The Influx of Illegal Salvadoran Refugees: A Challenge to State and Local Governments

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There are estimated to be between 300,000 to 500,000 Salvadorans in the United States at the present time, without any sort of legal status. They are usually referred to as "illegals" or "undocumented persons." In general, these Salvadorans have chose to settle in urban areas where they can better hide from federal immigration authorities. Nonetheless, even though they are trying to maintain a low profile, these refugees do have to depend on certain government services to get by, and even survive. Over the course of the past two years, undocumented refugees from El Salvador have found in some cases they are granted certain services. However, in a significant number of other cases they have been outrightly denied any services.

Since the Salvadorans that this study will be concerned with are not resident aliens (which are those refugees who are in the US legally, awaiting their citizenship) or legal citizens of the United States, they are prohibited, by law, from receiving virtually any federal aid. Almost all federal laws are accompanied by a clause defining which people are eligible for service. Even programs administered on the state and local levels that are financed by federal monies, are off limits to the undocumented refugees. The services that are afforded these refugees are, with rare exception, funded at the state and local level or provededy.

This paper will attempt to focus on how state and local governments are handling the Salvadoran refugee situation and on what types of services—if any—are being provided in the areas of education, health care, legal assistance and protection of rights. Since this is a relatively current topic, I had to depend on interviews with those working with the refugees in the field for my information. I have found that it is extremely difficult to make any sorts of generalizations by looking at how the refugees impact one community. Therefore, I investigated the impact in Boston (Northeast), Washington D.C./Montgomery County/Fairfax County (Southeast), Texas (South, border state), and Los Angeles (West). I believe that this selection

provides one with a clear picture on the Salvadoran situation.

Before pursuing a discussion of the state and local government response to the influx of undocumented Salvadorans, it is important to first have an understanding of the current political and social climate in El Salvador, as well as an understanding of the official United States policy towards Salvadorans.

Current Situation in El Salvador

The preponderant part of El Salvador is today, by most accounts, tormented by a civil war. The civil war consists of guerrilla operations and counter-insurgency operations, with constant shifts in control of particular pieces of territory. This has resulted in continuous danger to the civilian population, according to many human rights organizations. "Since October 1979, human rights groups affiliated with the Roman Catholic Archdiocese of San San Salvador (until May 1982, Socorro Juridico; since May 1982, Tutela Legal) have tabulated more than 37,000 murders of civilian non-combatants by government security forces." In the past year alone, according to a report by the Tutela Legal, political murders have continued at a rate of about 100 a week. Many of the civilian bodies that were found murdered, were severely tortured and mutilated.

In addition to those murdered by the security forces, many have "disappeared." "Since October 1979, some 2,300 Salvadorans have disappeared following abduction by government security forces."

There appears to be no freedom of speech or religion in El Salvador. "One opposition newspaper, La Cronica, was closed in 1980 after its editor and a photographer were hacked to death." Further, many journalists have been attacked and some have been killed, among them four Dutch journalists killed in March 1982 and an American journalist, John Sullivan, who was killed in 1980. With

regard to religion, Archbishop Oscar Romero was murdered in 1980 and, subsequently, there have been frequent attacks on the church by government and security forces; including the murder of the four American churchwomen in 1980.

There also seems to be no criminal justice system in El Salvador. Prisoners are rarely taken; they are usually killed. When in fact they are taken, they are very rarely ever tried.

There was an election held in March of 1982, in which the "left" did not participate. A right-wing coalition prevailed, with Roberto D'Aubuisson emerging as the head of the Salvadoran Constituent Assembly. According to the accounts of the various human rights organizations, the violence has escalated since Mr. D'Aubuisson came to power.

It should also be noted that the "left" in El Salvador has earned a reputation for violence. Though, according to the Tutela Legal, the number of murders of civilian non-combatants by the "left" is far smaller than what has been perpetrated by the government forces. ⁵

The United States has chose to support, both militarily and economically, the current government of El Salvador. Congress has passed a law requiring the President to certify that the government of El Salvador is making significant progress in the area of improving human rights, before that country can receive any military assistance. Though, there are many in Congress who feel that the President is not taking this responsibility seriously. "In the January 1983 certification, the Administration cited US Embassy statistics showing the number of murders (in El Salvador) had declined from 1,569 in the previous six month certification period (Jan-Jun. 1982) to 989 in the period being certified (Jul.-Dec. 1982)." To many, this was not a real improvement.

