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**Testimony of the Honorable Walter E. Fauntroy (D-D.C.)
Chairman, Congressional Task Force on Haiti
on Undocumented Haitian Immigration
Before the Subcommittee on Immigration, Refugees, and International Law**

June 8, 1989, 10:00 A.M.

Thank you, Chairman Morrison, for providing me in my capacity as Chairman of the bi-partisan Congressional Task Force on Haiti with the opportunity to present my views on "Undocumented Haitian Immigration."

Mr. Chairman, in the mid-1970's, Congresswoman Shirley Chisholm and I began to investigate the plight of the increasing number of Haitian refugees fleeing in desperation from political repression and economic injustice. Initially, the focus of this attention was on protecting the rights of these refugees under the Immigration and Nationality Act and, specifically, the Refugee Act of 1980. Investigation concerning the treatment of Haitian refugees revealed a pattern and practice of illegality and abuse based upon a mixture of racial, ideological, and class discrimination by the U.S. government.

In 1979, as Haitian refugee issues became more visible, the Congressional Black Caucus Task Force on Haitian Refugees was created to address more effectively the Haitian refugee issue at the national policy level. In October of 1981, I was especially moved by the tragic drowning of thirty-three Haitian refugees just off the shore of Hillsboro Beach, Florida; and I acted with Congresswoman Chisholm to broaden the focus of the CBC Task Force on Haitian Refugees to include examining the situation in Haiti as well as instituting intensive public policy oversight concerning U.S. policy towards Haiti. This effort has involved intense scrutiny and many fact-finding missions to Haiti.

I would like to, therefore, focus on conditions in Haiti. Since 1981, this has been the focus of the Congressional Task Force on Haiti and its predecessor the Congressional Black Caucus Task Force on Haitian Refugees. These conditions should be key in this Subcommittee's deliberations as to whether the present treatment of Haitian refugees is lawful, fair, and in accord with the Refugee Act of 1980. I think that, based upon results, it is clear that there has been a generalized and functional presumption by the Immigration and Naturalization Service and the Department of State that Haitian refugees do not fall within the definition of the Refugee Act of 1980. The statistics demonstrate this. Since September 1981, when the Reagan Administration commenced its Haitian Migrant Interdiction Operation (HMIO), until February 1989, 18,498 Haitians on 281 boats had been interdicted by the U.S. Coast Guard. Of these thousands, only five have been found by Immigration and Naturalization (INS) officials to have a reasonable basis to establish a claim for asylum under the Refugee Act of 1980. Eighteen thousand, four hundred and ninety-three (18,493) have been returned to Haiti reflecting the generalized presumption that they are illegal "economic migrants."

The use of such presumptions based on country of origin is improper within the terms of the Refugee Act of 1980. I also believe that such a presumption cannot be justified, given the injustice, lawlessness, and widespread abuse of human rights which still plague the Haitian people.

Time does not permit a full review here of conditions in Haiti. Suffice it to say that Haiti remains a very dangerous place for its citizens. Haiti has yet to emerge from dictatorship and repression. There is no way to separate out the connection between the domination of the economy by a tiny elite, the resulting gross exploitation of the masses of Haitians, the entrenched corruption, the lack of governmental accountability, and the arbitrary nature of the terror used to intimidate the Haitian people who have demonstrated great courage in their pursuit of democracy and constitutional government. On November 29, 1987, the world watched in horror as thugs and elements of the Haitian military slaughtered and attacked Haitians who were attempting to vote in the aborted national election. Since that date Haiti has experienced a military selection process which, for a little over four months, placed a civilian face on a murderous military dictatorship. When this

facade failed to win a return of U.S. assistance to the dictatorship, the military ended the transparent charade and took back the face of power. There followed in September of 1988, the coup by General Avril with the now familiar promise of democratic reform, adherence to the Haitian people's Constitution ratified on March 29, 1987. Since that time some progress has been made in the seating of a Provisional Electoral Council and the restoration of a good part of the Constitution. Last month, my distinguished colleague Chairman George W. Crockett, Jr., of the Subcommittee on Western Hemisphere Affairs, and I sent members of our staff to Haiti in order to evaluate the current situation. I would like to submit a copy of the staff report for the record. I think it describes the situation quite accurately, and I respectfully recommend its use in evaluating the situation of Haitian refugees fleeing to our country.

Mr. Chairman, the current situation in Haiti remains extremely dangerous—indeed explosive—and is disintegrating to the point where there is no security for anyone. The coercive apparatus of the former Duvalier dictatorship remains intact and well armed. It is available to retaliate and has done so against any Haitian citizen who may pursue his or her human rights. Gunfire is reported in many neighborhoods, and the climate is one of fear and uncertainty.

With these conditions in Haiti and under the requirements of the Refugee Act of 1980, it is simply wrong to continue a policy where the results indicate that we are continuing to make an incorrect blanket assumption that those fleeing from the injustice and insecurity of Haiti are all "economic migrants."

Mr. Chairman, we must institute policies and practices, establish structures, and find leadership within the INS and the Department of State that can provide an environment in which Haitian claims for asylum can be securely filed and adjudicated fairly, with genuine due process. The present policy dominated by the Haitian Migrant Interdiction Operation has set a very bad and dangerous precedent of prejudgment and arbitrary adjudication. After almost eight years, it is past time to correct this policy which in 1981, the Congressional Black Caucus termed a "flagrant example of both an ideologically and racially biased refugee and human rights policy."

Our recently departed colleague Congressman Claude Pepper introduced H.R. 811, legislation that would point our policy towards undocumented Haitian immigration in a better direction. Under the provisions of this legislation, would be immigrants interdicted at sea would be given the same procedural asylum rights as those provided to immigrants who enter the U.S. by land.

Specifically, H.R. 811 would require that, "in the case of an alien attempting to enter the United States who is apprehended in territorial waters of the United States by a member of the Coast Guard, such member shall provide for transport of the alien to a port of entry for an interview by an officer of the INS." While this bill does not address the due process rights of those interdicted on the high seas, it represents a start in ensuring that undocumented Haitians can apply for asylum in a secure environment.

While we work on formulating a policy towards Haiti that can better assist the Haitian people in their struggle for democracy, constitutional government, human rights, and economic justice, it is imperative that we reform our immigration and refugee policies to remove the taint of blanket presumptions that all undocumented Haitians are "economic migrants." Given the situation in Haiti, it is clear to me that many more than five of the 18,498 Haitians who have been interdicted could have established meritorious claims for asylum if our procedures had been fair and based upon principles of due process.

We must do better. Thank you.