

108TH CONGRESS
1ST SESSION

H. R. 1440

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2003

Mr. FOLEY (for himself, Mr. ACKERMAN, Mr. GARRETT of New Jersey, Mr. McNULTY, Mr. FROST, Ms. ROS-LEHTINEN, Mr. MCGOVERN, Mr. BERMAN, and Mr. BARTLETT of Maryland) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Atrocity Alien De-
5 portation Act of 2003”.

6 **SEC. 2. INADMISSIBILITY AND DEPORTABILITY OF ALIENS**
7 **WHO HAVE COMMITTED ACTS OF TORTURE**
8 **OR EXTRAJUDICIAL KILLINGS ABROAD.**

9 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1182(a)(3)(E)) is amended—

12 (1) in clause (ii), by striking “has engaged in
13 conduct that is defined as genocide for purposes of
14 the International Convention on the Prevention and
15 Punishment of Genocide is inadmissible” and insert-
16 ing “ordered, incited, assisted, or otherwise partici-
17 pated in conduct outside the United States that
18 would, if committed in the United States or by a
19 United States national, be genocide, as defined in
20 section 1091(a) of title 18, United States Code, is
21 inadmissible”;

22 (2) by adding at the end the following:

23 “(iii) COMMISSION OF ACTS OF TOR-
24 TURE OR EXTRAJUDICIAL KILLINGS.—Any
25 alien who, outside the United States, has

1 committed, ordered, incited, assisted, or
2 otherwise participated in the commission
3 of—

4 “(I) any act of torture, as de-
5 fined in section 2340 of title 18,
6 United States Code; or

7 “(II) under color of law of any
8 foreign nation, any extrajudicial kill-
9 ing, as defined in section 3(a) of the
10 Torture Victim Protection Act of
11 1991 (28 U.S.C. 1350 note);

12 is inadmissible.”; and

13 (3) in the subparagraph heading, by striking
14 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
15 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
16 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
17 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

18 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
19 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

20 (1) by striking “clause (i) or (ii)” and inserting
21 “clause (i), (ii), or (iii)”; and

22 (2) in the subparagraph heading, by striking
23 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
24 GENOCIDE” and inserting “PARTICIPATED IN NAZI

1 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
2 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to offenses committed before, on,
5 or after the date of the enactment of this Act.

6 **SEC. 3. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
7 **IGN GOVERNMENT OFFICIALS WHO HAVE**
8 **COMMITTED PARTICULARLY SEVERE VIOLA-**
9 **TIONS OF RELIGIOUS FREEDOM.**

10 (a) GROUND OF INADMISSIBILITY.—Section
11 212(a)(2)(G) of the Immigration and Nationality Act (8
12 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

13 “(G) FOREIGN GOVERNMENT OFFICIALS
14 WHO HAVE COMMITTED PARTICULARLY SEVERE
15 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
16 alien who, while serving as a foreign govern-
17 ment official, was responsible for or directly
18 carried out, at any time, particularly severe vio-
19 lations of religious freedom, as defined in sec-
20 tion 3 of the International Religious Freedom
21 Act of 1998 (22 U.S.C. 6402), is inadmis-
22 sible.”.

23 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
24 of the Immigration and Nationality Act (8 U.S.C.

1 1227(a)(4) is amended by adding at the end the fol-
2 lowing:

3 “(E) PARTICIPATED IN THE COMMISSION
4 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
5 DOM.—Any alien described in section
6 212(a)(2)(G) is deportable.”.

7 **SEC. 4. WAIVER OF INADMISSIBILITY.**

8 Section 212(d)(3) of the Immigration and Nationality
9 Act (8 U.S.C. 1182(d)(3)) is amended—

10 (1) in subparagraph (A), by striking “and
11 3(E)” and inserting “and clauses (i) and (ii) of
12 paragraph (3)(E)”; and

13 (2) in subparagraph (B), by striking “and
14 3(E)” and inserting “and clauses (i) and (ii) of
15 paragraph (3)(E)”.

16 **SEC. 5. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
17 **WHO HAVE COMMITTED ACTS OF TORTURE,**
18 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
19 **LATIONS OF RELIGIOUS FREEDOM.**

20 Section 101(f) of the Immigration and Nationality
21 Act (8 U.S.C. 1101(f)) is amended—

22 (1) by striking the period at the end of para-
23 graph (8) and inserting “; and”; and

24 (2) by adding at the end the following:

1 “(9) one who at any time has engaged in con-
2 duct described in section 212(a)(3)(E) (relating to
3 assistance in Nazi persecution, participation in geno-
4 cide, or commission of acts of torture or
5 extrajudicial killings) or 212(a)(2)(G) (relating to
6 severe violations of religious freedom).”.

7 **SEC. 6. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
8 **VESTIGATIONS.**

9 (a) AMENDMENT OF THE IMMIGRATION AND NA-
10 TIONALITY ACT.—Section 103 of the Immigration and
11 Nationality Act (8 U.S.C. 1103) is amended by adding
12 at the end the following:

13 “(h)(1) The Attorney General shall establish within
14 the Criminal Division of the Department of Justice an Of-
15 fice of Special Investigations with the authority to detect
16 and investigate, and, where appropriate, to take legal ac-
17 tion to denaturalize any alien described in section
18 212(a)(3)(E).

19 “(2) The Attorney General shall consult with the Sec-
20 retary of the Department of Homeland Security in making
21 determinations concerning the criminal prosecution or ex-
22 tradition of aliens described in section 212(a)(3)(E).

23 “(3) In determining the appropriate legal action to
24 take against an alien described in section 212(a)(3)(E),
25 consideration shall be given to—

1 “(A) the availability of criminal prosecution
2 under the laws of the United States for any conduct
3 that may form the basis for removal and
4 denaturalization; or

5 “(B) the availability of extradition of the alien
6 to a foreign jurisdiction that is prepared to under-
7 take a prosecution for such conduct.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the Department of Justice such
11 sums as may be necessary to carry out the addi-
12 tional duties established under section 103(h) of the
13 Immigration and Nationality Act (as added by this
14 Act) in order to ensure that the Office of Special In-
15 vestigations fulfills its continuing obligations regard-
16 ing Nazi war criminals.

17 (2) AVAILABILITY OF FUNDS.—Amounts appro-
18 priated pursuant to paragraph (1) are authorized to
19 remain available until expended.

20 **SEC. 7. REPORT ON IMPLEMENTATION OF THE ACT.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Attorney General, in consultation with the
23 Secretary of Homeland Security, shall submit to the Com-
24 mittees on the Judiciary of the Senate and the House of

1 Representatives a report on implementation of this Act
2 that includes a description of—

3 (1) the procedures used to refer matters to the
4 Office of Special Investigations and other compo-
5 nents within the Department of Justice and the De-
6 partment of Homeland Security in a manner con-
7 sistent with the amendments made by this Act;

8 (2) the revisions, if any, made to immigration
9 forms to reflect changes in the Immigration and Na-
10 tionality Act made by the amendments contained in
11 this Act; and

12 (3) the procedures developed, with adequate due
13 process protection, to obtain sufficient evidence to
14 determine whether an alien may be inadmissible
15 under the terms of the amendments made by this
16 Act.

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