

115TH CONGRESS  
2D SESSION

# H. R. 3542

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2018

Received; read twice and referred to the Committee on Foreign Relations

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## AN ACT

To impose sanctions against Hamas for violating universally applicable international laws of armed conflict by intentionally using civilians and civilian property to shield military objectives from lawful attack, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “ **Hamas Human Shields**  
3 **Prevention Act**”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The international law of armed conflict pro-  
7 hibits, during any armed conflict, the exploitation of  
8 the presence of civilians, or movement of civilians, in  
9 an effort to impede attack on or otherwise shield  
10 lawful targets from attack.

11 (2) Violation of this obligation is commonly re-  
12 ferred to as using persons as “human shields”, the  
13 unlawful exploitation of civilian persons or property  
14 in an attempt to impede attack on or otherwise  
15 shield lawful targets from attack.

16 (3) The international law of armed conflict also  
17 prohibits exposing prisoners of war, other detainees,  
18 or the wounded and sick to unnecessary risks result-  
19 ing from the conduct of hostilities, which clearly in-  
20 cludes a prohibition against using such personnel in  
21 an effort to impede attack on or otherwise shield  
22 lawful targets from attack.

23 (4) Under the international law of armed con-  
24 flict, the use of human shields is a critical consider-  
25 ation when assessing whether infliction of civilian

1       harm by a party to the conflict was in fact unrea-  
2       sonable under the circumstances.

3           (5) Throughout the violent takeover of Gaza by  
4         Hamas in 2007, the organization engaged in sum-  
5        mary executions and torture, and put the lives of ci-  
6        vilians at constant risk.

7           (6) Since that 2007 takeover of Gaza, Hamas  
8        forces have repeatedly fired rockets into Israel in an  
9        indiscriminate manner, routinely striking civilian  
10       population areas that cannot plausibly be considered  
11       lawful military targets.

12          (7) Hamas attacks are routinely launched from  
13        firing positions in areas of dense civilian population,  
14        often in or near schools, mosques, or hospitals, with  
15        no plausible justification based on military necessity.

16          (8) Unlawful Hamas tactics also include rou-  
17        tinely forcing Palestinian civilians to gather on the  
18        roofs of their homes to act as human shields.

19          (9) Because these Hamas tactics cannot be jus-  
20        tified by military necessity, they indicate an effort to  
21        endanger both Israeli and Palestinian civilians.

22          (10) The Israel Defense Force, in response to  
23        such serious violations by Hamas, has vigorously  
24        taken all feasible precautions to minimize civilian  
25        casualties and protect civilian objects, in accordance

1 with the international laws of armed conflict. Such  
2 tactics have included providing warnings to civilians  
3 when feasible.

4 (11) Since 2010, Hamas has enlisted children  
5 to work as laborers in the tunnel networks between  
6 Gaza and Egypt.

7 (12) On June 9, 2017, the United Nations Re-  
8 lief and Works Agency announced it had discovered  
9 Hamas tunnels under two of its schools in the Gaza  
10 Strip, adding it was “unacceptable that students and  
11 staff are placed at risk in such a way”.

12 (13) Hamas was designated as a foreign ter-  
13 rorist organization by the Secretary of State on Oc-  
14 tober 8, 1997.

15 (14) In addition to Hamas, other armed  
16 groups, such as Hezbollah, the Islamic State, al-  
17 Qa’ida, and al-Shabaab, typically use civilians as  
18 human shields.

19 **SEC. 3. STATEMENT OF POLICY.**

20 It shall be the policy of the United States to—

21 (1) officially and publicly condemn Hamas for  
22 violating the international law of armed conflict by  
23 exploiting civilians, civilian property, and other spe-  
24 cially protected personnel and facilities, in an effort  
25 to shield military targets from lawful attack; and

1           (2) take effective action against those know-  
2           ingly engaging in, supporting, facilitating, or ena-  
3           bling such undisputed violations of international law  
4           through the use of human shields.

5 **SEC. 4. UNITED NATIONS SECURITY COUNCIL.**

6           The President should direct the United States Per-  
7           manent Representative to the United Nations to use the  
8           voice, vote, and influence of the United States at the  
9           United Nations Security Council to secure support for a  
10          resolution that would—

11           (1) impose multilateral sanctions against  
12          Hammas for the use of human shields;

13           (2) require member nations to take specific  
14          steps to prevent the use of human shields and im-  
15          pose consequences on those who use human shields;

16           (3) require the United Nations to track and re-  
17          port the use of human shields in any conflict mon-  
18          itored by an organization or agency of the United  
19          Nations; and

20           (4) specify steps to prevent, and consequences  
21          for, the use of United Nations employees as human  
22          shields or the use of United Nations facilities or in-  
23          frastructure to enable the use of civilians as human  
24          shields.

