

109TH CONGRESS  
1ST 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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 2005

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

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## 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,*

3       **SECTION 1. SHORT TITLE.**

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

7       **SEC. 2. TABLE OF CONTENTS.**

8       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 humanitarian 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.

### 1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “Agency” means the  
4 United States Agency for International Develop-  
5 ment.

6 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
7 TEES.—The term “appropriate congressional com-  
8 mittees” means the Committee on Foreign Relations  
9 of the Senate and the Committee on International  
10 Relations of the House of Representatives.

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

1           (4) COORDINATOR.—The term “coordinator”  
2 means the individual designated by the Secretary  
3 under section 102(a).

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

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

8                   (A) adult sexual activity with children;

9                   (B) kidnapping or forcibly separating chil-  
10 dren from their families;

11                  (C) subjecting children to forced child  
12 labor;

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

16                  (E) withholding or obstructing access of  
17 children to food, shelter, medicine, and basic  
18 human services.

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

22           (8) HUMANITARIAN EMERGENCY.—The term  
23 “humanitarian emergency” means a situation in  
24 which, due to a natural or manmade disaster, civil-

1       ians, including refugees and internally displaced per-  
 2       sons, require basic humanitarian assistance.

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

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

13          (11) SECRETARY.—The term “Secretary”  
 14      means the Secretary of State.

15          (12) SEX TRAFFICKING.—The term “sex traf-  
 16      ficking” has the meaning given the term in section  
 17      103 of Trafficking Victims Protection Act of 2000  
 18      (22 U.S.C. 7102).

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

22                   (A) rape;

23                   (B) sexual assault or torture;

24                   (C) sex trafficking and trafficking in per-  
 25      sons;

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

3 (E) other forms of sexual violence.

4 (14) TRAFFICKING IN PERSONS.—The term  
5 “trafficking in persons” has the meaning given the  
6 term “severe forms of trafficking in persons” in sec-  
7 tion 103 of Trafficking Victims Protection Act of  
8 2000 (22 U.S.C. 7102).

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

14 **SEC. 4. FINDINGS.**

15 Congress makes the following findings:

16 (1) The nature of war has changed dramatically  
17 in recent decades, putting civilians, especially women  
18 and children, at greater risk of death, disease, dis-  
19 placement, and exploitation.

20 (2) In the last decade alone, more than  
21 2,000,000 children have been killed during wars,  
22 while more than 4,000,000 have survived physical  
23 mutilation, and more than 1,000,000 have been or-  
24 phaned or separated from their families as a result  
25 of war.

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

4           (4) Civilians, particularly women and children,  
5           account for the vast majority of those adversely af-  
6           fected by humanitarian emergencies, including as  
7           refugees and internally displaced persons, and in-  
8           creasingly are targeted by combatants and armed  
9           elements for murder, abduction, forced military con-  
10          scription, involuntary servitude, displacement, sexual  
11          abuse and slavery, mutilation, and loss of freedom.

12          (5) Large-scale natural disasters, such as the  
13          tsunami that struck South East Asia, South Asia,  
14          and East Africa on December 26, 2004, and claimed  
15          over 200,000 lives, are particularly threatening to  
16          children, who are often orphaned or separated from  
17          their families.

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

23          (7) Refugee women and girls face particular  
24          threats because of power inequities, including being  
25          forced to exchange sex for food and humanitarian

1 supplies, and being at increased risk of rape and  
 2 sexual exploitation and abuse due to poor security in  
 3 refugee camps.

4 (8) In some circumstances, humanitarian agen-  
 5 cies have failed to make individuals affected by a hu-  
 6 manitarian emergency, especially women and chil-  
 7 dren, aware of their rights to protection and assist-  
 8 ance, to give them access to effective channels of re-  
 9 dress, and to make humanitarian workers aware of  
 10 their duty to respect these rights and provide ade-  
 11 quate assistance.

12 (9) Refugee and displaced women face height-  
 13 ened risks of developing complications during preg-  
 14 nancy, suffering a miscarriage, dying, being injured  
 15 during childbirth, becoming infected with HIV or  
 16 another sexually transmitted infection, or suffering  
 17 from posttraumatic stress disorder.

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

23 (11) There is a substantial need for the protec-  
 24 tion of civilians, especially women and children, to be

1       given a high priority during all humanitarian emer-  
 2       gencies.

