

BANGLADESH IMMIGRATION BILL,
H.R. 849

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1999

Mr. GILMAN. Mr. Speaker, it is with great pleasure that I rise to introduce H.R. 849 a bill to provide for the adjustment of status of certain nationals of Bangladesh who have resided in the United States for over a decade. Despite attempts at promoting democracy and pluralism in Bangladesh, nearly half of that nation's populations still live below the poverty line. Per capita income is approximately \$260 per year making Bangladesh one of the poorest nations in the world.

The monsoons of 1998 have magnified Bangladesh's problems making it ever more difficult for the people of that nation to distribute the scarce resources available. With 830 people per square kilometer, Bangladesh is one of the world's most densely populated places. In 1992, nearly 2/3 of Bangladeshi children suffered from severe malnutrition. The current picture in Bangladesh remains exceedingly bleak.

The recent nuclear threats emanating from Bangladesh's larger neighbors have placed further burdens on a nation which has traveled so far in its quest for democracy yet remains precariously perched in a very dangerous neighborhood. These issues highlight the needs of this country and its people. We can do something vital and tangible to demonstrate our commitment to help a limited number of Bangladeshi people who have lived in the United States for at least a decade, contributed to American society and in many cases raised their American children.

The perils of living in poverty and in the climatic devastation in Bangladesh has forced some of these people to follow the same route of our own ancestors and seek refuge in the United States. Some of these people are suspended in a state of permanent illegality, entangled in a labyrinth of changing complex immigration laws. These people are not on our welfare roles and will not become wards of the state. They are good, hard working people with whom I have been proud to associate.

Mr. Speaker, let us do what is right, let us do what is just and let us do what is humane. Let us respect that role that immigrants have played in the cultural mosaic that is our United States. Accordingly, I invite my colleagues to join me in supporting this limited action to legalize those who truly are deserving of permanent residency in this great nation.

Accordingly, Mr. Speaker, I request that a copy of this bill be inserted into the RECORD following my remarks.

H.R. 849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bangladeshi Adjustment Act".

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF BANGLADESH.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before July 1, 2001; and

(B) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Bangladesh and who has been physically present in the United States for a continuous period, beginning not later than July 1, 1989, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than July 1, 1989, an alien—

(A) shall demonstrate that the alien, prior to July 1, 1989—

(i) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

(ii) applied for any benefit under the Immigration and Nationality Act by means of an application establishing the alien's presence in the United States prior to July 1, 1989; or

(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying au-

thorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Bangladesh;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for a continuous period, beginning not later than July 1, 1989, and ending not earlier than the date the application for adjustment under this subsection is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply; and

(E) applies for such adjustment before July 1, 2001.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien—

(A) shall demonstrate that such period commenced not later than July 1, 1989, in a manner consistent with subsection (b)(2); and

(B) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period in the aggregate not exceeding 180 days.

(e) FEE.—The Attorney General shall impose a fee of \$1,000 on each alien filing an application for adjustment of status under this section.

(f) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(g) LIMITATION OF JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.