

116TH CONGRESS
2D SESSION

S. _____

To encourage the protection and promotion of internationally recognized human rights during the novel coronavirus pandemic, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Mrs. BLACKBURN, Mr. CARDIN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To encourage the protection and promotion of internationally recognized human rights during the novel coronavirus pandemic, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Human
5 Rights During Pandemic Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The United States led the drafting of the
9 Universal Declaration of Human Rights, which en-

1 shrines the commitment of countries around the
2 world to the protection and promotion of universal
3 human rights and values that are indispensable for
4 human dignity, including the rights to life, liberty,
5 security of person, freedom of movement, religion,
6 speech, peaceful assembly, association, freedom of
7 expression and the press, and freedom from arbi-
8 trary detention, discrimination, or invasion of pri-
9 vacy.

10 (2) Authorities in more than 83 countries, in-
11 cluding the United States, have declared states of
12 emergency and restricted the movement of people
13 due to the threat of the novel coronavirus, which
14 causes COVID–19, and which the World Health Or-
15 ganization designated a global pandemic on March
16 11, 2020.

17 (3) During public health emergencies, it may be
18 necessary and appropriate for governments to take
19 extraordinary action to halt the spread of disease
20 through steps such as restricting the movement of
21 people, closing businesses, and limiting access to
22 public spaces.

23 (4) States are legally obligated to continue to
24 protect the human rights of their citizens at all
25 times, subject to the principles of limitation and

1 derogation, even and especially during national
2 emergencies.

3 (5) In many countries with COVID–19 cases,
4 governments have taken steps that violate the
5 human rights of their citizens without clear scientific
6 or public health justifications, or any end date or
7 functional oversight.

8 (6) In some countries, including China and
9 Russia, governments are using existing and emerg-
10 ing surveillance technologies, including artificial in-
11 telligence and facial recognition software, without
12 appropriate safeguards, which violates the human
13 rights of their citizens, such as the rights to privacy
14 and freedom of movement, while claiming such ac-
15 tions are necessary to combat the novel coronavirus.

16 (7) In some countries, including Hungary, Tur-
17 key, El Salvador, and the Philippines, governments
18 with a history of violating human rights are exploit-
19 ing the current crisis to consolidate power, sideline
20 representative legislative bodies, and silence criti-
21 cism.

22 (8) In several countries, including Algeria,
23 Hungary, Belarus, Russia, Serbia, Tajikistan,
24 Turkmenistan, Thailand, China, the Philippines,
25 Cambodia, Jordan, Iran, Egypt, Bolivia, Honduras,

1 Venezuela, Botswana, Zimbabwe, South Africa, and
2 Swaziland, governments have moved to restrict the
3 ability of journalists and other individuals to dis-
4 tribute or publish information related to the novel
5 coronavirus, including through harassment, impris-
6 onment, or criminal penalties, which violates the uni-
7 versal human rights of free speech and freedom of
8 the press, and limits people’s access to information.

9 (9) Governments in countries with a history of
10 discrimination against minority populations, includ-
11 ing India and Uganda, have used the novel
12 coronavirus pandemic response to further discrimi-
13 nate against vulnerable populations.

14 (10) Actions taken by foreign governments,
15 under the guise of the coronavirus, that weaken
16 democratic institutions and restrict internationally
17 recognized human rights, contrary to the principles
18 of limitation and derogation, pose a threat to the
19 health, economic, and national security interests of
20 the United States.

21 **SEC. 3. SENSE OF CONGRESS.**

22 It is the Sense of Congress that—

23 (1) the United States should lead the inter-
24 national community in its efforts to respond to the
25 novel coronavirus pandemic;

1 (2) the United States, in implementing emer-
2 gency policies at home and through its diplomacy
3 and foreign assistance abroad, should promote the
4 protection of internationally recognized human
5 rights during and after the coronavirus pandemic;

6 (3) the Department of State and the United
7 States Agency for International Development (re-
8 ferred to in this Act as“ USAID”) should provide
9 assistance and implement programs, directly or
10 through nongovernmental organizations or inter-
11 national organizations, that —

12 (A) support democratic institutions, civil
13 society, free media, and other internationally
14 recognized human rights during, and in the
15 aftermath of, the novel coronavirus pandemic;
16 and

17 (B) ensure attention to countries in which
18 the government’s response to the pandemic vio-
19 lated human rights and democratic norms; and

20 (4) in implementing emergency policies in re-
21 sponse to the novel coronavirus pandemic—