It can be argued there is a danger to civilians in El Salvador,

not only from the government forces, but also from the leftists. The very nature of a civil war makes every area of land a potential battlefield. It is felt by many that civilian non-combatants living in areas that are now experiencing hostilities, are subject to beliigerent crossfire or other accidental or intentional tragedies.

Current US Policy Toward Undocumented Salvadorans

The United States does not provide any special immigration benefits to undocumented Salvadoran refugees in this country. If apprehended, they are liable for deportation back to El Salvador. There are some in Congress who ahve argued that due to the civil strife currently existing in El Salvador, the refugees would be granted a special immigration status called "Extended Voluntary Departure Status." This is a temporary halt to the deportation and exclusion of refugees in special circumstances, until such time as it is safe for them to return to their homeland. In the past, Extended Voluntary Departure Status has been granted to Nicaraguans, Ethiopians, Polish, Ugandans and Lebanese during periods of civil strife in these countries. Congressman John Joseph Moakley (D-MA), a leader in the effort to grant Salvadorans a temporary stay of deportation, stated, "the fighting in El Salvador has resulted in thousands of deaths and thousands of refugees. As a humanitarian response, we must not send those refugees, now in the United States, back to El Salvador where they will face an early death." Nevertheless, "the official US government position is that Salvadorans come to the United States illegally primarily for economic reasons, and that special protection by the United States in delaying their return to El Salvador is not merited by the conditions there."8

We are presented with a situation in which the United States will not make any special exceptions or arrangements for the Salvadorans. The official policy calls for the Salvadorans to be apprehended and deported. "In fiscal year 1982, 2118 Salvadorans were sent back from

the US to El Salvador under formal orders of deportation." The Response by State and Local Governments

State and local governments have been forced to deal with the 300,000 to 500,000 Salvadorans now in the United States. Though the official US policy is to seek out and deport the Salvadorans, most would agree that this policy will take time and cost a great deal of money. According to Michael Myers, a refugee expert at the Church World Service Authority, "the Immigration and Naturalization Service (INS) is dragging it feet on this matter. They are understaffed and do not, at the present time have the commitment or capacity to round up all these refugees." In the meantime, thousands of refugees have settled into various cities and communities across the country. With the federal government unwilling to provide any significant amount of relief assistance to help deal with the refugees, the challenge falls on the shoulders of the state and local governments.

What little government assistance that is provided to undocumented Salvadorans, is done so on the state and local level. Even in these instances, the aid or service is not distributed necessarily on a regular or equal basis. In researching this paper, I had to rely mostly on interviews with leaders in the refugee relief community for my information; since most government-related employees were very nervous or unwilling to discuss the issue. A reason for this is that an open discussion on any public funds going to aid illegal aliens would be extremely controversial. To be sure, many officials might consider the topic political suicide. It is not difficult to imagine that the "average citizen" might not be pleased to know that his or her tax dollars are going to finance the education or health care of an undocumented Salvadoran refugee.

Education

Perhaps the greatest concentration of state and local assistance is in the area of education. Much of this aid has been allocated--

not on a voluntary basis -- but because of a Supreme Court ruling. The case of Plyer v. Doe, decided June 15, 1982, ruled that the children of illegal immigrants have the right to free public This 5-4 decision struck down a Texas law that education. effectively barred such children from attending schools in the state by allowing school districts to charge their parents tuition. At the time of the decision, the Los Angeles Times wrote an editorial which stated, " The ruling was proper because the Texas law was shortsighted social policy. There was simply nothing to be gained by penalizing children who had no choice in their 11 parents' decision to immigrate, whether legally or illegally." Texas officials had argued that the law was necessary because the costs of educating immigrant children was a financial burden on the state's schools. But, nevertheless, the Supreme Cour ruling is in effect, and state and local governments must comply.

This ruling has significant implications for state and local governments. First and foremost, it means an increase in state and local expenditures devoted to public education, in order to properly accommodate all students. Since the refugee population, and in particular the Salvadoran refugee population, is concentrated in primarily urban areas, this Supreme Court ruling does not impact all states and localities in the same way.

