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**Before**

**The House Foreign Affairs Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**

**Hearing: “Human Rights Vetting: Nigeria and Beyond”  
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Chairman Smith, Ranking Member Bass, and distinguished Members of the subcommittee, thank you for inviting the Congressional Research Service to testify today. As requested, I will focus my remarks today on the so-called “Leahy laws,” which prohibit the provision of U.S. security assistance to foreign security force units that have been credibly implicated in gross violations of human rights, and on the laws’ application in the context of U.S.-Nigeria security cooperation.<sup>1</sup>

Forty years ago, Congress expressed the position in legislation that the United States should condition security assistance to foreign countries based on their human rights records, and in 1976, Congress passed legislation declaring that promoting increased observance of human rights was a principal goal of U.S. foreign policy.<sup>2</sup> Decades later, Congress continues to deliberate on how best to achieve this aim amidst other foreign policy and national security objectives, including notably, countering the threats of terrorism and violent extremism, weapons proliferation, and regional instability.

### **The Leahy Laws**

The State Department evaluates, or “vets,” foreign security force units prior to providing U.S. assistance based on policy concerns and to comply with two legal provisions known collectively as the Leahy laws for their original sponsor, Senator Patrick Leahy. The first

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<sup>1</sup> This statement draws from various CRS products, including CRS Reports R43361, “*Leahy Law*” *Human Rights Provisions and Security Assistance: Issue Overview*, by Nina Serafino, June Beittel, Lauren Ploch Blanchard, and Liana Rosen; and RL33964, *Nigeria: Current Issues and U.S. Policy*; and R43558, *Boko Haram: Frequently Asked Questions*, both by Lauren Ploch Blanchard.

<sup>2</sup> Section 502B(a)(1) of the Foreign Assistance Act of 1961 (P.L.87-195), as amended in 1974 by P.L.93-559, and amended by Section 301(a) of the International Security Assistance and Arms Export Control Act (P.L.94-329) in 1976.

legal provision, which applies to programs funded through State Department and Foreign Operations appropriations, dates back to 1997 and was codified in 2007 in Section 620M of the Foreign Assistance Act of 1961, as amended (hereafter FAA; 22 U.S.C. 2378d).<sup>3</sup> The second legal provision, which applies to security assistance funded through Department of Defense (DOD) appropriations, has appeared in annual defense appropriations acts since 1998. Both provisions have been modified over time, as have the State Department's procedures for human rights vetting.

### *Legislative Background*

The Leahy provisions are just two of the many laws that Congress has enacted to promote respect for human rights and to protect the U.S. image abroad by distancing the United States from corrupt or brutal foreign governments and security forces. A major precursor to the Leahy laws was a 1974 legislative provision, codified as Section 502B of the FAA, which expressed the sense of Congress that the President should “substantially reduce or terminate” security assistance to any government found to have a “consistent pattern” of gross human rights violations.<sup>4</sup> Section 502B was amended in 1976 and strengthened to prohibit such assistance unless “extraordinary circumstances” warrant its provision.<sup>5</sup> Various other country-specific legal provisions related to security assistance and human rights concerns predate the Leahy laws. Congress has continued to enact new restrictions on security assistance to certain countries through provisions in annual appropriations and country-specific or issue-specific authorizations.

The human rights vetting process required under Section 620M of the FAA has its origins in a section of the FY1997 foreign aid appropriations measure (P.L.104-208) that restricted the obligation of State Department counter-narcotics funds to foreign security force units for which the Secretary of State had “credible evidence” of serious abuses. That provision was expanded the following year to cover all forms of security assistance appropriated in the FY1998 foreign operations bill (P.L. 105-118).<sup>6</sup> Thereafter, the provision appeared in annual foreign operations appropriations until it was codified in 2007 (P.L. 110-161, 22 U.S.C. 2378d).

In 1998, Congress placed a similar condition in the FY1999 defense appropriations bill, to prohibit the use of DOD funds to train foreign security force units implicated in gross

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<sup>3</sup> The FAA serves as the overarching legal authorization for U.S. foreign assistance policies and programs. The FAA Leahy provision applies to assistance authorized by the FAA and the Arms Export Control Act, as amended (AECA, P.L. 90-629).

