Repulsion of human rights defenders has reached alarming levels around the world. Thousands of attacks occur each year. The attacks—which include killings and other tactics designed to threaten, criminalize and stigmatize—often have a broad chilling effect on civic space, while allowing powerful political and economic actors to harm their fellow citizens with almost total impunity. Governments rarely investigate and prosecute these cases. These attacks undermine the promotion of democracy and human rights, which are at the heart of U.S. foreign policy.

U.S. embassies have long played an important role in protecting human rights defenders, especially when the defenders cannot look to their own governments for protection. But the State Department does not have a coordinated approach to protecting human rights defenders, and as a result, U.S. embassies have a mixed track record engaging in countries where urgent support is needed. In recent years, U.S. embassies have helped protect human rights defenders around the world, but have also backed economic, political and military activities that have caused significant harm to human rights defenders.

The Human Rights Defenders Protection Act would create a more consistent, coordinated, and elevated State Department response to these attacks. The law would: (1) require the State Department to develop detailed, public-facing guidelines that establish clear, open and sustained lines of communication between U.S. embassies and human rights defenders; (2) strengthen coordination and information sharing on this issue within the State Department; and (3) encourage the systematic tracking of patterns of attacks as part of the annual Human Rights Reports.
SECTION 1. DEFINITIONS

(a) In this Act, the term “human rights defender” means an individual, group, or organization that uses nonviolent action, in either a personal or professional capacity, to promote or protect human rights.¹

(b) In this Act, the term “environmental and land defender” means a human rights defender who—

(1) Advocates for the protection of the environment, public health, Indigenous rights, or community land rights; or
(2) Investigates, exposes, or raises awareness of harm or corruption related to natural resource use.

(c) In this Act, the term “reprisal” refers to any action, communication, or threat made against a human rights defender that causes or has the intent to cause physical, legal, financial, psychological, or reputational harm.

SEC. 2. HUMAN RIGHTS DEFENDER GUIDELINES

(a) Within six months of the passage of this Act, the Secretary of State shall develop comprehensive and specific guidelines for the U.S. State Department to protect human rights defenders, including environmental and land defenders, from reprisals. The Secretary shall develop these guidelines in consultation with a broad range of civil society organizations in the United States and in countries that host U.S. diplomatic embassies and missions.

(b) At minimum, the guidelines shall affirm support for human rights defenders as a foreign policy priority of the U.S. government, and shall describe in detail:

(1) U.S. embassy processes for establishing and maintaining clear and open lines of communication with human rights defenders;
(2) Options for human rights defenders to contact the State Department and U.S. embassies in a secure way;
(3) Recommendations for human rights defenders on how to frame their requests for support and describe their cases;
(4) Tools and strategies that the State Department will use to provide support and protection for human rights defenders who face reprisals and credible threats of reprisals;

To (5) Tools and strategies that the State Department will use to help prevent and mitigate threats against human rights defenders before violence occurs;

(6) Efforts by the State Department to monitor and respond to patterns of reprisals against human rights defenders, including but not limited to extrajudicial killings, judicial harassment, smear campaigns, and illegal surveillance;

(7) Tools and strategies that the State Department will use to encourage host governments to investigate and prosecute those responsible for reprisals against human rights defenders;

(8) Tools and strategies that the State Department will use to help legitimize the work of human rights defenders within the host country;

(9) Tools and strategies that the State Department will use to engage with, and hold accountable, businesses when reprisals against human rights defenders are linked to their operations, supply chains, subsidiaries, subcontractors, or investments;

(10) Efforts by the State Department to account for the variations in vulnerability that can occur with respect to human rights defenders working on gender, racial justice, the environment and land rights, LGBTQ rights, the rights of Indigenous and Afro-descendant peoples, and other issue.

(c) Within six months of the passage of this Act, the Secretary shall publish and maintain a copy of the guidelines on the website of the State Department and the website of each U.S. embassy and diplomatic mission, translated into local languages.

SEC. 3. COORDINATION WITHIN STATE DEPARTMENT

(a) Within six months of the passage of this Act, the Secretary of State shall:

(1) Designate a senior point person within each of the six regional bureaus of the State Department to coordinate with the Bureau of Democracy, Human Rights and Labor on the implementation of this Act;

(2) Designate at least one staff member at each U.S. embassy and diplomatic mission as a human rights defender focal point, make the contact information for reaching the focal point available on each embassy’s website, and keep this designation up to date.

(b) Within six months of the passage of this Act, the Secretary shall develop and implement a coordinated procedure and protocols to:

(1) Operationalize the guidelines described in Section 2;

(2) Ensure that all U.S. embassy personnel are aware of the guidelines described in Section 2 and of emergency assistance resources available to human rights defenders in each country;
(2) Integrate human rights defender considerations into U.S. government programming and assistance where relevant;
(3) Participate in joint diplomatic initiatives, meetings, field visits, trial observations, and working groups at the national level focused on the protection of human rights defenders;
(4) Engage with, and hold accountable, businesses when reprisals against human rights defenders are linked to their operations, supply chains, subsidiaries, subcontractors, or investments;
(5) Identify and respond to cases where U.S. security assistance or cooperation is being provided to foreign security forces that have perpetrated reprisals against human rights defenders, including through official and unofficial ties to paramilitary groups and organized crimes.
(6) Promote respect for human rights defenders in multilateral forums;
(7) Ensure that all relevant U.S. Government agencies share data collected on reprisals against human rights defenders on a regular and timely basis;
(8) Facilitate learning and constant improvements in the U.S. government’s approach to supporting human rights defenders.

(c) The Secretary shall provide training to State Department personnel as needed to implement this chapter.

(d) The Secretary shall present an annual report to Congress on progress and lessons learned in implementing this Act.

SEC. 4. TRACKING AND REPORTING PATTERNS OF ABUSE

In conjunction with the annual human rights reports mandated by 22 U.S. 2151n, 2304 and 19 U.S.C. 2464, 2467, the Secretary shall instruct the State Department’s Bureau of Democracy, Human Rights, and Labor to present a public report annually to Congress describing:

(a) For each country, evidence of reprisals and patterns of reprisals against human rights defenders, presented in a manner that differentiates between reprisals against human rights defenders working on environmental and land issues, labor rights, racial justice, women’s rights, the rights of Indigenous and Afro-descendent communities, LGBTQ, and other categories of human rights defenders; and
(b) Any evidence by country that justice sector, security sector, or law enforcement personnel have:

(1) used excessive force against human rights defenders;

(2) abused legal processes against human rights defenders, including the arrest or charge of such individuals on false charge;

(3) failed to investigate threats against human rights defenders by either the direct perpetrator of such threats or those that aid and abet such perpetrators; or

(4) failed to investigate credible allegations of corruption, including intimidation of witnesses, victims, public officials, or judges.

SEC. 5. SECURITY ASSISTANCE

Section 2304 of title 22 is amended to:

(a) Strike “section” from subsection (d) and replace with “title”.

(b) Strike “and” from subsection (d)(1) and insert “excessive use of force in a systematic manner, abuse of legal process against individuals who advocate for fundamental freedoms.”

[For reference, here is 22 U.S.C. 2304]

For additional information or to provide comments, please email Kirk Herbertson, Senior Policy Advisor, EarthRights International, at kirk@earthrights.org