

Calendar No. 453109TH CONGRESS
2^D SESSION**S. 559**

To make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2005

Mr. BIDEN (for himself, Mr. LUGAR, Mr. DURBIN, Ms. MIKULSKI, Mr. HAGEL, Mr. JOHNSON, Mr. LAUTENBERG, Mrs. FEINSTEIN, Ms. LANDRIEU, Mr. FEINGOLD, Mr. DORGAN, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

MAY 25, 2006

Reported by Mr. LUGAR, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protection of Vulner-
3 able Populations During Humanitarian Emergencies Act
4 of 2005”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Findings.

TITLE I—PROGRAM AND POLICY COORDINATION

- Sec. 101. Requirement to develop integrated strategy.
- Sec. 102. Designation of coordinator.

TITLE II—PREVENTION AND PREPAREDNESS

- Sec. 201. Reporting and monitoring systems.
- Sec. 202. Protection training and expertise.

TITLE III—PROTECTION OF REFUGEES AND INTERNALLY
DISPLACED PERSONS

- Sec. 301. Codes of conduct.
- Sec. 302. Health services for refugees and displaced persons.
- Sec. 303. Economic self-sufficiency of vulnerable populations affected by a hu-
manitarian emergency.
- Sec. 304. International military education and training.
- Sec. 305. Sense of Congress regarding actions of United Nations peacekeepers.

TITLE IV—PROTECTION OF VULNERABLE POPULATIONS
AFFECTED BY A HUMANITARIAN EMERGENCY

- Sec. 401. Report regarding programs to protect vulnerable populations.
- Sec. 402. Protection assistance.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

- 9 (1) **AGENCY.**—The term “Agency” means the
10 United States Agency for International Develop-
11 ment.

1 (2) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Foreign Relations
4 of the Senate and the Committee on International
5 Relations of the House of Representatives.

6 (3) CHILDREN.—The term “children” means
7 persons under the age of 18 years.

8 (4) COORDINATOR.—The term “coordinator”
9 means the individual designated by the Secretary
10 under section 102(a).

11 (5) DEPARTMENT.—The term “Department”
12 means the Department of State.

13 (6) EXPLOITATION OF CHILDREN.—The term
14 “exploitation of children” includes—

15 (A) adult sexual activity with children;

16 (B) kidnapping or forcibly separating chil-
17 dren from their families;

18 (C) ~~subjecting children to~~ forced child
19 labor;

20 (D) forcing children to commit or witness
21 acts of violence, including compulsory recruit-
22 ment into armed forces or as combatants; and

23 (E) withholding or obstructing access of
24 children to food, shelter, medicine, and basic
25 human services.

1 (7) HIV.—The term “HIV” means the human
2 immunodeficiency virus, the virus that causes the ac-
3 quired immune deficiency syndrome (AIDS).

4 (8) HUMANITARIAN EMERGENCY.—The term
5 “humanitarian emergency” means a situation in
6 which, due to a natural or manmade disaster, civil-
7 ians, including refugees and internally displaced per-
8 sons, require basic humanitarian assistance.

9 (9) INTER-AGENCY STANDING COMMITTEE.—
10 The term “Inter-Agency Standing Committee”
11 means the Inter-Agency Standing Committee estab-
12 lished in response to United Nations General Assem-
13 bly Resolution 46/182 of December 19, 1991.

14 (10) PROTECTION.—The term “protection”
15 means all appropriate measures to provide the phys-
16 ical and psychological security of, provide equal ac-
17 cess to basic services for, and safeguard the legal
18 and human rights of, individuals.

19 (11) SECRETARY.—The term “Secretary”
20 means the Secretary of State.

21 (12) SEX TRAFFICKING.—The term “sex traf-
22 ficking” has the meaning given the term in section
23 103(9) of Trafficking Victims Protection Act of
24 2000 (~~22 U.S.C. 7102~~) (*22U.S.C. 7102(9)*).

