

CHILD SOLDIERS ACCOUNTABILITY ACT OF 2007

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 532, S. 2135.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2135) to prohibit the recruitment or use of child soldiers, to designate persons who recruit or use child soldiers as inadmissible aliens, to allow the deportation of persons who recruit or use child soldiers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which was reported by the Committee on the Judiciary with an amendment, as follows:

[Insert the part printed in italic.]

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Soldiers Accountability Act of 2007".

SEC. 2. ACCOUNTABILITY FOR THE RECRUITMENT AND USE OF CHILD SOLDIERS.

(a) CRIME FOR RECRUITING OR USING CHILD SOLDIERS.—

(1) IN GENERAL.—Chapter 118 of title 18, United States Code, is amended by adding at the end the following:

"§ 2442. Recruitment or use of child soldiers

"(a) OFFENSE.—Any person who knowingly recruits, enlists, or conscripts a person under 15 years of age into an armed force or group or knowingly uses a person under 15 years of age to participate actively in hostilities—

"(1) shall be fined under this title, imprisoned not more than 20 years, or both; and

"(2) if the death of any person results, shall be fined under this title and imprisoned for any term of years or for life.

"(b) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit an offense under this section shall be punished in the same manner as a person who completes the offense.

"(c) JURISDICTION.—There is jurisdiction over an offense described in subsection (a), and any attempt or conspiracy to commit such offense, if—

"(1) the alleged offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)));

"(2) the alleged offender is a stateless person whose habitual residence is in the United States;

"(3) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender; or

"(4) the offense occurs in whole or in part within the United States.

"(d) DEFINITIONS.—In this section:

"(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—The term 'participate actively in hostilities' means taking part in—

"(A) combat or military activities related to combat, including scouting, spying, sabotage, and serving as a decoy, a courier, or at a military checkpoint; or

"(B) direct support functions related to combat, including taking supplies to the front line and other services at the front line.

"(2) ARMED FORCE OR GROUP.—The term 'armed force or group' means any army, mi-

litia, or other military organization, whether or not it is state-sponsored."

(2) STATUTE OF LIMITATIONS.—Chapter 213 of title 18, United States Code is amended by adding at the end the following:

"§ 3300. Recruitment or use of child soldiers

"No person may be prosecuted, tried, or punished for a violation of section 2442 unless the indictment or the information is filed not later than 10 years after the commission of the offense."

(3) CLERICAL AMENDMENT.—Title 18, United States Code, is amended—

(A) in the table of sections for chapter 118, by adding at the end the following:

"2442. Recruitment or use of child soldiers."; and

(B) in the table of sections for chapter 213, by adding at the end the following:

"3300. Recruitment or use of child soldiers."

(b) GROUND OF INADMISSIBILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

"(G) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien who has committed, ordered, incited, assisted, or otherwise participated in the commission of the recruitment or use of child soldiers in violation of section 2442 of title 18, United States Code, is inadmissible."

(c) GROUND OF REMOVABILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(F) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien described in section 212(a)(3)(G) is deportable."

(d) WITHHOLDING OF REMOVAL.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended by adding at the end the following: "For purposes of clause (iii), an alien who is removable under section 237(a)(4)(F) or inadmissible under section 212(a)(3)(G) shall be considered an alien with respect to whom there are serious reasons to believe that the alien committed a serious nonpolitical crime."

(e) ASYLUM.—Section 208(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(B)) is amended by adding at the end the following:

"(iii) RECRUITMENT AND USE OF CHILD SOLDIERS.—For purposes of clause (iii) of subparagraph (A), an alien who is removable under section 237(a)(4)(F) or inadmissible under section 212(a)(3)(G) shall be considered an alien with respect to whom there are serious reasons to believe that the alien committed a serious nonpolitical crime."

Mr. DURBIN. Mr. President, I rise to speak in support of the Child Soldiers Accountability Act of 2007. This narrowly tailored bipartisan legislation would make it a crime and a violation of immigration law to recruit or use child soldiers. Congress must ensure that perpetrators who use children to wage war are held accountable and do not find safe haven in our country.

I would like to thank the other original cosponsors of the Child Soldiers Accountability Act, Senator TOM COBURN of Oklahoma, Senator RUSSELL FEINGOLD of Wisconsin, and Senator SAM BROWNBACK of Kansas. This bill is a product of the Judiciary Committee's new Subcommittee on Human Rights and the Law, which is the first ever congressional committee or subcommittee dealing specifically with human rights. I am the chairman of

this Subcommittee and Senator COBURN is its ranking member.

The use of child soldiers has been reported in 21 ongoing or recent conflicts throughout the world since 2001, including conflicts in Colombia, Uganda, the Democratic Republic of Congo and Sri Lanka. The proliferation of small arms, particularly lightweight automatic weapons that can be used by children as easily as by adults, has contributed to the increased use of child soldiers. Child soldiers are often used in conflicts where high desertion rates and insufficient volunteers have generated a shortage of soldiers.