<sup>4</sup> Section 502B was originally added to the FAA in the Foreign Assistance Act of 1974 (P.L.93-559) and amended in 1976 under P.L. 94-329. Another early congressional effort to legislate on human rights and military assistance was Section 32 of the Foreign Assistance Act of 1973.

<sup>5</sup> State Department officials indicate that the Section 502B prohibition has rarely, if ever, been invoked, because it is viewed as ambiguous.

<sup>6</sup> Congress passed the FY1998 provision in spite of concerns expressed by some Members of the House of Representatives over its possible impact on Colombia's drug interdiction efforts. An early test of the expanded provision was a State Department decision in December 1998 to reject a request for a U.S. loan guarantee by the U.S. Export-Import Bank for armored vehicles for certain units of the Turkish police force, based on human rights concerns. It is not clear whether the Clinton Administration at the time determined that such a loan would be a violation of the law, or whether the rejection was undertaken for policy reasons and/or in anticipation of congressional opposition. See Dana Priest, “New Human Rights Law Triggers Policy Debate,” *Washington Post*, December 31, 1998.

human rights violations. Unlike the foreign aid provision, which applied to all forms of assistance (unless exempted by legal authority permitting such assistance “notwithstanding” any other provision of law, as exists for several international security assistance accounts), the DOD provision initially applied specifically to training, but was expanded in the FY2014 defense appropriations bill (P.L. 113-76) to also include equipment and “other assistance” to foreign security force units.

The State Department and DOD Leahy provisions are similar, but not identical, and in recent years, legislation has brought the language in the two provisions closer together.<sup>7</sup> Some differences remain: in the standards for the remediation of units “tainted” (determined ineligible for assistance) by allegations of gross human rights violations; in the FAA provision’s requirement of a “duty to inform” foreign governments of the basis for withholding assistance; and in the exceptions and existence of a waiver authority in the DOD provision.<sup>8</sup> The FAA Leahy provision allows no exception from the prohibition of assistance except through the credible remediation of the tainted unit (though aid could be made available through foreign operations appropriations and authorization measures framed as “notwithstanding” provisions), while the DOD provision includes exceptions for equipment or other assistance “necessary to assist in disaster relief operations or other humanitarian or national emergencies.” The DOD provision also allows the Secretary of Defense to waive the prohibition in “extraordinary circumstances.” While that term is not defined in law, DOD officials indicate that a waiver has never been issued, based on an understanding with congressional Appropriators that the bar for waiving the vetting requirement would be very high.<sup>9</sup> Despite these differences in the two laws, in practice, DOD and the State Department generally implement the Leahy laws similarly.

### *Implementation: The Vetting Process<sup>10</sup>*

Congress has vested the State Department’s Bureau for Democracy, Human Rights, and Labor (DRL) with responsibility for creating and promoting U.S. government human rights policies. DRL prepares the State Department’s annual country reports on human

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<sup>7</sup> Congress amended the FAA Leahy provision in 2011 (P.L. 112-74), aligning it more closely with the DOD provision by changing the threshold for the prohibition from plural “gross violations” to a singular “gross violation” of human rights, changing the standard of proof from “credible evidence” to “credible information,” and modifying the standard to resume aid by requiring the foreign government to take “effective steps” rather than “effective measures” to bring responsible individuals to justice.

<sup>8</sup> The DOD remediation standard requires that “all necessary corrective steps have been taken,” while the FAA provision requires that the relevant government be “taking effective steps to bring the responsible members of the security forces unit to justice.” Neither remediation standard is defined further in law, although the conference report with P.L. 105-118 explains that the intent of the FAA language is that there be “a credible investigation and that the individuals involved face appropriate disciplinary action or impartial prosecution in accordance with local law.” The State Department recently issued new internal policy guidance on the criteria for remediation. The FAA “duty to inform” provision requires the Secretary of State to inform a government of the basis for withholding assistance and to help that government, to the extent practicable, take effective measures to bring the responsible individuals to justice.