1 (13) SEXUAL EXPLOITATION AND ABUSE.—The
2 term “sexual exploitation and abuse” means causing
3 harm to a person through—

4 (A) rape;

5 (B) sexual assault or torture;

6 (C) sex trafficking and *severe forms of traf-*
7 *ficking in persons;*

8 (D) demands for sex in exchange for em-
9 ployment, goods, services, or protection; and

10 (E) other forms of sexual violence.

11 ~~(14) TRAFFICKING IN PERSONS.—The term~~
12 ~~“trafficking in persons” has the meaning given the~~
13 ~~term “severe forms of trafficking in persons” in sec-~~
14 ~~tion 103 of Trafficking Victims Protection Act of~~
15 ~~2000 (22 U.S.C. 7102).~~

16 (14) *SEVERE FORMS OF TRAFFICKING IN PER-*
17 *SONS.—The term “severe forms of trafficking in per-*
18 *sons” has the meaning given in section 103(8) of the*
19 *Trafficking Victims Protection Act of 2000 (22 U.S.C.*
20 *7102(8)).*

21 (15) VULNERABLE POPULATIONS.—The term
22 “vulnerable populations” means those people, such
23 as women, children, the disabled, and the elderly,
24 who by virtue of their status are at a disadvantage
25 in obtaining or accessing goods and services.

1 **SEC. 4. FINDINGS.**

2 Congress makes the following findings:

3 (1) The nature of war has changed dramatically
4 in recent decades, putting civilians, especially women
5 and children, at greater risk of death, disease, dis-
6 placement, and exploitation.

7 (2) In the last decade alone, more than
8 2,000,000 children have been killed during wars,
9 while more than 4,000,000 have survived physical
10 mutilation, and more than 1,000,000 have been or-
11 phaned or separated from their families as a result
12 of war.

13 (3) The use of rape, particularly against women
14 and girls, is an increasingly common tactic in mod-
15 ern war.

16 (4) Civilians, particularly women and children,
17 account for the vast majority of those adversely af-
18 fected by humanitarian emergencies, including as
19 refugees and internally displaced persons, and in-
20 creasingly are targeted by combatants and armed
21 elements for murder, abduction, forced military con-
22 scription, involuntary servitude, displacement, sexual
23 abuse and slavery, mutilation, and loss of freedom.

24 (5) Large-scale natural disasters, such as the
25 tsunami that struck South East Asia, South Asia,
26 and East Africa on December 26, 2004, and claimed

1 over 200,000 lives, are particularly threatening to
2 children, who are often orphaned or separated from
3 their families.

4 (6) Traditionally, the response to such humani-
5 tarian emergencies has focused on providing food,
6 medical care, and shelter needs, and has placed less
7 emphasis on the safety and security of those affected
8 by a humanitarian emergency.

9 (7) Refugee women and girls face particular
10 threats because of power inequities, including being
11 forced to exchange sex for food and humanitarian
12 supplies, and being at increased risk of rape and
13 sexual exploitation and abuse due to poor security in
14 refugee camps.

15 (8) In some circumstances, humanitarian agen-
16 cies have failed to make individuals affected by a hu-
17 manitarian emergency, especially women and chil-
18 dren, aware of their rights to protection and assist-
19 ance, to give them access to effective channels of re-
20 dress, and to make humanitarian workers aware of
21 their duty to respect these rights and provide ade-
22 quate assistance.

23 (9) Refugee and displaced women face height-
24 ened risks of developing complications during preg-
25 nancy, suffering a miscarriage, dying, being injured

1 during childbirth, becoming infected with HIV or
2 another sexually transmitted infection, or suffering
3 from posttraumatic stress disorder.

4 (10) Despite the heightened risks for women
5 during a humanitarian emergency, women's needs
6 for specialized health services have often been over-
7 looked by donors and relief organizations, which are
8 focused on providing food, water, and shelter.

