

117TH CONGRESS
2D SESSION

S. _____

To amend title 10, United States Code, to provide for the consideration of the human rights records of recipients of support of special operations to combat terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. VAN HOLLEN (for himself, Mr. LEAHY, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 10, United States Code, to provide for the consideration of the human rights records of recipients of support of special operations to combat terrorism, 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 “Upholding Human
5 Rights Abroad Act”.

1 **SEC. 2. CONSIDERATION OF HUMAN RIGHTS RECORDS OF**
2 **RECIPIENTS OF SUPPORT OF SPECIAL OPER-**
3 **ATIONS TO COMBAT TERRORISM.**

4 Section 127e of title 10, United States Code, is
5 amended—

6 (1) in subsection (e)(2) by adding at the end of
7 the following new subparagraph—

8 “(D) The processes through which the Sec-
9 retary, in consultation with the Secretary of
10 State, shall ensure that, prior to a decision to
11 provide any support to foreign forces, irregular
12 forces, groups, or individuals, full consideration
13 is given to any credible information available to
14 the Department of State relating to violations
15 of human rights by such entities.”.

16 (2) in subsection (d)(2)—

17 (A) in subparagraph (H), by inserting “,
18 including the promotion of good governance and
19 rule of law and the protection of civilians and
20 human rights” before the period at the end;

21 (B) in subparagraph (I)—

22 (i) by striking the period at the end
23 and inserting “or violations of the laws of
24 armed conflict, including the Geneva Con-
25 ventions of 1949, including—”; and

1 (ii) by adding at the end the following
2 new clauses:

3 “(i) vetting units receiving such sup-
4 port for violations of human rights;

5 “(ii) providing human rights training
6 to units receiving such support; and

7 “(iii) providing for the investigation of
8 allegations of gross violations of human
9 rights and termination of such support in
10 cases of credible information of such viola-
11 tions.”; and

12 (C) by adding at the end the following new
13 subparagraph:

14 “(J) A description of the human rights
15 record of the recipient, including for purposes
16 of section 362 of this title, and any relevant at-
17 tempts by such recipient to remedy such
18 record.”;

19 (3) in subsection (i)(3) by adding at the end the
20 following new subparagraph:

21 “(I) An assessment of how support pro-
22 vided under this section advances United States
23 national security priorities and aligns with
24 other United States Government efforts to ad-
25 dress underlying risk factors of terrorism and

1 violent extremism, including repression, human
2 rights abuses, and corruption.”; and

3 (4) by adding at the end the following new sub-
4 sections:

5 “(j) PROHIBITION ON USE OF FUNDS.—(1) Except
6 as provided in paragraphs (2) and (3), no funds may be
7 used to provide support to any individual member or unit
8 of a foreign force, irregular force, or group in a foreign
9 country if the Secretary of Defense has credible informa-
10 tion that such individual or unit has committed a gross
11 violation of human rights.

12 “(2) The Secretary of Defense, after consultation
13 with the Secretary of State, may waive the prohibition
14 under paragraph (1) if the Secretary determines that the
15 waiver is required by extraordinary circumstances.

16 “(3) The prohibition under paragraph (1) shall not
17 apply with respect to the foreign forces, irregular forces,
18 groups, or individuals of a country if the Secretary of De-
19 fense determines that—

20 “(A) the government of such country has taken
21 all necessary corrective steps; or

22 “(B) the support is necessary to assist in dis-
23 aster relief operations or other humanitarian or na-
24 tional security emergencies.

1 “(k) SAVINGS CLAUSE.—Nothing in this section shall
2 be construed to constitute a specific statutory authoriza-
3 tion for any of the following:

4 “(1) The conduct of a covert action, as such
5 term is defined in section 503(e) of the National Se-
6 curity Act of 1947 (50 U.S.C. 3093).

7 “(2) The introduction of United States armed
8 forces, within the meaning of section 5(b) of the
9 War Powers Resolution, into hostilities or into situa-
10 tions wherein hostilities are clearly indicated by the
11 circumstances.

12 “(3) The provision of support to regular forces,
13 irregular forces, groups, or individuals for the con-
14 duct of operations that United States Special Oper-
15 ations Forces are not otherwise legally authorized to
16 conduct themselves.

17 “(4) The conduct or support of activities, di-
18 rectly or indirectly, that are inconsistent with the
19 laws of armed conflict.”.

20 **SEC. 3. CONSIDERATION OF HUMAN RIGHTS RECORDS OF**
21 **RECIPIENTS OF SUPPORT OF SPECIAL OPER-**
22 **ATIONS FOR IRREGULAR WARFARE.**

23 Section 1202 of the National Defense Authorization
24 Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat.
25 1639) is amended—

1 (1) in subsection (c)(2), by adding at the end
2 of the following new subparagraph:

3 “(D) The processes through which the Sec-
4 retary shall, in consultation with the Secretary
5 of State, ensure that prior to a decision to pro-
6 vide support to individual members or units of
7 foreign forces, irregular forces, or groups in a
8 foreign country full consideration is given to
9 any credible information available to the De-
10 partment of State relating to gross violations of
11 human rights by such individuals or units.”;

12 (2) in subsection (d)(2) of such section—

13 (A) by redesignating subparagraph (G) as
14 subparagraph (H); and

15 (B) by inserting after subparagraph (F)
16 the following new subparagraph (G):

17 “(G) A description of the human rights
18 record of the recipient, including for purposes
19 of section 362 of title 10, United States Code,
20 and any relevant attempts by such recipient to
21 remedy such record.”;

22 (3) in subsection (h)(3), by adding at the end
23 the following new subparagraph:

24 “(I) An assessment of how support pro-
25 vided under this section advances United States

1 national security priorities and aligns with
2 other United States Government interests in
3 countries in which activities under the authority
4 in this section are ongoing.”;

5 (4) by redesignating subsection (i) as subsection
6 (j); and

7 (5) by inserting after subsection (h) the fol-
8 lowing new subsection (i):

9 “(i) PROHIBITION ON USE OF FUNDS.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graphs (2) and (3), no funds may be used to provide
12 support to any individual member or unit of a for-
13 eign force, irregular force, or group in a foreign
14 country if the Secretary of Defense has credible in-
15 formation that such individual or unit has com-
16 mitted a gross violation of human rights.

17 “(2) WAIVER AUTHORITY.—The Secretary of
18 Defense, after consultation with the Secretary of
19 State, may waive the prohibition under paragraph
20 (1) if the Secretary determines that the waiver is re-
21 quired by extraordinary circumstances.

22 “(3) EXCEPTION.—The prohibition under para-
23 graph (1) shall not apply with respect to individual
24 members or units of such foreign forces, irregular
25 forces, or groups if the Secretary of Defense, after

1 consultation with the Secretary of State, determines
2 that—

3 “(A) the government of such country has
4 taken all necessary corrective steps; or

5 “(B) the support is necessary to assist in
6 disaster relief operations or other humanitarian
7 or national security emergencies.”.