

106TH CONGRESS  
2D SESSION

# H. R. 5285

To amend the Immigration and Nationality Act to prevent human rights abusers from being eligible for admission into the United States and other forms of immigration relief, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2000

Mr. SMITH of Texas (for himself and Mr. FOLEY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to prevent human rights abusers from being eligible for admission into the United States and other forms of immigration relief, and for other purposes.

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 “Serious Human Rights  
5 Abusers Accountability Act of 2000”.

1 **SEC. 2. SERIOUS HUMAN RIGHTS ABUSER DEFINED.**

2 (a) DEFINITION.—Section 101(a) of the Immigration  
3 and Nationality Act (8 U.S.C. 1101(a)) is amended by  
4 adding at the end the following:

5 “(50)(A) The term ‘serious human rights abuser’  
6 means any alien who—

7 “(i) ordered, incited, assisted, or otherwise par-  
8 ticipated in the persecution of any person on account  
9 of race, religion, nationality, membership in a par-  
10 ticular social group, or political opinion;

11 “(ii) while serving as a foreign government offi-  
12 cial, was responsible for, or directly carried out, par-  
13 ticularly severe violations of religious freedom (as  
14 defined in section 3 of the International Religious  
15 Freedom Act of 1998 (22 U.S.C. 6402));

16 “(iii) during an armed conflict, ordered, incited,  
17 assisted, or otherwise participated in a war crime (as  
18 defined in section 2441(c) of title 18, United States  
19 Code);

20 “(iv) ordered, incited, assisted, otherwise par-  
21 ticipated in, attempted to commit, or conspired to  
22 commit conduct that would constitute genocide (as  
23 defined in section 1091(a) of title 18, United States  
24 Code), if the conduct were committed in the United  
25 States or by a United States national;

1           “(v) ordered, incited, assisted, or otherwise par-  
2           ticipated in any act of torture (as defined in the  
3           United Nations Convention Against Torture and  
4           Other Forms of Cruel, Inhuman or Degrading  
5           Treatment or Punishment, done at New York on  
6           December 10, 1984, subject to any reservations, un-  
7           derstandings, declarations, and provisos contained in  
8           the United States Senate resolution of ratification of  
9           the Convention); or

10           “(vi) ordered, incited, assisted, or otherwise  
11           participated in a crime against humanity (including  
12           the commission of murder, extermination, enslave-  
13           ment, deportation, imprisonment, torture, rape, sex-  
14           ual slavery, forced prostitution, forced pregnancy,  
15           forced abortion, forced sterilization, or acts of a  
16           similar character), when committed as part of a  
17           widespread or systematic attack, whether inter-  
18           national or internal in character, and directed  
19           against any civilian population, with actual or con-  
20           structive knowledge of the attack.

21           “(B) Subparagraph (A) shall not apply to an alien  
22           who demonstrates that—

23           “(i) the conduct was committed under extreme  
24           duress; and

1           “(ii) the harm reasonably feared by the alien  
2           substantially exceeded the harm attributable to the  
3           alien’s conduct.

4 **SEC. 3. SERIOUS HUMAN RIGHTS ABUSERS INADMISSIBLE**  
5 **AND DEPORTABLE.**

6           (a) INADMISSIBILITY OF SERIOUS HUMAN RIGHTS  
7 ABUSERS.—

8           (1) IN GENERAL.—Section 212(a)(2)(G) of the  
9           Immigration and Nationality Act (8 U.S.C.  
10           1182(a)(2)(G)) is amended to read as follows:

11                   “(G) SERIOUS HUMAN RIGHTS ABUSERS.—  
12                   Any serious human rights abuser is inadmis-  
13                   sible.”.

14           (2) CONFORMING AMENDMENT.—Section  
15           212(a)(3)(E) of the Immigration and Nationality  
16           Act (8 U.S.C. 1182(a)(3)(E)) is amended to read as  
17           follows:

18                   “(E) PARTICIPANTS IN NAZI PERSECU-  
19                   TIONS.—Any alien who, during the period be-  
20                   ginning on March 23, 1933, and ending on May  
21                   8, 1945, under the direction of, or in associa-  
22                   tion with—

23                           “(i) the Nazi government of Germany,

1           “(ii) any government in any area oc-  
2           cupied by the military forces of the Nazi  
3           government of Germany,

4           “(iii) any government established with  
5           the assistance or cooperation of the Nazi  
6           government of Germany, or

7           “(iv) any government which was an  
8           ally of the Nazi government of Germany,  
9           ordered, incited, assisted, or otherwise partici-  
10          pated in the persecution of any person because  
11          of race, religion, national origin, or political  
12          opinion is inadmissible.”.

