

111TH CONGRESS
2D SESSION

S. 3798

To authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum humane standards of health, sanitation, and safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2010

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

A BILL

To authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum humane standards of health, sanitation, and safety, 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 “Foreign Prison Condi-
5 tions Improvement Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Millions of incarcerated people in the world
2 suffer inhumane conditions in prisons and other de-
3 tention facilities that are overcrowded, unsanitary,
4 and unsafe to the point of endangering their lives.

5 (2) According to a 2009 International Centre
6 for Prison Studies report, there are an estimated
7 9,800,000 people held in penal institutions in the
8 world, with prison populations increasing in 71 per-
9 cent of the over 200 countries surveyed.

10 (3) Rates of malnutrition, disease, and death
11 among prisoners and other detainees far exceed
12 those of the general population, and medical treat-
13 ment for serious illness or injury is, in many in-
14 stances, non-existent or grossly inadequate.

15 (4) These conditions are compounded by severe
16 overcrowding in prisons and other detention facili-
17 ties. Excessive pre-trial detention and dysfunctional
18 justice systems frequently result in prisoners and
19 other detainees spending years in such conditions be-
20 fore their cases are adjudicated. In some countries,
21 such facilities are filled to capacity many times over
22 resulting in conditions so cramped that individual
23 prisoners cannot move without all doing so en
24 masse.

1 (5) Amnesty International's 2009 State of the
2 World's Human Rights Report documented wide-
3 spread inhumane prison conditions, including over-
4 crowding, inadequate food and water, no access to
5 hygiene products or medical care, juveniles detained
6 with adults, and denial of visits from family.

7 (6) Some governments fail to provide even the
8 most rudimentary sanitation in prisons and other
9 detention facilities, putting prisoners and other de-
10 tainees at even greater risk of easily preventable and
11 often life-threatening diseases. Toilets are few or
12 non-existent and human waste repositories often are
13 located among the general prison population, forcing
14 prisoners to eat, sleep, and live in grossly unsanitary
15 conditions.

16 (7) According to a 2009 report by the United
17 Nations Economic and Social Council's Commission
18 on Crime Prevention and Criminal Justice, former
19 prisoners are likely to spread diseases contracted in
20 prison to the local population.

21 (8) Some governments fail to permit prisoners
22 and other detainees reasonable exercise of religious
23 worship or contact with family members or other
24 visitors.

1 (9) According to the United States Commission
2 on International Religious Freedom's 2009 Annual
3 Report, religious prisoners have been confined to
4 overcrowded cells, exposed to extreme temperature
5 fluctuations, denied adequate food and medical care,
6 and denied access to clergy and religious literature.

7 (10) Inhumane conditions in prisons and other
8 detention facilities often exist in countries where re-
9 sources for law enforcement are limited and only a
10 small fraction of such resources are made available
11 for the operation and maintenance of prisons and
12 other detention facilities. Inadequate, misplaced, or
13 lost prison records often result in prisoners and de-
14 tainees being incarcerated indefinitely because of
15 never being tried or otherwise adjudicated, and being
16 held long after their sentences have expired thereby
17 further swelling prison populations. Allocating the
18 relatively modest resources necessary to provide for
19 the basic human needs of prisoners and other de-
20 tainees and to remediate the inhumane conditions
21 under which such prisoners are held is often a low
22 priority.

23 (11) The United States Government currently
24 provides significant amounts of assistance to coun-
25 tries whose governments operate prisons and other

1 detention facilities that, because of their inhumane
2 conditions, seriously jeopardize the lives of prisoners
3 and other detainees held under their authority.

4 (12) The Department of State's 2009 Country
5 Reports on Human Rights Practices reported prison
6 conditions as poor, inhumane, or life threatening in
7 more than 100 countries, all of which receive United
8 States assistance.

9 (13) The United States Government should use
10 its influence and resources to help ensure that gov-
11 ernments that receive United States assistance do
12 not operate prisons and other detention facilities
13 under inhumane conditions. The United States Gov-
14 ernment also should assist countries that are making
15 significant efforts to eliminate inhumane conditions
16 in prisons and other detention facilities.

17 (14) Eliminating inhumane conditions in for-
18 eign prisons and other detention facilities will
19 strengthen the rule of law, save lives, and enhance
20 the health and well-being of vulnerable people in
21 poor countries, and it will advance United States in-
22 terests.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Appropriations and
5 the Committee on Foreign Relations of the Sen-
6 ate; and

7 (B) the Committee on Appropriations and
8 the Committee on Foreign Affairs of the House
9 of Representatives.

10 (2) MINIMUM STANDARDS FOR THE ELIMI-
11 NATION OF INHUMANE CONDITIONS IN FOREIGN
12 PRISONS AND OTHER DETENTION FACILITIES.—The
13 term “minimum standards for the elimination of in-
14 humane conditions in prisons and other detention fa-
15 cilities” means, with respect to the operation or
16 maintenance of prisons and other detention facilities
17 in a foreign country that is a recipient of United
18 States assistance, the following:

19 (A) The number of inmates or detainees
20 held in a facility does not so exceed prison ca-
21 pacity such that per capita floor space is insuf-
22 ficient to allow for humane sleeping conditions
23 and reasonable physical movement.

