

118TH CONGRESS
2D SESSION

S. 4044

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

MARCH 21, 2024

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

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 FOR IRREGULAR WARFARE.**

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

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

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

17 (2) in subsection (g)(2)—

18 (A) by redesignating subparagraph (F) as
 19 subparagraph (G); and

20 (B) by inserting after subparagraph (E)
 21 the following new subparagraph (F):

22 “(F) A description of the human rights
 23 record of the recipient, including for purposes
 24 of section 362 of this title, and any relevant at-
 25 tempts by such recipient to remedy such
 26 record.”;

1 (3) in subsection (i)(3), by adding at the end
2 the following new subparagraph:

3 “(I) An assessment of how support pro-
4 vided under this section advances United States
5 national security priorities and aligns with
6 other United States Government interests in
7 countries in which activities under the authority
8 in this section are ongoing.”;

9 (4) by redesignating subsection (k) as sub-
10 section (l); and

11 (5) by inserting after subsection (j) the fol-
12 lowing new subsection (k):

13 “(i) PROHIBITION ON USE OF FUNDS.—

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

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

1 “(3) EXCEPTION.—The prohibition under para-
 2 graph (1) shall not apply with respect to individual
 3 members or units of such foreign forces, irregular
 4 forces, or groups if the Secretary of Defense, after
 5 consultation with the Secretary of State, determines
 6 that—

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

9 “(B) the support is necessary to assist in
 10 disaster relief operations or other humanitarian
 11 or national security emergencies.”.

12 **SEC. 3. CONSIDERATION OF HUMAN RIGHTS RECORDS OF**
 13 **RECIPIENTS OF SUPPORT OF SPECIAL OPER-**
 14 **ATIONS TO COMBAT TERRORISM.**

15 Section 127e of title 10, United States Code, is
 16 amended—

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

19 “(D) The processes through which the Sec-
 20 retary, in consultation with the Secretary of
 21 State, shall ensure that, prior to a decision to
 22 provide any support to foreign forces, irregular
 23 forces, groups, or individuals, full consideration
 24 is given to any credible information available to

the Department of State relating to violations of human rights by such entities.”;

(2) in subsection (d)(2)—

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

(B) in subparagraph (I)—

(i) by striking the period at the end and inserting “or violations of the laws of armed conflict, including the Geneva Conventions of 1949, including—”; and

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

“(i) vetting units receiving such support for violations of human rights;

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

“(iii) providing for the investigation of allegations of gross violations of human rights and termination of such support in cases of credible information of such violations.”; and

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

1 “(J) A description of the human rights
 2 record of the recipient, including for purposes
 3 of section 362 of this title, and any relevant at-
 4 tempts by such recipient to remedy such
 5 record.”;

6 (3) in subsection (i)(3), by adding at the end
 7 the following new subparagraph:

8 “(I) An assessment of how support pro-
 9 vided under this section advances United States
 10 national security priorities and aligns with
 11 other United States Government efforts to ad-
 12 dress underlying risk factors of terrorism and
 13 violent extremism, including repression, human
 14 rights abuses, and corruption.”; and

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

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

24 “(2) The Secretary of Defense, after consultation
 25 with the Secretary of State, may waive the prohibition

1 under paragraph (1) if the Secretary determines that the
2 waiver is required by extraordinary circumstances.

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

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

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

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

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

18 “(2) The introduction of United States armed
19 forces, within the meaning of section 5(b) of the
20 War Powers Resolution, into hostilities or into situa-
21 tions wherein hostilities are clearly indicated by the
22 circumstances.

23 “(3) The provision of support to regular forces,
24 irregular forces, groups, or individuals for the con-
25 duct of operations that United States Special Oper-

1 ations Forces are not otherwise legally authorized to
2 conduct themselves.

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

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