immigration Subcommittee.

I have not yet decided it will be necessary to hold an additional hearing in Washington in order to give colleagues a chance to participate. I am a cosponsor of Senator Graham's legislation, so obviously that reflects my views on the matter. But in matters like this, I would wish to consult with the lead sponsors of bills as well as other colleagues to determine the timeframe that makes the most sense to move forward.

I think part of the goal ought to be one of education. I think as people become more familiar, as hopefully today's hearing helps us achieve some familiarity with the circumstances, they will recognize why action on a legislative front makes sense.

I think the Administration's actions, which were alluded to here today by Congressman Conyers, gives a certain timeframe now, a little more flexibility for the legislative branch to act. We will do our very best on the Senate side to do so, and by starting early, we now have some time on our side.

In closing I would summarize by what I said initially. I don't think, when laws are applied retroactively, that we should make distinctions based on nations of origin or on race or any other basis. I think similarly situated groups of people are treated differently under those circumstances and we should act to correct it.

So I want to thank the audience who is here today for expressing your interest in this issue. Your support for legislative action is one of the reasons we're here, so you should feel that your voice is well represented, as I have indicated, by a number of representatives from both the House and Senate from this part of the world who, on your behalf, have been making your voice very, very clearly heard.

With the goal of moving legislation forward, we will conclude today's hearing. We look forward to working with the panel witnesses and all interested parties to do the best job we can to try to bring this to a positive conclusion. Thank you very much.

[Whereupon, at 12:20 a.m., the subcommittee adjourned.]

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

THE WHITE HOUSE,
Washington, December 19, 1997.

Hon. SPENCER ABRAHAM,
*Chairman, Immigration Subcommittee,
Committee on the Judiciary,
U.S. Senate,
Washington, DC.*

DEAR MR. CHAIRMAN: In November, during the final days of the first session of the 105th Congress, I urged Congress to extend to Haitian immigrants protections similar to those provided Central Americans in the Nicaraguan Adjustment and Central American Relief Act. Although I was disappointed when Congress failed to include Haitians in that measure, I was greatly encouraged when separate bipartisan legislation providing relief for Haitian immigrants was introduced in both the House and the Senate prior to the Congressional recess. Those three bills, authored by Senator Graham, Congressman Conyers and Congresswoman Meek, recognize that Haitians have made important contributions to our communities and that a resolution of their status is critical to helping Haiti establish a strong and lasting democracy.

More important than the introduction of these bills is quick Congressional enactment of legislation addressing this issue. The hearing you held this week, well before Congress is scheduled to reconvene, exemplifies a strong commitment to providing timely consideration of the Haitian relief bills and your desire to provide the most appropriate and prompt relief for Haitian immigrants. Your continued leadership is critical as we develop a bipartisan legislative remedy that will provide the Haitians fair and equitable treatment under our immigration laws. I look forward to working with you and your Congressional colleagues to achieve this goal.

Sincerely,

BILL CLINTON.

HONDURAN UNITY,
Miami, FL, December 17, 1997.

Hon. SPENCER ABRAHAM,
*Chairman, U.S. Senate Immigration Subcommittee,
Washington, DC.*

DEAR SENATOR ABRAHAM: By way of introduction, the undersigned is the President of the Honduran Unity, also the Public Relations Director of the "Fraternidad Nicaraguense", an organization which was actively involved for the past 10 years in the plight of the Nicaraguan exile community through both chambers of Congress, the Administration, and the federal courts by filing a class action suit and most recently helped obtained passage of the Nicaraguan Relief and Central American Relief Act ("NACARA").

The "Honduran Unity" likewise "Fraternidad Nicaraguense," have also pledged our full support to Haitian refugees and has coined efforts to obtain passage of the current pending bill sponsored by Congresswoman Carrie Meek which if approved will provide them with a permanent residency. We wish to congratulate you personally for your kind efforts and your initiative to hold a hearing to gather crucial testimony from that community.

Our Honduran exile community as well as the Haitian community, unfortunately, were not included in the provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA). Although, Hondurans did not face a civil war, however were deeply affected by the direct and indirect impact of the civil wars of neighboring countries such as Nicaragua, El Salvador and Guatemala, which were often fought in Honduran territory and affected most of Central America.

The members of the Honduran exile community, like our Haitian brothers and sisters are hard-working, tax-payer and law-abiding people, were forced to leave their country and were overlooked by NACARA even though as the Haitian people, were victims of the Communism impact.

Over 30,000 Haitians were forced to flee their country during the years of unfortunate political turmoil and instability in their homeland. During these years the Haitian exiles have become an extraordinary community. They have worked very hard, built businesses, paid taxes, and raised children born in the United States, some have already become American Citizens. Not only will their forced return to Haiti disrupt their lives by unfairly separate families, it will also have a devastating effect on Haiti's fragile economy and we will not be able to achieve one of our foreign policies to strengthen that emerging Democracy.

We strongly feel that the United States has a moral debt with the Haitian and Honduran community that is meritorious of everyone's immediate attention and action particularly from your Subcommittee which we certainly applaud your noble gesture to consider resolving this most unfortunate and unfair situation by initiating an imperative hearing.

We kindly ask your support for the Haitian Exile Community by consider providing them with a very much needed permanent residency, a humanitarian solution to their rightful plight which will enable to prevent an injustice from happening to these similar situated exile communities that need equal protection and fair opportunities.