## 3       **TITLE I—PROGRAM AND POLICY** 4       **COORDINATION**

### 5       **SEC. 101. REQUIREMENT TO DEVELOP COMPREHENSIVE** 6       **STRATEGY.**

7       (a) IN GENERAL.—The Secretary shall, in consulta-  
 8       tion with the Administrator of the United States Agency  
 9       for International Development, develop a comprehensive  
 10      strategy for the protection of vulnerable populations, espe-  
 11      cially women and children, who are affected by a humani-  
 12      tarian emergency. The strategy shall include—

13           (1) measures to address the specific protection  
 14      needs of women and children;

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

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

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

### 22      **SEC. 102. DESIGNATION OF COORDINATOR.**

23      (a) IN GENERAL.—Not later than 60 days after the  
 24      date of enactment of this Act, the Secretary shall des-  
 25      ignate an individual within the Department or the Agency

1 as the coordinator to be responsible for the oversight and  
 2 coordination of efforts by the Department and the Agency  
 3 to provide protection for vulnerable populations, especially  
 4 women and children, affected by a humanitarian emer-  
 5 gency.

6 (b) CONSULTATION REQUIREMENT.—The Secretary  
 7 shall consult with the Administrator of the United States  
 8 Agency for International Development in making a des-  
 9 ignation under subsection (a).

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

## 14 **TITLE II—PREVENTION AND** 15 **PREPAREDNESS**

### 16 **SEC. 201. REPORTING AND MONITORING SYSTEMS.**

17 (a) DUTIES OF COORDINATOR.—The coordinator  
 18 shall—

19 (1) develop and maintain a database of histor-  
 20 ical information about occurrences of sexual exploi-  
 21 tation and abuse, and other exploitation, of children  
 22 during a humanitarian emergency;

23 (2) establish a reporting and monitoring system  
 24 for United States diplomatic missions to collect and  
 25 submit to the coordinator information that indicates

1       that vulnerable populations, especially women and  
2       children, are being targeted for or are at substantial  
3       risk of violence or exploitation in humanitarian  
4       emergencies;

5           (3) assist United States diplomatic missions in  
6       developing responses to situations where there is a  
7       substantial risk of sexual exploitation and abuse or  
8       exploitation of children that may occur during a hu-  
9       manitarian emergency; and

10          (4) develop mechanisms for the receipt and dis-  
11       tribution of reports to and from the public and rel-  
12       evant nongovernmental and international organiza-  
13       tions of evidence of sexual exploitation and abuse  
14       and exploitation of children during a humanitarian  
15       emergency.

16       (b) CONSULTATION.—In carrying out duties under  
17       paragraphs (1) and (2) of subsection (a), the Coordinator  
18       shall consult with inter-governmental organizations and  
19       nongovernmental organizations.

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

21       (a) FELLOWSHIP PROGRAM.—The Administrator of  
22       the United States Agency for International Development  
23       is authorized to establish a fellowship program at the  
24       Agency to increase the expertise of the personnel of the  
25       Agency in developing programs and policies to carry out

1 activities related to the protection of vulnerable popu-  
 2 lations, especially women and children, affected by a hu-  
 3 manitarian emergency.

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

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

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

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

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

## 19 **TITLE III—PROTECTION OF REF-** 20 **UGEES AND INTERNALLY DIS-** 21 **PLACED PERSONS**

### 22 **SEC. 301. CODES OF CONDUCT.**

23 None of the funds made available by the Department  
 24 or Agency to provide assistance under section 491 of the  
 25 Foreign Assistance Act of 1961 (22 U.S.C. 2292) or over-

1 seas assistance under section 2 of the Migration and Ref-  
2 ugee Assistance Act of 1962 (22 U.S.C. 2601) may be  
3 provided to a primary grantee or contractor for the pur-  
4 pose of providing assistance to refugees or internally dis-  
5 placed persons unless such grantee or contractor has  
6 adopted a code of conduct that is consistent with the 6  
7 core principles recommended by the Inter-Agency Stand-  
8 ing Committee. To the extent practicable, a grantee or  
9 contractor that has adopted such a code of conduct shall  
10 ensure that subgrantees and subcontractors of such grant-  
11 ee or contractor have adopted, or agree to act in accord-  
12 ance with, such a code of conduct.

