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CONCERN FOR 13 MEMBERS OF
THE JEWISH COMMUNITY WHO
ARE ON TRIAL

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 2000

Ms. SCHAKOWSKY. Mr. Speaker, I want to share with my colleagues the deep concern that I have for 13 members of the Jewish community in Iran who are on trial for a crime I do not believe they have committed. Iran's arbitrary charges against these thirteen individuals endangers that country's entire Jewish community and is an offense to world Jewry. The trial takes place at the same time when the world honors those who were lost to the Holocaust and vows never to let such atrocities of hate recur.

I am encouraged by the fact that so many of my colleagues have taken a role of moral leadership on this issue, and have expressed their outrage to the Administration and to Iranian authorities. This past week, members of Congress took further steps to emphasize how seriously this trial can affect Iran's status. We wrote to the World Bank and contacted nations on the bank's loan approval board to urge postponement of pending loans for development projects in Iran. Unfortunately, those loans were approved. I am grateful that representatives of numerous nations that were present expressed concern over the trial. The outcome of this trial will not be overlooked by members of Congress or the Jewish and human rights communities.

The future for these thirteen individuals does not look promising. No matter what the outcome of this trial is, I will never forget Iran's behavior and will take this matter into account as I make foreign policy decisions that affect that country. I commend to my colleagues an article written by Douglas Bloomfield for the Chicago Jewish Star. Mr. Bloomfield's column is usually full of great information and insight, this one is particularly compelling and is worthy of members' attention.

SHOA TRIAL

(By Douglas M. Bloomfield)

There was something deeply troubling and yet fitting that as Jews around the world last week remembered the Six Million who perished in the Holocaust, the Ayatollahs began the trial of 13 Jews accused of spying for Israel. It was a dramatic reminder that Jews remain endangered in some parts of the world.

The time and place were appropriate. Iran is where a long-ago Hitler once concocted genocidal plans for the Jews of the Persian Empire. Just a few weeks ago, Haman's modern descendants declared the ancient vizier was really an Egyptian, not unlike the Austrians trying to convince the world Hitler was really a German.

The trial of 13 men accused on trumped up espionage charges opened on a dramatic note with the televised confessions, outside the courtroom, of first, one man and then two more and other followed, all dutifully denying coercion.

It was an alarming development unabashedly offered by a regime that wanted the

world to see the confessions but not the trial.

Naturally, the "confessed" spies declared that their admissions were voluntary; what would one expect from a man who'd been in an Iranian jail for some 15 months, never allowed to see his lawyer?

It was reminiscent of Iran's Lebanese allies distributing videotapes of their American hostages pleading guilty to sundry offenses, and North Vietnam staging televised war crime confessions by American POW's.

No court in any civilized country would consider such confessions to be valid, but then again few would call Iran "civilized."

If the Iranian charges were true and the confessions freely given, there would be no reason to keep the evidence and the trial secret.

The defense attorney for one of the three said that under Islamic law and international norms, a confession given by a prisoner after more than a year in jail is invalid.

International attention is focused on the courtroom in the southern city of Shiraz. President Clinton has repeatedly spoken out, as have Members of Congress, the nation's governors and many mayors and other public officials.

Secretary of State Madeleine Albright last week warned Iranian leaders the trial "will have repercussions everywhere" on that country's efforts to "earn international respect." That came in the same week that her department officially reaffirmed Iran's status as a leading state sponsor of international terrorism.

Other leaders have made serious and personal efforts to help: the Pope, UN Secretary General Kofi Anan, Egyptian President Hosni Mubarak, Prime Minister Tony Blair and others from Japan, Russia, China, Europe and elsewhere.

More than 60 journalists, human rights activists and diplomats from the around the globe stood vigil outside the locked doors of a legal system controlled by the most extreme factions in that country. Inside, the lives of 13 Jews were in the hands of a single man who sits as prosecutor, judge and jury.

Israel has privately assured the United States the men are innocent and it is unaware of any links between the accused and Israeli officials. Charges that they also spied for the United States have apparently been dropped.

Some of the international pressure is apparently getting attention in Tehran. That's why the prisoners were presented on television confessing. It may also explain why the trial was adjourned for Passover, not exactly a national holiday in the fervently Islamic state, and why the three youngest defendants were released on bail. Trials in Iran usually last hours, not weeks as this one is expected to. The court could have declared them guilty and quickly hanged them, as happened three years ago with two other Jews similarly charged.

But will those gestures, aimed at the international community, be enough to save the lives of these men? What do these gestures mean?