The Honduran exile community held last Monday in Miami a peaceful and civic rally in front of the Immigration and Naturalization Service office building to protest against unfair deportations and to request that Hondurans and Haitians be granted a permanent residency status, and in support of the Sanabria and Jean families whose family members were recently arbitrarily deported by the I.N.S. to Nicaragua and Haiti. We will also join today our Haitian brothers and sisters outside the Stephen Clark Building and will continue to demonstrate until we reach our common objective of a just and fair treatment for our communities as we are all part of this great nation "America."

We thank you in advance for the opportunity given to render a heartfelt testimony on behalf of the Haitian and Honduran exile community.

Sincerely,

JOSE LAGOS,
President, Honduran Unity.

PREPARED STATEMENT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

CURRENT COUNTRY CONDITIONS IN HAITI

UNHCR's approach to changed country conditions and the cessation clauses

UNHCR's Approach to Changed Country Conditions and the Cessation Clauses Paragraph 42 of UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status (1980) (the Handbook) provides that knowledge of conditions in an asylum applicant's country of origin is an important element in assessing the credibility and well-foundedness of a claim. Paragraph 45 of the Handbook provides that although it may be assumed that a person has a well-founded fear of persecution if he or she has already been persecuted the word "fear" also refers to those who wish to avoid a situation entailing the risk old persecution. Knowledge of changed country conditions is important in assessing the risk of persecution if an applicant is returned to his or her country of origin. International protection principles with respect to the importance of changed country conditions are clearly articulated in the context of recognized refugees, but may be used as guidance in the refugee status determination context.

When an applicant has been recognized as meeting the refugee definition, knowledge of country conditions is central to determining whether, notwithstanding having once met the refugee definition, he or she no longer needs international protection outside his or her country of origin. According to Article 1(C)(5) of the Convention, a person may cease to be a refugee if, inter alia the "circumstances in connection with which he has been recognized as a refugee have ceased to exist." Article

1(C)(5) further provides that "this paragraph shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality."

The UNHCR Executive Committee, an intergovernmental group currently comprising 51 States, that advises UNHCR in the exercise of its protection mandate, has adopted a conclusion on cessation of status stressing that, in construing the cessation clauses relating to "ceased circumstances,"

States must carefully assess the fundamental character of the changes in the country of nationality or origin, including the general human rights situation, as well as the particular cause of fear of persecution, in order to make sure in an objective and verifiable way that the situation which justified the granting of refugee status has ceased to exist.

The Executive Committee further emphasizes that "the ceased circumstances cessation clauses shall not apply to refugees who continue to have a well-founded fear of persecution" and recommends that "States seriously consider an appropriate status for persons who have compelling reasons arising out of previous persecution for refusing to re-avail themselves of the protection of their country."

Conditions in Haiti and adjudication of asylum applications in view of these conditions

Haiti has experienced improvements in its human rights situation with the restoration of President Aristide in October 1994, the election of President Rene Preval, who was inaugurated on 7 February 1996, and significant efforts to dismantle the former military structures. Nonetheless, we note that President Preval's 30 November 1996 letter to the Secretary General of the United Nations requesting the extension of the mandate of the OAS/UN International Civilian Mission to Haiti (Mission Civile Internationale en Haiti (MICIVIH)) until 31 December 1997 states that the presence of the MICIVIH is justified because the institutions responsible for ensuring the rights of citizens are continuing to show signs of weakness which must be urgently addressed.

This acknowledgment by the Haitian government of limitations on its capacity to ensure the rights of its citizens is the most credible indicator of the inadvisability of applying the "ceased circumstances" cessation clause. The Haitian government's own frank assessment of its limitations is also substantiated by the U.S. Department of State, which has reported that a significant number of serious human rights abuses occurred in Haiti in 1996 and remained steady in frequency and severity during the year.

Examples of existing problems are included in the 2 December 1996 report of the United Nations Secretary-General, among them:

- Incidents condemned by the Haitian Government as acts of destabilization and rumors of a plot against the State;
- Violations by State agents of the right to life and physical integrity; and
- In the judicial domain, serious violations of legal and constitutional procedures, as well as continued shortcomings in respect for due process.

According to the same report, difficult challenges lie ahead, including reinforcing the authority of the State and reforming the justice system. Additionally, investigations into past human rights violations have not been progressing well.

As the Government of Haiti and the United Nations have acknowledged, the weaknesses of Haiti's institutions, inherited from decades of political repression, undermine the capacity of the State to meet the basic obligation to protect its citizens. It is precisely this gap which has led to the development of parallel security forces, such as voluntary police, and the current tense situation throughout the country.

Given the above information on the assessment of country conditions by the Government of Haiti and the United Nations, a viable internal flight alternative or the possibility for Haitians to find safety in other parts of the country has not been established.

While the efforts of the Government of Haiti and the international community to institute reforms are laudable, this Office believes that it would be inappropriate to conclude generally that Haitian asylum-seekers would no longer face persecution upon return to Haiti. In light of these indications, asylum applications from Haitians should continue to be considered on their individual merits, taking into account any claims of past persecution, current country conditions, and the potential for continued human rights abuses.

ENDNOTES

¹The U.S. is a signatory to the 1967 Protocol relating to the Status of Refugees (the Protocol). Article 1 of the Protocol provides, *inter alia*, that the States Parties to the present Protocol undertake to apply Articles 2 to 34 inclusive of the Convention to refugees and modifies the definition of refugee in Article 1 of the Convention by removing the 1951 dateline.

²Executive Committee Conclusion No. 69 on Cessation of Status (XLIII), U.N. Doc. A/AC.96/804 (1992), para. (a).

³U.S. Department of State, Country Reports on Human Rights Practices for 1996, (Haiti) (1997) at 475.

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