9 (11) There is a substantial need for the protec-
10 tion of civilians, especially women and children, to be
11 given a high priority during all humanitarian emer-
12 gencies.

13 **TITLE I—PROGRAM AND POLICY** 14 **COORDINATION**

15 **SEC. 101. REQUIREMENT TO DEVELOP COMPREHENSIVE** 16 **STRATEGY.**

17 (a) IN GENERAL.—The Secretary shall, in consulta-
18 tion with the Administrator of the United States Agency
19 for International Development, develop a comprehensive
20 strategy for the protection of vulnerable populations, espe-
21 cially women and children, who are affected by a humani-
22 tarian emergency. The strategy shall include—

23 (1) measures to address the specific protection
24 needs of women and children;

1 (2) training for personnel to respond to the spe-
2 cific needs of such vulnerable populations; and

3 (3) measures taken to comply with section 301.

4 (b) REPORT.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary shall submit
6 to the appropriate congressional committees a report set-
7 ting forth the strategy described in subsection (a).

8 **SEC. 102. DESIGNATION OF COORDINATOR.**

9 (a) IN GENERAL.—Not later than 60 days after the
10 date of enactment of this Act, the Secretary shall des-
11 ignate an individual within the Department or the Agency
12 as the coordinator to be responsible for the oversight and
13 coordination of efforts by the Department and the Agency
14 to provide protection for vulnerable populations, especially
15 women and children, affected by a humanitarian emer-
16 gency.

17 (b) CONSULTATION REQUIREMENT.—The Secretary
18 shall consult with the Administrator of the United States
19 Agency for International Development in making a des-
20 ignation under subsection (a).

21 (c) NOTIFICATION.—Not later than 5 days after des-
22 ignating an official as a coordinator under subsection (a),
23 the Secretary shall inform the appropriate congressional
24 committees of such designation.

1 **TITLE II—PREVENTION AND**
2 **PREPAREDNESS**

3 **SEC. 201. REPORTING AND MONITORING SYSTEMS.**

4 (a) DUTIES OF COORDINATOR.—The coordinator
5 shall—

6 (1) develop and maintain a database of histor-
7 ical information about occurrences of sexual exploi-
8 tation and abuse, and other exploitation, of children
9 during a humanitarian emergency;

10 (2) establish a reporting and monitoring system
11 for United States diplomatic missions to collect and
12 submit to the coordinator information that indicates
13 that vulnerable populations, especially women and
14 children, are being targeted for or are at substantial
15 risk of violence or exploitation in humanitarian
16 emergencies;

17 (3) assist United States diplomatic missions in
18 developing responses to situations where there is a
19 substantial risk of sexual exploitation and abuse or
20 exploitation of children that may occur during a hu-
21 manitarian emergency; and

22 (4) develop mechanisms for the receipt and dis-
23 tribution of reports to and from the public and rel-
24 evant nongovernmental and international organiza-
25 tions of evidence of sexual exploitation and abuse

1 and exploitation of children during a humanitarian
2 emergency.

3 (b) CONSULTATION.—In carrying out duties under
4 paragraphs (1) and (2) of subsection (a), the Coordinator
5 shall consult with inter-governmental organizations and
6 nongovernmental organizations.

7 **SEC. 202. PROTECTION TRAINING AND EXPERTISE.**

8 (a) FELLOWSHIP PROGRAM.—The Administrator of
9 the United States Agency for International Development
10 is authorized to establish a fellowship program at the
11 Agency to increase the expertise of the personnel of the
12 Agency in developing programs and policies to carry out
13 activities related to the protection of vulnerable popu-
14 lations, especially women and children, affected by a hu-
15 manitarian emergency.

16 (b) TERM OF FELLOWSHIP.—An individual may par-
17 ticipate in a fellowship under this section for a term of
18 not more than 3 years.

19 (c) NUMBER OF FELLOWS.—The Administrator is
20 authorized to employ up to 10 fellows at any one time
21 under this program.