The hard-liners have never shown much sensitivity to world opinion. In fact, they seem to revel in sticking their thumbs in the eyes of public opinion, especially American and Israeli eyes.

Just before the trial began, a leading cleric delivered a sermon over state radio declaring, "These people are spies . . . they are Jews and are . . . by nature enemies of Muslims."

These 13 Jews are pawns in a battle between the hard-line Islamic extremists and the reformers, who scored another important victory in last Friday's runoff elections, for control of an ancient land whose chief ex-

ports of late have been religious bigotry and terrorism. One thing the ruling ayatollahs and the reformers led by President Khatemi seem to agree on is their hatred of Israel.

If the verdicts are guilty, which carries a death penalty, some fear the ayatollahs declare that all Jews are Zionists, and the Zionist state is the mortal enemy of Islam and Iran, and thus all Jews are enemies and spies.

Iran wages daily war against Israel through proxies such as Hezbollah. Supreme leader Ayatollah Ali Khamenei said again recently the only way to solve the problems of the Middle East is to annihilate Israel.

As the trial in Shiraz opened, there was an event worth noting in another country with a long and bitter history of anti-Semitism: Poland. Some 5,000 young Jews from around the world, led by the presidents of Israel and Poland, took part in the annual March of the Living from Auschwitz to Birkenau to honor those who perished solely for the crime of being Jews.

Just weeks earlier, a British judge struck an important blow for the cause of truth and morality, a blow in an ongoing battle against Holocaust denial that should never have been necessary.

Other nations are at long last beginning to come to terms with their Holocaust guilt and with Holocaust denial; throughout the Arab world, however, denial is a surging companion to rising anti-Semitism, often officially encouraged as in Egypt and Syria.

In this country, too, we have made tremendous progress in confronting the scourge of anti-Semitism, but there are counter-forces, including a presidential candidate who admires Hitler, belittles the Holocaust and blames the Jews for dragging America into World War II.

The trial of the Iran 13 is an alarming reminder that for all the lessons learned from the tragic past, there remain places where Hitler's work is commended, not condemned. It is a clarion warning of our responsibility to stand guard on the legacy of Hitler's victims in Iran and around the world.

VIEJAS BAND OF KUMEYAAY INDI-
ANS: SPIRIT OF COOPERATION
AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 2000

Mr. FILNER. Mr. Speaker and colleagues, today I recognize the Viejas Band of Kumeyaay Indians, as it is honored by the San Diego-Imperial Counties Labor Council, AFL-CIO, at its 12th annual Worker's Memorial Dinner with its Spirit of Cooperation Award.

The Viejas Indian Casino recently signed a contract with the Communications Workers of America Local 9400, in what is possibly the first ever union contract with any Tribal Casino in the United States. Not only did Viejas sign an agreement with the union allowing it to organize workers at the casino, but they also gave the union space for a temporary organizing office on the property and allowed the union easy access to the employees.

After the representation election, Viejas and the union successfully negotiated a contract that provides good wages, benefits, and union representation to employees. Viejas has been model of employer attitude and has forced a truly special relationship with the union.

Viejas has also been a leader in supporting community efforts through their charitable giving programs and active participation in community and business associations.

My congratulations go to the Viejas Bank of Kumeyaay Indians for these significant contributions.

FAMILY AND MEDICAL LEAVE CLARIFICATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 2000

Mr. GOODLING. Mr. Speaker, today I introduce a bill that would make reasonable, and much needed change to the Family and Medical Leave Act (FMLA) of 1993. The Family and Medical Leave Clarification Act will help implement and enforce the FMLA in a manner consistent with Congress' original intent.

I do not think anyone would dispute that the FMLA has helped those with serious family and medical crisis. However, some of the troublesome results are difficult to ignore. There is compelling evidence of problems with the implementation and the FMLA, problems affecting both employers and employees. The FMLA is still a relatively young law. In fact, the final rule implementing the Act was not published until 1995. As with any new law, there are some growing pains that need to be sorted out.

Testimony before the Committee on Education and the Workforce has established evidence of myriad problems in the workplace caused by the FMLA. These problems include: the administrative burden of allowing leave to be taken in increments of as little as six minutes; the additional burdens from overly broad and confusing regulations of the FMLA, not the least of which is the Department of Labor's ever-expanding definition of "serious health condition;" and inequities stemming from employers with generous leave policies in effect being penalized under the FMLA for having those policies.

