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## Human Rights Vetting: Nigeria and Beyond

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House Subcommittee on Africa, Global Health,  
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Excerpts of remarks at congressional hearing  
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Boko Haram has significantly accelerated its acts of mass murder and abduction in Nigeria, requiring a more robust and effective response from the Government of Nigeria and friends like the United States.

According to a recent report by the Internal Displaced Monitoring Centre and the Norwegian Refugee Council, there are 3.3 million Nigerian Internally Displaced Persons (IDPs) – more than every other country in the world except Syria and Columbia. The UN High Commission for Refugees estimates that there are now more than 10,000 Nigerian refugees in Niger and Cameroon. According to the International Rescue Committee (IRC), due to credible fears of abduction as many as one thousand refugees a week—80% women and girls—are fleeing to the nearby country of Niger from Nigeria’s Borno State alone.

Former U.S. Ambassador to Nigeria Robin Renee Sanders testified before this subcommittee on June 11<sup>th</sup> that the fight against Boko Haram will be a long war, but that Nigerian military and security forces are insufficiently trained and ill-equipped to meet the challenge of savage, relentless violence. Just this morning, she told a Capitol Hill forum on Boko Haram that in the vacuum created by delays in training Nigerian forces, vigilante groups have been formed and that now are themselves committing human rights abuses.

According to the current State Department human rights report, Boko Haram is responsible for the most heinous human rights violations in Nigeria, but that same report tells us elements in the Nigerian armed forces and security apparatus have committed serious human rights abuses with little or no accountability.

Even in the face of serious threats to Nigerian and regional security, the U.S. government, which has a longstanding alliance with the Federal Republic of Nigeria, has experienced obstacles in providing the security assistance necessary to help our ally address this dire emergency. Laws our Congress created to prevent our alliance with rogue military and security forces are being blamed for making our assistance more difficult to provide. But is the law the problem or rather is it how the law is being applied? Or is the U.S. not

attempting to train sufficient numbers of human rights-vetted Nigerian forces? What is the targeted number of trained Nigerians? For this year – and the future – how many trainers have committed to this task?

I believe the Leahy laws are necessary components of a prudent human rights policy, and today's hearing is in large part intended to find out whether there are legitimate obstacles to their implementation.

At the outset, I would like to make clear that I have long supported human rights vetting to allow for training of those who pass muster. One example of many: as chair of the then-Subcommittee on International Operations and Human Rights, I chaired a hearing on Indonesia on May 7, 1998 featuring Pius Lustrianang, who was tortured by members of the Indonesian military amid deep concerns that those involved may have been trained under our International Military Education and Training Program or IMET program. In like manner, I and others were concerned that U.S.-trained Indonesian troops may have been complicit in slaughtering people in East Timor.

On a fact-finding mission to Jakarta, I sought – but never received – the names of specific individuals, trained by the U.S. including members of the elite Kopassus unit, who slaughtered dissidents as the Suharto government fell.

Similar training concerns were expressed by me and others concerning the Joint Combined Exchange Training or JCET program and the Rwandan Patriotic Army during the period of time when the RPA was engaged in the killing of refugees in Zaire, now the Democratic Republic of the Congo.

Moreover, in 1999, Congress passed my legislation (part of PL 106-113) that suspended all U.S. federal law enforcement support and exchanges with the British police force in Northern Ireland, the Royal Ulster constabulary, until new human rights training programs were implemented there and until programs were established to “vet out” any RUC officers who engaged in human rights abuses from benefiting from American training and preparation.

The “vetting” legislation worked. Exchanges and training at FBI facilities for RUC officers were suspended for more than two years until President Bush certified that the British established a system to vet and block anyone who committed or condoned human rights violations from the program.

According to the current Quadrennial Defense Review, we are in a time of increased danger from terrorist forces in foreign nations while shrinking budgets force our military and security forces to become smaller and leaner.

The QDR states that: “The Department of Defense will rebalance our counterterrorism efforts toward greater emphasis on building partnership capacity, especially in fragile states.” One manifestation of that developing policy is the president’s proposal to allocate \$5 billion to a new Counterterrorism Partnership Fund (CTPF).

