



LEAHY FACT SHEET

BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR

1. What are the Leahy Laws?

- There are two “Leahy laws,” known as such due to Senator Leahy’s authorship, one for the State Department and one for the Department of Defense (DoD). Beginning in 1998, Congress included in annual State Department appropriations acts language prohibiting assistance to any unit of the security forces of a foreign country if the Secretary of State has credible information that the unit has committed a gross violation of human rights (GVHR). The State Department Leahy law is now codified as section 620M of Foreign Assistance Act of 1961. The U.S. government includes torture, extrajudicial killing, enforced disappearance, and rape under color of law as GVHRs when implementing the Leahy law. Incidents are examined on a fact-specific basis. The State Department Leahy law includes an exception permitting resumption of assistance to a unit if the Secretary of State finds and reports to Congress that the government of the country is taking effective steps to bring the responsible members of the security forces unit to justice.
- The DoD Leahy law is similar to the State Leahy law. Since 1999, Congress has passed the DoD Leahy law in its annual appropriations act. In 2015 legislation, 10 U.S.C. section 2249e made the DoD law permanent stating that DoD-appropriated funds may not be used for any training, equipment, or other assistance for a foreign security force unit if the Secretary of Defense has credible information that such unit has committed a GVHR. The law allows for an exception to this restriction in cases where the Secretary of Defense (after consultation with the Secretary of State) determines that the government of that country has taken all necessary corrective steps. Additionally, exceptions are permitted if U.S. equipment or other assistance is necessary to assist in disaster relief operations or other humanitarian or national security emergencies.
- The National Defense Authorization Act for FY2015 authorizes DoD to conduct training to promote the rule of law and human rights, including for otherwise Leahy-barred units under certain circumstances. This training may be conducted with the concurrence of the Secretary of State and is withheld from any individual of a unit when there is credible information that such individual has committed a gross violation of human rights (or has commanded a unit that has committed a gross violation of human rights).

2. How is the law implemented?

- When an individual security force member is nominated for U.S. assistance, the Department of State vets that individual as well as his or her unit. In cases where an entire unit is designated to receive assistance, the Department vets the unit and the unit’s commander. Vetting begins in the unit’s home country, where the U.S. embassy conducts consular, political, and other security and human rights checks. Most often, an additional review is conducted by analysts at the Department of State in Washington, DC. The State Department evaluates and assesses available information about the human rights records of the unit and the individual, reviewing a full spectrum of open source and classified records.



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3. Can assistance be reinstated to tainted units?

- Yes. The Departments of State and Defense have adopted a joint policy on remediation that outlines a process for resuming DoD - and State-funded assistance to foreign security force units that had been ineligible for assistance under the Leahy laws. This can occur when the Departments determine that the government of that country has taken, or is taking, effective measures to bring those responsible to justice. Such measures may include impartial and thorough investigations; prosecutions or administrative actions; and appropriate and proportional sentencing.