13          (b) DEPORTABLE ALIENS TO INCLUDE SERIOUS  
14 HUMAN RIGHTS ABUSERS.—

15           (1) IN GENERAL.—Section 237(a) of the Immi-  
16          gration and Nationality Act (8 U.S.C. 1227(a)) is  
17          amended by adding at the end the following:

18           “(7) SERIOUS HUMAN RIGHTS ABUSERS.— Any  
19          serious human rights abuser is deportable.”.

20           (2) CONFORMING AMENDMENT.—Section  
21          237(a)(4)(D) of the Immigration and Nationality  
22          Act (8 U.S.C. 1227(a)(4)(D)) is amended to read as  
23          follows:

1                   “(D) ASSISTED IN NAZI PERSECUTION.—  
2                   Any alien described in section 212(a)(3)(E) is  
3                   deportable.”.

4 **SEC. 4. BARS TO REFUGEE STATUS AND ASYLUM FOR SERI-**  
5 **OUS HUMAN RIGHTS ABUSERS.**

6           (a) REFUGEE DEFINED.—Section 101(a)(42) of the  
7 Immigration and Nationality Act (8 U.S.C. 1101(a)(42))  
8 is amended by striking the second sentence and inserting  
9 the following:  
10 “The term ‘refugee’ does not include any person who is  
11 a serious human rights abuser.”.

12           (b) NO WAIVER OF GROUND OF INADMISSIBILITY  
13 FOR REFUGEE SEEKERS.—Section 207(c)(3) of the Immi-  
14 gration and Nationality Act (8 U.S.C. 1157(c)(3)) is  
15 amended by inserting “or (2)(G)” after “(2)(C)”.

16           (c) EXCEPTIONS TO GRANTING ASYLUM.—Section  
17 208(b)(2)(A)(i) of the Immigration and Nationality Act  
18 (8 U.S.C. 1158(b)(2)(A)(i)) is amended to read as follows:

19                                   “(i) the alien is a serious human  
20                                   rights abuser;”.

21           (d) EXTENSION TO SPOUSES AND CHILDREN OF EX-  
22 CEPTIONS TO GRANTING ASYLUM.—Section 208(b)(3) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1158(b)(3)) is amended by striking “such alien.” and in-  
25 serting “such alien, unless the Attorney General deter-

1 mines that one of the exceptions in clauses (i) through  
2 (v) of paragraph (2)(A) applies to the spouse or child.”.

3 **SEC. 5. BAR TO ADJUSTMENT OF STATUS OF REFUGEES**  
4 **FOR SERIOUS HUMAN RIGHTS ABUSERS.**

5 Section 209(c) of the Immigration and Nationality  
6 Act (8 U.S.C. 1159(c)) is amended by inserting “or  
7 (2)(G)” after “(2)(C)”.

8 **SEC. 6. EXCEPTION TO RESTRICTION ON REMOVAL FOR SE-**  
9 **RIOUS HUMAN RIGHTS ABUSERS AND TER-**  
10 **RORISTS.**

11 Section 241(b)(3)(B) of the Immigration and Nation-  
12 ality Act (8 U.S.C. 1231(b)(3)(B)) is amended—

13 (1) in the matter preceding clause (i), by strik-  
14 ing “section 237(a)(4)(D)” and inserting “subpara-  
15 graph (B) or (D) of section 237(a)(4)”; and

16 (2) by amending clause (i) to read as follows:

17 “(i) the alien is a serious human  
18 rights abuser;”.

19 **SEC. 7. BAR TO FINDING OF GOOD MORAL CHARACTER FOR**  
20 **SERIOUS HUMAN RIGHTS ABUSERS.**

21 Section 101(f) of the Immigration and Nationality  
22 Act (8 U.S.C. 1101(f)) is amended by inserting after para-  
23 graph (1) the following:

24 “(2) a serious human rights abuser;”.

