

117TH CONGRESS
1ST SESSION

S. 3052

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2021

Mr. MARKEY (for himself, Mr. RUBIO, Mr. DURBIN, Mr. TILLIS, Ms. WARREN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote free and fair elections, democracy, 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 and Human Rights Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) On October 23, 1991, Cambodia and 18
9 other countries signed the Comprehensive Cam-

1 bodian Peace Agreement (commonly referred to as
2 the “Paris Peace Agreements”), which committed
3 Cambodia to a democratic system of governance pro-
4 tected by a constitution and free and fair elections
5 and stated that the people of Cambodia “shall enjoy
6 the rights and freedoms embodied in the Universal
7 Declaration of Human Rights and other relevant
8 international human rights instruments”.

9 (2) Prime Minister Hun Sen has been in power
10 in Cambodia since 1984 and is the longest-serving
11 leader in Southeast Asia. Despite decades of inter-
12 national attention and assistance to promote a plu-
13 ralistic, multi-party democratic system in Cambodia,
14 the Government of Cambodia continues to be
15 undemocratically dominated by the ruling Cam-
16 bodian People’s Party.

17 (3) In 2015, the Cambodian People’s Party-
18 controlled National Assembly adopted the Law on
19 Associations and Non-Governmental Organizations,
20 which gave the Government of Cambodia sweeping
21 powers to revoke the registration of nongovern-
22 mental organizations in the name of “national
23 unity”, and which the government has used to re-
24 strict the legitimate work of civil society.

1 (4) On August 23, 2017, Cambodia’s Ministry
2 of Foreign Affairs ordered the closure of the Na-
3 tional Democratic Institute office in Cambodia and
4 the expulsion of its foreign staff. On September 15,
5 2017, Prime Minister Hun Sen called for the with-
6 drawal of all volunteers from the United States
7 Peace Corps, which has operated in Cambodia since
8 2006 with approximately 500 United States volun-
9 teers providing English language and healthcare
10 training.

11 (5) The Government of Cambodia has taken
12 several measures to restrict its media environment,
13 especially through politicized tax investigations
14 against independent media outlets that resulted in
15 the closure of The Cambodia Daily and Radio Free
16 Asia in early September 2017. Additionally, the Gov-
17 ernment of Cambodia has ordered several radio sta-
18 tions to stop the broadcasting of Radio Free Asia
19 and Voice of America programming.

20 (6) Cambodia’s small number of independent
21 trade unions and workers have the right to strike,
22 but many face retribution for doing so, according to
23 Freedom House.

24 (7) Each of the 6 elections that have taken
25 place in Cambodia since 1991 was conducted in cir-

1 cumstances that were not free and fair, and were
2 marked, to varying degrees, by fraud, intimidation,
3 violence, and the misuse by the Government of Cam-
4 bodia of legal mechanisms to weaken opposition can-
5 didates and parties. The 2017 local elections were
6 marked by fewer reported irregularities, however,
7 which helped the opposition Cambodia National Res-
8 cue Party (in this section referred to as the
9 “CNRP”). Hun Sen responded to those improve-
10 ments in elections, resulting in part from inter-
11 national assistance and observers, by banning the
12 CNRP, the primary opposition party, on November
13 16, 2017.

14 (8) On September 3, 2017, Kem Sokha, the
15 President of the CNRP, was arrested on politically
16 motivated charges, including treason and conspiring
17 to overthrow the Government of Cambodia. While he
18 was released on bail, he faces up to 30 years in pris-
19 on. His trial has been delayed due to the coronavirus
20 disease 2019 (commonly known as “COVID–19”)
21 pandemic and will likely not resume in 2021.

22 (9) In the most recent general election in July
23 2018, following the dissolution of the CNRP, the
24 Cambodian People’s Party secured every parliamen-
25 tary seat, an electoral victory that the White House

1 Press Secretary stated was “neither free nor fair
2 and failed to represent the will of the Cambodian
3 people”.

4 (10) The widespread crackdown by the Govern-
5 ment of Cambodia on the political opposition and
6 other independent voices has caused many CNRP
7 leaders to flee abroad. According to Human Rights
8 Watch, on March 12, 2019, a court criminally
9 charged and issued arrest warrants for 8 leading
10 members of the CNRP, including former CNRP
11 leader Sam Rainsy, who had left Cambodia ahead of
12 the July 2018 election, as well as Mu Sochua, Ou
13 Chanrith, Eng Chhai Eang, Men Sothavarin, Long
14 Ry, Tob Van Chan, and Ho Vann.

