CONGRATULATIONS TO THE SIKHS OF KHALISTAN ON THEIR INDEPENDENCE ANNIVERSARY

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. EVANS. Mr. Speaker, I rise today to salute the Sikhs of Khalistan on the 10th anniversary of their declaration of independence. Khalistan declared its independence from India on October 7, 1987. A decade later things have not changed in Punjab, Khalistan. India continues to enforce a brutal tyranny that the Indian Supreme Court described as ''worse than a genocide.''

When India had its 50th anniversary in August, we heard a lot about Indian democracy and we heard about the elections in Punjab. India is a democracy only for the elites. For the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and so many other living under Indian occupation, it is not a democracy at all. Let me share with my colleagues the statement of Narinder Singh, a spokesman for the Golden Temple in Amritsar, the holiest of Sikh shrines, which was attacked by the Indian regime in June.

On August 11, Narinder Singh was interviewed on National Public Radio. Here is what he said:

''The Indian Government all the time they boast that they're democratic, they're secular, but they have nothing to do with democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority.'' In view of the fact that a quarter of a million Sikhs have been murdered by the regime since 1984, I believe that Narinder Singh is exactly right.

Despite the elections in Punjab and throughout India, the repression is still going on. Ram Narayan Kumar, a Hindu human-rights activist who has exposed disappearances and mass cremations in Punjab, was threatened with death if he does not drop his work. Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, had to go to the Supreme Court to get permission to visit his terminally ill brother in Canada. By the time the papers were issued, his brother had died. Hundreds of political opponents of the Punjab government have been arrested, and the government conducted a warrantless search of an opposition newspaper editor's home. Sikh activist Simranjit Singh Mann faces new charges under the repressive TADA law, although this brutal law expired in May 1995. Human-rights activist Jaswant Singh Khalra is still missing over 2 years after he was kidnapped by the Punjab police. On September 4, a Sikh church, known as a Gurdwara, in Chandigarh, was raided on the pretense of looking for a terrorist. No terrorist was found, so the police contented themselves with beating and torturing six of the clergy, known as Granthis. On June 29, the elected mayor of the village of Khiala Khurd, Gurdial Singh, was stripped naked, held upside down, beaten, and tortured in front of the townspeople. His crime? He is a baptized Sikh. Mr. Speaker, these are not the acts of a democratic government.

When police in Los Angeles beat Rodney King, they were eventually punished. The New York policemen who violated a Haitian immigrant with a plunger are in the process of begin punished for this terrible act. In India, police officers murder innocent Sikhs like 3-year-old Arvinder Singh and collect cash bounties for it. According to the PHRO and other human rights organizations, more than 60,000 of these bounties have been paid out by the Indian regime. How can a moral country like America stand by and allow these events to pass by unnoticed?

Mr. Speaker, it is time to take action against this brutal tyranny. India has initiated unconditional talks with the Christian nation of Nagaland. We must demand that it undertake similar talks with the Sikhs of occupied Khalistan. We should declare our support for a free and fair plebiscite on independence in Khalistan, end our aid to India, and declare it a country that practices religious persecution. We should place an embargo on India similar to the one we had on South Africa and the one we still maintain against Cuba, ending only when these conditions are met and freedom is allowed to flourish in South Asia. Then and only then can India legitimately claim that it is a democracy. I look forward to the day when we can welcome India into the fold.

DISTINCTION BETWEEN EMPLOYEES AND INDEPENDENT CONTRACTORS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. VISCLOSKY. Mr. Speaker, I rise to call your attention to legislation that I am introducing today that will clarify the distinction between employees and independent contractors. My legislation will tighten and simplify the definition of independent contractor in order to prevent employers from inappropriately classifying their employees as independent contractors.

The Internal Revenue Service [IRS] currently uses a complex and ambiguous 20-point common law test to determine whether a worker should be classified as an employee or an independent contractor. The main problem with this test is that it isn't really a test at all. It is simply a set of guidelines that companies and the IRS refer to when determining whether workers should be classified as employees or independent contractors. Because the test is so ambiguous, different companies, IRS inspectors, and courts can—and have—classified the same type of workers differently.

In recent years, employers have increasingly exploited the test's ambiguity, or purposely misinterpreted the test, in order to designate many of their present employees as independent contractors. Doing so cuts down on employers' costs, but it hurts workers because employees and independent contractors are treated very differently under Federal law. Those who are classified as employees are covered by worker safety standards, have the right to bargain collectively, and are eligible to receive unemployment compensation. Independent contractors, on the other hand, are not covered by the same stringent worker safety standards, do not have the right to bargain collectively, and are not entitled to receive unemployment benefits.

The practice of improperly designating workers as independent contractors has negatively affected tens of thousands of workers, including those who work in the construction, service, agriculture, and garment industries. The problem is particularly troublesome in the trucking industry, where it is relatively easy to classify owner-operators as independent contractors. As a result, there are thousands of workers in Indiana's First Congressional District, and throughout the country, who have been—or fear that they soon will be—classified as independent contractors.

Although I opposed the measure, the House of Representatives came dangerously close to forcing thousands of employees to become independent contractors when, on June 26, 1997, it approved a provision to expand the definition of independent contractor as part of omnibus tax legislation. Fortunately, this provision was not included in the final version of the legislation. Public Law 105–34, but it further convinced me of the need to address the standards for determining whether a worker is an employee or an independent contractor.

The legislation I am introducing would replace the current 20-point test with a simpler and stronger 8-point test as follows:

The Internal Revenue Code of 1986 shall be amended to clarify the standards for determining whether an employer-employee relationship exists.

An individual who performs services for any person (in this section referred to as the ''service recipient'') shall be presumed to be an employee of such person unless all of the following requirements are met:

(1) The individual makes comparable services available to the general public on a regular and consistent basis and represents himself as an independent contractor with respect to such services.

(2) The individual has performed, or is available to perform, services for more than one recipient at the same time.

(3) The service recipient does not have the right (and does not attempt) to control the manner or means of the individual's performance of such services.

(4) The individual controls the means of performing the services, including setting the sequence and hours of work.

(5) The individual operates under contracts to perform specific services for specific amounts of money, the rate of which is negotiated for every service performed.

(6) The individual may realize a profit or suffer a loss under contracts to perform work or services.

(7) The individual is responsible for the satisfactory completion of the work that the individual contracts to perform and is liable for a failure to complete the work.

(8) The individual incurs significant unreimbursed capital expenses (not typically incurred by employees) in carrying on the business activity in which such services are performed.

By preventing employers from improperly classifying their workers as independent contractors, my legislation will protect the rights and benefits of those employees who fear that they will soon be classified as independent contractors. Finally, I would like to point out that the test I am proposing today is balanced in such a way that workers who truly are independent contractors would continue to be classified as such.

Mr. Speaker, I urge you and my other colleagues to prevent us from becoming a nation of independent contractors by cosponsoring this important legislation.