



**Federation for
American
Immigration Reform**

Suite 400
1666 Connecticut Avenue, N.W.
Washington, D.C. 20009
202 328-7004
FAX 202 387-3447

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*FAIR is a non-profit public interest
organization working to end illegal
immigration and set reasonable
levels of legal immigration.*

February 19, 1992

Attention: LA (Haitian Refugees)

RECEIVED
FEB 25 1992

Co-Chairman: William Lehman
Washington, DC 20515

Dear Representative:

The Federation for American Immigration Reform opposes H.R. 3844 because it would undermine the non-political, non-discriminatory procedures for admission of refugees that Congress worked so hard to conceive and enact in 1980.

The attached memorandum describes the 1980 Refugee Act and the intent of Congress to replace a politicized, haphazard refugee policy with a coherent system that applied a uniform standard to all refugee applicants. The 1980 Act conforms to international standards, and its application and administration in the current Haitian situation have been upheld by the U.S. Supreme Court.

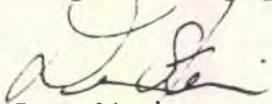
The provision of H.R. 3844 that shifts refugee slots to qualifying Haitians from groups at lesser risk shows that current law is flexible and can work well when allowed to. In contrast, the provision of H.R. 3844 that bars repatriation of Haitians who do not qualify as refugees creates a precedent that will undermine the government's ability to administer an orderly and equitable refugee program in the future.

If H.R. 3844 is defeated, the United States will continue to admit political refugees, including Haitians who have reason to fear political persecution. Of more than 15,000 interdicted Haitians, over 3,000 have been designated to come to the U.S. to pursue asylum claims. More are expected, an indication that our refugee law is working.

We believe it would be most unwise for Congress to exempt Haitians from the refugee standards that apply to other aliens. The United States must preserve the integrity of its refugee program in order to maintain public support for admission of the truly persecuted.

FAIR encourages a no vote on H.R. 3844.

Respectfully yours,


Dan Stein
Executive Director

Attachment

SUTHERLAND, ASBILL & BRENNAN

1275 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20004-2404

(202) 383-0100

CABLE: SUTAB WASHINGTON
TELEX: 89-501
FACSIMILE:
(202) 637-3593

999 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3996
(404) 853-8000

MEMORANDUM

February 20, 1992

TO: Federation for American Immigration Reform
RE: H.R. 3844 and the 1980 Refugee Act

H.R. 3844, which prohibits repatriation of interdicted Haitians whether or not they qualify as refugees under U.S. law, departs from the principles on which the U.S. refugee program has been based since 1980. Indeed, the blanket admission of aliens from specific countries in a politically charged atmosphere is precisely what the Refugee Act of 1980 was intended to avoid.

A Report of the House Judiciary Committee states that the Refugee Act of 1980 was enacted by Congress to substitute a "consistent refugee admissions policy" for a "haphazard" and "incoherent" system in which thousands of refugees were being admitted "outside the regular procedures established by statute." See H. Rept. No 96-608. Title I of the 1980 Act states that its purpose was to create "a permanent and systematic procedure for the admission to this country of refugees".

The Refugee Act of 1980 was the country's first comprehensive statutory scheme for the admission of refugees. The Act adopted the United Nations definition of a "refugee" as a person who is unable to return to his country because of "persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion". Under the comprehensive scheme of the 1980 Act, the President (in consultation with Congress) decides which of the world's refugees will be admitted to the U.S. each year. However, the determination of which aliens qualify as refugees in the first place is made by civil servants trained to administer the law in a uniform, nondiscriminatory fashion.

A major breach in the "permanent and systematic procedure" that Congress tried to establish in 1980 has been abuse of the asylum process. The 1980 Act provided that aliens who were already present in the U.S., but who would otherwise qualify as refugees, could petition for asylum. The asylum process was intended to protect aliens who were legally present in the U.S. in the event of sudden political changes in their home countries. However, immigration lawyers quickly realized that a claim of asylum, however tenuous, could be used to delay almost indefinitely the deportation of an illegal immigrant. Asylum claims jumped from

5,800 in 1979 to 53,000 in the year after the 1980 Act became law. Petitions are now running at more than 100,000 per year.

Some would also consider the creation in 1990 of Temporary Protected Status ("TPS") as a breach in the 1980 effort to depoliticize the refugee program. The Immigration Act of 1990 authorized the Attorney General to grant TPS to aliens who could not safely be returned to their own countries because of an "armed conflict" or natural disaster and mandated the application of TPS to aliens from El Salvador. Critics of TPS argue that the "Temporary" aspect of TPS may be difficult to enforce when, as in the case of El Salvador, it has been granted to hundreds of thousands of illegal aliens. (Even though the war in El Salvador was ended last year by a negotiated settlement, Salvadoran advocates are already lobbying for an extension of TPS.)

Since Haitians have not been designated for TPS, the refugee standards of the 1980 Act have been applied to them. Haitians who make a credible claim to U.S. asylum officers that they would be persecuted in Haiti by supporters of the coup are being taken to the U.S., where they may petition for asylum. These Haitians are the only refugee applicants in the world who are being admitted to the U.S. outside the regular refugee process without any numerical limits or other preconditions on their admission.

H.R. 3844 would delay, for not less than 180 days, the repatriation of thousands of Haitians interdicted between September 30, 1991 and February 5, 1992. Since Haitians interdicted after February 5 could apparently be repatriated, the bill would create a unique classification of aliens at Guantanamo Bay and on board U.S. vessels, who do not qualify for admission to the U.S. as refugees, but who cannot be repatriated to their own country.

Even though the U.S. admits more refugees than any other country, it can afford to accept only a fraction of the millions of aliens who suffer genuine religious, racial, or political persecution in their countries of origin. Like the Haitians, these aliens have their advocates in the U.S. It is fair to ask how Congress will respond to their entreaties if it votes to establish an exceptional status for Haitians who are fleeing poverty rather than persecution.