15 (11) The Government of Cambodia has arrested
16 many opposition party members and democracy ac-
17 tivists who remained in Cambodia. More than 80 op-
18 position party supporters and activists were arrested
19 in 2019 and were released on bail with charges still
20 pending and could face re-arrest any time.

21 (12) In November 2019, Sam Rainsy made a
22 failed attempt to return to Cambodia to partake in
23 mass pro-democracy protests. Approximately 150
24 CNRP activists were put on trial in 2020 and 2021
25 for treason for calling for his return.

1 (13) In March 2021, a Cambodian court con-
2 victed and sentenced Sam Rainsy in absentia to 25
3 years in prison and 8 other opposition figures living
4 in exile, including Rainsy’s wife Tioulong Saumura,
5 as well as Mu Sochua, Eng Chhay Eang, Men
6 Sothavarin, Ou Chanrith, Ho Vann, Long Ry, and
7 Nuth Romduol, to between 20 and 22 years.

8 (14) Prime Minister Hun Sen has used the
9 COVID–19 pandemic as justification to further con-
10 solidate power and the Cambodia People’s Party-
11 controlled National Assembly passed new laws to
12 further curtail the rights to freedom of expression,
13 peaceful assembly, and association.

14 (15) According to Human Rights Watch, under
15 the guise of the pandemic, authorities—

16 (A) banned protests organized by youth
17 and environmental activists;

18 (B) detained and interrogated at least 30
19 people for Facebook posts related to the pan-
20 demic; and

21 (C) charged one journalist for pandemic-
22 related reporting.

23 (16) According to Freedom House, Hun Sen
24 uses the police and armed forces as instruments of
25 repression. The military has stood firmly behind

1 Hun Sen and his crackdown on opposition groups
2 and Hun Sen has built a personal bodyguard unit in
3 the armed forces that he reportedly uses to harass
4 and abuse Cambodian People’s Party opponents.

5 (17) In August 2020, 14 youth and environ-
6 mental activists were detained by Cambodian au-
7 thorities. In May 2021, 3 environmental activists
8 were convicted on charges of “incitement to commit
9 a felony or disturb social order”, related to peaceful
10 protests against authorities. In June 2021, a Cam-
11 bodian court charged 3 environmental activists with
12 “plotting against the government and insulting the
13 king”. The 2020 Country Reports on Human Rights
14 Practices of the Department of State reported “at
15 least 40 political prisoners or detainees” in Cam-
16 bodia.

17 (18) In 2019, the Wall Street Journal reported
18 that Cambodia had signed a deal with the Govern-
19 ment of the People’s Republic of China to allow that
20 Government access to and use of the Ream Naval
21 Base on the Gulf of Thailand, which would violate
22 the Constitution of Cambodia, which prohibits the
23 establishment of foreign military bases.

24 (19) In 2019, the New York Times reported
25 that a company described by the Department of the

1 Treasury as being a state-owned company of the
2 People’s Republic of China had secured a 99-year
3 lease to build an airport capable of supporting mili-
4 tary aircraft at Dara Sakor, raising concerns that
5 Beijing intends to use this dual-use facility for its
6 military, which would violate the Constitution of
7 Cambodia.

8 (20) In section 401 of the Asia Reassurance
9 Initiative Act of 2018 (Public Law 115–409; 132
10 Stat. 5407), Congress expressed serious concerns
11 with the rule of law and civil liberties in Cambodia
12 and made the finding that the promotion of human
13 rights and respect for democratic values in the Indo-
14 Pacific region is in the United States national secu-
15 rity interest.

16 (21) The 2020 Country Reports on Human
17 Rights Practices of the Department of State stated,
18 of Cambodia, “Corruption was endemic throughout
19 society and government. There were reports police,
20 prosecutors, investigating judges, and presiding
21 judges took bribes from owners of both legal and il-
22 legal businesses. Citizens frequently and publicly
23 complained about corruption. Meager salaries con-
24 tributed to ‘survival corruption’ among low-level

1 public servants, while a culture of impunity enabled
2 corruption to flourish among senior officials.”.

