

TORTURE VICTIMS RELIEF ACT OF 1998

SEPTEMBER 14, 1998.—Ordered to be printed

Mr. GILMAN, from the Committee on International Relations,
submitted the following

R E P O R T

[To accompany H.R. 4309]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 4309) to provide a comprehensive program of support for victims of torture, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torture Victims Relief Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The American people abhor torture by any government or person. The existence of torture creates a climate of fear and international insecurity that affects all people.

(2) Torture is the deliberate mental and physical damage caused by governments to individuals to destroy individual personality and terrorize society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

(3) By eliminating the leadership of their opposition and frightening the general public, repressive governments often use torture as a weapon against democracy.

(4) Torture survivors remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture survivors are threatened with reprisals, including torture, for carrying out their ethical duty to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression.

(5) A significant number of refugees and asylees entering the United States have been victims of torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and

sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers, together with overall efforts to eliminate torture.

(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

SEC. 3. DEFINITION.

As used in this Act, the term "torture" has the meaning given the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

SEC. 4. FOREIGN TREATMENT CENTERS.

(a) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end of chapter 1 the following new section:

"SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.

"(a) IN GENERAL.—The President is authorized to provide assistance for the rehabilitation of victims of torture.

"(b) ELIGIBILITY FOR GRANTS.—Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

"(c) USE OF FUNDS.—Such assistance shall be available—

"(1) for direct services to victims of torture; and

"(2) to provide research and training to health care providers outside of treatment centers or programs described in subsection (b), for the purpose of enabling such providers to provide the services described in paragraph (1)."

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 1999 and \$7,500,000 for fiscal year 2000 to carry out section 129 of the Foreign Assistance Act, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1998.

SEC. 5. DOMESTIC TREATMENT CENTERS.

(a) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.—The Secretary of Health and Human Services may provide grants to programs in the United States to cover the cost of the following services:

(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

(2) Social and legal services for victims of torture.

(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection

(a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) \$5,000,000 for fiscal year 1999, and \$7,500,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 6. MULTILATERAL ASSISTANCE.

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961,

there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the "Fund") the following amounts for the following fiscal years:

(1) FISCAL YEAR 1999.—For fiscal year 1999, \$3,000,000.

(2) FISCAL YEAR 2000.—For fiscal year 2000, \$3,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

SEC. 7. SPECIALIZED TRAINING FOR FOREIGN SERVICE OFFICERS.

(a) IN GENERAL.—The Secretary of State shall provide training for foreign service officers with respect to—

(1) the identification of torture;

(2) the identification of the surrounding circumstances in which torture is most often practiced;

(3) the long-term effects of torture upon a victim;

(4) the identification of the physical, cognitive, and emotional effects of torture, and the manner in which these effects can affect the interview or hearing process; and

(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.

(b) GENDER-RELATED CONSIDERATIONS.—In conducting training under subsection (a) (4) or (5), gender-specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence.

COMMITTEE ACTION

INTRODUCTION AND CONSIDERATION OF THE BILL

H.R. 4309 was introduced on July 22, 1998, and referred by the Speaker to the Committee on International Relations and, in addition, to the Committee on Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On July 24, 1998, the bill was referred to the Subcommittee on International Operations and Human Rights, which proceeded on that day to mark up the bill. During the consideration of the bill in subcommittee, a technical amendment was adopted and the bill was forwarded, amended, to the Full Committee by voice vote. On August 6, 1998, the bill was considered in the Full Committee. An amendment in the nature of a substitute, consisting of the text of the bill as recommended by the Subcommittee, was considered, and adopted, and the bill was ordered reported by voice vote, with the recommendation that the bill, as amended, do pass.

ROLLCALL VOTES ON AMENDMENTS

Clause (2)(1)(2)(B) of rule XI of the Rules of the House of Representatives requires the record of committee roll call votes on final passage or amendments during the committee's consideration of H.R. 4309. No such roll call votes were taken.