13 **SEC. 302. HEALTH SERVICES FOR REFUGEES AND DIS-**  
14 **PLACED PERSONS.**

15 (a) PROVISION OF HEALTH SERVICES TO VULNER-  
16 ABLE POPULATIONS AFFECTED BY HUMANITARIAN  
17 EMERGENCIES.—The coordinator shall seek to ensure  
18 that organizations funded by the Department and the  
19 Agency for the purpose of responding to a humanitarian  
20 emergency coordinate and implement activities needed to  
21 respond to the health needs of vulnerable populations, es-  
22 pecially women and children, as soon as practicable and  
23 not later than 30 days after the onset of a humanitarian  
24 emergency.

1 (b) ACTIVITIES DEFINED.—The activities referred to  
 2 in subsection (a) include activities to—

3 (1) prevent and manage the consequences of  
 4 sexual violence;

5 (2) reduce transmission of HIV;

6 (3) provide obstetric care; and

7 (4) develop a plan to integrate women’s health  
 8 services into the primary health care services pro-  
 9 vided during a humanitarian emergency.

10 **SEC. 303. ECONOMIC SELF-SUFFICIENCY OF VULNERABLE**  
 11 **POPULATIONS AFFECTED BY A HUMANI-**  
 12 **TARIAN EMERGENCY.**

13 (a) AMENDMENTS TO MICROENTERPRISE ACT OF  
 14 2000.—Section 102 of the Microenterprise for Self-Reli-  
 15 ance Act of 2000 (22 U.S.C. 2151f note) is amended—

16 (1) in paragraph (4)—

17 (A) by redesignating subparagraphs (B),  
 18 (C), and (D) and subparagraphs (C), (D), and  
 19 (E), respectively; and

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

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

25 (2) in paragraph (13)—

1 (A) by redesignating subparagraph (B) as  
 2 subparagraph (C); and

3 (B) by inserting after subparagraph (A)  
 4 the following:

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

9 (b) AMENDMENT TO THE FOREIGN ASSISTANCE  
 10 ACT.—Section 256(b)(3) of the Foreign Assistance Act of  
 11 1961 (22 U.S.C. 2212(b)(3)) is amended by inserting  
 12 after “clients” the following: “, including women  
 13 microentrepreneurs,”.

14 **SEC. 304. INTERNATIONAL MILITARY EDUCATION AND**  
 15 **TRAINING.**

16 Section 541 of the Foreign Assistance Act of 1961  
 17 (22 U.S.C. 2347) is amended—

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

19 and

20 (2) by striking “rights.” and inserting “rights,  
 21 or (v) improve the protection of civilians, especially  
 22 women and children, including those who are refu-  
 23 gees or displaced persons.”.

1 **SEC. 305. SENSE OF CONGRESS REGARDING ACTIONS OF**  
2 **UNITED NATIONS PEACEKEEPERS.**

3 It is the sense of Congress that—

4 (1) the Secretary-General of the United Nations  
5 should strengthen the existing ability of the United  
6 Nations Department of Peacekeeping Operations to  
7 protect civilians, especially women and children,  
8 from sexual exploitation and abuse by personnel in  
9 peace operation missions by—

10 (A) directing the Department of Peace-  
11 keeping Operations to identify nongovernmental  
12 organizations and local community officials to  
13 receive and communicate to senior level mission  
14 officials credible reports from civilians of sexual  
15 exploitation and abuse;

16 (B) ensuring that there is a mechanism in  
17 place for all credible allegations of sexual ex-  
18 ploitation and abuse to be brought to the atten-  
19 tion of senior level mission officials in an expe-  
20 dited fashion;

21 (C) developing missions based rapid re-  
22 sponse teams to investigate allegations of sexual  
23 exploitation and abuse;

24 (D) improving informational programs for  
25 United Nations personnel on their responsibility

1 not to engage in acts of sexual exploitation and  
 2 abuse and the sanctions for such actions;

3 (E) identifying troop contributing coun-  
 4 tries that refuse to investigate allegations of  
 5 sexual exploitation and abuse by nationals serv-  
 6 ing in peacekeeping missions;

7 (F) permanently excluding individuals  
 8 found to have engaged in sexual abuse or ex-  
 9 ploitation, as well as troop contingent com-  
 10 manders and civilian managerial personnel  
 11 complicit in such behavior, from participating in  
 12 future United Nations peacekeeping missions;  
 13 and

14 (G) demanding that troop contributing  
 15 countries—

16 (i) thoroughly investigate cases in  
 17 which their nationals have been alleged to  
 18 have engaged in sexual abuse or exploi-  
 19 tation which on United Nations peace-  
 20 keeping missions; and

