

116TH CONGRESS
1ST SESSION

S. 3081

To promote free and fair elections, political freedoms, and human rights
in Cambodia, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Mr. GARDNER (for himself and Mr. MARKEY) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote free and fair elections, political freedoms, and
human rights in Cambodia, 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 “Cambodia Democracy
5 Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Prime Minister Hun Sen has been in power
9 in Cambodia since 1985 and is the longest-serving
10 leader in Southeast Asia. Despite decades of inter-

1 national attention and assistance to promote a plu-
2 ralistie, multi-party democratic system in Cambodia,
3 the Government of Cambodia continues to be
4 undemocratically dominated by the ruling Cambodia
5 People’s Party (CPP), which controls every agency
6 and security apparatus of the state.

7 (2) In 2015, the CPP-controlled parliament
8 passed the “Law on Associations and Non-Govern-
9 mental Organizations”, which gave the government
10 sweeping powers to revoke the registration of non-
11 governmental organizations that the government be-
12 lieved to be operating with a political bias in a bla-
13 tant attempt to restrict the legitimate work of civil
14 society. On August 23, 2017, Cambodia’s Ministry
15 of Foreign Affairs ordered the closure of the Na-
16 tional Democratic Institute and the expulsion of its
17 foreign staff. On September 15, 2017, Prime Min-
18 ister Hun Sen called for the withdrawal of all volun-
19 teers from the United States Peace Corps, which has
20 operated in Cambodia since 2006 with approxi-
21 mately 500 United States volunteers providing
22 English language and healthcare training.

23 (3) The Government of Cambodia has taken
24 several measures to restrict its media environment,
25 especially through politicized tax investigations

1 against independent media outlets that resulted in
2 the closure of The Cambodian Daily and Radio Free
3 Asia in early September 2017. Additionally, the Gov-
4 ernment of Cambodia has ordered several radio sta-
5 tions to stop the broadcasting of Radio Free Asia
6 and Voice of America programming.

7 (4) On September 3, 2017, Kem Sokha, the
8 President of the Cambodia National Rescue Party
9 (CNRP), was arrested on politically motivated
10 charges, including treason and conspiring to over-
11 throw the Government of Cambodia, and faces up to
12 30 years in prison. The CNRP's previous leader,
13 Sam Rainsy, remains in exile. On November 16,
14 2017, Cambodia's Supreme Court dissolved the
15 CNRP, eliminating the primary opposition party. A
16 court in Cambodia announced plans to try Kem
17 Sokha for treason in January 2020.

18 (5) Each of the 6 elections that have taken
19 place in Cambodia since 1991 were conducted in cir-
20 cumstances that were not free and fair, and were
21 marked by fraud, intimidation, violence, and the gov-
22 ernment's misuse of legal mechanisms to weaken op-
23 position candidates and parties.

24 (6) In the most recent general election in July
25 2018, following the dissolution of the CNRP, the

1 CPP secured every parliamentary seat, an electoral
2 victory that a statement from the White House
3 Press Secretary stated was “neither free nor fair
4 and failed to represent the will of the Cambodian
5 people”.

6 (7) The United States is committed to pro-
7 moting democracy, human rights, and the rule of
8 law in Cambodia. The United States continues to
9 urge the Government of Cambodia to immediately
10 release Mr. Kem Sokha, reinstate the political status
11 of the CNRP and restore its elected seats in the Na-
12 tional Assembly, and support electoral reform efforts
13 in Cambodia with free and fair elections monitored
14 by international observers.

15 (8) In section 401 of the Asia Reassurance Ini-
16 tiative Act of 2018 (Public Law 115–409; 132 Stat.
17 5407), Congress expressed serious concerns with the
18 rule of law and civil liberties in Cambodia and made
19 the finding that the promotion of human rights and
20 respect for democratic values in the Indo-Pacific re-
21 gion is in the United States national security inter-
22 est.

