



FY2020 Foreign Operations Appropriations: Targeting Foreign Corruption and Human Rights Violations

To promote anti-corruption and human rights, the United States prohibits foreign corrupt actors and human rights violators from entering the United States. Currently, Congress provides for such a visa restriction in Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (SFOPS, Division G, P.L. 116-94; 8 U.S.C. 1182 note). A variation of this provision has been in annual foreign operations appropriations since FY2008.

This provision requires the Secretary of State to bar from U.S. entry foreign officials about whom the Secretary has credible information indicating that they “have been involved, directly or indirectly, in significant corruption, including corruption related to the extraction of natural resources, or a gross violation of human rights.” The visa restriction extends to immediate family members of the foreign kleptocrat or human rights violator. A pending U.S. visa application need not exist to designate individuals. Moreover, designations may be issued publicly—despite Section 222(f) of the Immigration and Nationality Act (INA; 8 U.S.C. 1202(f)), which states generally that records pertaining to the issuance or refusal of U.S. visas or permits are to be kept confidential.

The origins of Section 7031(c) can be traced to FY2008 appropriations, which barred from U.S. entry foreign kleptocrats involved in the extraction of natural resources (see **Figure 1**). Beginning in FY2012, Congress broadened the provision to address “significant corruption.” In FY2014, Congress expanded the provision again, this time to target foreign officials involved in “a gross violation of human rights.” In FY2015, Congress further clarified that designations may be made publicly or privately. For FY2020, Congress added that the provision applies to foreign officials involved “directly or indirectly” in corruption or a human rights violation.

Key Elements of SFOPS Section 7031(c) on “Anti-Kleptocracy and Human Rights”

Who may be found ineligible for U.S. entry? Foreign officials and, by association, their immediate family members.

What derogatory activity triggers a designation? Significant corruption, including corruption related to natural resources extraction, or a gross violation of human rights.

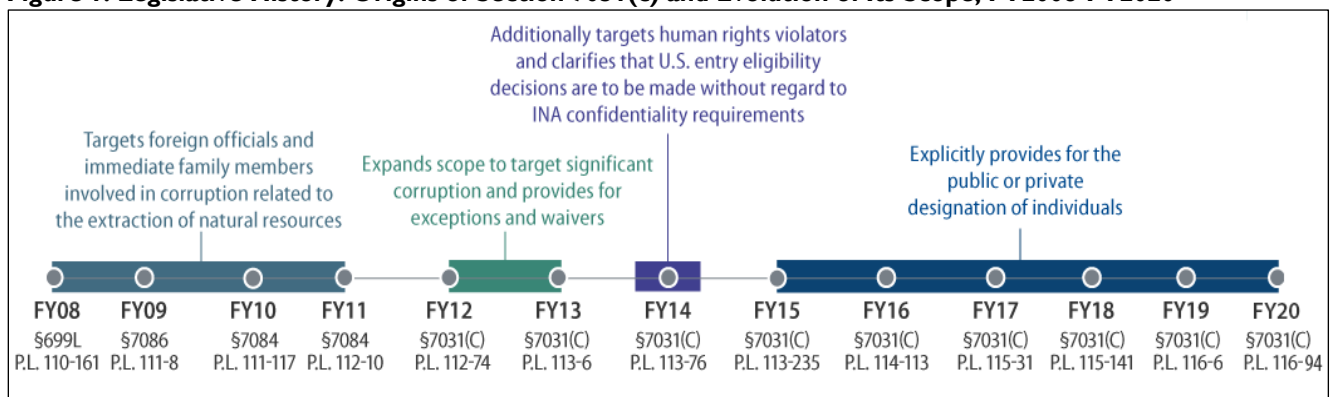
Are designations confidential? The Secretary of State may designate individuals publicly or privately, but consular records pertaining to the refusal or approval of U.S. entry for designated individuals are not to be considered confidential.

Under which circumstances may exceptions or waivers apply to allow individuals otherwise restricted from entering the United States to visit? Exceptions to Section 7031(c) include those whose entry would further important U.S. law enforcement objectives or whose entry is required to fulfill U.S. obligations under the United Nations (U.N.) Headquarters Agreement. The Secretary of State may also waive restrictions for compelling national interest reasons or because circumstances that caused the designation have sufficiently changed.

How does Congress conduct oversight of Section 7031(c)’s implementation? The Secretary of State is required to submit a report to the Appropriations, Foreign Relations/Foreign Affairs, and Judiciary Committees not later than 30 days after enactment and every 90 days thereafter describing its use during the previous 12 months and whether any exceptions or waivers were invoked. Unclassified portions of the report are required to be posted on the State Department website.

When does the requirement end? Section 7031(c) will end on September 30, 2020, unless Congress extends it by a continuing resolution or restated in a new law. The provision has continued without interruption since FY2008.

