

SANCTIONING HIZBALLAH'S ILLICIT USE OF CIVILIANS AS DEFENSELESS SHIELDS ACT

OCTOBER 24, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROYCE of California, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3342]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 3342) to impose sanctions on foreign persons that are responsible for gross violations of internationally recognized human rights by reason of the use by Hezbollah of civilians as human shields, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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SUMMARY AND PURPOSE

Hizballah conceals its military infrastructures inside densely-populated civilian centers, which constitutes a serious violation of

the international laws of armed conflict. Hizballah's ability to maintain a low-signature regular military arsenal among civilian population increases, in its view, its survivability in war, and offers Hizballah's propaganda advantages (as was the case during and after the war). The organization therefore cynically exploits the marked moral disparity between itself and U.S. allied nation-states that act in accordance with international standards. Such a pattern of action puts the civilian population at risk and violates the distinction principle of the international laws of armed conflict. This legislation, in turn, is intended to target Hizballah and its foreign enablers for the use of human shields.

BACKGROUND AND NEED FOR LEGISLATION

According to the international laws of armed conflict, the term "human shields" concerns "civilians or other protected persons, whose presence or movement is aimed or used to render military targets immune from military operations." The use of human shields both in international armed conflicts and in non-international armed conflicts constitutes a war crime. It is not necessary to force civilians to relocate close to a military objective. The mere placement of military assets in the vicinity of civilians fulfills this requirement.

Following the first Lebanon War, Hizballah started consolidating its military build-up within Shi'ite population centers in Beirut, south Lebanon, and the Beqa'a Valley. The build-up of its military strength was a lengthy process, which accelerated following the Israel Defense Forces' withdrawal from the security zone. The background for the acceleration of the process was the drop in the intensity of the war which followed the IDF's full withdrawal from the security zone pursuant to United Nations Security Council Resolution 425. Located in villages of south Lebanon, Hizballah's military infrastructure forms the basis for the organization's offensive and defensive readiness and use of military force. Many civilian houses and public facilities in the area were used by Hizballah to conceal weapons—from arms and ammunition to sophisticated missiles.

The IDF's withdrawal from Lebanon undermined the international and internal Lebanese legitimacy Hizballah sought to obtain in order to continue perpetrating terrorist attacks from Lebanese territory. However, Hizballah was finally free of the burden of daily fighting and could turn its efforts to upgrading and building up its military infrastructure. The process was greatly facilitated by the unprecedented backing and assistance extended by Syria and Iran, allowing Hizballah to acquire advanced arms, such that are held by some sovereign states rather than terrorist organizations.

During the 2006 war with Israel, Hizballah forces extensively utilized human shields to protect themselves from counterattacks by Israeli forces. This fact was recognized by the United States, when, on August 11, 2006, Secretary of State Condoleezza Rice stated, "Hizballah and its sponsors have brought devastation upon the people of Lebanon, dragging them into a war that they did not choose, and exploiting them as human shields . . ." President Bush recognized this fact when he stated, on August 14, 2006, that "Hizballah terrorists targeted Israeli civilians with daily rocket at-

tacks. Hizballah terrorists used Lebanese civilians as human shields, sacrificing the innocent in an effort to protect themselves from Israeli response.”

Since the end of the 2006 war with Israel, Hizballah has extensively upgraded its military infrastructure. Despite being legally required to disarm under U.N. Security Council Resolution 1701, a recent State Department report cites Israeli estimates that Hizballah has a stockpile of 100,000 rockets and missiles, including advanced anti-air and anti-ship missiles. The missiles were principally provided by the Iranian Government and are concealed in Shi'ite villages in southern Lebanon, often beneath civilian infrastructure. This arsenal comprises of missiles capable of reaching nearly all the country to include: the Fajr-5, with a range of 75 km; the Zelzal-2, 210 km; the M-600, 250 km; and the Scud D, 700 km. In contrast, during the Second Lebanon War in 2006 Hizballah's arsenal consisted of only 20,000 rockets, of which 4,000 were fired into Israel over the course of a month.

There is cause for renewed concern about Hizballah's use of human shields. Hizballah appears to be rearming itself with thousands of rockets and advanced missiles through its patron Iran while also developing a domestic capacity to manufacture weapons within southern Lebanon. In addition, Hizballah appears to be using environmental NGOs as a cover to create lookout posts and infrastructure that could be used to target Israeli forces.