3 (22) Section 7043(b) of the Department of
4 State, Foreign Operations, and Related Programs
5 Appropriations Act, 2018 (division K of Public Law
6 115–141; 132 Stat. 918) and section 201(f) of the
7 Asia Reassurance Initiative Act of 2018 (Public Law
8 115–409; 132 Stat. 5392) restrict assistance to
9 Cambodia until the Government of Cambodia takes
10 effective steps to—

11 (A) strengthen regional security and sta-
12 bility, particularly regarding territorial disputes
13 in the South China Sea and the enforcement of
14 international sanctions with respect to North
15 Korea; and

16 (B) respect the rights and responsibilities
17 enshrined in the Constitution of the Kingdom
18 of Cambodia as enacted in 1993, including
19 through the—

20 (i) restoration of the civil and political
21 rights of the opposition Cambodia National
22 Rescue Party, media, and civil society or-
23 ganizations;

24 (ii) restoration of all elected officials
25 to their elected offices; and

1 (iii) release of all political prisoners,
2 including journalists, civil society activists,
3 and members of the opposition political
4 party.

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

11 (24) In February 2019, the European Union
12 began intense scrutiny of Cambodia’s eligibility to
13 for preferential trade access in light of the deteriora-
14 tion of democracy, the rule of law, and the protec-
15 tion of human rights in Cambodia. In February
16 2020, the European Union, Cambodia’s largest ex-
17 port market, partially suspended trade preferences
18 for Cambodia under its “Everything but Arms”
19 trade program, in response to Cambodia’s violations
20 of civil and political rights.

21 **SEC. 3. SENSE OF CONGRESS.**

22 It is the sense of Congress that—

23 (1) the United States is committed to pro-
24 moting democracy, human rights, and the rule of

1 law in Cambodia, as laid out in the 1991 Paris
2 Peace Agreements;

3 (2) the United States Government, through di-
4 plomacy and assistance, must urge the Government
5 of Cambodia to—

6 (A) release all political prisoners;

7 (B) drop all politically motivated charges
8 and vacate convictions against members of the
9 Cambodia National Rescue Party, journalists,
10 and civil society activists; and

11 (C) restore full political rights to the Cam-
12 bodia National Rescue Party and other political
13 parties;

14 (3) the United States Government should urge
15 the Government of Cambodia—

16 (A) to reverse the policies and actions that
17 have resulted in the dismantling of democracy,
18 the blatant disregard of fundamental human
19 rights, and the breakdown of rule of law in
20 Cambodia;

21 (B) to immediately discontinue the impris-
22 onment and judicial harassment of journalists,
23 political dissidents, and activists, and drop po-
24 litically motivated charges;

1 (C) to halt the threat of mass arrests and
2 violence if and when Cambodia National Rescue
3 Party members currently overseas return to
4 Cambodia;

5 (D) to reinstate the political status of the
6 Cambodia National Rescue Party and other op-
7 position parties, restore the Cambodia National
8 Rescue Party's elected seats in the National As-
9 sembly, and support electoral reform efforts in
10 Cambodia with free and fair elections monitored
11 by international observers;

12 (E) to ensure that media outlets are able
13 to operate freely and without interference, in-
14 cluding having the ability to apply for and re-
15 ceive licenses to operate within Cambodia; and

16 (F) to consider how allowing the People's
17 Liberation Army to conduct activities, gain ac-
18 cess, or establish a presence in Cambodia would
19 harm Cambodia's relationships with its neigh-
20 bors, partners, and allies, and violate the Con-
21 stitution of Cambodia;

22 (4) Prime Minister Hun Sen is directly respon-
23 sible, and should be held accountable, for the safety,
24 health, and welfare of exiled Cambodia National

1 Rescue Party leaders and their supporters upon
2 their return to Cambodia;

3 (5) other governments throughout the Indo-Pa-
4 cific region should—

5 (A) urge the Government of Cambodia to
6 allow the peaceful return of exiled Cambodia
7 National Rescue Party leaders and their sup-
8 porters; and

9 (B) refrain from illegally restricting the
10 rights of Cambodia National Rescue Party
11 members to travel to and through their coun-
12 tries as they return; and

13 (6) in the absence of systemic democratic re-
14 forms on the part of the Government of Cambodia,
15 there is need for additional United States Govern-
16 ment measures, including through legislation and ex-
17 ecutive action.

