117TH CONGRESS
1ST SESSION

S._____

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WICKER (for himself, Mr. CARDIN, Mr. TILLIS, Mr. WHITEHOUSE, Mr. RUBIO, Mr. MARKEY, Mr. ROUNDS, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, 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 “Transnational Repres-
5 sion Accountability and Prevention Act of 2021” or as the
6 “TRAP Act of 2021”.

7 SEC. 2. FINDINGS.

8 Congress makes the following findings:
(1) The International Criminal Police Organization (INTERPOL) works to prevent and fight crime through enhanced cooperation and innovation on police and security matters, including kleptocracy, counterterrorism, cybercrime, counternarcotics, and transnational organized crime.

(2) United States membership and participation in INTERPOL advances the national security and law enforcement interests of the United States related to combating kleptocracy, terrorism, cybercrime, narcotics, and transnational organized crime.

(3) Article 2 of INTERPOL’s Constitution states that the organization aims “[to] ensure and promote the widest possible mutual assistance between all criminal police authorities . . . in the spirit of the ‘Universal Declaration of Human Rights’”.

(4) Article 3 of INTERPOL’s Constitution states that “[i]t is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character”.

(5) These principles provide INTERPOL with a foundation based on respect for human rights and avoidance of politically motivated actions by the organization and its members.
(6) Some INTERPOL member countries have used INTERPOL’s databases and processes, including Notice and Diffusion mechanisms and the Stolen and Lost Travel Document Database, for activities of a political or other unlawful character and in violation of international human rights standards, including making requests to INTERPOL for interventions related to purported charges of ordinary law crimes that are fabricated for political or other unlawful motives.

(7) According to the Justice Manual of the United States Department of Justice, “[i]n the United States, national law prohibits the arrest of the subject of a Red Notice issued by another INTERPOL member country, based upon the notice alone” and requires the existence of a valid extradition treaty between the requesting country and the United States, a valid request for provisional arrest of the subject individual, and an arrest warrant issued by a United States District Court based on a complaint filed by the United States Attorney’s Office of the subject jurisdiction.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States:
(1) To use the voice, vote, and influence of the United States, as appropriate, within INTERPOL’s General Assembly and Executive Committee to promote the following objectives aimed at improving the transparency of INTERPOL and ensuring its operation consistent with its Constitution, particularly articles 2 and 3, and Rules on the Processing of Data:

(A) Support INTERPOL’s reforms enhancing the screening process for Notices, Diffusions, and other INTERPOL communications to ensure they comply with INTERPOL’s Constitution and Rules on the Processing of Data (RPD).

(B) Support and strengthen INTERPOL’s coordination with the Commission for Control of INTERPOL’s Files (CCF) in cases in which INTERPOL or the CCF has determined that a member country issued a Notice, Diffusion, or other INTERPOL communication against an individual in violation of articles 2 or 3 of the INTERPOL Constitution, or the RPD, to prohibit such member country from seeking the publication or issuance of any subsequent Notices, Diffusions, or other INTERPOL commu-
nication against the same individual based on
the same set of claims or facts.

(C) Support candidates for positions within
INTERPOL's structures, including the Presi-
dency, Executive Committee, General Secre-
tariat, and CCF who have demonstrated experi-
ence relating to and respect for the rule of law.

(D) Seek to require INTERPOL in its an-
ual report to provide a detailed account of the
following information, disaggregated by member
country or entity:

(i) The number of Notice requests,
disaggregated by color, that it received.

(ii) The number of Notice requests,
disaggregated by color, that it rejected.

(iii) The category of violation identi-
fied in each instance of a rejected Notice.

(iv) The number of Diffusions that it
cancelled without reference to decisions by
the CCF.

(v) The sources of all INTERPOL in-
come during the reporting period.

(E) Support greater transparency by the
CCF in its annual report by providing a de-
tailed account of the following information, disaggregated by country:

(i) The number of admissible requests for correction or deletion of data received by the CCF regarding issued Notices, Diffusions, and other INTERPOL communications.

(ii) The category of violation alleged in each such complaint.

(2) Put in place procedures, as appropriate, for sharing with relevant departments and agencies credible information of likely attempts by member countries to abuse INTERPOL communications for politically motivated or other unlawful purposes so that, as appropriate, action can be taken in accordance with their respective institutional mandates.

SEC. 4. REPORT ON THE ABUSE OF INTERPOL SYSTEMS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General, in coordination with the Secretary of Homeland Secretary, the Secretary of State, and the heads of other relevant United States Government departments or agencies shall submit to the appropriate congressional committees a report containing an assessment of how INTERPOL member countries abuse INTERPOL Red Notices, Diffusions,
and other INTERPOL communications for political motives and other unlawful purposes within the past three years.

(b) ELEMENTS.—The report required under subsection (a) shall include the following elements:

(1) A description of the most common tactics employed by member countries in conducting such abuse, including the crimes most commonly alleged and the INTERPOL communications most commonly exploited.