22 (d) QUALIFICATION.—An individual is qualified to
23 participate in a fellowship under this section if such indi-
24 vidual has the specific expertise required—

1 (1) to develop and implement policies and pro-
2 grams related to the protection of vulnerable popu-
3 lations, especially women and children; and

4 (2) to promote the exchange of knowledge and
5 experience between the Agency and entities that as-
6 sist the Agency in carrying out assistance programs.

7 **TITLE III—PROTECTION OF REF-**
8 **UGEES AND INTERNALLY DIS-**
9 **PLACED PERSONS**

10 **SEC. 301. CODES OF CONDUCT.**

11 None of the funds made available by the Department
12 or Agency to provide assistance under section 491 of the
13 Foreign Assistance Act of 1961 (22 U.S.C. 2292) or over-
14 seas assistance under section 2 of the Migration and Ref-
15 ugee Assistance Act of 1962 (22 U.S.C. 2601) may be
16 provided to a primary grantee or contractor for the pur-
17 pose of providing assistance to refugees or internally dis-
18 placed persons unless such grantee or contractor has
19 adopted a code of conduct that is consistent with the 6
20 core principles recommended by the Inter-Agency Stand-
21 ing Committee. To the extent practicable, a grantee or
22 contractor that has adopted such a code of conduct shall
23 ensure that subgrantees and subcontractors of such grant-
24 ee or contractor have adopted, or agree to act in accord-
25 ance with, such a code of conduct.

1 **SEC. 302. HEALTH SERVICES FOR REFUGEES AND DIS-**
 2 **PLACED PERSONS.**

3 (a) PROVISION OF HEALTH SERVICES TO VULNER-
 4 ABLE POPULATIONS AFFECTED BY HUMANITARIAN
 5 EMERGENCIES.—The coordinator shall seek to ensure
 6 that organizations funded by the Department and the
 7 Agency for the purpose of responding to a humanitarian
 8 emergency coordinate and implement activities needed to
 9 respond to the health needs of vulnerable populations, es-
 10 pecially women and children, as soon as practicable and
 11 not later than 30 days after the onset of a humanitarian
 12 emergency.

13 (b) ACTIVITIES DEFINED.—The activities referred to
 14 in subsection (a) include activities to—

15 (1) prevent and ~~manage~~ *respond to* the con-
 16 sequences of sexual violence;

17 ~~(2) reduce transmission of HIV;~~

18 (2) *provide testing and treatment for HIV/AIDS*
 19 *and sexually transmitted diseases;*

20 (3) provide ~~obstetric~~ *essential obstetric and pre-*
 21 *natal care;* and

22 (4) develop a plan to integrate *essential wom-*
 23 *en's health services* into the primary health care
 24 services provided during a humanitarian emergency.

1 **SEC. 303. ECONOMIC SELF-SUFFICIENCY OF VULNERABLE**
 2 **POPULATIONS AFFECTED BY A HUMANI-**
 3 **TARIAN EMERGENCY.**

4 (a) AMENDMENTS TO MICROENTERPRISE ACT OF
 5 2000.—Section 102 of the Microenterprise for Self-Reli-
 6 ance Act of 2000 (22 U.S.C. 2151f note) is amended—

7 (1) in paragraph (4)—

8 (A) by redesignating subparagraphs (B),
 9 (C), and (D) and subparagraphs (C), (D), and
 10 (E), respectively; and

11 (B) by inserting after subparagraph (A)
 12 the following:

13 “(B) Women displaced by armed conflict are
 14 particularly at risk, lacking access to traditional live-
 15 lihoods and means for generating income.”; and

16 (2) in paragraph (13)—

17 (A) by redesignating subparagraph (B) as
 18 subparagraph (C); and

19 (B) by inserting after subparagraph (A)
 20 the following:

21 “(B) Particular efforts should be made to ex-
 22 pand the availability of microcredit programs to in-
 23 ternally displaced persons, who historically have not
 24 had access to such programs.”.