<sup>9</sup> Communications between CRS and both Appropriators and DOD, November and December 2013.

<sup>10</sup> For more information on the implementation of the Leahy laws, see CRS Report R43361, “Leahy Law” Human Rights Provisions and Security Assistance: Issue Overview and Government Accountability Office (GAO), *Human Rights: Additional Guidance, Monitoring, and Training Could Improve Implementation of the Leahy Laws*, GAO-13-866, September 2013.

rights practices (as required under Section 502B of the FAA), and it is the lead bureau for managing human rights vetting (a.k.a. “Leahy vetting”).

Leahy vetting is a multi-stage process that begins in U.S. embassies abroad and concludes at State Department headquarters. During the process, the names of potential candidates for U.S. assistance are checked against a variety of sources for “derogatory information.”<sup>11</sup> The credibility of this information is evaluated on a case-by-case basis and need not meet the standard of evidence required in a U.S. court of law. Both Leahy laws state that assistance should be denied to *units* credibly alleged to have committed gross abuses, and Appropriators have clarified that, even in cases where training is provided on an individual basis, the individual’s unit must be vetted as well. In 2010, the State Department began using a dedicated online database system known as INVEST (International Vetting and Security Tracking), facilitating a major increase in the number of individuals and units vetted. Of the more than 330,000 individuals/units vetted globally in the past two years, State Department officials report that the process has resulted in approval for more than 90%, ending in denial for fewer than 1%, and a suspension for less than 9%.<sup>12</sup>

### *Policy Tensions*

Growing DOD emphasis on the potential strategic value of partnering with foreign militaries to address transnational threats such as terrorism has brought increased attention to the application of the Leahy laws from U.S. military officials and from some Members of Congress. Some military commanders have implied that in some cases the laws have complicated their ability to build the counterterrorism and counternarcotics capacities of foreign partners. In March 2013, the commander of U.S. Special Operations Command (SOCOM), Admiral William McRaven, stated in congressional testimony that while he supported the vetting process, it had “restricted us in a number of countries...in our ability to train units that we think need to be trained.”<sup>13</sup> In subsequent testimony he indicated that there were efforts underway to improve the process, particularly on assessing the efforts of a foreign government to bring abusive forces to justice so that “tainted” units might be deemed eligible for assistance.<sup>14</sup> Others have argued that U.S. training could improve the behavior of abusive forces by imparting U.S. values and respect for human rights and the rule of law.<sup>15</sup> Many in the human rights community counter that the expansion of DOD “partner capacity building” programs around the

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<sup>11</sup> Information on the process is available at <http://www.humanrights.gov/2013/07/09/an-overview-of-the-leahy-vetting-process/>. Section 502B of the FAA mandates that consideration be given to the relevant findings of appropriate international groups, including non-governmental organizations.

<sup>12</sup> A suspension occurs when the host nation or US embassy fails to provide sufficient identifying information or when there are serious questions about a unit that are deemed to require further investigation/consideration.

<sup>13</sup> House Armed Services Committee, hearing to receive testimony on U.S. Central Command and U.S. Special Operations Command in Review of the FY2014 Defense Authorization Request, March 5, 2013.

<sup>14</sup> House Armed Services Subcommittee on Intelligence, Emerging Threats and Capabilities, hearing on FY2014 Defense Authorization Request as it relates to U.S. Special Operations Command and U.S. Special Operations Forces, April 17, 2014.

<sup>15</sup> Eric Schmitt, “Military Says Law Barring U.S. Aid to Rights Violators Hurts Training Mission,” *New York Times*, June 21, 2013.

world warrants greater scrutiny than ever to ensure that U.S. assistance does not support foreign units implicated in serious abuses.

Attention to the Leahy laws may intensify as DOD and the State Department determine what effect the new, broader DOD Leahy provision contained in P.L. 113-76, which now applies to all DOD “assistance,” will have on U.S. security cooperation with partner nations. The provision also may have implications for the implementation of the vetting process itself, as it is likely to add a considerable workload to the existing system. The added workload may raise concerns from those who manage the day-to-day relations with foreign governments, i.e., those who manage security cooperation at U.S. embassies, about longer administrative delays in approving candidates for planned activities.