1 **SEC. 5. SANCTIONS ON FOREIGN PERSONS RESPONSIBLE**  
2 **FOR GROSS VIOLATIONS OF INTERNATION-**  
3 **ALLY RECOGNIZED HUMAN RIGHTS.**

4 (a) **IN GENERAL.**—The President shall impose sanc-  
5 tions described in subsection (c) with respect to each per-  
6 son on the list required under subsection (b).

7 (b) **LIST.**—

8 (1) **IN GENERAL.**—Not later than 180 days  
9 after the date of the enactment of this Act, the  
10 President shall transmit to the appropriate congress-  
11 sional committees a list of the following:

12 (A) Each foreign person that the President  
13 determines—

14 (i) is a member of Hamas or is acting  
15 on behalf of Hamas; and

16 (ii) on or after the date of the enact-  
17 ment of this Act, knowingly orders, con-  
18 trols, or otherwise directs or is complicit  
19 in, any unlawful attempt to use civilians,  
20 civilian property, or other protected per-  
21 sons to shields military objectives from  
22 lawful attack.

23 (B) Each foreign person, or each agency or  
24 instrumentality of a foreign state, that the  
25 President determines has knowingly, on or after  
26 the date of the enactment of this Act—

1 (i) significantly facilitated, directly or  
2 indirectly, any act described in subpara-  
3 graph (A)(ii) by a person described in sub-  
4 paragraph (A)(ii); or

5 (ii) attempted to facilitate or support  
6 any such person.

7 (2) UPDATES.—The President shall transmit to  
8 the appropriate congressional committees an update  
9 of the list required under paragraph (1)—

10 (A) not later than 1 year after the date of  
11 transmission of such list, and annually there-  
12 after for 3 years; and

13 (B) as new information becomes available.

14 (c) SANCTIONS DESCRIBED.—The sanctions to be  
15 imposed on a foreign person or an agency or instrumen-  
16 tality of a foreign state on the list required under sub-  
17 section (b) are the following:

18 (1) BLOCKING OF PROPERTY.—The President  
19 shall exercise all of the powers granted to the Presi-  
20 dent under the International Emergency Economic  
21 Powers Act (50 U.S.C. 1701 et seq.) to the extent  
22 necessary to block and prohibit all transactions in  
23 property and interests in property of the foreign per-  
24 son or of such agency or instrumentality of a foreign  
25 state if such property or interests in property are in

1 the United States, come within the United States, or  
2 are or come within the possession or control of a  
3 United States person.

4 (2) ALIENS INELIGIBLE FOR VISAS, ADMISSION,  
5 OR PAROLE.—

6 (A) VISAS, ADMISSION, OR PAROLE.—An  
7 alien who the Secretary of State or the Sec-  
8 retary of Homeland Security (or a designee of  
9 either such Secretary) determines is a foreign  
10 person on the list required under subsection (b)  
11 is—

12 (i) inadmissible to the United States;

13 (ii) ineligible to receive a visa or other  
14 documentation to enter the United States;  
15 and

16 (iii) otherwise ineligible to be admitted  
17 or paroled into the United States or to re-  
18 ceive any other benefit under the Immigra-  
19 tion and Nationality Act (8 U.S.C. 1101 et  
20 seq.).

21 (B) CURRENT VISAS REVOKED.—

22 (i) IN GENERAL.—Any visa or other  
23 documentation issued to an alien who is a  
24 foreign person on the list required under  
25 subsection (b), regardless of when such

1 visa or other documentation was issued,  
2 shall be revoked and such alien shall be de-  
3 nied admission to the United States.

4 (ii) EFFECT OF REVOCATION.—A rev-  
5 ocation under clause (i)—

6 (I) shall take effect immediately;

7 and

8 (II) shall automatically cancel  
9 any other valid visa or documentation  
10 that is in the possession of the alien  
11 who is the subject of such revocation.

