

**STATEMENT BY CONGRESSMAN JOE MOAKLEY
BEFORE
SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND
INTERNATIONAL LAW**

MAY 15, 1991

MR. CHAIRMAN, I THOUGHT MY DAYS OF TESTIFYING BEFORE THIS SUBCOMMITTEE WERE OVER WHEN CONGRESS PASSED THE MOAKLEY-DECONCINI TEMPORARY PROTECTED STATUS BILL LAST YEAR. MUCH TO MY DISMAY, I'M BACK BEFORE YOU BECAUSE THE ADMINISTRATION HAS FAILED TO IMPLEMENT THE NEW LAW IN THE MANNER CONGRESS INTENDED. AS A RESULT, THE PROGRAM IS ON THE VERGE OF FAILURE.

FOR REASONS I WILL EXPLAIN, I'VE COME TO THE JUDGEMENT THAT -- AT A MINIMUM -- IT IS NECESSARY FOR CONGRESS TO ADD FOUR MONTHS TO THE APPLICATION PERIOD FOR SALVADORAN TPS SO THAT SERIOUS PROBLEMS CAN BE CURED AND THE PROGRAM GIVEN A FAIR CHANCE TO WORK.

STATUS OF IMPLEMENTATION

AS OF THE END OF APRIL, APPROXIMATELY 60,000 SALVADORANS HAVE APPLIED FOR TPS. THE SIX MONTH APPLICATION PERIOD, WHICH BY LAW TERMINATES JUNE 30TH, IS MORE THAN TWO THIRDS OVER. AT CURRENT RATES, FEWER THAN 100,000 WILL COME FORWARD. THIS IS OUT OF AN ESTIMATED ELIGIBLE POPULATION OF 500,000, IF NOT MORE. IN FACT, WHEN THE TPS PROGRAM BEGAN -- INS ESTIMATED THAT 300,000 SALVADORANS WOULD APPLY.

WHAT'S GONE WRONG

FOLLOWING ENACTMENT OF THE IMMIGRATION ACT, MY STAFF AND I -- TOGETHER WITH SENATOR DECONCINI, SENATOR KENNEDY AND MANY PRIVATE ORGANIZATIONS -- ESTABLISHED COMMUNICATION WITH THE INS IN ORDER TO HELP PLAN IMPLEMENTATION OF THE TPS PROGRAM TO ENSURE ITS SUCCESS. QUITE FRANKLY, WE WERE PLEASED AND ENCOURAGED LATE LAST YEAR AND EARLY THIS YEAR WITH THE APPARENT DESIRE OF INS TO WORK COOPERATIVELY WITH US AND COMMUNITY ORGANIZATIONS AROUND THE COUNTRY TO GET THE PROGRAM OFF TO A POSITIVE START. COMMISSIONER McNARY -- WHO I BELIEVE IS A GOOD AND DECENT MAN -- WAS VERY OPEN TO MY SUGGESTIONS AND I FELT HOPEFUL.

HOWEVER WHEN INS ANNOUNCED INTERIM REGULATIONS GOVERNING THE PROGRAM IN EARLY JANUARY, INCLUDING APPLICATION FEES AND OTHER SPECIFIC REQUIREMENTS, IT BECAME APPARENT THAT MANY SALVADORANS WOULD BE UNABLE TO PARTICIPATE IN THE PROGRAM -- IF ONLY BECAUSE THEY COULD NOT AFFORD IT. AS YOU KNOW, THE FEES INS ESTABLISHED WERE \$330 PER INDIVIDUAL AND FOR A FAMILY OF FIVE, TPS WOULD COST OVER \$1,400. I SHOULD ADD THAT THE COST OF WORK AUTHORIZATION HAS NEARLY DOUBLED SINCE THESE FEES WERE ANNOUNCED -- AND, THEREFORE, THE COST OF TPS HAS ACTUALLY GONE UP EVEN MORE. ALL FOR A MEASLY 18 MONTHS OF PROTECTION!