(2) An assessment of the adequacy of INTERPOL mechanisms for challenging abusive requests, including the Commission for the Control of INTERPOL’s Files (CCF), and any shortcoming the United States believes should be addressed.

(3) A description of any incidents in which the Department of Justice assesses that United States courts and executive departments or agencies have relied on INTERPOL communications in contravention of existing law or policy to seek the detention of individuals or render judgments concerning their immigration status or requests for asylum, with holding of removal, or convention against torture claims and any measures the Department of Justice
or other executive departments or agencies took in response to these incidents.

(4) A description of how the United States monitors and responds to likely instances of abuse of INTERPOL communications by member countries that could affect the interests of the United States, including citizens and nationals of the United States, employees of the United States Government, aliens lawfully admitted for permanent residence in the United States, aliens who are lawfully present in the United States, or aliens with pending asylum, withholding of removal, or convention against torture claims, though they may be unlawfully present in the United States.

(5) A description of what actions the United States takes in response to credible information it receives concerning likely abuse of INTERPOL communications targeting employees of the United States Government for activities they undertook in an official capacity.

(6) A description of United States advocacy for reform and good governance within INTERPOL.

(7) A strategy for improving interagency coordination to identify and address instances of INTERPOL abuse that affect the interests of the
United States, including international respect for
human rights and fundamental freedoms, citizens
and nationals of the United States, employees of the
United States Government, aliens lawfully admitted
for permanent residence in the United States, aliens
who are lawfully present in the United States, or
aliens with pending asylum, withholding of removal,
or convention against torture claims, though they
may be unlawfully present in the United States.

(8) An estimate of the costs involved in estab-
lishing such improvements.

(c) FORM OF REPORT.—Each report required by sub-
section (a) shall be submitted in unclassified form and be
published in the Federal Register, but may include a clas-
sified annex, as appropriate.

(d) BRIEFING.—Not later than 180 days after the
submission of the report in subsection (a), and every 180
days after for two years, the Department of Justice, in
coordination with the Department of Homeland Secretary,
the Department of State, and the heads of other relevant
United States Government departments and agencies shall
brief the appropriate congressional committees on recent
instances of INTERPOL abuse by member countries and
United States efforts to identify and challenge such abuse,
including efforts to promote reform and good governance within INTERPOL.

SEC. 5. PROHIBITION ON DENIAL OF SERVICES.

(a) ARRESTS.—No United States Government department or agency may arrest an individual for the purpose of extradition who is the subject of an INTERPOL Red Notice or Diffusion issued by another INTERPOL member country, based solely upon the INTERPOL communication without—

(1) prior verification of the individual’s eligibility for extradition under a valid bilateral extradition treaty for the specified crime or crimes;

(2) receipt of a valid request for provisional arrest from the requesting country; and

(3) the issuance of an arrest warrant in compliance with section 3184 of title 18, United States Code.

(b) REMOVAL AND TRAVEL RESTRICTIONS.—No United States Government department or agency may make use of any INTERPOL Notice, Diffusion, or other INTERPOL communication, or the information contained therein, published on behalf of another INTERPOL member country as the sole basis to detain or otherwise deprive an individual of freedom, to remove an individual from the United States, or to deny a visa, asylum, citizenship, other
immigration status, or participation in any trusted traveler program of the Transportation Security Administration, without independent credible evidence supporting such a determination.

SEC. 6. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Foreign Assistance Act of 1961 is amended—

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

```
(h) POLITICALLY MOTIVATED REPRISAL AGAINST INDIVIDUALS OUTSIDE THE COUNTRY.—The report required by subsection (d) shall include examples from credible reporting of likely attempts by countries to misuse international law enforcement tools, such as INTERPOL communications, for politically-motivated reprisal against specific individuals located in other countries.”; and
```

(2) in section 502B (22 U.S.C. 2304)—

(A) by redesignating the second subsection

(i) (relating to child marriage status) as subsection (j); and

(B) by adding at the end the following new subsection:

```
(k) POLITICALLY MOTIVATED REPRISAL AGAINST INDIVIDUALS OUTSIDE THE COUNTRY.—The report required by subsection (b) shall include examples from credi-
1 ible reporting of likely attempts by countries to misuse
2 international law enforcement tools, such as INTERPOL
3 communications, for politically motivated reprisal against
4 specific individuals located in other countries.”.

5 **SEC. 7. DEFINITIONS.**

6 In this Act:

7 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
8 **TEES.**—The term “appropriate congressional com-
9 mittees” means—
10 (A) the Committee on Foreign Relations,
11 the Committee on Appropriations, and the
12 Committee on the Judiciary of the Senate; and
13 (B) the Committee on Foreign Affairs, the
14 Committee on Appropriations, and the Com-
15 mittee on the Judiciary of the House of Rep-
16 resentatives.

17 (2) **INTERPOL COMMUNICATIONS.**—The term
18 “INTERPOL communications” means any
19 INTERPOL Notice or Diffusion or any entry into
20 any INTERPOL database or other communications
21 system maintained by INTERPOL.