I have visited Nigeria twice in the past nine months alone and have chaired several hearings on security in Nigeria in the past two Congresses alone. Just last month, I met with U.S. and Nigerian government officials to find out why our security assistance has been so difficult to provide when the need is so increasingly great. Is it the process or has the Administration not sought to seriously expand training?

You will notice that the Department of State is not testifying today. That is partly because Assistant Secretary of State for Democracy, Human Rights and Labor Tom Malinowski was unavailable when we invited him to testify. But it may also be partly due to the abundance of caution surrounding the discussion of difficulties experienced in implementing the Leahy laws.

When I was in Abuja last month, I asked our embassy to provide me with their recommendations for making the Leahy vetting more effective so that we can provide the much-needed aid to the Nigerian government and end the increasing slaughter and kidnapping of innocents, such as the Chibok school girls. Despite initial assurances of cooperation, I have yet to receive the information. I understand that not everything that can be said publicly should be said. Nevertheless, these laws were created in the light of day and so should our efforts to implement them be clear and transparent to all concerned.

We refer to Leahy laws because there are actually two: one for the Department of State and one for the Department of Defense. Together, they cover material assistance, including equipment, and training. These laws require investigation of allegations of human rights violations by military and security forces, including police. These investigations, performed mostly by the Department of State, require details on not only individuals, but also military units. Failure to obtain such information as name and date and place of birth can place an investigation in limbo. National government officials may consider such information an invasion of their sovereignty, but to avoid aiding and abetting rogue elements, we must know if a perpetrator of abuse is a man from Jos or a man with the same name from Kano, for example.

If individuals or elements of a larger force are guilty of human rights violations, entire battalions or regiments can be tainted unless the guilty are identified and separated out from those forces that are innocent of such crimes. The Leahy laws allow for the re-creation of "clean" units. On the surface, it would seem that such a policy is clear and possible to implement. Unfortunately, it seems not to be so simple in practice.

Despite the fact that Sarah Sewall, Undersecretary of State for Civilian Security, Democracy and Human Rights told the Foreign Affairs Committee on May 21<sup>st</sup> in this very room that at least half the Nigerian military and security forces are clear of allegations of human rights violations, we continue to be told that Leahy vetting is at least slowing the provision of security assistance. According to congressional testimony by Principal Deputy Assistant Secretary of State for African Affairs Robert Jackson, there are an estimated 187 Nigerian military units and 173 police units that have been cleared, but very few Nigerian units have been trained or are in training today. Why?

Our government provides approximately \$15 billion in security assistance worldwide each year, involving 158 countries. Yet there are only 13 headquarters staff people handling Leahy vetting, in addition to embassy personnel. Is this a sign that these laws are not being taken seriously enough by our own government?

In the current Fiscal Year, the Department of State is receiving \$2.75 million to conduct Leahy vetting, which represents only two-one-hundredths of a percent of all military aid. Is insufficient funding for such vetting the major problem?

Of the 158 countries we provide with security assistance each year, 46 had some aid withheld in 2011. The typical percentage of global Leahy vettings that don't meet requirements is at most 1-2 percent with just under 10% suspended. In Fiscal Year 2012,

according to Congressional Research Service expert Lauren Ploch “the State Department vetted 1,377 members of the Nigerian security forces – of that figure, almost 85% were cleared to receive assistance, with 15% were rejected or suspended.”

In Columbia, the government rejected the requirements of the Leahy laws before changing their minds and accepting the process. Now there reportedly are more high-ranking Columbian military officers behind bars than in any country other than Argentina, and Columbia is cited as a Leahy law success. In Nigeria, there have been no disciplinary actions against Nigerian military for scorched earth assaults on populations, and few high-ranking Nigerian military officers have been held accountable for human rights violations.

We are here today to examine the questions these facts raise, and our witnesses have been asked to walk us through the process, to tell us what works and what doesn’t work and to suggest ways to make this process more effective.

In more than three decades of promoting human rights adherence in Congress, I have seen far too much brutality and indiscipline among military and security forces that are charged with establishing the peace and protecting their people. The Leahy laws are intended to prevent our government from supporting such behavior, but if these laws are not implemented properly, they cannot achieve the goals for which they were created. No law is perfect, and we must never stop trying to perfect the laws we create – especially when they are meant to be both practical and aspirational.