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, Mr. Merkley, and Mr. Wicker) 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.

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 “Protecting Human Rights During Pandemic Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States led the drafting of the Universal Declaration of Human Rights, which en-
shrines the commitment of countries around the world to the protection and promotion of universal human rights and values that are indispensable for human dignity, including the rights to life, liberty, security of person, freedom of movement, religion, speech, peaceful assembly, association, freedom of expression and the press, and freedom from arbitrary detention, discrimination, or invasion of privacy.

(2) Authorities in more than 83 countries, including the United States, have declared states of emergency and restricted the movement of people due to the threat of the novel coronavirus, which causes COVID–19, and which the World Health Organization designated a global pandemic on March 11, 2020.

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

(4) States are legally obligated to continue to protect the human rights of their citizens at all times, subject to the principles of limitation and
derogation, even and especially during national emergencies.

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

(6) In some countries, including China and Russia, governments are using existing and emerging surveillance technologies, including artificial intelligence and facial recognition software, without appropriate safeguards, which violates the human rights of their citizens, such as the rights to privacy and freedom of movement, while claiming such actions are necessary to combat the novel coronavirus.

(7) In some countries, including Azerbaijan, El Salvador, Hungary, Kazakhstan, and the Philippines, governments with a history of repressing human rights are exploiting the current crisis to consolidate power, sideline representative legislative bodies, and silence criticism.

(8) In several countries, including Algeria, Azerbaijan, Belarus, Cambodia, China, Egypt, Honduras, Hungary, Iran, Jordan, Russia, South Africa, Tajikistan, Thailand, the Philippines, Turkey,
Turkmenistan, Venezuela, and Zimbabwe, governments have restricted the ability of journalists and other individuals to distribute or publish information related to the novel coronavirus, including by imposing criminal penalties, which violates the universal human rights of free speech and freedom of the press, and limits people’s access to information.

(9) Governments in countries with a history of discrimination against minority populations, including India and Uganda, have used the novel coronavirus pandemic response to further discriminate against vulnerable populations.

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

SEC. 3. SENSE OF CONGRESS.

It is the Sense of Congress that—

(1) the United States should lead the international community in its efforts to respond to the novel coronavirus pandemic;
(2) the United States, in implementing emergency policies at home and through its diplomacy and foreign assistance abroad, should promote the protection of internationally recognized human rights during and after the coronavirus pandemic;

(3) the Department of State and the United States Agency for International Development (referred to in this Act as "USAID") should provide assistance and implement programs, directly or through nongovernmental organizations or international organizations, that —

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

(B) ensure attention to countries in which the government’s response to the pandemic violated human rights and democratic norms; and

(4) in implementing emergency policies in response to the novel coronavirus pandemic—

(A) governments should fully respect and comply with internationally recognized human rights, including the rights to life, liberty, and security of the person, the freedoms of move-
ment, religion, speech, peaceful assembly, asso-
ciation, freedom of expression and of the press,
and the freedom from arbitrary detention, dis-

(B) emergency restrictions or powers that
impact internationally recognized human rights,
including the rights to freedom of assembly, as-

(i) narrowly tailored, proportionate,
and necessary to the government’s legiti-

(ii) limited in duration;

(iii) clearly communicated to the pop-

(iv) subject to independent govern-

(v) implemented in a nondiscrimi-

(C) governments—

(i) should not place any limits or

(ii) should make all efforts to provide

and maintain open access to the internet

and other communications platforms;
(D) emergency measures should not discriminate against any segment of the population, including minorities, vulnerable individuals, and marginalized groups;

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

(i) abide by privacy best practices involving data anonymization and aggregation;

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

(iii) be scientifically justified and necessary to limit the spread of disease;

(iv) be employed for a limited duration of time in correspondence with the system’s public health objective;

(v) be subject to independent oversight;

(vi) incorporate reasonable data security measures; and

(vii) be firewalled from other commercial and governmental uses, such as law enforcement and the enforcement of immigration policies; and
(F) governments should take every feasible measure to protect the administration of free and fair elections.

4 SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States—

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

(2) to support freedom of expression and freedom of the press in the United States and elsewhere, which freedoms are critical to ensuring public dissemination of, and access to, accurate information about the novel coronavirus pandemic, including information authorities need to enact science-based policies that limit the spread and impact of the virus, while protecting human rights;

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

(4) to oppose the use of the novel coronavirus pandemic as a justification for the enactment of laws and policies that use states of emergency to violate or otherwise restrict the human rights of citizens, inconsistent with the principles of limitation and derogation, and without clear scientific or public
health justifications, including the coercive, arbitrary, disproportionate, or unlawful use of surveillance technology.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

(B) the Committee on Appropriations of the Senate;

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

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

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

(A) the human rights enshrined in the Universal Declaration of Human Rights, including the rights to life, liberty, security of person, the freedom of movement, religion, speech, peaceful assembly, association, freedom of expression and the press, the freedom from arbi-
trary detention, discrimination, or invasion of privacy; and

(B) all other rights indispensable for human dignity.

SEC. 6. FUNDING FOR PROGRAMS AND COUNTRIES.