In Texas, where there is an especially large refugee population, the impact is felt hard. In August 1982, Texas Commissioner Bynum made the following remarks:

There are many across the nation who believe that Texas is a wealthy and prosperous state--well able to afford the necessary funds required to provide equal and free educational opportunity for these children (refugees). While it is true that today the economy in Texas is better than most and our fiscal position enviable, it is, nonetheless, unrealistic for anyone to believe that prosperity can continue indefinitely and grow at an uncontrolled rate. As a matter of fact, the Texas economy is fast approaching what I call the brick wall. In the

very near future, difficult and corageous political and administrative decisions will be necessary in order to ensure that state spending remains contained within the boundaries of our ability to raise necessary revenue. Unless we are frugal in managing state resources, we will soon face difficulties in paying our bills. 12

According to some, this "brick wall" has already been reached in Texas. There has recently been a downturn in the Texas economy. "The State Comptroller of Public Accounts estimated a five billion dollar surplus for the next biennium but decreased it to two billion during the recent legislative session due to a significant drop in oil and gas revenues and sales tax collection." 13

In Washington , D.C., there is as estimated 50 thousand undocumented Salvadoran refugees, of about which 1,600 Salvadoran children are enrolled in the DC public schools. 14 School officials have indicated that the influx of these new students has put a tremendous strain on resources in the classroom. Walley Vaches, who deals with refugee affilers on the staff of Mayor Marion Barry, said, "The D.C. government should be commended for its compassion in trying to provide a decent education for the Salvadorans and other refugees. However, we have just about reached our limit; we are in deep need of more money." Stephen Horblitt, legislative assistant in refugee affairs to Congressman Walter Fauntroy (D-DC), said, "The District, as with other states and localities, should not be expected to subsidize the federal government. The influx of Salvadorans to the United States is a federal matter. Our immigration policies are not working. 'feds' should deal with it."16

Dan Kesselbrenner, a worker at Central Presente (a refugee relief center) in Boston, Massachusetts, indicated that the greater Boston area is just beginning to realize the impact of the Salvadorans on the school system. He said, "Boston is estimated to have between 8 to 10 thousand Sakvadorans in the city at the current time; which

is not as large as Washington or Los Angeles. We are starting to hear complaints of overcrowding and lack of money. I suspect it will get much worse." Audrey Ryack, congressional liason for the City of Boston Office, indicated that her office has also begun to hear complaints. Though, she admitted, the city office has not as of yet reccommended any contingency or emergency relief action to combat the problem. 18

In Los Angeles, as well as other cities and states, the situation is much the same. Educational costs for state and local governments are on the rise. In virtually every area of the country that is effected by this crisis, there is a lack of any real contingency plan to subsidize the costs.

States and counties have, however, put pressure on the federal government to develop alternative ways to deal with rising number of refugees. In a letter to Attorney General William French Smith, Matthew B. Coffey, Executive Director of the National Association of Counties, stated, "The National Association of Counties is deeply concerned that adequate contingency plans be developed to deal with sudden migrations form Central America and that county governments through their national organization be fully consulted in the development of such plans." Similar letters have been dispatched by the National Association of Governors as well as by various state and local officials. In response to the increasing pressures, the federal government recently took a step toward aiding the public education problem.

Congressman Jim Wright (D-TX), the Democratic Majority Leader, offered an amendment, on November 8, 1983, that contained an appropriation of \$145 million for financial assistance to school districts to meet the extra costs of educating immigrant children.

Congressman Jim Wright, in defending his amendment, stated:

Many school districts are experiencing influxes of alien and immigrant children, for whom the Supreme Court has declared they must provide educational services. It is estimated that the average cost of educating these students is \$2,500 per pupil per year, due to their language problems and other special needs. The \$145 million will help address the special needs of these students, whose presence in the school districts is a result of federal immigration policy.