Mr. Speaker, the FMLA created a Commission on Leave, which was charged with reporting the FMLA's impact. Upon release of the Commission's report in April 1996, we were told that all was well with the FMLA. But contrary to these assertions, the report was not a complete picture. In fact the Family and Medical Leave Act Commission admitted its report was only an "initial assessment." Its two year study began in November of 1993, just three months after the Act even applied to most employers and more than a year before the release of final FMLA regulations in January of 1995.

Simply put, the Commission's report was based on old and incomplete data studies long before employers or employees could have been fully aware of the FMLA's many requirements and responsibilities.

Mr. Speaker, the first area the FMLA Clarification Act addresses is the Department of Labor's overly broad interpretation of the term "serious health condition." In passing the FMLA, Congress stated that the term "serious health condition" was not intended to cover short-term conditions for which treatment and recovery were very brief, recognizing specifically in Committee report language that "it is

expected that such conditions will fall within the most modest sick leave policies."

Despite Congressional intent, the Department of Labor's current regulations are extremely expansive, defining the term "serious health condition" as including, among other things, any absence of more than three days in which the employee sees any health care provider and receives any type of continuing treatment, including a second doctor's visit, or a prescription, or a referral to a physical therapist. Such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve.

The FMLA Clarification Act elects Congress' original intent for the meaning of the term "serious health condition," by taking word-for-word from the Democrat Committee report, and adding to the status, the then-Majority's explanation of what types of conditions it intended the Act to cover. It also repeals the Department's current regulations on the issue and directs the agency to go back to the drawing board and issue regulations consistent with the new definition.

My bill also minimizes tracking and administrative burdens while maintaining the original intent of the law, by permitting employers to require employees to take "intermittent" leave, which is FMLA leave taken in separate blocks of time due to a single qualifying reason, in increments of up to one-half of a work day.

Congress drafted the FMLA to allow employees to take leave less than full-day increments. Congress also intended to address situations where an employee needed to take leave for intermittent treatments, e.g., for chemotherapy or radiation treatments, or other medical appointments. Granting leave for these conditions has not been a significant problem.

However, the regulations provide that an employer "may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave, provided it is one hour or less." Since some employers track in increments as small as six or eight minutes, the regulations have resulted in a host of problems related to tracking the leave and in maintaining attendance control policies. In many situations, it is difficult to know when the employee will be at work.

In many positions, employees with frequent, unpredictable absences can severely impact an employer's productivity and overburden their co-workers when employers do not know if certain employees will be at work. Allowing an employer to require an employee to take intermittent leave in increments of up to one-half of a work day would ease the burden significantly for employers, both in terms of necessary paperwork and with respect to being able to provide effective coverage for absent employees.

Where the employer does not exercise the right to require the employee to substitute other employer-provided leave under the FMLA, the FMLA Clarification Act shifts to the employee the requirement to request leave to be designated as FMLA leave. In addition, the Act requires the employee to provide written application of foreseeable leave within five working days, and within a time period extended as necessary for unforeseeable leave,

if the employee is physically or mentally incapable of providing notice or submitting the application.

Requiring the employee to request that leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's private and family matters, as required under current law. This requirement helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding.

With respect to leave taken because of the employee's own serious health condition, the FMLA Clarification Act permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer.

This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering discontinuing such employee-friendly plans, including those negotiated by the employer and the employees' union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

Despite the common belief that leave under the FMLA is necessarily unpaid, employers having generous sick leave policies, or that have worked out employee-friendly sick leave programs with unions in collective bargaining agreements, are being penalized by the FMLA. In fact, for many companies, most FMLA leave has become paid leave because the regulations state that an employer must observe any employment benefit program or plan that provides rights greater than the FMLA.

Because employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions, nor can they count FMLA leave under "no fault" attendance policies, the regulations prohibit employers from using disciplinary attendance policies to manage employees' absences.

Mr. Speaker, the Family and Medical Leave Clarification Act relieves many of the unnecessary and unreasonable burdens imposed on employers and employees by the Department of Labor's implementing regulations, without rolling back the rights of employees under the FMLA. Finally, my bill encourages employers to continue to provide generous paid leave policies to their employees.

I urge my colleagues in joining me in co-sponsoring this measured and necessary mid-course correction to providing effective FMLA processes.

HONORING THE LATE STATE
SENATOR DONALD L. GRUNSKY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 2000

Mr. FARR of California. Mr. Speaker, today I honor an outstanding legislator and trial lawyer who was a long time resident of Santa