(a) Program Priorities.—Amounts appropriated pursuant to section 9 may be made available for fiscal years 2020 through 2025, to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), including programs to support democratic institutions, freedom of the press, civil society, and human rights defenders in countries where government measures taken in response to the novel coronavirus pandemic, including emergency measures, violated or seriously undermined internationally recognized human rights according to the principles set forth in section 3(4). Programs carried out under this subsection shall be designed—

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

(2) to restore and strengthen democratic institutions.

(b) Strategy.—

(1) Initial strategy.—Not later than 30 days after the date of the enactment of this Act, the
Secretary of State and the Administrator of USAID shall jointly submit an initial strategy for carrying out the programs referred to in subsections (a) and (b) to the appropriate congressional committees.

(2) STRATEGIC PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Administrator of USAID shall submit a 5-year strategic plan to the appropriate congressional committees that lays out the steps the Department of State and USAID will take, through diplomacy and foreign assistance, to address the persistent issues related to internationally recognized human rights in the aftermath of the novel coronavirus response, including identifying the resources necessary to implement such strategic plan.

(c) CONDITIONING OF SECURITY SECTOR ASSISTANCE.—Section 502B(a)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended—

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

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

(3) by adding at the end the following:

“(C) has engaged in the systematic violation of internationally recognized human rights
through the use of emergency laws, policies, or administrative procedures.”.

SEC. 7. REPORTING REQUIREMENTS.

(a) Initial Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall publish on the Department of State website, and submit to the appropriate congressional committees, a report that describes—

(1) for each country and territory included in the annual Country Reports on Human Rights Practices, whether and how each country or territory has adhered to the principles set forth in section 3(4) in responding to the novel coronavirus pandemic;

(2) with regard to each country in which the response to the novel coronavirus pandemic violated or seriously undermined internationally recognized human rights in a manner inconsistent with the principles of limitation and derogation, a description of—

(A) the actions of the United States Government to address such restrictions through diplomacy and the use of foreign assistance; and
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(B) any efforts made by each country to
respond to and resolve such human rights con-
cerns;

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

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

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

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

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

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

(5) actions taken by the Global Engagement
Center established under section 1287 of the Na-
tional Defense Authorization Act for Fiscal Year 2017 (22 U.S.C. 2656 note) to counter disinformation related to the novel coronavirus pandemic; and

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

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

(B) to disseminate accurate information about the pandemic.

(b) MONTHLY REPORTS.—Not later than 30 days after the publication of the report required under subsection (a), and monthly thereafter until the date that is 60 days after the date on which the World Health Organization declares that the novel coronavirus pandemic has ended, the Department of State and the United States Agency for International Development shall provide, to the appropriate congressional committees—

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

(2) a list of the countries that have removed coronavirus-related emergency restrictions impacting internationally recognized human rights, including details regarding the restrictions that were removed.
(c) Final Report.—Not later than 90 days after the date on which the World Health Organization declares that the novel coronavirus pandemic has ended, the Secretary of State shall submit a report to the appropriate congressional committees that—

(1) lists the countries whose emergency measures or other legal actions limiting internationally recognized human rights in a manner inconsistent with the principles of limitation and derogation extended beyond the end of the pandemic;

(2) describes such countries’ emergency measures, including—

(A) how such procedures violate or seriously undermine internationally recognized human rights; and

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

(i) the government’s efforts and ability to control the pandemic within the country;

(ii) the population’s access to health care services;

(iii) the population’s access to services for survivors of violence and abuse; and
(iv) women and ethnic, religious, sexual, and other minority, vulnerable, or marginalized populations;

(3) describes—

(A) any surveillance measures implemented or utilized by the governments of such countries as part of the novel coronavirus pandemic response;

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

(C) whether and how such measures impact internationally recognized human rights;

and

(4) indicates whether any foreign person or persons within a country have been determined to have committed gross violations of internationally recognized human rights during the novel coronavirus pandemic response, including a description of any resulting sanctions imposed on such persons under United States law.

SEC. 8. COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) IN GENERAL.—Section 116(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f)(1)) is amended—
(1) by redesignating subparagraph (C) as sub-
paragraph (D); and

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

“(C) A description of—

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

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

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

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

“(III) to notify the United Nations re-

“garding the use of such powers, as re-
quired by applicable treaty;

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

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

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

“(iv) any violations by the government of
such country of non-derogable rights;
“(v) any discriminatory implementation by such government of the powers referred to in clause (i);

“(vi) the impact of such powers on the access of the people of such country to health care services; and

“(vii) the development and proliferation of surveillance technologies in such country, including new or emerging technologies used by the government of such country in the arbitrary and unlawful surveillance of civilian populations.”.

(b) HUMAN RIGHTS REPORT.—

(1) IN GENERAL.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b) is amended by inserting “Each report under this section shall include the information described in section 116(f)(1)(C)” after “the Secretary of State.”.

(2) BRIEFING.—The Assistant Secretary of State for Democracy, Human Rights, and Labor shall be available to brief the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the annual Country Reports on Human Rights
Practices during the 90-day period beginning on the date on which the reports are released.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

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

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

(2) the 5-year strategic plan described in section 6(b)(2); and

(3) the reporting requirements set forth in section 7.