As outlined in the 2014 Quadrennial Defense Review (QDR), DOD is rebalancing its counterterrorism efforts toward a greater emphasis on building the capacity of foreign partners, and the proposed \$5 billion Counterterrorism Partnerships Fund (CTPF) in the Administration’s FY2015 Overseas Contingency Operations (OCO) request might significantly expand DOD security assistance-type activities, with possible implications for human rights vetting.<sup>16</sup> The Administration’s proposed statutory language for the CTPF would allow DOD to obligate funding “notwithstanding any limitation in a provision of law that would otherwise restrict the amount or recipients of such support or assistance,” contingent on notification to Congress that it is in the national security interest to do so.<sup>17</sup>

Despite concerns such as those raised by Admiral McRaven, Congress expanded the scope of the DOD Leahy provision to include not just training, but all DOD assistance in P.L. 113-76. The same language is repeated in the House version of the FY2015 DOD Appropriations Act, H.R. 4870. The Senate Armed Services Committee has proposed to codify the broadened provision in its version of the FY2015 National Defense Authorization Act, S. 2410.<sup>18</sup> The bill would define “other assistance” as that which has as its “primary purpose” building the capacity of a foreign security force.

While there do not appear to have been any major recent legislative efforts to roll back the Leahy provisions, questions posed by this committee and others indicate that U.S. government perspectives on the laws vary.<sup>19</sup> National Security Advisor Susan Rice alluded to debates within the executive branch surrounding human rights laws in remarks to human rights advocates in late 2013, stating,

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<sup>16</sup> The 2014 QDR states, “The ability to project forces to combat terrorism in places as far away as Yemen, Afghanistan, and Mali – and to build capacity to help partners counter terrorism and counter the proliferation of weapons of mass destruction (WMD) – reduces the likelihood that these threats could find their way to U.S. shores.” For concerns about the CTPF and human rights vetting, see, e.g., “U.S. Should Aid Those Who Fight Terror, Not Abet Human Rights Abuses,” *Washington Post*, July 7, 2014.

<sup>17</sup> White House, FY2015 Budget Amendments for the Department of Defense and the Department of State and Other International Programs to Fund Overseas Contingency Operations, June 26, 2014.

<sup>18</sup> The relevant language in S. 2410 is the same as that in P.L. 113-76, but with an added exception in the event that the assistance is necessary “to conduct human rights training of foreign security forces.”

<sup>19</sup> See, e.g., questions raised in House Armed Services Committee, *The Proposed FY2014 Defense Authorization as it Relates to U.S. Central Command and U.S. Special Operations*, March 6, 2013. See also, Emily Cadei, “Foreign Militaries, Domestic Tension,” *CQ Weekly*, December 16, 2013.

We sometimes face painful dilemmas when the immediate need to defend our national security clashes with our fundamental commitment to democracy and human rights. Let's be honest: at times, as a result, we do business with governments that do not respect the rights we hold most dear....I will not pretend that some short-term tradeoffs do not exist....the fact is: American foreign policy must sometimes strike a difficult balance—not between our values and interests, because these almost invariably converge with time, but more often between our short and long-term imperatives.<sup>20</sup>

As recent congressional hearings have highlighted, the U.S. government currently is seeking to find that “difficult balance” in Nigeria, where security forces abuses in the context of operations to counter one of the world’s deadliest terrorist groups, Boko Haram, have complicated U.S. efforts to pursue greater counterterrorism cooperation, despite shared concerns about Boko Haram and its ties to transnational terrorist groups.