23 (9) Section 7043(b) of the Department of
24 State, Foreign Operations, and Related Programs
25 Appropriations Act, 2018 (division K of Public Law

1 115–141; 132 Stat. 918) and section 201(f) of the
2 Asia Reassurance Initiative Act of 2018 (Public Law
3 115–409; 132 Stat. 5392) restricted United States
4 assistance to Cambodia unless the Government of
5 Cambodia takes effective steps to respect the rights
6 and responsibilities enshrined in the Constitution of
7 Cambodia, including by releasing all political pris-
8 oners, including journalists, civil society activists,
9 and members of the opposition political party.

10 (10) On December 9, 2019, the Department of
11 the Treasury imposed sanctions under the Global
12 Magnitsky Human Rights Accountability Act (sub-
13 title F of title XII of Public Law 114–328; 22
14 U.S.C. 2656 note) with respect to certain corrupt
15 Cambodian actors and their networks.

16 (11) In February 2019, the European Union
17 began intense scrutiny of Cambodia’s eligibility to
18 for preferential trade access in light of the deteriora-
19 tion of democracy, the rule of law, and the protec-
20 tion of human rights in Cambodia.

21 **SEC. 3. SANCTIONS RELATING TO UNDERMINING DEMOC-**
22 **RACY IN CAMBODIA.**

23 (a) IDENTIFICATION OF PERSONS RESPONSIBLE FOR
24 UNDERMINING DEMOCRACY IN CAMBODIA.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the
3 President shall submit to the appropriate congress-
4 sional committees a list of—

5 (A) each senior official of the government,
6 military, or security forces of Cambodia who the
7 President determines has, on or after such date
8 of enactment—

9 (i) directly and substantially under-
10 mined democracy in Cambodia; or

11 (ii) committed or directed serious
12 human rights violations associated with
13 undermining democracy in Cambodia; and

14 (B) each foreign person owned or con-
15 trolled by an official described in subparagraph
16 (A).

17 (2) UPDATES.—The President shall submit to
18 the appropriate congressional committees updated
19 lists under paragraph (1) as new information be-
20 comes available.

21 (b) IMPOSITION OF SANCTIONS.—The President shall
22 impose the following sanctions with respect to each foreign
23 person on the list required by subsection (a):

24 (1) ASSET BLOCKING.—The President shall ex-
25 ercise all of the powers granted to the President

1 under the International Emergency Economic Pow-
2 ers Act (50 U.S.C. 1701 et seq.) (except that the re-
3 quirements of section 202 of such Act (50 U.S.C.
4 1701) shall not apply) to the extent necessary to
5 block and prohibit all transactions in property and
6 interests in property of the person if such property
7 and interests in property are in the United States,
8 come within the United States, or are or come with-
9 in the possession or control of a United States per-
10 son.

11 (2) ALIENS INADMISSIBLE FOR VISAS, ADMIS-
12 SION, OR PAROLE.—

13 (A) VISAS, ADMISSION, OR PAROLE.—In
14 the case of an individual, that individual is—

15 (i) inadmissible to the United States;

16 (ii) ineligible to receive a visa or other
17 documentation to enter the United States;

18 and

19 (iii) otherwise ineligible to be admitted
20 or paroled into the United States or to re-
21 ceive any other benefit under the Immigra-
22 tion and Nationality Act (8 U.S.C. 1101 et
23 seq.).

24 (B) CURRENT VISAS REVOKED.—

1 (i) IN GENERAL.—The visa or other
2 entry documentation of the individual shall
3 be revoked, regardless of when such visa or
4 other entry documentation is or was
5 issued.

6 (ii) IMMEDIATE EFFECT.—A revoca-
7 tion under clause (i) shall—

8 (I) take effect immediately; and

9 (II) automatically cancel any
10 other valid visa or entry documenta-
11 tion that is in the individual’s posses-
12 sion.

13 (c) EXCEPTIONS.—

14 (1) EXCEPTION RELATING TO IMPORTATION OF
15 GOODS.—

16 (A) IN GENERAL.—The authorities and re-
17 quirements to impose sanctions authorized
18 under subsection (b)(1) shall not include the
19 authority or requirement to impose sanctions on
20 the importation of goods.

21 (B) GOOD DEFINED.—In this paragraph,
22 the term “good” means any article, natural or
23 manmade substance, material, supply or manu-
24 factured product, including inspection and test
25 equipment, and excluding technical data.