The amendment was the subject of much controversy on the House floor. Congressman Robert Michel, the House Minority Leader stated:

...What particularly concerns me is that the majority leader of the House is asking the American people to finance the education of illegal immigrants. All I can say is that I think many people in this country are going to be mighty upset about having to fork over their tax dollars to finance the education of illegal aliens...²¹

The House approved the \$145 million appropriation; though it was reduced to \$30 million in the House -Senate conference committee. As Thomas L. Jospeh, Senior Research Associate at the National Association of Counties stated, "This won't even make a dent in remedying the problem. \$20 million wouldn't be enough to deal with just Texas." To date, this is the only federal assistance being granted to illegal Salvadorans.

Health Care

The ability to receive adequate health care is often a "life or death" issue for many of the Salvadorans. The state and local response has been mixed. Though all of the people that were

interviewed for this paper indicated that, for the most part, county and state hospitals and clinics have been willing to treat undocumented aliens; there have been some refugees who have been denied aid or turned over to the immigration authorities. Thus, according to Patrice Perilli of the Center for Central American Refugees in Washington, D.C., "there is a general fear amongst Salvadorans that going to a hospital will result in their deportation back to El Salvador. Often times they don't seek health care, even when they should." 23

Ms. Perilli indicated that the Washington, D.C. hospitals usually do not turn anyone down when it comes to medical treatment. No identification is required; and patients can pay in cash upon receipt of a particular service. Stephen Horblitt of Congressman Fauntroy's office, stated, "there is an unwritten rule between the DC government and its employees with regard to refugees. they are to service everyone, regardless of that person's immigration status."24 Perilli agreed, but pointed out that D.C. hospitals are not adequately equipped to deal effectively with the refugees. said, on many occasions, her her office has been called to translate various ailments because no one in the hospital could speak spanish. She called for some sort of federal intervention to help the hospitals and clinics. She added, "Most hospital officials are not willing to let these refugees die. But we're getting to the point where, without more funds, the hospitals may have to begin turning people away."25

Dr. Eliana Herell, of the minority affairs office in Montgomery County, Maryland, expressed similar concerns. She praised Montgomery County for being relatively progressive in terms of its attitude toward undocumented aliens; "it's not uncommon for them (refugees) to take full advantage of county medical facilities,

including T.B. shots, xrays, and flu vaccines."²⁶ However, she did point out that technically, to receive any types of county services, a refugee would have to show an I94 immigration card(which indicates that you are in the United States legally) or a green card. However, from what Herell implied, this procedure is not followed very regularly. Dr. Herell concedes that Montgomery County does not have the same high number of refugees that Washington has, and, therefore, can afford to be somewhat more lenient in its refugee policies. However, she also cautioned that if the number of refugees increases much more, Montgomery County will have to look to the federal government for assistance.

Lou DeSitter, Director of El Rescate (a refugee relief center) in Los Angeles, California, said that although there are many hospitals and clinics that will provide services to refugees, there have been many instances in the Los Angeles area where hospitals have served as agents for the Immigration and Naturalization Service. De Sitter stated, "Often times, general hospitals do not tell the refugees about the 'ability to pay program.' Instead, they coerce these confused people into filling out medicare/medicaid forms which the Salvadorans, of course, cannot collect on. The forms are then used to pinpoint the residence of the refugee, which, in turn, leads to his apprehension."²⁷ DeSitter indicated that many in the community have tried to combat this type of problem by setting up privately owned and operated medical clinics.

Unlike education, there is no legal obligation on the part of the state and local governments to service illegal aliens. The only obligation is an "ethical/humanitarian" one. Nevertheless, it seems clear that this "ethical" obligation almost always prevails.

The National Association of Counties and the National Association of Governors both recognize that those they represent are often times providing medical services to illegals. In a recent platform statement, the National Association of Counties acknowledged that counties are providing health care and social services to all persons residing within county boundaries—regardless of their status. The statement specifically calls for the development of a contingency plan in which: "where it is necessary for counties to provide financial assistance, health or hospital care, social services or other services to non citizens—including refugees and illegal aliens—the federal government should fully reimburse counties, including administrative costs." 28

The health care situation appears to be the same in all areas of the country where there is a significant refugee population. There is no indication that hospitals and clinics will begin actively and regularly turning people away unless, of course, the financial burdens become too great.