For example, Burma is believed to be one of the countries with the largest number of child soldiers in the world. Burmese military recruiters reportedly buy and sell children in a desperate effort to meet recruitment quotas in a setting where low morale, high desertion rates and insufficient volunteers have created a military personnel crisis. In a report to the U.N. Security Council on children and armed conflict in Burma issued last month, the Secretary General stated that there has been tremendous pressure to accelerate recruitment rates in the Burmese armed forces and that recruitment centers have experienced difficulty meeting their quotas. The U.N. Secretary General's report also found that some children picked up by police in Burma without national identification cards are told they can "choose" to be arrested or enlist in the army. According to another report, children constitute a large percentage of privates in some of the new Burmese army battalions and some have been forced to participate in human rights abuses, including burning villages.

One Burmese boy was reportedly forcibly recruited twice by the time he was 16 years old. This boy was allegedly sold to a battalion by a corporal for approximately US\$15, a sack of rice and a tin of cooking oil. When this boy's aunt and grandmother sought his release, the captain of the battalion company apparently said he would let the boy go in exchange for five new recruits. The boy reportedly told his aunt that he didn't want five other people to have to face what he had experienced in the army.

There is a clear legal prohibition on recruiting and using child soldiers. Under customary international law, recruitment or use of child soldiers under the age of 15 is a war crime. Over 110 countries, including the United States, have ratified the Optional Protocol to the Convention on the Rights of the Child, which prohibits the recruitment and use of child soldiers under 18.

Over the last few years, significant progress has been made in the prosecution of child soldier recruitment and use by international courts. In 2005, the International Criminal Court issued its first arrest warrants for five Lord's Resistance Army commanders from Uganda for, among other crimes, enlisting

children as soldiers by two of the commanders. In February 2006, the International Criminal Court issued an arrest warrant for Thomas Lubanga for the war crime of “conscripting and enlisting children under the age of 15 years and using them to participate actively in hostilities.” Mr. Lubanga, the first person to be arrested by the International Criminal Court, allegedly recruited children as young as ten years old to fight for the Union of Congolese Patriots in the northeastern region of the Democratic Republic of Congo.

In June 2007, the Special Court for Sierra Leone became the first international court to issue convictions for child soldier recruitment, finding three defendants guilty of crimes that included conscripting or enlisting children under the age of 15. In August 2007, the Special Court for Sierra Leone found another defendant guilty of using child soldiers.

Despite these positive developments, the ability of international tribunals or hybrid courts to try these cases is limited. The average perpetrator still runs very little risk of being prosecuted. National courts can and should play a greater role in prosecuting perpetrators.

Unfortunately, recruiting and using child soldiers does not violate U.S. criminal or immigration law. As a result, the U.S. government is unable to punish individuals found in our country who have recruited or used child soldiers. In contrast, other grave human rights violations, including genocide and torture, are punishable under U.S. criminal and immigration law.

This loophole in the law was identified during “Casualties of War: Child Soldiers and the Law,” a hearing held by the Senate Subcommittee on Human Rights and the Law. Ishmael Beah, a former child soldier and author of the bestselling book *A Long Way Gone: Memoirs of a Boy Soldier*, testified at this hearing. Mr. Beah said this gap in the law “saddens me tremendously” and that closing this loophole “would set a clear example that there is no safe haven anywhere for those who recruit and use children in war.”

The Child Soldiers Accountability Act will help to ensure that the war criminals who recruit or use children as soldiers will not find safe haven in our country and will allow the U.S. Government to hold these individuals accountable for their actions.

First, this bill will make it a crime to recruit or use persons under the age of 15 as soldiers. Second, it will enable the government to deport or deny admission to an individual who recruited or used child soldiers under the age of 15.

This legislation will send a clear message to those adults who deliberately and actively recruit or use children to wage war that there are real consequences to their actions. By holding such individuals criminally responsible, our country will help to deter the recruitment and use of child soldiers.

Recognizing that adults often use drugs, threats, or other means to pressure child soldiers into committing serious human rights violations, including the recruitment of other children, this legislation seeks to hold adults accountable for their actions and is not intended to make inadmissible or deportable former child soldiers who participated in the recruitment of other children.

Former child soldiers require extensive care and support from family and others in order to be rehabilitated and reintegrated into society. As Mr. Beah testified, “[h]ealing from the war was a long-term process that was difficult but very possible . . . Effective rehabilitation of children is in itself a preventive measure, and this should be the focus, not punitive measures against children that have no beneficial outcome for the child and society.” This legislation should not be interpreted as placing new restrictions on or altering the legal status of former child soldiers who are seeking admission or are already present in the United States.

I urge my colleagues to ask themselves the question Ishmael Beah posed: Would we want our children or grandchildren to endure the pain and suffering that Mr. Beah and other child soldiers face? As Mr. Beah reminded us, the lives of child soldiers are just as important as those of our children and grandchildren. We have a moral obligation to take action to help these young people and to stop the abhorrent practice of recruiting and using child soldiers.

I urge my colleagues to support this legislation.