1 (2) EXCEPTION TO COMPLY WITH INTER-
2 NATIONAL OBLIGATIONS.—Sanctions under sub-
3 section (b)(2) shall not apply with respect to a for-
4 eign person if admitting or paroling the person into
5 the United States is necessary to permit the United
6 States to comply with the Agreement regarding the
7 Headquarters of the United Nations, signed at Lake
8 Success June 26, 1947, and entered into force No-
9 vember 21, 1947, between the United Nations and
10 the United States, or other applicable international
11 obligations of the United States.

12 (d) WAIVER.—The President may waive the applica-
13 tion of sanctions under subsection (b) with respect to a
14 foreign person on the list required by subsection (a) if the
15 President determines and certifies to the appropriate con-
16 gressional committees that such a waiver is in the national
17 interest of the United States.

18 (e) SUSPENSION OF SANCTIONS.—

19 (1) SUSPENSION.—The requirement to impose
20 sanctions under this section may be suspended for
21 an initial period of not more than one year if the
22 President determines and certifies to the appropriate
23 congressional committees that Cambodia is making
24 meaningful progress toward the following:

1 (A) Ending government efforts to under-
2 mine democracy.

3 (B) Ending human rights violations associ-
4 ated with undermining democracy.

5 (C) Conducting free and fair elections that
6 allow for the active participation of credible op-
7 position candidates.

8 (2) RENEWAL OF SUSPENSION.—The suspen-
9 sion under paragraph (1) may be renewed for addi-
10 tional, consecutive one-year periods if the President
11 determines and certifies to the appropriate congres-
12 sional committees that Cambodia continued to make
13 meaningful progress toward satisfying the conditions
14 described in that paragraph during the year pre-
15 ceding the certification.

16 (f) IMPLEMENTATION; PENALTIES.—

17 (1) IMPLEMENTATION.—The President may ex-
18 ercise all authorities provided under sections 203
19 and 205 of the International Emergency Economic
20 Powers Act (50 U.S.C. 1702 and 1704) to carry out
21 this section.

22 (2) PENALTIES.—A person that violates, at-
23 tempts to violate, conspires to violate, or causes a
24 violation of subsection (b)(1) or any regulation, li-
25 cense, or order issued to carry out that subsection

1 shall be subject to the penalties set forth in sub-
2 sections (b) and (c) of section 206 of the Inter-
3 national Emergency Economic Powers Act (50
4 U.S.C. 1705) to the same extent as a person that
5 commits an unlawful act described in subsection (a)
6 of that section.

7 (g) SUNSET.—This section shall terminate on the
8 date that is 5 years after the date of the enactment of
9 this Act.

10 (h) DEFINITIONS.—In this section:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Foreign Affairs and
15 the Committee on Financial Services of the
16 House of Representatives; and

17 (B) the Committee on Foreign Relations
18 and the Committee on Banking, Housing, and
19 Urban Affairs of the Senate.

20 (2) FOREIGN PERSON.—The term “foreign per-
21 son” means a person that is not a United States
22 person.

23 (3) PERSON.—

24 (A) IN GENERAL.—The term “person”
25 means—

- 1 (i) a natural person; or
- 2 (ii) a corporation, business associa-
- 3 tion, partnership, society, trust, financial
- 4 institution, insurer, underwriter, guar-
- 5 antor, and any other business organization,
- 6 any other nongovernmental entity, organi-
- 7 zation, or group, and any governmental en-
- 8 tity operating as a business enterprise or
- 9 any successor to any entity described in
- 10 this clause.

11 (B) APPLICATION TO GOVERNMENTAL EN-

12 TITIES.—The term “person” does not include a

13 government or governmental entity that is not

14 operating as a business enterprise.

15 (4) UNITED STATES PERSON.—The term

16 “United States person” means—

17 (A) a United States citizen or an alien law-

18 fully admitted for permanent residence to the

19 United States; or

20 (B) an entity organized under the laws of

21 the United States or of any jurisdiction of the

22 United States, including a foreign branch of

23 such an entity.

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