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

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

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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Upholding Human Rights Abroad Act”.

1
SEC. 2. CONSIDERATION OF HUMAN RIGHTS RECORDS OF
RECIPIENTS OF SUPPORT OF SPECIAL OPERATIONS FOR IRREGULAR WARFARE.

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

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

“(F) The processes through which the Secretary shall, in consultation with the Secretary of State, ensure that prior to a decision to provide support to individual members or units of foreign forces, irregular forces, or groups in a foreign country full consideration is given to any credible information available to the Department of State relating to gross violations of human rights by such individuals or units.”;

(2) in subsection (g)(2)—

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

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

“(G) A description of the human rights record of the recipient, including for purposes of section 362 of this title, and any relevant attempts by such recipient to remedy such record.”;
(3) in subsection (i)(3), by adding at the end
the following new subparagraph:

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

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

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

“(i) PROHIBITION ON USE OF FUNDS.—

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

“(2) WAIVER AUTHORITY.—The Secretary of
Defense, after consultation with the Secretary of
State, may waive the prohibition under paragraph
(1) if the Secretary determines that the waiver is re-
quired by extraordinary circumstances.
“(3) Exception.—The prohibition under paragraph (1) shall not apply with respect to individual members or units of such foreign forces, irregular forces, or groups if the Secretary of Defense, after consultation with the Secretary of State, determines that—

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

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

SEC. 3. CONSIDERATION OF HUMAN RIGHTS RECORDS OF RECIPIENTS OF SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.

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

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

“(D) The processes through which the Secretary, in consultation with the Secretary of State, shall ensure that, prior to a decision to provide any support to foreign forces, irregular forces, groups, or individuals, full consideration 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 Con-
ventions of 1949, including—”; and

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

“(i) vetting units receiving such sup-
port 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 viola-
tions.”; and

(C) by adding at the end the following new
subparagraph:
“(J) A description of the human rights record of the recipient, including for purposes of section 362 of this title, and any relevant attempts by such recipient to remedy such record.”;

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

“(I) An assessment of how support provided under this section advances United States national security priorities and aligns with other United States Government efforts to address underlying risk factors of terrorism and violent extremism, including repression, human rights abuses, and corruption.”; and

(4) by adding at the end the following new subsections:

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

“(2) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition
under paragraph (1) if the Secretary determines that the waiver is required by extraordinary circumstances.

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

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

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

“(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to constitute a specific statutory authorization for any of the following:

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

“(2) The introduction of United States armed forces, within the meaning of section 5(b) of the War Powers Resolution, into hostilities or into situations wherein hostilities are clearly indicated by the circumstances.

“(3) The provision of support to regular forces, irregular forces, groups, or individuals for the conduct of operations that United States Special Oper-
ations Forces are not otherwise legally authorized to conduct themselves.

“(4) The conduct or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.”