BACKGROUND AND PURPOSE

H.R. 4309, the Torture Victims Relief Act of 1998, is the product of bipartisan congressional efforts to address the continuing worldwide problem of torture and its lingering effects on torture survivors. The bill has broad support in the Congress and in the International Relations Committee.

Since May 8, 1996, when it held a hearing on an earlier version of the Torture Victims Relief Act, the Subcommittee on International Operations and Human Rights has received testimony from numerous victims of torture from around the world. They have included a native of Uganda who suffered at the hands of the Idi Amin regime; a Tibetan physician who was tortured by the Chinese Communists; an Indonesian democracy advocate who was "disappeared" by secretive forces apparently connected with the Suharto regime; a Cuban pastor who was tortured by Fidel Castro's security forces; and an American who became a torture victim in Saudi Arabia after he had a falling-out with his employer, the Saudi government. These and other witnesses confirmed the continued and widespread persistence of torture in the world today, and its lingering effects on torture survivors.

According to experts, there are millions of torture victims in the world today, and there may be as many as 400,000 survivors of torture living in the United States. The ordeal of torture often does not end when victims are released by their captors. Many survivors require medical care for physical damage caused by torture. The most common need, however, is for treatment of the psychological effects of torture. Victims can require months of therapy before they are able to return to their respective communities as productive members.

Against this background, the Torture Victims Relief Act contains a number of important provisions designed to assist torture victims.

It authorizes grants for rehabilitation services for victims of torture and related purposes, in both foreign and domestic treatment centers. At present, there are more than 190 treatment centers for torture victims worldwide, and approximately 15 centers in the United States for victims of foreign governmental torture. Many, if not most, of these centers are inadequately funded, and they often rely on health professionals providing services on a pro bono basis. Very few of the victims treated at centers in the United States have health insurance.

The bill also authorizes a voluntary contribution from the United States to the United Nations Voluntary Fund for Victims of Torture in the amount of \$3 million for FY 1999 and \$3 million for FY 2000. The Voluntary Fund was established in 1982 to provide grants to torture victim treatment centers. The United States contribution to the fund in 1998 was \$1.5 million. The Voluntary Fund

had only about \$5 million to distribute during 1998. The International Rehabilitation Council for Torture Victims estimates the worldwide annual need for torture treatment funding to be \$28 million.

In an effort to ensure that proper consideration is given to torture victims who apply for refugee status, this bill also provides specialized training for foreign service officers in the identification of evidence of torture, techniques for interviewing torture victims, and related subjects.

Finally, the bill contains an expression of the sense of Congress that the United States shall use its voice and vote in the United Nations to support the investigation and elimination of the practices prohibited by the Convention Against Torture.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 4309 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

NEW BUDGET AUTHORITY AND TAX EXPENDITURES, CONGRESSIONAL
BUDGET OFFICE COST ESTIMATE, AND FEDERAL MANDATES STATE-
MENTS

The Committee adopts the cost estimate of the Congressional Budget Office as its submission of any new required information on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt, which is set out below. It adopts the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act, also set out below.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 1998.

Hon. BENJAMIN A. GILMAN,
*Chairman, Committee on International Relations,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4309, the Torture Victims Relief Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4309—Torture Victims Relief Act of 1998

Summary: H.R. 4309 would authorize appropriations for foreign and domestic assistance to victims of torture. CBO estimates that enacting the bill would increase spending subject to appropriation by about \$4 million in 1999 and \$30 million over the 1999–2003 period, assuming appropriation of the necessary amounts. Because the bill would not affect direct spending and revenues, pay-as-you-go procedures would not apply. The bill contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4309 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs) and 500 (education, training, employment, and social services).

Foreign assistance.—The bill would authorize appropriations of \$8 million in 1999 and \$10.5 million in 2000 for grants to the United Nations Voluntary Fund for Victims of Torture and for treatment centers in foreign countries. In addition, the State Department would be required to train consular officers in understanding and interviewing victims of torture and sexual violence. Based on information from the State Department, CBO estimates this requirement would cost less than \$500,000 annually because it would be incorporated as an additional module in existing training rather than requiring stand-alone training.