25 (b) AMENDMENT TO THE FOREIGN ASSISTANCE
 26 ACT.—Section 256(b)(3) of the Foreign Assistance Act of

1 1961 (22 U.S.C. 2212(b)(3)) is amended by inserting
2 after “clients” the following: “, including women
3 microentrepreneurs,”.

4 **SEC. 304. INTERNATIONAL MILITARY EDUCATION AND**
5 **TRAINING.**

6 Section 541 of the Foreign Assistance Act of 1961
7 (22 U.S.C. 2347) is amended—

8 (1) by striking “or (iv)” and inserting “(iv)”;
9 and

10 (2) by striking “rights.” and inserting “rights,
11 or (v) improve the protection of civilians, especially
12 women and children, including those who are refu-
13 gees or displaced persons.”.

14 **SEC. 305. SENSE OF CONGRESS REGARDING ACTIONS OF**
15 **UNITED NATIONS PEACEKEEPERS.**

16 It is the sense of Congress that—

17 (1) the Secretary-General of the United Nations
18 should strengthen the existing ability of the United
19 Nations Department of Peacekeeping Operations to
20 protect civilians, especially women and children,
21 from sexual exploitation and abuse by personnel in
22 peace operation missions by—

23 (A) directing the Department of Peace-
24 keeping Operations to identify nongovernmental
25 organizations and local community officials to

1 receive and communicate to senior level mission
2 officials credible reports from civilians of sexual
3 exploitation and abuse;

4 (B) ensuring that there is a mechanism in
5 place for all credible allegations of sexual ex-
6 ploitation and abuse to be brought to the atten-
7 tion of senior level mission officials in an expe-
8 dited fashion;

9 (C) developing missions based rapid re-
10 sponse teams to investigate allegations of sexual
11 exploitation and abuse;

12 (D) improving informational programs for
13 United Nations personnel on their responsibility
14 not to engage in acts of sexual exploitation and
15 abuse and the sanctions for such actions;

16 (E) identifying troop contributing coun-
17 tries that refuse to investigate allegations of
18 sexual exploitation and abuse by nationals serv-
19 ing in peacekeeping missions;

20 (F) permanently excluding individuals
21 found to have engaged in sexual abuse or ex-
22 ploitation, as well as troop contingent com-
23 manders and civilian managerial personnel
24 complicit in such behavior, from participating in

1 future United Nations peacekeeping missions;
2 and

3 (G) demanding that troop contributing
4 countries—

5 (i) thoroughly investigate cases in
6 which their nationals have been alleged to
7 have engaged in sexual abuse or exploi-
8 tation which on United Nations peace-
9 keeping missions; and

10 (ii) punish those found guilty of such
11 misconduct;

12 (2) troop contributing states should ensure that
13 their soldiers are properly trained on United Nations
14 guidelines regarding proper conduct towards civil-
15 ians, in particular those guidelines that address gen-
16 der-based violence, before participating in United
17 Nations peace operation missions;

18 (3) the United Nations should suspend payment
19 of peacekeeping funds to countries when there is
20 credible evidence of sexual exploitation and abuse by
21 troops of such countries that are participating in
22 peacekeeping operations, and the governments of
23 such countries are not investigating or punishing
24 such conduct; and

1 (4) the Secretary should consider a suspension
 2 of United States military assistance to countries
 3 that do not—

4 (A) investigate allegations of sexual exploi-
 5 tation and abuse by troops participating in
 6 United Nations peacekeeping operations; or

7 (B) hold perpetrators of such abuse and
 8 exploitation accountable.