12 (C) EXCEPTION TO COMPLY WITH UNITED  
13 NATIONS HEADQUARTERS AGREEMENT.—The  
14 sanctions under this paragraph shall not be im-  
15 posed on an individual if admitting such indi-  
16 vidual to the United States is necessary to per-  
17 mit the United States to comply with the  
18 Agreement regarding the Headquarters of the  
19 United Nations, signed at Lake Success June  
20 26, 1947, and entered into force November 21,  
21 1947, between the United Nations and the  
22 United States, or with other applicable inter-  
23 national agreements.

24 (d) WAIVER.—The President may, on a case-by-case  
25 basis, waive the application of a sanction under this sec-

1 tion with respect to a person or an agency or instrumen-  
2 tality of a foreign state for periods not longer than 180  
3 days if the President certifies to the appropriate congres-  
4 sional committees that such waiver is in the national secu-  
5 rity interest of the United States.

6 (e) PENALTIES.—The penalties provided for in sub-  
7 sections (b) and (c) of section 206 of the International  
8 Emergency Economic Powers Act (50 U.S.C. 1705) shall  
9 apply to any person that violates, attempts to violate, con-  
10 spires to violate, or causes a violation of any regulation  
11 promulgated to carry out this section to the same extent  
12 that such penalties apply to a person that commits an un-  
13 lawful act described in section 206(a) of such Act.

14 (f) REGULATIONS.—

15 (1) IN GENERAL.—The President may exercise  
16 all authorities provided to the President under sec-  
17 tions 203 and 205 of the International Emergency  
18 Economic Powers Act (50 U.S.C. 1702 and 1704)  
19 for purposes of carrying out this section.

20 (2) ISSUANCE OF REGULATIONS.—Not later  
21 than 180 days after the date of the enactment of  
22 this Act, the President shall prescribe such regula-  
23 tions as may be necessary to implement this section.

24 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
25 tion may be construed—

1           (1) to limit the authorities of the President pur-  
2           suant to the International Emergency Economic  
3           Powers Act (50 U.S.C. 1701 et seq.) or any other  
4           relevant provision of law; or

5           (2) to apply with respect to any activity subject  
6           to the reporting requirements under title V of the  
7           National Security Act of 1947 (50 U.S.C. 3091 et  
8           seq.), or to any authorized intelligence activities of  
9           the United States.

10 **SEC. 6. DEFINITIONS.**

11           In this Act:

12           (1) **ADMITTED; ALIEN.**—The terms “admitted”  
13           and “alien” have the meanings given such terms in  
14           section 101 of the Immigration and Nationality Act  
15           (8 U.S.C. 1101).

16           (2) **AGENCY OR INSTRUMENTALITY OF A FOR-**  
17           **EIGN STATE.**—The term “agency or instrumentality  
18           of a foreign state” has the meaning given such term  
19           in section 1603(b) of title 28, United States Code.

20           (3) **APPROPRIATE CONGRESSIONAL COMMIT-**  
21           **TEES.**—The term “appropriate congressional com-  
22           mittees” means—

23                   (A) the Committee on Financial Services,  
24                   the Committee on Ways and Means, the Com-  
25                   mittee on the Judiciary and the Committee on

1 Foreign Affairs of the House of Representa-  
2 tives; and

3 (B) the Committee on Banking, Housing,  
4 and Urban Affairs, the Committee on the Judi-  
5 ciary, and the Committee on Foreign Relations  
6 of the Senate.

7 (4) FOREIGN PERSON.—The term “foreign per-  
8 son” has the meaning given such term in section  
9 594.304 of title 31, Code of Federal Regulations, as  
10 in effect on the date of the enactment of this Act.

11 (5) HAMAS.—The term “Hamas” means—

12 (A) the entity known as Hamas and des-  
13 ignated by the Secretary of State as a foreign  
14 terrorist organization pursuant to section 219  
15 of the Immigration and Nationality Act (8  
16 U.S.C. 1189); or

17 (B) any person identified as an agent, in-  
18 strumentality, or affiliate of Hamas on the list  
19 of specially designated nationals and blocked  
20 persons maintained by the Office of Foreign  
21 Asset Control of the Department of Treasury,  
22 the property or interests in property of which  
23 are blocked pursuant to the International  
24 Emergency Economic Powers Act (50 U.S.C.  
25 1701 et seq.).

1           (6) UNITED STATES PERSON.—The term  
2           “United States person” has the meaning given such  
3           term in section 594.315 of title 31, Code of Federal  
4           Regulations, as in effect on the date of the enact-  
5           ment of this Act.

          Passed the House of Representatives February 14,  
2018.

Attest:

KAREN L. HAAS,

*Clerk.*