I PROTESTED IMMEDIATELY, AS DID MANY OTHERS. INS'S RESPONSE WAS THAT SINCE CONGRESS REQUIRED THAT FEES BE SET AT A LEVEL SUFFICIENT TO FULLY COVER THE COSTS OF THE PROGRAM -- THE COSTS WERE JUSTIFIED.

WHEN WE STARTED TO ASK QUESTIONS ABOUT FEE CALCULATIONS, IT QUICKLY BECAME CLEAR THAT INS COULD NOT JUSTIFY THE EXTRAORDINARILY HIGH FEES ESTABLISHED. I THINK IT'S NOTEWORTHY THAT THE CONGRESSIONAL BUDGET OFFICE ESTIMATED IN 1990 THAT A FEE OF \$50 WOULD BE SUFFICIENT TO COVER THE COST

OF THE WHOLE PROGRAM -- FROM BEGINNING TO END.

TO HIS CREDIT, COMMISSIONER McNARY MET WITH ME AND SENATOR DeCONCINI ON FEBRUARY 6TH AND AGREED THAT THE FEES HAD BEEN SET TOO HIGH AND WOULD BE LOWERED. THE COMMISSIONER SPECIFICALLY PROMISED TO ESTABLISH A NEW FEE STRUCTURE UNDERWHICH AN INDIVIDUAL WOULD PAY \$230 INSTEAD OF \$380 AND A FAMILY OF FIVE -- WITH THREE MINOR CHILDREN -- WOULD PAY \$535 INSTEAD OF \$1,435.

COMMISSIONER McNARY'S PROMISE REPRESENTED A VERY SIGNIFICANT REDUCTION, ALTHOUGH NOT AS SUBSTANTIAL A REDUCTION AS I THINK IS WARRANTED. NONETHELESS, I TOOK THE COMMISSIONER AT HIS WORD AND EXPECTED THE REDUCED FEES WOULD GIVE THE PROGRAM A BETTER CHANCE OF WORKING AND THAT MANY THOUSANDS MORE PEOPLE WOULD BE ABLE TO APPLY.

THE PROBLEM IS THAT HERE WE ARE ON MAY 15TH -- THREE MONTHS AFTER MY MEETING WITH THE COMMISSIONER --- AND LESS THAN SIX WEEKS BEFORE THE APPLICATION PERIOD ENDS, AND THE PROMISED FEE REDUCTION HAS NOT BEEN PUT INTO EFFECT. ADDITIONALLY, IT IS MY UNDERSTANDING THAT FEES ARE TO BE WAIVED FOR PERSONS BELOW THE FEDERAL POVERTY GUIDELINES. YET, I CONTINUE TO GET REPORTS FROM

COMMUNITY ORGANIZATIONS AND LAWYERS THAT MANY INDIGENT SALVADORANS ARE BEING DENIED TPS WAIVERS.

I DON'T BLAME COMMISSIONER McNARY FOR THIS INACTION. I KNOW THAT THERE IS A MASSIVE BUREAUCRACY THAT MUST SIGN OFF ON ANY CHANGES IN THE PROGRAM. AND FOR THE RECORD, THE COMMISSIONER AND HIS STAFF HAVE ALWAYS BEEN RESPONSIVE TO ME AND MY STAFF. AND I AM NOT CHARGING THAT ANYONE IN THE ADMINISTRATION IS MALICIOUSLY TRYING TO UNDERMINE THE LAW. BUT, FOR WHATEVER REASON, MUCH NEEDED CHANGES IN THE PROGRAM HAVE NOT BEEN IMPLEMENTED -- AND THERE IS MUCH CONFUSION AND MUCH ANXIETY AMONGST THE SALVADORAN POPULATION AND THE COMMUNITY ORGANIZATIONS WHO ARE HELPING MAKE TPS WORK. WE HAVE A BIG PROBLEM.