1 **SEC. 8. BAR TO CANCELLATION OF REMOVAL FOR SERIOUS**  
2 **HUMAN RIGHTS ABUSERS.**

3 Section 240A(c)(4) of the Immigration and Nation-  
4 ality Act (8 U.S.C. 2339b(c)(4)) is amended—

5 (1) by striking “section 212(a)(3)” and insert-  
6 ing “paragraph (2)(G) or (3) of section 212(a)”;  
7 and

8 (2) by striking “section 237(a)(4).” and insert-  
9 ing “paragraph (4) or (7) of section 237(a).”.

10 **SEC. 9. BAR TO ADJUSTMENT OF STATUS WITH RESPECT**  
11 **TO CERTAIN SPECIAL IMMIGRANTS.**

12 Section 245(h)(2)(B) of the Immigration and Nation-  
13 ality Act (8 U.S.C. 1255(h)(2)(B)) is amended by insert-  
14 ing “(2)(G),” before “(3)(A)”.

15 **SEC. 10. CRIMINAL PENALTIES FOR REENTRY FOR RE-**  
16 **MOVED SERIOUS HUMAN RIGHTS ABUSERS.**

17 Section 276(b) of the Immigration and Nationality  
18 Act (8 U.S.C. 1326(b)) is amended—

19 (1) in paragraph (3), by striking “sentence. or”  
20 and inserting “sentence;”;

21 (2) in paragraph (4), by striking the period at  
22 the end and inserting “; or”; and

23 (3) by inserting after paragraph (4) the fol-  
24 lowing:

25 “(5) who was removed from the United States  
26 pursuant to section 212(a)(2)(G) or 237(a)(7), and



1 who thereafter, without the permission of the Attor-  
2 ney General, enters, attempts to enter, or is at any  
3 time found in, the United States shall be fined  
4 under title 18, United States Code, imprisoned not  
5 more than 10 years, or both.”.

6 **SEC. 11. AIDING OR ASSISTING SERIOUS HUMAN RIGHTS**  
7 **ABUSERS TO ENTER THE UNITED STATES.**

8 Section 277 of the Immigration and Nationality Act  
9 (8 U.S.C. 1327) is amended by striking “felony)” and in-  
10 serting “felony or is a serious human rights abuser)”.

11 **SEC. 12. REVISION OF REGULATIONS WITH RESPECT TO**  
12 **THE INVOLUNTARY RETURN OF PERSONS IN**  
13 **DANGER OF SUBJECTION TO TORTURE.**

14 (a) REGULATIONS.—Not later than 120 days after  
15 the date of the enactment of this Act, the Attorney Gen-  
16 eral shall revise the regulations prescribed by the Attorney  
17 General to implement the Convention. Such revision shall  
18 render ineligible for withholding or deferral of removal  
19 under the Convention aliens to whom the relief described  
20 in subparagraph (A) of section 241(b)(3) of the Immigra-  
21 tion and Nationality Act (8 U.S.C. 1231(b)(3)) does not  
22 apply by reason of subparagraph (B) of such section (as  
23 amended by section 6 of this Act). Such revision shall also  
24 ensure that the burden of proof is on the applicant for  
25 withholding or deferral of removal under the Convention

1 to establish by clear and convincing evidence that he or  
2 she would be tortured if removed to the proposed country  
3 of removal.

4 (b) JUDICIAL REVIEW.—Notwithstanding any other  
5 provision of law, no court shall have jurisdiction to review  
6 the regulations adopted to implement this section, and  
7 nothing in this section shall be construed as providing any  
8 court jurisdiction to consider or review claims raised under  
9 the Convention or this section, except as part of the review  
10 of a final order of removal pursuant to section 242 of the  
11 Immigration and Nationality Act (8 U.S.C. 1252).

12 (c) AUTHORITY TO DETAIN.—Nothing in this section  
13 shall be construed as limiting the authority of the Attor-  
14 ney General to detain any person under any provision of  
15 law, including, but not limited to, any provision of the Im-  
16 migration and Nationality Act.

17 (d) CONVENTION DEFINED.—In this section, the  
18 term “Convention” means the United Nations Convention  
19 Against Torture and Other Forms of Cruel, Inhuman or  
20 Degrading Treatment or Punishment, done at New York  
21 on December 10, 1984.

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