18 **SEC. 4. SANCTIONS RELATING TO UNDERMINING DEMOC-**
19 **RACY IN CAMBODIA.**

20 (a) IDENTIFICATION OF PERSONS RESPONSIBLE FOR
21 UNDERMINING DEMOCRACY IN CAMBODIA.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this Act, the
24 President shall submit to the appropriate congres-
25 sional committees a list of—

1 (A) each foreign person, including any sen-
2 ior official of the Government, military, or secu-
3 rity forces of Cambodia, who the President de-
4 termines has, on or after such date of enact-
5 ment—

6 (i) directly and substantially under-
7 mined democracy in Cambodia, including
8 through the use of baseless legal charges,
9 malicious prosecution, or mass trials;

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

13 (iii) engaged in or directed acts of sig-
14 nificant corruption, including the expro-
15 priation of private or public assets for per-
16 sonal gain, corruption related to govern-
17 ment contracts or the extraction of natural
18 resources, bribery, or the facilitation or
19 transfer of the proceeds of corruption to
20 foreign jurisdictions; and

21 (B) each foreign person owned or con-
22 trolled by an official described in subparagraph
23 (A).

24 (2) UPDATES.—The President shall submit to
25 the appropriate congressional committees updated

1 lists under paragraph (1) as new information be-
2 comes available.

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

6 (1) ASSET BLOCKING.—The President shall ex-
7 ercise all of the powers granted to the President
8 under the International Emergency Economic Pow-
9 ers Act (50 U.S.C. 1701 et seq.) (except that the re-
10 quirements of section 202 of such Act (50 U.S.C.
11 1701) shall not apply) to the extent necessary to
12 block and prohibit all transactions in property and
13 interests in property of the person if such property
14 and interests in property are in the United States,
15 come within the United States, or are or come with-
16 in the possession or control of a United States per-
17 son.

18 (2) ALIENS INADMISSIBLE FOR VISAS, ADMIS-
19 SION, OR PAROLE.—

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

- 22 (i) inadmissible to the United States;
23 (ii) ineligible to receive a visa or other
24 documentation to enter the United States;
25 and

1 (iii) otherwise ineligible to be admitted
2 or paroled into the United States or to re-
3 ceive any other benefit under the Immigra-
4 tion and Nationality Act (8 U.S.C. 1101 et
5 seq.).

6 (B) CURRENT VISAS REVOKED.—

7 (i) IN GENERAL.—The visa or other
8 entry documentation of the individual shall
9 be revoked, regardless of when such visa or
10 other entry documentation is or was
11 issued.

12 (ii) IMMEDIATE EFFECT.—A revoca-
13 tion under clause (i) shall—

14 (I) take effect immediately; and

15 (II) automatically cancel any
16 other valid visa or entry documenta-
17 tion that is in the individual's posses-
18 sion.

19 (c) EXCEPTIONS.—

20 (1) EXCEPTION RELATING TO IMPORTATION OF
21 GOODS.—

22 (A) IN GENERAL.—The authorities and re-
23 quirements to impose sanctions authorized
24 under subsection (b)(1) shall not include the

1 authority or requirement to impose sanctions on
2 the importation of goods.

3 (B) GOOD DEFINED.—In this paragraph,
4 the term “good” means any article, natural or
5 manmade substance, material, supply or manu-
6 factured product, including inspection and test
7 equipment, and excluding technical data.

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

19 (d) WAIVER.—The President may waive the applica-
20 tion of sanctions under subsection (b) with respect to a
21 foreign person on the list required by subsection (a) if the
22 President determines and certifies to the appropriate con-
23 gressional committees that such a waiver is in the national
24 interest of the United States.

25 (e) SUSPENSION OF SANCTIONS.—

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

7 (A) Ending government efforts to under-
8 mine democracy.

9 (B) Ending human rights violations associ-
10 ated with undermining democracy.

11 (C) Releasing all political prisoners.

12 (D) Dropping all politically motivated
13 charges and vacating convictions from any such
14 charges against members of the Cambodia Na-
15 tional Rescue Party, journalists, and civil soci-
16 ety activists.

17 (E) Conducting free and fair elections that
18 allow for the active participation of credible op-
19 position candidates.