### **The Nigerian Context**

U.S. security assistance to Nigeria has been constrained both by law and by policy concerns, and the security relationship also has been hampered at times by a lack of cooperation from Nigerian officials and by systemic problems in the Nigerian military. Political and human rights concerns have been a prominent factor in shaping U.S.-Nigeria relations for decades. The country was ruled by the military for much of the four decades after independence, and U.S. sanctions—some imposed under an executive order and others consistent with appropriations legislation—prohibited security assistance to Nigeria for most of the 1990s.<sup>21</sup>

The bilateral relationship has improved significantly since Nigeria’s transition to civilian rule in 1999, although State Department human rights reports have continued to highlight serious human rights violations by the Nigerian security forces in every year since the transition. These violations include politically motivated and extrajudicial killings, excessive use of force, and torture. The summary execution of suspects by joint security force operations against both Niger Delta militants in the south and Boko Haram in the northeast has been a common theme in State Department reporting. There is little, if any, evidence to indicate that the government has held those responsible for abuses accountable for their actions.<sup>22</sup>

Nigerian security force abuses, particularly those committed in the northeast in the context of operations to counter Boko Haram, have been documented by journalists, human rights advocates, and others, including foreign governments like the United States, among others.<sup>23</sup> This derogatory information, according to the State Department,

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<sup>20</sup> Remarks by National Security Advisor Susan E. Rice, “Human Rights: Advancing American Interests and Values,” Human Rights First Annual Summit, Washington DC, December 4, 2013.

<sup>21</sup> Among other sanctions, the Clinton Administration suspended arms sales and military aid to Nigeria after the military government annulled the 1993 election. Recurring language in annual foreign operations appropriations (currently Sec. 7008 of P.L. 113-76) prohibits the provision of economic or security assistance to governments that have come to power through a coup. There is no waiver for that prohibition.

<sup>22</sup> The State Department’s most recent human rights report, covering 2013, stated the inability to verify any disciplinary charges for human rights abuses in the context of security force operations in the northeast.

<sup>23</sup> In detailing security force abuses in the northeast, the State Department’s most recent human rights report states that “while press articles often contained contradictory and inaccurate information, multiple

implicates roughly half the units in the Nigerian army, and likely would render those units ineligible for security assistance if they were to be submitted for vetting.<sup>24</sup> The United States is not the only donor government that has restricted security assistance based on human rights concerns; the United Kingdom, once a major provider of training and equipment to the Nigerian military, has significantly reduced its assistance in recent years, and the sale of lethal weapons to Nigeria is now prohibited under UK law.<sup>25</sup>

Despite restrictions on assistance to some units, U.S. security assistance to Nigeria is sizable by regional standards, totaling almost \$20 million in FY2012 State Department funding and \$16 million in FY2013. Nigeria also acquires U.S. defense materiel through U.S. Foreign Military Sales (FMS), Direct Commercial Sales (DCS), and Excess Defense Articles (EDA). DOD funding for Nigeria is limited and largely focused on counternarcotics support; military cooperation appears strongest with the Nigerian navy.

In FY2012, the State Department vetted 1,377 members of the Nigerian security forces—of that figure, almost 85% were cleared to receive assistance, while 15% were rejected or suspended.<sup>26</sup> (Being approved to receive assistance in a given fiscal year does not necessarily denote actual participation in a U.S.-funded program.)

Proponents of human rights vetting argue that the main impediment to U.S. efforts to support Nigeria's broader response to Boko Haram is not the Leahy laws, but gross violations committed by the Nigerian forces, the Nigerian government's resistance to adopting a more comprehensive approach to Boko Haram, and the continued lack of political will within the government to investigate allegations of human rights abuses and hold perpetrators accountable. The Nigerian government also has appeared reticent in some cases to allow its security forces to participate in U.S. training programs. The State Department indicates that there are currently 187 Nigerian military units and 173 police units that have been vetted and cleared to receive U.S. assistance and training.<sup>27</sup> Significantly, given the context of U.S. efforts to assist Nigerian operations to rescue hundreds of schoolgirls kidnapped by Boko Haram, among the cleared units are two that the State Department views as best positioned to conduct hostage rescue operations—the Special Boat Service commando unit and the 101<sup>st</sup> Infantry Battalion—but both reportedly require significant additional training. It is unclear whether the Nigerian

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sources confirmed allegations of abuses.” Recent reports on abuses include Michelle Faul, “Nigeria’s Military Killing Thousands of Detainees,” *Associated Press*, October 18, 2013; Human Rights Watch, *Spiraling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria*, October 2012 and “Massive Destruction, Deaths from Military Raid,” Press Release, May 1, 2013; Amnesty International, *Nigeria: More than 1,500 Killed in Armed Conflict in North-Eastern Nigeria in Early 2014*, March 31, 2014, *Stop Torture—Country Profile: Nigeria*, May 13, 2014, and *Nigeria: Trapped in the Cycle of Violence, August 2012*; and *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigerian Police Force*, by the Open Society Justice Initiative and the Network of Police Reform in Nigeria.