Domestic Programs.—The bill would permit the Secretary of Health and Human Services to provide grants to programs in the United States that provide psychological and physical rehabilitation, social services, and legal services to victims of torture. These grants would also be used to cover the cost of research and training for health care providers who treat victims of torture. H.R. 4309 would authorize appropriations of \$5 million in fiscal year 1999 and \$7.5 million in fiscal year 2000. Assuming appropriation of the authorized amounts, CBO estimates additional discretionary spending of about \$1 million in 1999 and \$12.5 million over the 1999–2003 period.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
FOREIGN ASSISTANCE						
Spending under current law for foreign assistance:						
Budget authority ¹	1,461	0	0	0	0	0
Estimated outlays	1,325	1,019	373	205	123	95
Proposed changes:						
Authorization level	0	8	11	(²)	(²)	(²)
Estimated outlays	0	3	6	5	2	1
Spending under H.R. 4309 for foreign assistance:						
Authorization level ¹	1,461	8	11	b	b	b
Estimated outlays	1,325	1,022	379	210	125	96
DOMESTIC PROGRAMS						
Proposed changes:						
Authorization level	0	5	8	0	0	0
Estimated outlays	0	1	3	6	3	(²)
TOTAL PROPOSED CHANGES						
Authorization level	0	13	18	(²)	(²)	(²)
Estimated outlays	0	4	9	11	5	1

¹The 1998 level is the amount appropriated for that year.

²Less than \$500,000.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would authorize appropriations of \$12.5 million over fiscal years 1999 and 2000 for grants to treat torture victims residing in the United States. State and local agencies would be eligible to apply for these grants.

Estimated impact on the private sector: The bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Sunita D'Monte for foreign assistance and Cynthia Dudzinski for domestic programs; Impact on State, local, and tribal governments: Pepper Santalucia; Impact on the private sector: Leslie Frymier.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

JURISDICTIONAL ISSUES

Materials related to jurisdictional issues are provided below for the information of Members.

U.S. HOUSE OF REPRESENTATIVES,
 COMMITTEE ON COMMERCE,
Washington, DC, September 10, 1998.

Hon. BENJAMIN A. GILMAN,
*Chairman, House Committee on International Relations,
 Rayburn House Office Building, Washington, DC.*

DEAR BEN: On August 6, 1998 the Committee on International Relations ordered reported H.R. 4309, the Torture Victims Relief Act of 1998. H.R. 4309, as ordered reported by the Committee on International Relations, provides for the support and treatment of torture victims through a variety of sources. As you know, the Committee on Commerce was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction over health and health facilities under Rule X of the Rules of the House of Representatives.

Because of the importance of this matter, I recognize your desire to bring this legislation before the House in an expeditious manner. I also understand that you have agreed to address this Committee's concern over the authorization of appropriations in section 5 in a manager's amendment to be offered on the Floor. Therefore, with that understanding, I will waive consideration of the bill by the Commerce Committee. By agreeing to waive its consideration of the bill, The Commerce Committee does not waive its jurisdiction over H.R. 4309. In addition, the Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Commerce Committee for conferees on H.R. 4309 or related legislation.

I request that you include this letter as a part of the Committee's report on H.R. 4309 and as part of the record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM BLILEY, *Chairman.*

COMMITTEE ON INTERNATIONAL RELATIONS,
 HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 1998.

Hon. TOM BLILEY,
*Chairman, House Committee on Commerce,
 Rayburn House Office Building, Washington, DC.*

DEAR TOM: I am writing to thank the Committee on Commerce for its willingness to waive consideration of H.R. 4309, the Torture Victims Relief Act of 1998. As you correctly note, the Committee on International Relations and the sponsors of the bill believe it is important to bring this legislation before the House as expeditiously as possible.