22 (A) governments should fully respect and
23 comply with internationally recognized human
24 rights, including the rights to life, liberty, and
25 security of the person, the freedoms of move-

1 ment, religion, speech, peaceful assembly, asso-
2 ciation, freedom of expression and of the press,
3 and the freedom from arbitrary detention, dis-
4 crimination, or invasion of privacy;

5 (B) emergency restrictions or powers that
6 impact internationally recognized human rights,
7 including the rights to freedom of assembly, as-
8 sociation, and movement should be—

9 (i) narrowly tailored, proportionate,
10 and necessary to the government’s legiti-
11 mate goal of ending the pandemic;

12 (ii) limited in duration;

13 (iii) clearly communicated to the pop-
14 ulation;

15 (iv) subject to independent govern-
16 ment oversight; and

17 (v) implemented in a nondiscrim-
18 inatory and fully transparent manner;

19 (C) governments—

20 (i) should not place any limits or
21 other restrictions on, or criminalize, the
22 free flow of information; and

23 (ii) should make all efforts to provide
24 and maintain open access to the internet
25 and other communications platforms;

1 (D) emergency measures should not dis-
2 criminate against any segment of the popu-
3 lation, including minorities, vulnerable individ-
4 uals, and marginalized groups;

5 (E) monitoring systems put in place to
6 track and reduce the impact of the novel
7 coronavirus should, at a minimum—

8 (i) abide by privacy best practices in-
9 volving data anonymization and aggrega-
10 tion;

11 (ii) be administered in an open and
12 transparent manner;

13 (iii) be scientifically justified and nec-
14 essary to limit the spread of disease;

15 (iv) be employed for a limited dura-
16 tion of time in correspondence with the
17 system's public health objective;

18 (v) be subject to independent over-
19 sight;

20 (vi) incorporate reasonable data secu-
21 rity measures; and

22 (vii) be firewalled from other commer-
23 cial and governmental uses, such as law
24 enforcement and the enforcement of immi-
25 gration policies; and

1 (F) governments should take every feasible
2 measure to protect the administration of free
3 and fair elections.

4 **SEC. 4. STATEMENT OF POLICY.**

5 It is the policy of the United States—

6 (1) to encourage the protection and promotion
7 of internationally recognized human rights at home
8 and abroad at all times and especially during the
9 novel coronavirus pandemic;

10 (2) to support freedom of expression and free-
11 dom of the press in the United States and elsewhere,
12 which freedoms are critical to ensuring public dis-
13 semination of, and access to, accurate information
14 about the novel coronavirus pandemic, including in-
15 formation authorities need to enact science-based
16 policies that limit the spread and impact of the
17 virus, while protecting human rights;

18 (3) to support multilateral efforts to address
19 the novel coronavirus pandemic; and

20 (4) to oppose the use of the novel coronavirus
21 pandemic as a justification for the enactment of
22 laws and policies that use states of emergency to vio-
23 late or otherwise restrict the human rights of citi-
24 zens, inconsistent with the principles of limitation
25 and derogation, and without clear scientific or public

1 health justifications, including the coercive, arbi-
2 trary, disproportionate, or unlawful use of surveil-
3 lance technology.

4 **SEC. 5. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Relations of
10 the Senate;

11 (B) the Committee on Appropriations of
12 the Senate;

13 (C) the Committee on Foreign Affairs of
14 the House of Representatives; and

15 (D) the Committee on Appropriations of
16 the House of Representatives.

17 (2) **INTERNATIONALLY RECOGNIZED HUMAN**
18 **RIGHTS.**—The term “internationally recognized
19 human rights” means—

20 (A) the human rights enshrined in the
21 Universal Declaration of Human Rights, includ-
22 ing the rights to life, liberty, security of person,
23 the freedom of movement, religion, speech,
24 peaceful assembly, association, freedom of ex-
25 pression and the press, the freedom from arbi-

1 trary detention, discrimination, or invasion of
2 privacy; and

3 (B) all other rights indispensable for
4 human dignity.