<sup>24</sup> Testimony of State Department Under Secretary for Civilian Security, Democracy, and Human Rights Sarah Sewell, House Foreign Affairs Committee, *Boko Haram: The Growing Threat to Schoolgirls, Nigeria, and Beyond*, May 21, 2014.

<sup>25</sup> Andrew Walker, “Why Nigeria Has Not Defeated Boko Haram,” *BBC*, May 14, 2014.

<sup>26</sup> State Department Office of Inspections, *Inspection of Embassy Abuja and Consulate General Lagos, Nigeria*, ISP-I-13-16A, February 2013.

<sup>27</sup> Answer to Questions for the Record Submitted to Principal Deputy Assistant Secretary Robert Jackson by Senator Chris Coons, Senate Foreign Relations Committee, May 15, 2014.

government has given approval for such training to occur. A 2013 State Department audit report noted that, in addition to human rights concerns, the Nigerians' late submission of names of candidates for assistance was a "recurring problem" for the U.S. embassy.<sup>28</sup>

Multiple systemic factors further constrain the effectiveness of the Nigerian security force response to Boko Haram, notably security sector corruption and mismanagement, and some of these factors impede U.S. support even for units that have been cleared for assistance.<sup>29</sup> Soldiers, particularly in the northeast, reportedly suffer from low morale, struggling to keep pace with a foe that is reportedly increasingly well-armed and trained. By many accounts, Nigerian troops are not adequately resourced or equipped to counter the insurgency, despite a security budget totaling almost \$5.8 billion.<sup>30</sup> In the assessment of DOD officials, Nigerian funding for the military is "skimmed off the top."<sup>31</sup>

DOD officials have assessed the Nigerian forces as "slow to adapt with new strategies, new doctrines and new tactics," and have described Nigeria as "an extremely challenging partner to work with."<sup>32</sup> U.S. officials have sought to encourage the Nigerian government to take a more comprehensive approach to countering the Boko Haram threat, and one which is, in the words of one DOD official, "less brutal."<sup>33</sup> When Secretary of State John Kerry visited the region last year, he raised these concerns with Nigerian officials, stating, "one person's atrocity does not excuse another's."<sup>34</sup> "When soldiers destroy towns, kill civilians and detain innocent people with impunity, mistrust takes root," another State Department official recently told the Senate.<sup>35</sup> One of the primary aims of recent DOD engagement is to "convince the Nigerians to change their tactics, techniques, and procedures toward Boko Haram," and toward that end the U.S. military team that has deployed to Nigeria to assist in tracking down the kidnapped schoolgirls will seek to analyze the Nigerian operations and identify gaps for which international experts can provide assistance.<sup>36</sup> To date, despite some positive public comments from U.S. officials about "a growing level of cooperation," it remains unclear to what extent Nigerian officials are cooperating with foreign advisors and experts, including the team that the Administration deployed in May.<sup>37</sup>

<sup>28</sup> State Department Office of Inspections, *Inspection of Embassy Abuja and Consulate General Lagos, Nigeria*, ISP-I-13-16A, February 2013.

<sup>29</sup> The State Department's 2013 Country Report on Terrorism notes a lack of coordination and cooperation between Nigerian security agencies; corruption; misallocation of resources; limited requisite databases; the slow pace of the judicial system; and lack of sufficient training for prosecutors and judges to implement anti-terrorism laws.

<sup>30</sup> Tim Cocks, "Boko Haram Exploits Nigeria's Slow Military Decline," *Reuters*, May 9, 2014; and Adam Nossiter, "Nigeria's Army Hampers Hunt for Abducted Schoolgirls," *New York Times*, May 23, 2014.