WHAT NEEDS TO BE DONE

INS HAS ADMITTED THAT THE ORIGINAL FEES WERE HIGHER THAN CONGRESS AUTHORIZED, BUT THEY STILL REMAIN IN EFFECT. THEREFORE, DURING THE FIRST FOUR AND ONE HALF MONTHS OF THE SIX MONTH APPLICATION PERIOD, MANY SALVADORANS HAVE BEEN DISCOURAGED FROM EVEN APPLYING FOR TEMPORARY PROTECTION. Mr. CHAIRMAN, IT IS SIMPLY UNACCEPTABLE THAT THIS

HUMANITARIAN PROGRAM BE UNDERMINED IN THIS MANNER.

I HAVE CONCLUDED THAT WHAT NEEDS TO BE DONE IS FOR THE CONGRESS TO ENACT A SIMPLE FOUR MONTH EXTENSION OF THE APPLICATION PERIOD IN ORDER TO ENSURE THAT ALL SALVADORANS HAVE A FULL AND FAIR OPPORTUNITY TO DECIDE TO APPLY FOR PROTECTION AT A REASONABLE, RATHER THAN AN EXORBITANT FEE. AND IF INS DOES NOT IMMEDIATELY ISSUE THE REGULATIONS LOWERING THE FEES TO AT LEAST THE LEVEL PROMISED ME BACK ON FEBRUARY 6TH, THEN CONGRESS MAY HAVE TO ACT TO REDUCE THE FEES AS WELL.

MR. CHAIRMAN, I HOPE I CAN WORK WITH YOU AND CHAIRMAN BROOKS TO ENACT THE NECESSARY CORRECTIONS BEFORE JUNE 30TH, WHEN THE APPLICATION PERIOD WOULD OTHERWISE END. YESTERDAY I INTRODUCED LEGISLATION TO MAKE THIS SIMPLE ADJUSTMENT. HOWEVER, GIVEN THE SHORTNESS OF TIME, I EXPECT WE WILL HAVE TO FIND AN APPROPRIATE VEHICLE FOR AMENDMENT.

I ALSO HOPE, QUITE FRANKLY, THAT UNDER ALL THESE CIRCUMSTANCES THE ADMINISTRATION WOULD AGREE THAT A SIMPLE EXTENSION OF THE APPLICATION PERIOD MAKES SENSE. CLEARLY, IT IS IN THE INTERESTS OF THE LOCAL COMMUNITIES WHERE SALVADORANS LIVE, AS WELL AS IN THE INTEREST OF INS, FOR AS MANY

ELIGIBLE PEOPLE AS POSSIBLE TO COME FORWARD AND BRING THEMSELVES WITHIN OUR SYSTEM OF LAWS.

CONCLUSION

AS YOU KNOW, SINCE 1983 I HAVE FOUGHT, TOGETHER WITH SENATOR DeCONCINI AND MANY OTHERS, FOR POLICIES WHICH WOULD PROVIDE WAR REFUGEES FROM EL SALVADOR A TEMPORARY SAFE HAVEN AND HUMAN DIGNITY IN OUR COUNTRY. FINALLY, LAST YEAR WE SUCCEEDED IN ENACTING THIS MODEST TEMPORARY PROTECTED STATUS PROGRAM.

I HAVE MET AND COME TO KNOW MANY SALVADORANS WHO HAVE FLED THE WAR AND INJUSTICE OF THEIR HOMELAND. THESE ARE DECENT, HARDWORKING, LAW ABIDING PEOPLE. THEY HAVE SUFFERED GREATLY IN THEIR HOMELAND, AND FOR MANY YEARS HAVE SUFFERED HERE IN OUR COUNTRY. TPS HOLDS OUT THE PROMISE TO THESE PEOPLE THAT THEIR PLIGHT WILL BE RECOGNIZED AND THEIR NEED FOR TEMPORARY PROTECTION AND THE RIGHT TO WORK ACKNOWLEDGED. BUT THESE ARE HOLLOW PROMISES INDEED, IF WE DO NOT ACT NOW TO GIVE THE TPS PROGRAM A CHANCE TO WORK FOR THOSE IT WAS INTENDED TO HELP.

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