AMENDMENT TO RULES COMM. PRINT 116–57
OFFERED BY MR. MCGOVERN OF
MASSACHUSETTS

Add at the end of subtitle G of title XII the following:

SEC. 12. PROTECTION AND PROMOTION OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS DURING THE NOVEL CORONAVIRUS PANDEMIC.

(a) STATEMENT OF POLICY.—It is the policy of the United States to—

(1) 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) support freedom of expression and freedom of the press in the United States and elsewhere, which 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) support multilateral efforts to address the novel coronavirus pandemic; and

(4) 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.

(b) 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, foreign assistance, and security cooperation, should promote the protection of internationally recognized human rights during and after the novel coronavirus pandemic;

(3) foreign assistance and security cooperation provided by the Department of State, the United States Agency for International Development
(USAID), and the Department of Defense, whether implemented directly or through nongovernmental organizations or international organizations, should—

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

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

(C) incentivize foreign military and security force units to abide by their human rights obligations, and in no way contribute to human rights violations; 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 movement, religion, speech, peaceful assembly, association, freedom of expression and of the press, and the freedom from arbitrary detention, discrimination, or invasion of privacy;
(B) emergency restrictions or powers that impact internationally recognized human rights, including the rights to freedom of assembly, association, and movement should be—

(i) grounded in law, narrowly tailored, proportionate, and necessary to the government’s legitimate goal of ending the pandemic;

(ii) limited in duration;

(iii) clearly communicated to the population;

(iv) subject to independent government oversight; and

(v) implemented in a nondiscriminatory and fully transparent manner;

(C) governments—

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

(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 popu-
lation, 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.

c) **Report on Countering Disinformation.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in coordination with the Secretary of Defense and the heads of other relevant Federal departments and agencies, shall submit to the appropriate congressional committees a report on all actions taken by the United States Government to counter disinformation and disseminate accurate information abroad related to the novel coronavirus pandemic.

d) **Report on Human Rights.**—Not later than 90 days after the date on which the World Health Organization declares that the novel coronavirus pandemic has ended, and having consulted with the appropriate congressional committees, the Secretary of State, in coordination with the Secretary of Defense, shall submit to the appropriate congressional committees a report that—

1. identifies the countries in which emergency measures or other legal actions taken in response to the novel coronavirus pandemic were inconsistent with the principles described in subsection (b)(4) or otherwise limited internationally recognized human rights in a manner inconsistent with the principles
of limitation and derogation extended beyond the end of the novel coronavirus pandemic;

(2) identifies the countries in which such measures or actions continued beyond the end of the novel coronavirus pandemic;

(3) for the countries identified pursuant to paragraph (1), describes such emergency measures, including—

(A) how such measures violated or seriously undermined internationally recognized human rights; and

(B) 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;

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

(v) military-to-military activities, exercises, or joint operations, including the number and type of bilateral and multilat-
eral military events, cancelled or adjusted, the type of joint Special Security Agreement or Security Cooperation activity, and the reason for cancellation;

(4) 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;

(5) 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; and

(6) provides recommendations relating to the steps the United States Government should take, through diplomacy, foreign assistance, and security cooperation, to address the persistent issues related
to internationally recognized human rights in the aftermath of the novel coronavirus pandemic.

(c) Conditioning of Security Sector Assistance.—Section 502B(a)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(4)) 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.”.

(f) Department of Defense Guidance.—Not later 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance that the program of assessment, monitoring, and evaluation in support of the security cooperation programs and activities maintained by the Department of Defense in accordance with section 383 of title 10, United States Code, and intelligence collections requirements of the combatant commands shall include, for the next five fiscal years, indicators of whether partner security forces have taken advan-
tage of the novel coronavirus pandemic and public health control measures to—

(1) control, limit, or profit from the distribution or supply of medical supplies, food, water, and other essential goods;

(2) undermine civilian and parliamentary control or oversight of security forces;

(3) limit ability of civilian government authorities to execute essential functions, including civilian policing, justice delivery, detentions, or other forms of essential community-level government service delivery;

(4) expand solicitation of bribes or compensation for use of or access to key transportation nodes or networks, including roadways and ports;

(5) take control of media distribution or otherwise limit the exercise of freedom of the press or distribution of radio, internet, or other broadcast media;

(6) deepen religious or ethnic favoritism in delivery of security, justice, or other essential government services; or

(7) otherwise undermine or violate internationally recognized human rights in any way determined of concern by the Secretary.
(g) COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The Foreign Assistance Act of 1961 is amended as follows:

(1) In section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

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(h) HUMAN RIGHTS VIOLATIONS DUE TO MISUSE OF EMERGENCY POWERS AND SURVEILLANCE TECHNOLOGY.—The report required by subsection (d) shall include, wherever applicable, a description of any misuse by the government of any country of any emergency powers or measures, or any development or proliferation of any surveillance technologies, that violated or seriously undermined internationally recognized human rights in a manner inconsistent with the principles of limitation and derogation, including the following information:

“(1) Any failure by the government of any country to clearly articulate the purpose of emergency powers or measures, or to specify the duration of such powers or measures, or to notify the United Nations regarding the use of such powers, as required by applicable treaty.

“(2) Any failure by the government of any country to abide by the stated purposes of emergency powers or measures, or to cease the use of such powers after any specified term expires.
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“(3) Any violations by the government of any country of non-derogable rights due to the implementation of emergency powers or measures.

“(4) Any discriminatory implementation by the government of any country of emergency powers or measures, the populations affected, and the impact on such populations.

“(5) Any development or proliferation of surveillance technologies, including new or emerging technologies used by the government of a country in the surveillance of civilian populations, that—

“(A) fail to abide by privacy best practices involving data anonymization and aggregation;

“(B) are not administered in an open and transparent manner;

“(C) are not subject to independent oversight; and

“(D) fail to incorporate reasonable data security measures.”.

(2) In section 502B(b) (22 U.S.C. 2304(b)), by—

(A) redesignating the second subsection (i) (relating to child marriage) as subsection (j); and
(B) adding at the end the following new subsection:

“(k) HUMAN RIGHTS VIOLATIONS DUE TO MISUSE OF EMERGENCY POWERS AND SURVEILLANCE TECHNOLOGY.—The report required by subsection (b) shall include, wherever applicable, a description of any misuse by the government of any country of any emergency powers or measures, or any development or proliferation of any surveillance technologies, that violated or seriously undermined internationally recognized human rights in a manner inconsistent with the principles of limitation and derogation, including the following information:

“(1) Any failure by the government of any country to clearly articulate the purpose of emergency powers or measures, or to specify the duration of such powers or measures, or to notify the United Nations regarding the use of such powers, as required by applicable treaty.

“(2) Any failure by the government of any country to abide by the stated purposes of emergency powers or measures, or to cease the use of such powers after any specified term expires.

“(3) Any violations by the government of any country of non-derogable rights due to the implementation of emergency powers or measures.
“(4) Any discriminatory implementation by the government of any country of emergency powers or measures, the populations affected, and the impact on such populations.

“(5) Any development or proliferation of surveillance technologies, including new or emerging technologies used by the government of a country in the surveillance of civilian populations, that—

“(A) fail to abide by privacy best practices involving data anonymization and aggregation;

“(B) are not administered in an open and transparent manner;

“(C) are not subject to independent oversight; and

“(D) fail to incorporate reasonable data security measures.”.

(h) DEFINITION.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives; and
(2) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.