<sup>31</sup> Testimony of DOD Principal Director for African Affairs Alice Friend, Senate Subcommittee on African Affairs, *#BringBackOurGirls: Addressing the Threat of Boko Haram*, May 15, 2014.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> "Kerry Criticizes Nigeria on Human Rights," CNN, May 25, 2013.

<sup>35</sup> Testimony of Principal Deputy Assistant Secretary of State for African Affairs Robert P. Jackson, Senate Foreign Relations Committee, *#BringBackOurGirls: Addressing the Threat of Boko Haram*, May 15, 2014.

<sup>36</sup> Testimony of DOD Principal Director for African Affairs Alice Friend, May 15, 2014, *op. cit.*

<sup>37</sup> Testimony of State Department Under Secretary Sarah Sewell, House Foreign Affairs Committee, *Boko Haram: The Growing Threat to Schoolgirls, Nigeria, and Beyond*, May 21, 2014.



The State Department suggests the Leahy laws have provided a “strategic” diplomatic tool to encourage reforms in Nigeria, and in Africa more broadly.<sup>38</sup> The Nigerian army has sought assistance in developing its own civilian protection and human rights monitoring and training, and in February 2014 President Goodluck Jonathan issued an order that officers should receive more human rights training.

There also have been some statements by Nigerian officials that suggest an evolving counterterrorism strategy. In March 2014, Nigeria’s National Security Advisor unveiled a new “soft approach” to countering the insurgency.<sup>39</sup> He announced the creation of a new Counter Terrorism Center in his office and outlined new measures to improve coordination among the federal, state, and local governments, as well as new counter-radicalization efforts and prison reforms. In early July, the Finance Minister described the government’s new “three-pronged” strategy to deal with the Boko Haram crisis, stating that it seeks not only security, but also political and economic solutions.<sup>40</sup> As part of the purported new strategy, she outlined a range of new programs, including one to create jobs for unemployed youth in the states most affected by Boko Haram, and a broader economic empowerment initiative for the northeast. The degree to which these efforts will lead to greater respect for human rights in practice remains to be seen.

In sum, Nigeria provides an example of the challenges U.S. policymakers face in building foreign counterterrorism capacities. “Some of the countries where we have some very, very, important national security interests evolving right now have some of the worst records,” DOD’s top civilian advisor on special operations told Congress in 2013, and he flagged Nigeria specifically as an example.<sup>41</sup> By many accounts, developing countries like Nigeria that are struggling with terrorist threats may desperately need the specialized skills and support that U.S. security assistance is designed to provide. However, when security forces abuse civilians, U.S. engagement may risk not only tainting the U.S. image abroad, but also may fuel popular grievances and alienate local populations, thereby undermining international efforts to discredit terrorist groups. The issues surrounding human rights vetting therefore touch on both the tactical and strategic aspects of U.S. foreign policy. Both State and DOD officials, in collaboration with interested Members, continue to explore ways to improve both the vetting process and the diplomatic dialogue with partner states to enhance effectiveness and accountability, and to mitigate the risk that U.S. partners might not use U.S. assistance responsibly.

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<sup>38</sup> Answer to Questions for the Record Submitted to Principal Deputy Assistant Secretary Robert Jackson by Senator Chris Coons, Senate Foreign Relations Committee, May 15, 2014. In an August 2013 letter to African Studies academics, Secretary of State Kerry stated that the Leahy laws “serve as a strategic tool” and that their implementation has “helped us shape African partners’ approach to security cooperation and assistance by highlighting the importance of good security sector governance” and “strengthen our ability to combat terrorism and instability in Africa by directing U.S. security assistance to professional forces respectful of human rights norms.”

<sup>39</sup> Ronald Mutum, “Nigeria: FG Announces ‘Soft’ Counter-Terror Strategy,” *Daily Trust*, March 19, 2014.

<sup>40</sup> “Boko Haram—FG Has Changed Tactics Says Okonjo-Iweala,” *Independent*, July 4, 2014.

<sup>41</sup> Comments by Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict Michael A. Sheehan, House Armed Services Subcommittee on Intelligence, Emerging Threats and Capabilities, hearing, April 17, 2013, op. cit.