5 **SEC. 6. FUNDING FOR PROGRAMS AND COUNTRIES.**

6 (a) PROGRAM PRIORITIES.—Amounts appropriated
7 pursuant to section 9 may be made available for fiscal
8 years 2020 through 2025, to carry out the Foreign Assist-
9 ance Act of 1961 (22 U.S.C. 2151 et seq.), including pro-
10 grams to support democratic institutions, civil society,
11 human rights defenders, and freedom of the press, in
12 countries where government measures taken in response
13 to the novel coronavirus pandemic, including emergency
14 measures, violated or seriously undermined internationally
15 recognized human rights according to the principles set
16 forth in section 3(4). Programs carried out under this sub-
17 section shall be designed—

18 (1) to strengthen and support civil society,
19 human rights defenders, freedom of the press, and
20 other internationally recognized human rights; and

21 (2) to restore and strengthen democratic insti-
22 tutions.

23 (b) STRATEGY.—

24 (1) INITIAL STRATEGY.—Not later than 30
25 days after the date of the enactment of this Act, the

1 Secretary of State and the Administrator of USAID
2 shall jointly submit an initial strategy for carrying
3 out the programs referred to in subsections (a) and
4 (b) to the appropriate congressional committees.

5 (2) STRATEGIC PLAN.—Not later than 90 days
6 after the date of the enactment of this Act, the Sec-
7 retary of State and the Administrator of USAID
8 shall submit a 5-year strategic plan to the appro-
9 priate congressional committees that lays out the
10 steps the Department of State and USAID will take,
11 through diplomacy and foreign assistance, to address
12 the persistent issues related to internationally recog-
13 nized human rights in the aftermath of the novel
14 coronavirus response, including identifying the re-
15 sources necessary to implement such strategic plan.

16 (c) CONDITIONING OF SECURITY SECTOR ASSIST-
17 ANCE.—Section 502B(a)(4) of the Foreign Assistance Act
18 of 1961 (22 U.S.C. 2304) is amended—

19 (1) in subparagraph (A), by striking “or” at
20 the end;

21 (2) in subparagraph (B), by striking the period
22 at the end and inserting “; or”; and

23 (3) by adding at the end the following:

24 “(C) has engaged in the systematic viola-
25 tion of internationally recognized human rights

1 through the use of emergency laws, policies, or
2 administrative procedures.”.

3 **SEC. 7. REPORTING REQUIREMENTS.**

4 (a) INITIAL REPORT.—Not later than 60 days after
5 the date of the enactment of this Act, the Secretary of
6 State shall publish on the Department of State website,
7 and submit to the appropriate congressional committees,
8 a report that describes—

9 (1) for each country and territory included in
10 the annual *Country Reports on Human Rights Prac-*
11 *tices*, whether and how each country or territory has
12 adhered to the principles set forth in section 3(4) in
13 responding to the novel coronavirus pandemic;

14 (2) with regard to each country in which the re-
15 sponse to the novel coronavirus pandemic violated or
16 seriously undermined internationally recognized
17 human rights in a manner inconsistent with the
18 principles of limitation and derogation, a description
19 of—

20 (A) the actions of the United States Gov-
21 ernment to address such restrictions through
22 diplomacy and the use of foreign assistance;
23 and

1 (B) any efforts made by each country to
2 respond to and resolve such human rights con-
3 cerns;

4 (3) with regard to each country in which the re-
5 sponse to the coronavirus pandemic violated or seri-
6 ously undermined internationally recognized human
7 rights, a description of the impact of noncompliant
8 policies on—

9 (A) the population’s access to health care
10 services;

11 (B) the population’s access to services for
12 survivors of violence and abuse;

13 (C) women and ethnic, religious, sexual,
14 and other minority, vulnerable, or marginalized
15 populations; and

16 (D) the government’s efforts and ability to
17 control the pandemic;

18 (4) whether any foreign person or persons with-
19 in a country have been determined to have com-
20 mitted gross violations of internationally recognized
21 human rights during the novel coronavirus pandemic
22 response, including any sanctions imposed on such
23 persons in accordance with United States law;

24 (5) actions taken by the Global Engagement
25 Center established under section 1287 of the Na-

1 tional Defense Authorization Act for Fiscal Year
2 2017 (22 U.S.C. 2656 note) to counter
3 disinformation related to the novel coronavirus pan-
4 demic; and

5 (6) the United States Government's efforts
6 around the world—

7 (A) to counter disinformation related to
8 the novel coronavirus pandemic; and

9 (B) to disseminate accurate information
10 about the pandemic.

