

110TH CONGRESS
2D SESSION

H. R. 5690

To exempt the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2008

Mr. BERMAN (for himself, Mr. THOMPSON of Mississippi, Mr. PAYNE, and Ms. LEE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, 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

A BILL

To exempt the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, 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. FINDINGS.**

4 Congress finds the following:

1 (1) Present-day South Africa was colonized by
2 English and Dutch settlers beginning in the 17th
3 century. In 1909, the English and Dutch formed the
4 Union of South Africa, a settler government that
5 marginalized the African population and imposed
6 harsh taxes on every nonwhite person, forcing non-
7 whites into a cruel wage-labor system that under-
8 mined the cohesion of their societies.

9 (2) The African National Congress (ANC) was
10 created in 1912 to advocate for the rights of black
11 South Africans.

12 (3) In 1948, the Afrikaner Nationalist Party
13 took control of the government and imposed the
14 apartheid system, a harsh system of racial segrega-
15 tion, white economic privilege, and total disenfran-
16 chisement of non-white African inhabitants.

17 (4) The ANC joined with other groups and en-
18 gaged in mass civil disobedience against apartheid in
19 the 1940s and 1950s.

20 (5) The ANC was banned in 1960 by the South
21 African Government, and the ANC leadership was
22 forced to go underground or into exile.

23 (6) In 1964, Nelson Mandela, Ahmed
24 Kathrada, Walter Sisulu, Govan Mbeki, Andrew
25 Mlangeni, Raymond Mhlaba, Elias Motsoaledi, and

1 Denis Goldberg were convicted and imprisoned for
2 life for their leadership in opposing apartheid.

3 (7) Although it was outlawed, the ANC led the
4 resistance effort against apartheid in the late 1970s
5 and 1980s. During this time, the ANC was classified
6 as a terrorist organization by the apartheid South
7 African Government and many western countries.

8 (8) The South African ban on the ANC was
9 lifted in 1990, and Nelson Mandela was released
10 from prison on February 11, 1990.

11 (9) Between 1990 and 1994, the ANC nego-
12 tiated with the South African Government for black
13 enfranchisement and an end to apartheid, the results
14 of which were the birth of a multiracial, multiparty
15 democracy in South Africa.

16 (10) The ANC became a registered political
17 party in 1994. Winning more than 60 percent of the
18 presidential vote, Nelson Mandela was inaugurated
19 as president on May 10, 1994.

20 (11) In 2002, Tokyo Sexwale, former premier
21 of Gauteng Province and chairman of the ANC, was
22 refused a visa to enter the United States on the
23 basis that he, along with other prominent South Af-
24 rican anti-apartheid figures such as Nelson Mandela
25 and Sidney Mufamadi, were still considered to be in-

1 admissible to the United States based on section 212
2 of the Immigration and Nationality Act (8 U.S.C.
3 1182).

4 (12) In 2007, Barbara Masekela, former South
5 African Ambassador to the United States from 2003
6 to 2006, was denied a visa to enter the United
7 States to visit her ill cousin due to her membership
8 in the African National Congress, and she was un-
9 able to obtain a waiver before her cousin's death.

10 (13) The ANC-led Government of South Africa
11 is a strategic partner with the United States in the
12 fight against terrorism and has adopted concrete
13 counterterrorism policies and measures, including in-
14 formation exchange, law enforcement cooperation,
15 and anti-money laundering to deny terrorists a
16 haven in South Africa.

17 (14) In the past, the Department of State pro-
18 vided waivers to ANC leaders to enter the United
19 States, but this remedy is not appropriate for ANC
20 leaders such as Mr. Mandela.

21 **SEC. 2. REMOVAL OF CERTAIN AFFECTED INDIVIDUALS**
22 **FROM CERTAIN UNITED STATES GOVERN-**
23 **MENT DATABASES.**

24 The Secretary of State, in coordination with the At-
25 torney General, the Secretary of Homeland Security, the

1 Director of the Federal Bureau of Investigation, and the
2 Director of National Intelligence, shall take all necessary
3 steps to ensure that databases used to determine admissi-
4 bility to the United States are updated so that they are
5 consistent with the exemptions required under section 4.

6 **SEC. 3. EXEMPTION OF AFRICAN NATIONAL CONGRESS**
7 **FROM TREATMENT AS TERRORIST ORGANI-**
8 **ZATION FOR CERTAIN ACTS OR EVENTS.**

9 (a) IN GENERAL.—For purposes of section
10 212(a)(3)(B)(vi) of the Immigration and Nationality Act
11 (8 U.S.C. 1182(a)(3)(B)(vi)), the African National Con-
12 gress shall not be treated as a terrorist organization on
13 the basis of any act or event occurring on or before the
14 date of the enactment of this Act.

15 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion may be construed to alter or limit the authority of
17 the Secretary of State or Secretary of Homeland Security
18 to exercise discretionary authority pursuant to section
19 212(d)(3)(B)(i) of the Immigration and Nationality Act
20 (8 U.S.C. 1182(d)(3)(B)(i)).

21 **SEC. 4. RELIEF FOR CERTAIN MEMBERS OF THE AFRICAN**
22 **NATIONAL CONGRESS REGARDING ADMISSI-**
23 **BILITY.**

24 (a) IN GENERAL.—For purposes of paragraphs
25 (2)(A), (2)(B), and (3)(B) of section 212(a) of the Immi-

1 gration and Nationality Act (8 U.S.C. 1182(a)), present
2 and former members of the African National Congress
3 shall not be determined to be inadmissible on the basis
4 of—

5 (1) their membership in or affiliation with such
6 organization; or

7 (2) anti-apartheid activities undertaken during
8 the period of apartheid rule in South Africa during
9 the period from 1948 to 1990.

10 (b) **RULE OF CONSTRUCTION.**—Nothing in this sub-
11 section may be construed to alter or limit the authority
12 of the Secretary of State or Secretary of Homeland Secu-
13 rity to exercise discretionary authority pursuant to section
14 212(d)(3)(B)(i) of the Immigration and Nationality Act
15 (8 U.S.C. 1182(d)(3)(B)(i)).

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