Legal Services

Salvadorans in the United States who want to find out their legal options, must pay for legal advice on their own. There are no avenues for them to ascertain what rights—if any—they have or how to apply for asylum. They are prohibited from receiving any government legal services. According to Dan Kesselbrenner of Boston, "its very difficult to get around this, since 98% of the legal services are federally funded; and, thus, off limits to illegals." Since the Salvadorans who come to the United States usually have very little money, they often times will forgoge getting any legal advice.

Amit Pandya, an attorney for the American Civil Liberties Union Political Asylum Project, pointed out, "it is hard for any good-intentioned attorney who works with government funds to offer legal counsel to undocumented Salvadorans. There is a great deal of paperwork and follow-up involved which makes the whole process impossible." Pandya's comments were echoed by many. A lot of the immigration cases that attorneys have been asked to handle are extremely complex and detailed. Very few are willing to offer their services for no charge. Thus, if a Salvadoran has a particular grievance, he or she must first raise the money. Maureen O'Sullivan, Director of the Immigration Project of the National Lawyer's Guild in Boston, referred to some possible relief for Salvadorans. According to O'Sullivan, "there is a new movement in the legal community to establish ways in which services can be provided to refugees on a 'pro bono' basis." O'Sullivan cited the exploitation of Salvadorans by landlords and employers as the key behind the movement.

In Oregon, as a response to the lack of legal resourses available to undocumented refugees, the Central American Asylum Pro Bono Panel has been formed by members of the local legal community. This panel claims to have serviced 15 Salvadorans since its inception last April. Similar organizations and panels have begun to appear all over the country. However, it is interesting to note that these legal services that are being provided are financed by private--not government--funds.

Work and Housing Discrimination

Despite the fact that there seems to be a growing concern in the legal community about the plight of the Salvadorans, that does not mean an end to the lagal problems. Undocumented Salvadorans, as has been pointed out, are in the United States illegally; if they are caught they will be deported back to El Salvador. "Slum landlords" and "unsympathetic employers" know this fact and often

times take advantage of the situation.

With regard to housing, Patrice Perilli of the Center for Central American Refugees stated, "In Washington alone there are hundreds of slum landlords taking advantage of refugees. landlords know that the illegal Salvadorans cannot sign a legal lease, and thus has no legal rights." Perilli indicated that rents are usually high and it is not unusual to hear of complaints from Salvadorans about not having running water or heat in the The common theme amongst the refugee relief groups and those within state and local organizations, is that there is no adequate remedy available to the undocumented refugee if his or her basic rights are violated. If the refugee were to obtain an attorney, he or she would have to take the risk of being caught by the immigration officials. Kathy Howe, of the Archbishop Oscar Romero Relief Fund in Los Angeles told of a case in which a landlord evacuated an entire tenament of illegals in 30 minutes. She said, "the landlord simply told them that the INS authorities were on their way--and they had to get out immediately."34

There is also a great deal of work discrimination. Obviously, Salvadorans need money to survive and, therefore, must find some sort of employment. Employees who hire illegals, often times take advantage of their status by paying the refugees below minimum wage and making them work long hours. But, once again, there is no legal recourse for the Salvadorans to pursue. In Virginia, there is a state law that prohibits the hiring of undocumented aliens. Yet, as Erma Ortese, of the Fairfax County office on refugee affairs, said," despite the law, there are hundreds of undocumented aliens working in Virginia under the poorest of conditions. But, if they were to report their employer—who at best will be fined—they risk being deported."

There does not seem to be much attention focused on this issue within the National Association of Counties or the National Association of Governors. Thomas Joseph of the National Association of Counties, indicated that there were other concerns regarding the refugees that were more urgent. He said, "though it is understood that there is wide-spread discrimination and exploitation against the refugees, our primary concern for the moment is making sure that they are not left homeless and starving out on the streets." Amit Pandya of the American Civil Liberties Union Political Asylum Project stated, "we have to take things one step at a time and we haven't reached this step yet--but I'm sure we will."

Political Realities Facing State and Local Officials

Regardless what one feels about the services that should or should not be provided to the undocumented Salvadoran refugees, one thing is clear—there is an extremely difficult political challenge before our state and local leaders to effectively deal with the issue. Larry DiCara, a former Boston City Council Member, remarked, "it is impossible to get the Boston City Council to agree on increasing aid to the city's poor—who are citizens. I cannot imagine them agreeing on appropriating city funds to aid people who are not even supposed to be in this country." That is the heart of the problem at the state and local level. Can the voting public be convinced that state and local monies should be used to aid illegal refugees? If not, what are the alternatives?