I am writing to confirm our understanding, upon which your agreement to waive Committee consideration of the bill was premised:

First, I will address the Commerce Committee's concern over the authorization of appropriations in section 5 of the bill in a manager's amendment that I will offer on the Floor. I have enclosed a draft of that amendment, which I understand will meet the Committee's concerns.

Second, although I am hopeful that the Senate will pass the bill as passed by the House, I agree to support the appointment of Commerce Committee conferees, should a conference be convened on this legislation.

Finally, I will gladly include your September 10, 1998 letter in the International Relations Committee's report on H.R. 4309 and as part of the record during consideration of the bill by the House.

Thank you again for your prompt attention to this time-sensitive matter. Do not hesitate to contact me with any additional questions or suggestions you may have.

With best wishes,
Sincerely,

BENJAMIN A. GILMAN, *Chairman.*

AMENDMENT TO H.R. 4309 OFFERED BY MR. SMITH OF NEW JERSEY

On page 6, lines 10 and 11, strike "fiscal years 1999 and 2000," and insert "for each fiscal year";

On page 6, line 14, strike "\$5,000,000" and all that follows through the end of line 15, and insert "such sums as may be necessary for each fiscal year."

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section states that this Act may be cited as the "Torture Victims Relief Act of 1998"

Section 2. Findings

This section states that the Congress finds the use of torture abhorrent, acknowledges its long-term effects, and recognizes the need for the rehabilitation of torture survivors.

Section 3. Definition

This section defines "torture" as having the meaning given in the Federal statute criminalizing torture (18 U.S.C. §2340) and as including the use of rape and other forms of sexual violence by a person acting under the color of law. The definition of "torture" applies only for purposes of this Act, and does not amend, alter, or expand the international obligations of the United States under the Convention Against Torture or other instruments.

Section 4. Foreign Treatment Centers

This section authorizes the appropriation of \$5 million in fiscal year 1999 and \$7.5 million in fiscal year 2000 for grants to centers and programs that treat victims of torture in foreign countries.

Section 5. Domestic Treatment Centers

This section authorizes the appropriation of \$5 million in fiscal year 1999 and \$7.5 million in fiscal year 2000 for grants to centers and programs in the United States that aid victims of torture.

Section 6. Multilateral Assistance

This section authorizes the appropriation of \$3 million in each of fiscal years 1999 and 2000 for the United Nations Voluntary Fund for Victims of Torture. It also expresses the sense of Congress that the President, acting through the United States Permanent Representative to the United Nations, should: (1) request that the UN Voluntary Fund find new ways to support torture victim treatment programs and encourage the development of new such programs; (2) use the voice and vote of the United States to support the work of the U.N. Special Rapporteur on Torture and the U.N. Committee Against Torture; and (3) use the voice and vote of the United States to establish a country rapporteur in countries where the Special Rapporteur or the Committee Against Torture indicates that the systematic use of torture is prevalent.

Section 7. Specialized Training for Foreign Service Officers

This section requires the Secretary of State to provide training for foreign service officers to help them identify torture and its effects, understand the manner in which those effects can affect the interview process, and learn the proper manner of interviewing victims of torture. It is the intention of the Committee that this training should be provided to all foreign service officers who would have a reasonable likelihood of dealing with torture victims in the course of their duties. Subsection (b) requires that this training include gender-specific training on interacting with victims who were tortured by rape or other forms of sexual violence.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

FOREIGN ASSISTANCE ACT OF 1961

PART I

CHAPTER 1—POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

* * * * *

SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.

(a) *IN GENERAL.*—The President is authorized to provide assistance for the rehabilitation of victims of torture.

(b) *ELIGIBILITY FOR GRANTS.*—Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

(c) *USE OF FUNDS.*—Such assistance shall be available—

*(1) for direct services to victims of torture; and
(2) to provide research and training to health care providers
outside of treatment centers or programs described in subsection
(b), for the purpose of enabling such providers to provide the
services described in paragraph (1).*