21 (ii) punish those found guilty of such  
 22 misconduct;

23 (2) troop contributing states should ensure that  
 24 their soldiers are properly trained on United Nations  
 25 guidelines regarding proper conduct towards civil-

1       ians, in particular those guidelines that address gen-  
 2       der-based violence, before participating in United  
 3       Nations peace operation missions;

4               (3) the United Nations should suspend payment  
 5       of peacekeeping funds to countries when there is  
 6       credible evidence of sexual exploitation and abuse by  
 7       troops of such countries that are participating in  
 8       peacekeeping operations, and the governments of  
 9       such countries are not investigating or punishing  
 10      such conduct; and

11              (4) the Secretary should consider a suspension  
 12      of United States military assistance to countries  
 13      that do not—

14                      (A) investigate allegations of sexual exploi-  
 15                      tation and abuse by troops participating in  
 16                      United Nations peacekeeping operations; or

17                      (B) hold perpetrators of such abuse and  
 18                      exploitation accountable.

19 **TITLE IV—PROTECTION OF VUL-**  
 20 **NERABLE POPULATIONS AF-**  
 21 **FECTED BY A HUMANITARIAN**  
 22 **EMERGENCY**

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

24       (a) PROGRAMS OF THE INTERNATIONAL BANK FOR  
 25 RECONSTRUCTION AND DEVELOPMENT.—The United

1 States Executive Director of the International Bank for  
 2 Reconstruction and Development should take steps to en-  
 3 sure that disarmament, demobilization, and reintegration  
 4 programs developed and funded by the International Bank  
 5 for Reconstruction and Development provide benefits to  
 6 former combatants that are comparable to the benefits  
 7 provided by such programs to other individuals.

8 (b) REPORT REGARDING PROGRAMS TO ASSIST CI-  
 9 VILIAN POLICE.—Not later than 180 days after the date  
 10 of enactment of this Act, the Secretary shall submit a re-  
 11 port to the appropriate congressional committees on all  
 12 current programs being conducted by the Department or  
 13 the Agency to assist foreign countries with the enforce-  
 14 ment of the laws of such countries that are designed to  
 15 protect women and children and improve accountability  
 16 for sexual exploitation and abuse.

17 **SEC. 402. PROTECTION ASSISTANCE.**

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

21 **“SEC. 135. ASSISTANCE FOR THE PROTECTION OF VULNER-**  
 22 **ABLE POPULATIONS DURING HUMANITARIAN**  
 23 **EMERGENCIES.**

24 “(a) AUTHORITY.—Notwithstanding any other provi-  
 25 sion of law, and subject to the limitations of subsection

1 (b), the President is authorized to provide assistance for  
2 programs, projects, and activities to promote the security  
3 of, provide equal access to basic services for, and safe-  
4 guard the legal and human rights of civilians, especially  
5 women and children, who are affected by a humanitarian  
6 emergency. Such assistance shall include programs—

7 “(1) to build the capacity of nongovernmental  
8 organizations to address the special protection needs  
9 of vulnerable populations, especially women and chil-  
10 dren, affected by a humanitarian emergency;

11 “(2) to support local and international non-  
12 governmental initiatives to prevent, detect, and re-  
13 port exploitation of children and sexual exploitation  
14 and abuse, including through the provision of train-  
15 ing humanitarian protection monitors for refugees  
16 and internally displaced persons;

17 “(3) to conduct protection and security assess-  
18 ments for refugees and internally displaced persons  
19 in camps or in communities for the purpose of im-  
20 proving the design and security of camps for refu-  
21 gees and internally displaced persons, with special  
22 emphasis on the security of women and children;

23 “(4) to provide, when practicable, education  
24 during a humanitarian emergency, including struc-

1       tured activities that create safe spaces for children,  
2       in particular girls;

3               “(5) to reintegrate and rehabilitate former com-  
4       batants and survivors of a humanitarian emergency,  
5       including through education, psychosocial assistance  
6       and trauma counseling, family and community re-  
7       insertion, medical assistance, and strengthening  
8       community systems to support sustained reintegra-  
9       tion;

10              “(6) to establish registries and clearinghouses  
11       to trace relatives and begin family reunification,  
12       with a specific focus on helping children find their  
13       families;

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

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

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

- 1       “(b) AVAILABILITY OF ASSISTANCE.—Amounts made
- 2 available to carry out this part and chapter 4 of part II
- 3 may be made available to carry out this section.”.