1 (B) Human waste facilities are sanitary
2 and accessible, and human waste is disposed of
3 regularly and in a sanitary manner.

4 (C) The lighting, ventilation, temperature,
5 and physical construction of prisons and other
6 detention facilities do not seriously endanger
7 the health and safety of prisoners.

8 (D) Prisoners and other detainees have ac-
9 cess to adequate food and potable drinking
10 water.

11 (E) Prisoners and other detainees have ac-
12 cess to essential and emergency medical care.

13 (F) To the maximum extent practicable,
14 prisoners and other detainees are allowed reli-
15 gious observance and materials, and contact
16 with clergy, family, and friends, by both cor-
17 respondence and personal visits.

18 (3) UNITED STATES ASSISTANCE.—The term
19 “United States assistance” means any non-humani-
20 tarian assistance furnished to carry out the provi-
21 sions of the Foreign Assistance Act of 1961 (22
22 U.S.C. 2151 et seq.), the Arms Export Control Act
23 (22 U.S.C. 2751 et seq.), or the Millennium Chal-
24 lenge Act of 2003 (22 U.S.C. 7701 et seq.).

1 **SEC. 4. ACTIONS TO HELP ELIMINATE INHUMANE CONDI-**
2 **TIONS IN FOREIGN PRISONS AND OTHER DE-**
3 **TENTION FACILITIES.**

4 (a) ANNUAL REPORT TO CONGRESS.—

5 (1) ANNUAL REPORT.—Not later than 180 days
6 after the date of the enactment of this Act, and an-
7 nually thereafter, the Secretary of State shall submit
8 to the appropriate congressional committees a report
9 describing the conditions in prisons and other deten-
10 tion facilities in countries receiving United States
11 assistance. The report shall include a list of those
12 countries, if any, receiving United States assistance,
13 whose governments—

14 (A) do not meet minimum standards for
15 the elimination of inhumane conditions in pris-
16 ons and other detention facilities but are mak-
17 ing significant efforts to comply; and

18 (B) do not meet such standards and are
19 not making significant efforts to comply.

20 (2) SIGNIFICANT EFFORTS.—In making deter-
21 minations under paragraph (1) as to whether the
22 government of a country is making significant ef-
23 forts to meet minimum standards for the elimination
24 of inhumane conditions in prisons and other deten-
25 tion facilities, the Secretary of State shall consider

1 the extent to which the government of the country
2 is—

3 (A) regularly monitoring the conditions of
4 prisons and other detention facilities under its
5 authority, including permitting prisoners and
6 other detainees to submit complaints without
7 censorship, cooperating with international ex-
8 perts on eliminating and monitoring inhumane
9 conditions in prisons and other detention facili-
10 ties, promptly investigating credible allegations
11 of inhumane conditions, and making informa-
12 tion concerning conditions and investigations
13 available to the public and the Secretary of
14 State;

15 (B) taking effective steps to eliminate in-
16 humane conditions in prisons and other deten-
17 tion facilities, which may include, among other
18 steps, appointing ombudsmen to serve on behalf
19 of prisoners and other detainees, providing al-
20 ternatives to incarceration for nonviolent of-
21 fenders in order to alleviate inhumane over-
22 crowding, addressing the status and cir-
23 cumstances of confinement of juveniles, improv-
24 ing pretrial detention practices, and imple-
25 menting bail and recordkeeping procedures to

1 reduce pretrial detention periods and to ensure
2 that prisoners do not serve beyond the max-
3 imum sentence for the charged offense; and

4 (C) increasing the amount of government
5 resources to eliminate inhumane conditions in
6 prisons and other detention facilities.

7 (3) USE OF COUNTRY REPORTS.—The report
8 required under paragraph (1) may draw from the
9 discussion of prison conditions contained in the
10 Country Reports on Human Rights Practices re-
11 quired under sections 116(d) and 502B(b) of the
12 Foreign Assistance Act of 1961 (22 U.S.C.
13 2151n(d) and 2304(b)), but shall for each country
14 provide a detailed and up to date report covering,
15 whenever possible, each of the issues set forth in sec-
16 tion 3(2).

17 (4) PUBLICATION.—The report required under
18 paragraph (1) shall be made available to the public,
19 including on a publicly available website of the De-
20 partment of State.

21 (b) ASSISTANCE FOR GOVERNMENTS MAKING SIG-
22 NIFICANT EFFORTS TO ELIMINATE INHUMANE CONDI-
23 TIONS IN PRISONS AND OTHER DETENTION FACILI-
24 TIES.—

1 (1) IN GENERAL.—The Secretary of State and
2 the Administrator of the United States Agency for
3 International Development should furnish assistance
4 for the purpose of helping to eliminate inhumane
5 conditions in prisons and other detention facilities to
6 countries whose governments do not meet minimum
7 standards for the elimination of inhumane conditions
8 in prisons and other detention facilities but are mak-
9 ing significant efforts to comply.