20 (2) RENEWAL OF SUSPENSION.—The suspen-
21 sion of sanctions under paragraph (1) may be re-
22 newed for additional, consecutive one-year periods if
23 the President determines and certifies to the appro-
24 priate congressional committees that Cambodia con-
25 tinued to make meaningful progress toward satis-

1 fying the conditions described in that paragraph
2 during the year preceding the certification.

3 (f) IMPLEMENTATION; PENALTIES.—

4 (1) IMPLEMENTATION.—The President may ex-
5 ercise all authorities provided under sections 203
6 and 205 of the International Emergency Economic
7 Powers Act (50 U.S.C. 1702 and 1704) to carry out
8 this section.

9 (2) PENALTIES.—A person that violates, at-
10 tempts to violate, conspires to violate, or causes a
11 violation of subsection (b)(1) or any regulation, li-
12 cense, or order issued to carry out that subsection
13 shall be subject to the penalties set forth in sub-
14 sections (b) and (c) of section 206 of the Inter-
15 national Emergency Economic Powers Act (50
16 U.S.C. 1705) to the same extent as a person that
17 commits an unlawful act described in subsection (a)
18 of that section.

19 (g) SUNSET.—This section shall terminate on the
20 date that is 5 years after the date of the enactment of
21 this Act.

1 **SEC. 5. REPORT ON ACTIVITY OF THE PEOPLE'S LIBERA-**
2 **TION ARMY AND GOVERNMENT OF THE PEOP-**
3 **LE'S REPUBLIC OF CHINA IN CAMBODIA.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the President shall submit to the appro-
6 priate congressional committees a report assessing—

7 (1) the involvement of the Government of the
8 People's Republic of China or the People's Libera-
9 tion Army in upgrading existing facilities or con-
10 structing new facilities at Ream Naval Base and
11 Dara Sakor Airport in Cambodia;

12 (2) any actual or projected benefits, including
13 any enhancement of the power projection capabilities
14 of the People's Liberation Army, that the Govern-
15 ment of the People's Republic of China or the Peo-
16 ple's Liberation Army may accrue as a result of
17 such upgrades or construction;

18 (3) the impact that the presence of the People's
19 Liberation Army in Cambodia may have on the in-
20 terests, allies, and partners of the United States in
21 the region;

22 (4) any efforts undertaken by the United States
23 Government to convey to the Government of Cam-
24 bodia the concerns relating to the presence of the
25 People's Liberation Army and the Government of
26 the People's Republic of China in Cambodia and the

1 impact that presence could have on adherence to the
2 Constitution of Cambodia; and

3 (5) the impact the presence of the People’s Lib-
4 eration Army in Cambodia, as well as closer govern-
5 ment-to-government ties between Cambodia and the
6 Government of the People’s Republic of China, in-
7 cluding through investments under the Belt and
8 Road Initiative, has had on the deterioration of de-
9 mocracy and human rights inside Cambodia.

10 **SEC. 6. DEFINITIONS.**

11 In this Act:

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

15 (A) the Committee on Foreign Relations
16 and the Committee on Banking, Housing, and
17 Urban Affairs of the Senate; and

18 (B) the Committee on Foreign Affairs and
19 the Committee on Financial Services of the
20 House of Representatives.

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

1 (3) PEOPLE’S LIBERATION ARMY.—The term
2 “People’s Liberation Army” means the armed forces
3 of the People’s Republic of China.

4 (4) PERSON.—

5 (A) IN GENERAL.—The term “person”
6 means—

7 (i) a natural person; or

8 (ii) a corporation, business associa-
9 tion, partnership, society, trust, financial
10 institution, insurer, underwriter, guar-
11 antor, and any other business organization,
12 any other nongovernmental entity, organi-
13 zation, or group, and any governmental en-
14 tity operating as a business enterprise or
15 any successor to any entity described in
16 this clause.

17 (B) APPLICATION TO GOVERNMENTAL EN-
18 TITIES.—The term “person” does not include a
19 government or governmental entity that is not
20 operating as a business enterprise.

21 (5) UNITED STATES PERSON.—The term
22 “United States person” means—

23 (A) a United States citizen or an alien law-
24 fully admitted for permanent residence to the
25 United States; or

1 (B) an entity organized under the laws of
2 the United States or of any jurisdiction of the
3 United States, including a foreign branch of
4 such an entity.

○