A policy of zero tolerance for such crimes and relentless efforts to hold accountable those responsible for such practices would contribute to the fight against the use of human shields and, eventually, help reduce the suffering of the civilian population.

HEARINGS

During the present Congress, the committee has continued its active oversight regarding Hizballah, including multiple hearings related to the content of H.R. 3342, such as:

October 11, 2017, Subcommittee on the Middle East and North Africa hearing, “U.S. Policy Toward Lebanon” (Mr. Michael Ratney, Deputy Assistant Secretary, Bureau of Near Eastern Affairs, U.S. Department of State; Ms. Jeanne Pryor, Acting Deputy Assistant Administrator, Bureau for the Middle East, U.S. Agency for International Development).

October 4, 2017, Subcommittee on Terrorism, Nonproliferation, and Trade hearing, “Iranian Backed Militias: Destabilizing the Middle East” (Michael Knights, Ph.D., Lafer Fellow, The Washington Institute for Near East Policy; Mr. Aram Nerguizian, Senior Associate, Burke Chair in Strategy, Center for Strategic and International Studies; Kenneth Pollack, Ph.D., Resident Scholar, American Enterprise Institute; Ms. Melissa Dalton, Senior Fellow and Deputy Director, International Security Program, Center for Strategic and International Studies).

June 8, 2017, full committee hearing, “Attacking Hezbollah’s Financial Network: Policy Options” (Matthew Levitt, Ph.D., Director and Fromer-Wexler Fellow, Stein Program on Counterterrorism and Intelligence, The Washington Institute for Near East Policy; David Asher, Ph.D., Member, Board of Directors, Center on Sanctions and Illicit Finance, Foundation for De-

fense of Democracies; Mr. Derek Maltz, Executive Director, Governmental Relations, Pen-Link, Ltd; Mara Karlin, Ph.D., Associate Professor of Practice and Associate Director of Strategic Studies, School for Advanced International Studies, Johns Hopkins University).

May 24, 2017, Subcommittee on Terrorism, Nonproliferation, and Trade hearing, “Nuclear Deal Fallout: The Global Threat of Iran” (Mr. Ilan Berman, Senior Vice President, American Foreign Policy Council; Ray Takeyh, Ph.D., Hasib J. Sabbagh Senior Fellow for Middle East Studies, Council on Foreign Relations; Daniel L. Byman, Ph.D., Senior Fellow, Center for Middle East Policy, Brookings Institution).

March 29, 2017, Subcommittee on the Middle East and North Africa hearing, “Testing the Limits: Iran’s Ballistic Missile Program, Sanctions, and the Islamic Revolutionary Guard Corps” (Kenneth Katzman, Ph.D., Specialist in Middle Eastern Affairs, Congressional Research Service; Mr. Michael Eisenstadt, Kahn Fellow, Director of Military and Security Studies Program, The Washington Institute for Near East Policy; Ms. Elizabeth Rosenberg, Senior Fellow and Director, Energy, Economics and Security Program, Center for a New American Security).

February 16, 2017, full committee hearing, “Iran on Notice” (Mr. Scott Modell, Managing Director, The Rapidan Group; Ms. Katherine Bauer, Blumenstein-Katz Family Fellow, The Washington Institute for Near East Policy; Mr. David Albright, Founder and President, Institute for Science and International Security; Andrew Exum, Ph.D., Contributing Editor, The Atlantic).

COMMITTEE CONSIDERATION

On September 28, 2017, the Committee on Foreign Affairs marked up H.R. 3342 in open session, pursuant to notice. The bill was considered as introduced, and was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the “Background and Purpose of Legislation” and “Section-by-Section Analysis” sections.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

In compliance with clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (P.L. 104-4), the committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditure or revenues, and Federal mandates contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 13, 2017.

Hon. EDWARD R. ROYCE, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3342, the Sanctioning Hezbollah's Illicit Use of Civilians as Defenseless Shields Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable Eliot L. Engel
Ranking Member

H.R. 3342—Sanctioning Hezbollah's Illicit Use of Civilians as Defenseless Shields Act.

As ordered reported by the House Committee on Foreign Affairs on September 28, 2017.