Representative John Joseph Moakley (D-MA) said, "it is no longer an issue of whether we should or should not give funds to the Salvadorans or any other refugee in this country. They are already in the United States, which shows that our immigration policies are not working. They are a fact of life; we just can't ignore them.

And unless the INS is going to ship them all back tomorrow, we have to, as a civilized society, help them."³⁹ A larger number of public officials are starting to share Moakley's view--both on the federal and local levels. However, the numbers are still small and the issue itself is extremely controversial. Why should local and state officials focus on an issue that will certainly be unpopular amongst the masses? The officials may have no choice. The influx of Salvadoran refugees is constantly growing and the time will soon come when public officials, like it or not, will have to deal constructively and forcefully with the problem.

Alternatives for State and Local Governments

I have attempted to outline some, not all, of the problems facing local and state governments with regard to undocumented Salvadorans. The situation is not getting any better; rather, it is worsening with more and more refugees crossing the border illegally. Therefore, it is important to consider some of the options that state and local officials might pursue.

First, with regard to the status of the Salvadorans, state and local officials might consider pressuring the federal government to grant Salvadorans Extended Voluntary Departure Status. If this were to occur, there would immediately be an outporing of federal monies available to the Salvadorans as a result of their new status. This would also enable the Salvadorans to work and to acquire certain basic rights.

Second, state and local officials should continue to pressure the federal government for some sort of contingency plan. As was indicated in this paper, many communities are at the absolute limit in terms of being able to afford education and health care for these refugees. There should be a federal relief program to offer state and local governments additional assistance. Third, in the meantime, state and local governments might consider making an appeal for community volunteerism. Many churches have already taken it upon themselves to provide food and emergency monies to the salvadorans. Perhaps other members of the community would be willing to do the same. The problem with this, of course, is that it is technically illegal to harbor or protect an undocumented alien. However, if the situation gets bad enough, some communities may have little choice.

Finally, there must begin serious discussions on the issue at all levels of state, local and federal government. It is easier to discuss the issue now, before things get out of hand. Politically difficult decsions will have to be made, to be sure. However, the challenge to the state and local governments, at this point in time, is to develop a plan and make this a priority issue.

- ³⁷Amit Pandya, Interview, Nov. 21, 1983.
- 38 Interview with Larry DiCara, former Boston City Council member, Boston, MA, Nov. 22, 1983.
 - ³⁹Rep. John Joseph Moakley, Interview, Oct. 20, 1983.

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- ²²Interview with Thomas L. Joseph, National Association of Counties, Wash. D.C., Nov.1, 1983.
- 23 Interview with Patrice Perillie, Center for Central American Refugees, Wash., D.C., Nov. 1, 1983.
 - 24 Stephen Horblitt, Interview, Oct. 26, 1983.
 - ²⁵Patrice Perillie, Interview, Nov. 1, 1983.
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- 28"Aliens, Illegal Aliens, Migrants and Refugees," American County Platform--National Association of Counties, Wash., D.C., 1982-83, p.6-7.
 - ²⁹Dan Kesslebrenner, Interview, Nov. 3, 1983.
- 30 Interview with Amit Pandya, American Civil Liberties Union; Political Asylum Project, Wash.D.C., Nov. 21, 1983.
- 31 Interview with Maureen O'Sullivan, National Lawyer's Guild; Immigration Project, Boston, Mass., Nov. 22, 1983.
- 32 Paul Manley, "Small Offices in Portland Beseiged by Flood of Refugees," The Sunday Oregonian, Jun. 26, 1983, p.c3.
 - 33 Patrice Perillie, Interview, Nov. 1, 1983.
- 34 Interview with Kathy Howe, Archbishop Romero Relief Fund, Los Angeles, CA, Nov. 22, 1983.
- 35 Interview with Erma Ortese, Fairfax County Office of Minority Affairs, Fairfax, Virginia, Nov. 21, 1983.
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