Mr. LEAHY. Mr. President, I am pleased that the Senate today will pass S. 2135, the Child Soldiers Accountability Act of 2007. I commend Senator DURBIN and Senator COBURN for their leadership on this important legislation to combat the unconscionable practice of using children as soldiers in violent conflicts, and I was proud to join as a cosponsor of this bill. I am glad that Senators DURBIN and COBURN worked with me and others on the Senate Judiciary Committee to produce a consensus bill and to move it through Committee and the Senate. The United States should do all it can to prevent and punish this conduct which is so contrary to our values.

This bill creates a tough new criminal provision aimed at those who recruit or conscript children under the age of 15 into armed conflict. It extends U.S. jurisdiction to perpetrators of this crime who are present in the United States, regardless of their nationality and where the crime takes place, so that those who commit human rights violations cannot come to this country as a sanctuary from prosecution. The bill also amends immigration law to allow those who have used children as soldiers to be barred or removed from the United States.

This bill is another example of the good work of the Judiciary Commit-

tee’s new Subcommittee on Human Rights and the Law. I am glad that the efforts Subcommittee Chairman DURBIN and I have made to make this subcommittee a force for change and to bring focus on these important issues is resulting in legislative action, as well as providing a forum to put a spotlight on important issues. This is an area in which I have worked for many years as the chair and ranking member of the Foreign Operations Subcommittee of the Appropriations Committee.

During the last 5 years, America’s reputation has suffered tremendously. Some of our ability to lead on human rights issues has been needlessly and carelessly squandered. Abu Ghraib, Guantanamo and torture have tarnished that role and that tradition. The secret prisons that the President confirmed last year, this Administration’s role in sending people to other countries where they would be tortured, and recent revelations of the destruction of videotapes showing cruel interrogations by the CIA have led to condemnation by our allies, to legal challenges, and to possible criminal investigations.

I was proud to work with Senator DURBIN to create the Human Rights and the Law Subcommittee. This subcommittee will continue to closely examine some of the important and difficult legal issues that are now a focus of the Judiciary Committee and will work to reverse and correct the damaging policies established by this administration over the last 6 years. The subcommittee has already spearheaded the Genocide Accountability Act, which will soon provide a powerful new tool in America’s efforts to prevent and punish genocide, and has made further progress with hearings and legislation dealing with human trafficking and other vital issues.

The conduct prohibited by the Child Soldiers Accountability Act is appalling but happens all too often throughout the world. We should do everything we can to stop this offense to human rights and human dignity, which exacts such great costs from too many of the world’s children. I commend the Senate for passing this important legislation today.

Mr. President, I yield the floor.

Mr. PRYOR. I ask unanimous consent that a Feingold amendment, which is at the desk, be agreed to; the committee amendment be agreed to; the bill, as amended, be read three times and passed; the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3882) was agreed to, as follows:

AMENDMENT NO. 3882

(Purpose: To exclude groups assembled solely for non-violent political association from the definition of an armed force or group)

On page 4, line 7, insert after "state-sponsored" the following: ", excluding any group assembled solely for non-violent political association".

The committee amendment was agreed to.

The bill (S. 2135), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2135

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"(2) the alleged offender is a stateless person whose habitual residence is in the United States;

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front line and other services at the front line.

"(2) ARMED FORCE OR GROUP.—The term 'armed force or group' means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association."

(2) STATUTE OF LIMITATIONS.—Chapter 213 of title 18, United States Code is amended by adding at the end the following:

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"(F) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien described in section 212(a)(3)(G) is deportable."

(d) WITHHOLDING OF REMOVAL.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended by adding at the end the following: "For purposes of clause (iii), an alien who is removable under section 237(a)(4)(F) or inadmissible under section 212(a)(3)(G) shall be considered an alien with respect to whom there are serious reasons to believe that the alien committed a serious nonpolitical crime."

(e) ASYLUM.—Section 208(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(B)) is amended by adding at the end the following:

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**ORDERS FOR WEDNESDAY,
DECEMBER 19, 2007**

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business today, it stand adjourned until 11:30 a.m. Wednesday, December 19, 2007; that on Wednesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day, and there then be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each; that during morning business, Senator REED of Rhode Island be recognized for up to 30 minutes; and that on Wednesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for a party conference meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

LETTER OF RESIGNATION

Mr. PRYOR. I understand the Chair has an announcement.

The PRESIDING OFFICER. The Chair lays before the Senate the letter of resignation of Senator TRENT LOTT of Mississippi.

Without objection, the letter is deemed read and spread upon the journal.

The letter is as follows:

DECEMBER 18, 2007.

Hon. RICHARD B. CHENEY,
*President of the United States Senate,
Washington, DC.*

DEAR MR. PRESIDENT: I hereby give notice of my retirement from the Office of United States Senator from the State of Mississippi. Therefore, I tender my resignation effective at 11:30 p.m., December 18, 2007.

Respectfully submitted,

TRENT LOTT,
United States Senate.

**ADJOURNMENT UNTIL 11:30 A.M.
TOMORROW**

Mr. PRYOR. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 12:10 a.m., adjourned until Wednesday, December 19, 2007, at 11:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, December 18, 2007:

THE JUDICIARY

JOHN DANIEL TINDER, OF INDIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.