H.R. 3342 would require the President to identify and impose sanctions on foreign people or entities affiliated with Hezbollah that he determines have used civilians as human shields or have provided, tried to provide, or facilitated the provision of material support to that terrorist group. The bill also would require the President to provide to the Congress a list of people or entities so identified along with periodic updates. Finally, the bill describes several people and entities and would require the President to determine and report to the Congress if they meet the criteria to be sanctioned.

Based on information from the Administration on the cost of similar requirements, CBO estimates that administering the sanctions and implementing the reporting requirements would cost less than \$500,000 annually and would total \$1 million over the 2018–2022 period, subject to the availability of appropriated funds.

Enacting H.R. 3342 would increase the number of people who would be denied visas by the Department of State and the number who would be subject to civil or criminal penalties. Most visa fees are retained by the department and spent without further appropriation, but some fees are deposited in the Treasury as revenues. Penalties also are recorded as revenues and a portion of those penalties can be spent without further appropriation. Pay-as-you-go procedures apply to this legislation because enacting it would affect direct spending and revenues. However, CBO estimates that implementing those sanctions would affect very few additional people and thus have insignificant effects on both revenues and direct spending.

CBO estimates that enacting H.R. 3342 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3342 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

If the sanctions imposed by the President under the bill prevent U.S. entities from gaining access to property or from engaging in transactions that would otherwise be permitted under current law, the bill would impose a private-sector mandate as defined in UMRA. The cost of the mandate would be any forgone income directly related to the newly prohibited transactions or blocked property. Because of the broad scope of existing U.S. sanctions involving Hizballah, CBO expects the number of entities and people in the United States that could be affected by the legislation would be small. Further, CBO expects that the loss of income from any restrictions in the bill would be relatively low. Therefore, CBO estimates that the aggregate cost of the mandates would fall below the annual threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation).

The CBO staff contacts for this estimate are Sunita D'Monte (for federal costs) and Logan Smith (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 115th Congress, the committee notes that H.R. 3342 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House Rule XIII, the committee states that no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

PERFORMANCE GOALS AND OBJECTIVES

The objective of this legislation is to broaden sanctions against Hizballah for their use of human shields. The overriding goal is to draw international attention to, and increase the condemnation of, this practice. Furthermore, the objective is to turn Hizballah's use of human shields from a strategic asset to the terrorist organization into a strategic liability for both Hizballah and its state sponsor, Iran. Performance goals associated with these objectives include, but are not limited to, the following:

- A verifiable decrease in Hizballah's use of human shields.
- A verifiable increase in international condemnation of Hizballah's use of human shields.
- An increase in international condemnation of the Government of Iran's support for Hizballah's use of human shields.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 3342 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 3342 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 3342 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House Rule XXI.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. This Act may be cited as the ‘Sanctioning Hizballah’s Illicit Use of Civilians as Defenseless Shields Act’.

Section 2. Findings. This provision outlines findings of violations of human rights, specifically the use of civilians as human shields, by Hizballah during armed hostilities. It also outlines Hizballah’s continued violations of international law and treaties, including multiple United Nations Security Council Resolutions.

Section 3. Statement of Policy. This provision establishes policy of the United States to consider the use of human shields as a violation of human rights, to publicly condemn such use, and “to take effective action” against those who engage in such activity.

Section 4. United Nations Security Council. This provision states that the President should direct the U.S. Ambassador to the U.N. to use appropriate influence to propose and support a resolution condemning the use of human shields by Hizballah and imposing multilateral sanctions against the terrorist organization.

Section 5. Identification of Foreign Persons that are Responsible for Gross Violations of Internationally Recognized Human Rights by Reason of Use of by Hizballah of Civilians as Human Shields. This provision mandates that the President, based on the International Emergency Economic Powers Act, identify and sanction foreign persons who are responsible for violations of human rights for the use of human shields by Hizballah. Outlines such sanctions including the blocking of property and other financial transactions. Grants authority to the Secretaries of State and Homeland Security to declare aliens ineligible for admission to the U.S. and to revoke visas that have already been issued. Grants waiver authority for such sanctions to the President. This should include elements of the Iranian Government that support Hizballah’s use of human shields by providing material support to that terrorist organization.

Section 6. Report. This provision requires the President to submit a report to the “appropriate” Congressional committees outlining sanction determinations against individuals listed under the “Persons Described” subsection. Report shall be made publicly available but may include a classified annex.