10 (2) INAPPLICABILITY OF FOREIGN ASSISTANCE
11 ACT PROHIBITION.—The prohibitions under section
12 660 of the Foreign Assistance Act of 1961 (22
13 U.S.C. 2420) shall not be applicable to assistance
14 furnished to carry out the provisions of paragraph
15 (1).

16 (3) GRANT FUNDS.—Grants made under this
17 subsection shall be designated and used exclusively
18 to help eliminate inhumane conditions in the country
19 receiving the grant, but may not include the con-
20 struction of new prisons. Funds made available
21 under this section shall be subject to the regular no-
22 tification procedures of the Committees on Appro-
23 priations of the Senate and the House of Represent-
24 atives.

1 (c) NEGOTIATIONS WITH GOVERNMENTS NOT MAK-
2 ING SIGNIFICANT EFFORTS TO ELIMINATE INHUMANE
3 CONDITIONS IN PRISONS AND OTHER DETENTION FA-
4 CILITIES.—

5 (1) NEGOTIATIONS.—In the case of a govern-
6 ment receiving United States assistance that is listed
7 in the report submitted under subsection (a)(1)(B)
8 as not making significant efforts to eliminate inhu-
9 mane conditions in prisons and other detention fa-
10 cilities, the Secretary of State shall, not later than
11 90 days after the date such report is submitted,
12 enter into negotiations with such government to
13 achieve the purposes of this Act.

14 (2) ACTIONS REGARDING ASSISTANCE AND
15 VISAS.—

16 (A) ASSISTANCE.—The Secretary of State
17 and the Administrator of the United States
18 Agency for International Development may re-
19 structure, reprogram, or reduce United States
20 assistance for a government described in para-
21 graph (1) to achieve the purposes of this Act.

22 (B) VISAS.—The Secretary of State may
23 issue or deny visas for travel to the United
24 States by officials of a government described in

1 paragraph (1) to achieve the purposes of this
2 Act.

3 (3) REPORT.—Not later than 180 days after
4 the beginning of the negotiations required under
5 paragraph (1), the Secretary shall submit to the ap-
6 propriate congressional committees a report describ-
7 ing the actions taken or agreed to be taken, if any,
8 during such negotiations by the government of that
9 country that constitute significant efforts to elimi-
10 nate inhumane conditions in prisons and other de-
11 tention facilities and the actions taken, or that will
12 be taken, by the United States pursuant to para-
13 graph (2) regarding assistance and visas. If the Sec-
14 retary determines that United States assistance to
15 such government should not be restructured, repro-
16 grammed, or reduced, or that visas should be issued
17 or denied to officials of such government, the report
18 shall contain a detailed explanation for that decision.

19 **SEC. 5. TRAINING FOR FOREIGN SERVICE OFFICERS.**

20 Section 708 of the Foreign Service Act of 1980 (22
21 U.S.C. 4028) is amended by adding at the end the fol-
22 lowing new subsection:

23 “(d) The Secretary of State, with the assistance of
24 other relevant officials, shall establish as part of the stand-
25 ard training provided for chiefs of mission, deputy chiefs

1 of mission, and other officers of the Service who are or
2 will be involved in the assessment of conditions in foreign
3 prisons and other detention facilities or the drafting of the
4 annual Country Reports on Human Rights Practices, in-
5 struction on matters related to conditions in such prisons
6 and other detention facilities and the substance of the
7 Foreign Prison Conditions Improvement Act of 2010.”.

8 **SEC. 6. NEW POSITION TO MONITOR FOREIGN PRISON CON-**
9 **DITIONS.**

10 The Secretary of State shall establish, within the Bu-
11 reau of Democracy, Human Rights, and Labor, a new full-
12 time equivalent Deputy Assistant Secretary level position
13 which shall have responsibility for advancing the purposes
14 of this Act.

15 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

16 The Secretary of State may use funds available for
17 any fiscal year to carry out the provisions of part I and
18 chapter 4 of part II of the Foreign Assistance Act of 1961
19 (22 U.S.C. 2151 et seq. and 22 U.S.C. 2346 et seq.) and
20 the Support for East European Democracy (SEED) Act
21 of 1989 (22 U.S.C. 5401 et seq.) to carry out the provi-
22 sions of section 4(b) and section 6 of this Act and section
23 708(d) of the Foreign Service Act of 1980, as added by
24 section 5.

1 **SEC. 8. RULE OF CONSTRUCTION.**

2 For purposes of this Act—

3 (1) the prohibitions of section 104(f) of the
4 Foreign Assistance Act of 1961 (22 U.S.C.
5 2151b(f)) shall apply and shall not be construed to
6 be altered by this Act; and

7 (2) the minimum standards for foreign prisons
8 and other detention facilities shall not be determined
9 based on the provision of services for which funding
10 is prohibited by that section.

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