9 **TITLE IV—PROTECTION OF VUL-**
 10 **NERABLE POPULATIONS AF-**
 11 **FFECTED BY A HUMANITARIAN**
 12 **EMERGENCY**

13 **SEC. 401. ACTIONS TO SUPPORT PROTECTION.**

14 (a) PROGRAMS OF THE INTERNATIONAL BANK FOR
 15 RECONSTRUCTION AND DEVELOPMENT.—The United
 16 States Executive Director of the International Bank for
 17 Reconstruction and Development should take steps to en-
 18 sure that disarmament, demobilization, and reintegration
 19 programs developed and funded by the International Bank
 20 for Reconstruction and Development provide benefits to
 21 former combatants that are comparable to the benefits
 22 provided by such programs to other individuals.

23 (b) REPORT REGARDING PROGRAMS TO ASSIST CI-
 24 VILIAN POLICE.—Not later than 180 days after the date
 25 of enactment of this Act, the Secretary shall submit a re-

1 port to the appropriate congressional committees on all
 2 current programs being conducted by the Department or
 3 the Agency to assist foreign countries with the enforce-
 4 ment of the laws of such countries that are designed to
 5 protect women and children and improve accountability
 6 for sexual exploitation and abuse.

7 **SEC. 402. PROTECTION ASSISTANCE.**

8 Chapter 1 of part I of the Foreign Assistance Act
 9 of 1961 (22 U.S.C. 2151 et seq.) is amended by adding
 10 at the end the following new section:

11 **“SEC. 135. ASSISTANCE FOR THE PROTECTION OF VULNER-**
 12 **ABLE POPULATIONS DURING HUMANITARIAN**
 13 **EMERGENCIES.**

14 “(a) ~~AUTHORITY.—Notwithstanding any other provi-~~
 15 ~~sion of law, and subject to the limitations of subsection~~
 16 ~~(b), the President is authorized to provide assistance for~~
 17 *The President is authorized to use the authorities in this*
 18 *Act to provide assistance for* programs, projects, and activi-
 19 ties to promote the security of, provide equal access to
 20 basic services for, and safeguard the legal and human
 21 rights of civilians, especially women and children, who are
 22 affected by a humanitarian emergency. Such assistance
 23 shall include programs—

24 “(1) to build the capacity of nongovernmental
 25 organizations to address the special protection needs

1 of vulnerable populations, especially women and chil-
2 dren, affected by a humanitarian emergency;

3 “(2) to support local and international non-
4 governmental initiatives to prevent, detect, and re-
5 port exploitation of children and sexual exploitation
6 and abuse, including through the provision of train-
7 ing humanitarian protection monitors for refugees
8 and internally displaced persons;

9 “(3) to conduct protection and security assess-
10 ments for refugees and internally displaced persons
11 in camps or in communities for the purpose of im-
12 proving the design and security of camps for refu-
13 gees and internally displaced persons, with special
14 emphasis on the security of women and children;

15 “(4) to provide, when practicable, education
16 during a humanitarian emergency, including struc-
17 tured activities that create safe spaces for children,
18 in particular girls;

19 “(5) to reintegrate and rehabilitate former com-
20 batants and survivors of a humanitarian emergency,
21 including through education, psychosocial assistance
22 and trauma counseling, family and community re-
23 insertion, medical assistance, and strengthening
24 community systems to support sustained reintegra-
25 tion;

1 “(6) to establish registries and clearinghouses
2 to trace relatives and begin family reunification,
3 with a specific focus on helping children find their
4 families;

5 “(7) to provide interim care and placement for
6 separated children and orphans, including moni-
7 toring and followup services;

8 “(8) to provide legal services for survivors of
9 sexual exploitation, abuse, or torture, including the
10 collection of evidence for war crimes tribunals and
11 advocacy for legal reform; and

12 “(9) to provide to local law enforcement per-
13 sonnel working in areas affected by a humanitarian
14 emergency training in human rights law, particularly
15 as it relates to the protection of women and children.

16 “(b) AVAILABILITY OF ASSISTANCE.—Amounts made
17 available to carry out this part and chapter 4 of part II
18 may be made available to carry out this section.”.

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