

- 10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOLEY OF FLORIDA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES.**

23

~~AMENDMENT TO H.R. 10
OFFERED BY MR. FOLEY OF FLORIDA AND MR.
ACKERMAN OF NEW YORK~~

~~(Page and line numbers refer to the Committee Print of the
Committee on Rules dated October 4, 2004)~~

Page 328, after line 7, insert the following (and
amend the table of contents accordingly)

1 **Subtitle F—Treatment of Aliens**
2 **Who Commit Acts of Torture,**
3 **Extrajudicial Killings, or Other**
4 **Atrocities Abroad**

5 **SEC. 3121. INADMISSIBILITY AND DEPORTABILITY OF**
6 **ALIENS WHO HAVE COMMITTED ACTS OF**
7 **TORTURE OR EXTRAJUDICIAL KILLINGS**
8 **ABROAD.**

9 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1182(a)(3)(E)) is amended—

12 (1) in clause (ii), by striking “has engaged in
13 conduct that is defined as genocide for purposes of
14 the International Convention on the Prevention and
15 Punishment of Genocide is inadmissible” and insert-
16 ing “ordered, incited, assisted, or otherwise partici-
17 pated in conduct outside the United States that
18 would, if committed in the United States or by a



1 United States national, be genocide, as defined in
2 section 1091(a) of title 18, United States Code, is
3 inadmissible”;

4 (2) by adding at the end the following:

5 “(iii) COMMISSION OF ACTS OF TOR-
6 TURE OR EXTRAJUDICIAL KILLINGS.—Any
7 alien who, outside the United States, has
8 committed, ordered, incited, assisted, or
9 otherwise participated in the commission
10 of—

11 “(I) any act of torture, as de-
12 fined in section 2340 of title 18,
13 United States Code; or

14 “(II) under color of law of any
15 foreign nation, any extrajudicial kill-
16 ing, as defined in section 3(a) of the
17 Torture Victim Protection Act of
18 1991 (28 U.S.C. 1350 note);

19 is inadmissible.”; and

20 (3) in the subparagraph heading, by striking
21 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
22 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
23 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
24 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.



1 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
2 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

3 (1) by striking “clause (i) or (ii)” and inserting
4 “clause (i), (ii), or (iii)”;

5 (2) in the subparagraph heading, by striking
6 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
7 GENOCIDE” and inserting “PARTICIPATED IN NAZI
8 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
9 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to offenses committed before, on,
12 or after the date of the enactment of this Act.

13 **SEC. 3122. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
14 **EIGN GOVERNMENT OFFICIALS WHO HAVE**
15 **COMMITTED PARTICULARLY SEVERE VIOLA-**
16 **TIONS OF RELIGIOUS FREEDOM.**

17 (a) GROUND OF INADMISSIBILITY.—Section
18 212(a)(2)(G) of the Immigration and Nationality Act (8
19 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

20 “(G) FOREIGN GOVERNMENT OFFICIALS
21 WHO HAVE COMMITTED PARTICULARLY SEVERE
22 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
23 alien who, while serving as a foreign govern-
24 ment official, was responsible for or directly
25 carried out, at any time, particularly severe vio-



1 lations of religious freedom, as defined in sec-
2 tion 3 of the International Religious Freedom
3 Act of 1998 (22 U.S.C. 6402), is inadmis-
4 sible.”.

5 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1227(a)(4)) is amended by adding at the end the fol-
8 lowing:

9 “(E) PARTICIPATED IN THE COMMISSION
10 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
11 DOM.—Any alien described in section
12 212(a)(2)(G) is deportable.”.

13 **SEC. 3123. WAIVER OF INADMISSIBILITY.**

14 Section 212(d)(3) of the Immigration and Nationality
15 Act (8 U.S.C. 1182(d)(3)) is amended—

16 (1) in subparagraph (A), by striking “and
17 3(E)” and inserting “and clauses (i) and (ii) of
18 paragraph (3)(E)”; and

19 (2) in subparagraph (B), by striking “and
20 3(E)” and inserting “and clauses (i) and (ii) of
21 paragraph (3)(E)”.



1 **SEC. 3124. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
2 **WHO HAVE COMMITTED ACTS OF TORTURE,**
3 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
4 **LATIONS OF RELIGIOUS FREEDOM.**

5 Section 101(f) of the Immigration and Nationality
6 Act (8 U.S.C. 1101(f)) is amended—

7 (1) by striking the period at the end of para-
8 graph (8) and inserting “; and”; and

9 (2) by adding at the end the following:

10 “(9) one who at any time has engaged in con-
11 duct described in section 212(a)(3)(E) (relating to
12 assistance in Nazi persecution, participation in geno-
13 cide, or commission of acts of torture or
14 extrajudicial killings) or 212(a)(2)(G) (relating to
15 severe violations of religious freedom).”.

16 **SEC. 3125. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
17 **VESTIGATIONS.**

18 (a) **AMENDMENT OF THE IMMIGRATION AND NA-**
19 **TIONALITY ACT.**—Section 103 of the Immigration and
20 Nationality Act (8 U.S.C. 1103) is amended by adding
21 at the end the following:

22 “(h)(1) The Attorney General shall establish within
23 the Criminal Division of the Department of Justice an Of-
24 fice of Special Investigations with the authority to detect
25 and investigate, and, where appropriate, to take legal ac-



1 tion to denaturalize any alien described in section
2 212(a)(3)(E).

3 “(2) The Attorney General shall consult with the Sec-
4 retary of the Department of Homeland Security in making
5 determinations concerning the criminal prosecution or ex-
6 tradition of aliens described in section 212(a)(3)(E).

7 “(3) In determining the appropriate legal action to
8 take against an alien described in section 212(a)(3)(E),
9 consideration shall be given to—

10 “(A) the availability of criminal prosecution
11 under the laws of the United States for any conduct
12 that may form the basis for removal and
13 denaturalization; or

14 “(B) the availability of extradition of the alien
15 to a foreign jurisdiction that is prepared to under-
16 take a prosecution for such conduct.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—There are authorized to be
19 appropriated to the Department of Justice such
20 sums as may be necessary to carry out the addi-
21 tional duties established under section 103(h) of the
22 Immigration and Nationality Act (as added by this
23 subtitle) in order to ensure that the Office of Special
24 Investigations fulfills its continuing obligations re-
25 garding Nazi war criminals.



1 (2) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated pursuant to paragraph (1) are authorized to
3 remain available until expended.

4 **SEC. 3126. REPORT ON IMPLEMENTATION.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Attorney General, in consultation with the
7 Secretary of Homeland Security, shall submit to the Com-
8 mittees on the Judiciary of the Senate and the House of
9 Representatives a report on implementation of this sub-
10 title that includes a description of—

11 (1) the procedures used to refer matters to the
12 Office of Special Investigations and other compo-
13 nents within the Department of Justice and the De-
14 partment of Homeland Security in a manner con-
15 sistent with the amendments made by this subtitle;

16 (2) the revisions, if any, made to immigration
17 forms to reflect changes in the Immigration and Na-
18 tionality Act made by the amendments contained in
19 this subtitle; and

20 (3) the procedures developed, with adequate due
21 process protection, to obtain sufficient evidence to
22 determine whether an alien may be inadmissible
23 under the terms of the amendments made by this
24 subtitle.

