

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.

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

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 Vulne-

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;

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

8 (A) adult sexual activity with children;

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

(E) withholding or obstructing access of children to food, shelter, medicine, and basic 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.

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).

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.

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.

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 RE-
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 ex-
20 pedited 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.”.

○