11 (b) MONTHLY REPORTS.—Not later than 30 days
12 after the publication of the report required under sub-
13 section (a), and monthly thereafter until the date that is
14 60 days after the date on which the World Health Organi-
15 zation declares that the novel coronavirus pandemic has
16 ended, the Department of State and the United States
17 Agency for International Development shall provide, to the
18 appropriate congressional committees—

19 (1) a briefing containing updates on any new
20 developments related to issues covered in the report
21 published under subsection (a); and

22 (2) a list of the countries that have removed
23 coronavirus-related emergency restrictions impacting
24 internationally recognized human rights, including
25 details regarding the restrictions that were removed.

1 (c) FINAL REPORT.—Not later than 90 days after
2 the date on which the World Health Organization declares
3 that the novel coronavirus pandemic has ended, the Sec-
4 retary of State shall submit a report to the appropriate
5 congressional committees that—

6 (1) lists the countries whose emergency meas-
7 ures or other legal actions limiting internationally
8 recognized human rights in a manner inconsistent
9 with the principles of limitation and derogation ex-
10 tended beyond the end of the pandemic;

11 (2) describes such countries' emergency meas-
12 ures, including—

13 (A) how such procedures violate or seri-
14 ously undermine internationally recognized
15 human rights; and

16 (B) an analysis of the impact of such
17 measures on—

18 (i) the government's efforts and abil-
19 ity to control the pandemic within the
20 country;

21 (ii) the population's access to health
22 care services;

23 (iii) the population's access to services
24 for survivors of violence and abuse; and

1 (iv) women and ethnic, religious, sex-
2 ual, and other minority, vulnerable, or
3 marginalized populations;

4 (3) describes—

5 (A) any surveillance measures implemented
6 or utilized by the governments of such countries
7 as part of the novel coronavirus pandemic re-
8 sponse;

9 (B) the extent to which such measures
10 have been, or have not been, rolled back; and

11 (C) whether and how such measures im-
12 pact internationally recognized human rights;
13 and

14 (4) indicates whether any foreign person or per-
15 sons within a country have been determined to have
16 committed gross violations of internationally recog-
17 nized human rights during the novel coronavirus
18 pandemic response, including a description of any
19 resulting sanctions imposed on such persons under
20 United States law.

21 **SEC. 8. COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.**

22 (a) IN GENERAL.—Section 116(f)(1) of the Foreign
23 Assistance Act of 1961 (22 U.S.C. 2151n(f)(1)) is amend-
24 ed—

1 (1) by redesignating subparagraph (C) as sub-
2 paragraph (D); and

3 (2) by inserting after subparagraph (B) the fol-
4 lowing:

5 “(C) A description of—

6 “(i) any misuse by the government of such
7 country of any emergency powers;

8 “(ii) any failure by the government of such
9 country—

10 “(I) to state the specific duration of
11 the powers referred to in clause (i);

12 “(II) to clearly articulate the purposes
13 of such powers; or

14 “(III) to notify the United Nations re-
15 garding the use of such powers, as re-
16 quired by applicable treaty;

17 “(iii) any failure by the government of
18 such country—

19 “(I) to abide by the stated purposes of
20 the powers referred to in clause (i); or

21 “(II) to cease the use of such powers
22 after any specified term expires;

23 “(iv) any violations by the government of
24 such country of non-derogable rights;

1 “(v) any discriminatory implementation by
2 such government of the powers referred to in
3 clause (i);

4 “(vi) the impact of such powers on the ac-
5 cess of the people of such country to health care
6 services; and

7 “(vii) the development and proliferation of
8 surveillance technologies in such country, in-
9 cluding new or emerging technologies used by
10 the government of such country in the arbitrary
11 and unlawful surveillance of civilian popu-
12 lations.”.

13 (b) HUMAN RIGHTS REPORT.—

14 (1) IN GENERAL.—Section 502B(b) of the For-
15 eign Assistance Act of 1961 (22 U.S.C. 2304(b) is
16 amended by inserting “Each report under this sec-
17 tion shall include the information described in sec-
18 tion 116(f)(1)(C).” after “the Secretary of State.”.

19 (2) BRIEFING.—The Assistant Secretary of
20 State for Democracy, Human Rights, and Labor
21 shall be available to brief the Committee on Foreign
22 Relations of the Senate and the Committee on For-
23 eign Affairs of the House of Representatives regard-
24 ing the annual *Country Reports on Human Rights*

1 *Practices* during the 90-day period beginning on the
2 date on which the reports are released.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out—

6 (1) the strategy described in section 6(b)(1);

7 and

8 (2) the 5-year strategic plan described in sec-
9 tion 6(b)(2); and

10 (3) the reporting requirements set forth in sec-
11 tion 7.