Figure 1. Legislative History: Origins of Section 7031(c) and Evolution of Its Scope, FY2008-FY2020



Source: CRS, based on legislation available on Congress.gov.

Public Designations

Although the State Department has been authorized to publicly designate individuals pursuant to 7031(c) since FY2015, the first such designation occurred in 2018 (Adriatik Llalla of Albania). Since then, more than 150 individuals from more than 30 countries, including immediate family members, have been publicly identified pursuant to 7031(c). In the first three months of 2020, the State Department publicly identified 30 individuals, including 20 primary and 10 family designations (see **Table 1**). Among those publicly designated under 7031(c), many are current and former politicians, military officials, and bureaucrats at the highest levels of government.

Human rights violators account for 70% of all public primary designations; in some such cases, however, multiple individuals have been designated for the same human rights violation (e.g., 17 Saudis for the murder of dissident and journalist Jamal Khashoggi, 13 Salvadorans for the 1989 extrajudicial killings of six Jesuit priests and two others, and four Burmese military officials for the extrajudicial killings of Rohingya). In 2019, two corruption-related private listings were converted into public designations: Norbert Basengezi Katintima and Marcellin Mukolo Basengezi from the Democratic Republic of the Congo (DRC). In 2020, the State Department designated an Iranian Islamic Revolutionary Guard Corps (IRGC) Brigadier General as a human rights violator; in 2019, the State Department designated the IRGC as a Foreign Terrorist Organization.

Table 1. Public 7031(c) Designations, Jan.-Mar. 2020

Date	Country	Name	Reason
Jan-2	Cuba	Leopoldo Cintra Frias	HR
Jan-13	Moldova	Vladimir Plahotniuc	C
Jan-17	Iran	Hassan Shahvarpour	HR
Jan-29	El Salvador	13 former military officials	HR
Jan-31	Tanzania	Paul Christian Makonda	HR
Feb-5	Bulgaria	Andon Mitalov	C
Feb-14	Sri Lanka	Shavendra Silva	HR
Feb-28	Mexico	Roberto Sandoval Castañeda	C

Source: CRS compilation of State Department documents.

Note: HR=human rights; C=corruption.

Other Visa Restrictions

Foreign corrupt actors and human rights violators may also be subject to visa restrictions under Section 212 of the INA (8 U.S.C. 1182), which provides broad executive branch authority to block entry in service of U.S. interests and foreign policy. Included among the grounds for U.S. visa ineligibility and admission are conviction of a crime involving moral turpitude, participation in genocide, commission of acts of torture or extrajudicial killings, particularly severe violations of religious freedom, significant trafficking in persons, and recruitment and use of child soldiers.

To combat kleptocracy, administrations have used Presidential Proclamation (PP) 7750 of January 12, 2004, to suspend U.S. entry of foreign public officials engaged in bribery, corruption, misappropriation of public funds, or interference with judicial, electoral, or other public processes that results in serious adverse effects on U.S. national interests. PP7750 draws on authority pursuant to Section 212(f) of the INA. Alien spouses, children, and dependent household members who are beneficiaries of corruption are also ineligible for U.S. entry. To target human rights violators, administrations have also used PP8697 of August 4, 2011, to suspend U.S. entry of aliens implicated in human rights and humanitarian law violations.

Several additional country-specific visa restrictions are in effect, due in part to human rights concerns, and Congress has enacted statutes that restrict U.S. entry for individuals from specific countries.

Global Magnitsky and Other Sanctions

Of the 77 primary individuals (excluding immediate family members) publicly designated as of April 2020 pursuant to 7031(c), 35 (45.5%) have also been targeted for Treasury Department sanctions. Some of these double-listed individuals are sanctioned under country-specific programs (i.e., DRC, Venezuela, and Zimbabwe sanctions). Most double-listed individuals (80%), however, are designated pursuant to Executive Order (E.O.) 13818 of December 20, 2017, which implements the Global Magnitsky Human Rights Accountability Act (P.L. 114-328; 22 U.S.C. 2656 note).

Like 7031(c), Global Magnitsky sanctions can be used to subject foreign kleptocrats and human rights violators to U.S. visa restrictions—though the criteria for designation under these programs differ slightly (“serious human rights abuse” or “corruption” under E.O. 13818, and “a gross violation of human rights” or “significant corruption” under 7031(c)). Unlike 7031(c), E.O. 13818 also freezes assets of and blocks transactions with targeted individuals (but not of immediate family members). Also unlike 7031(c), all E.O. 13818 designations are public.

Policy Outlook

Congress may seek to evaluate the value of Section 7031(c) as a policy tool and compare its implementation to other anticorruption and human rights tools. Potentially relevant questions include, How effective has Section 7031(c) been in promoting anti-corruption and human rights policy objectives? What factors should influence whether a corrupt official or human rights abuser is publicly or privately designated under 7031(c)? What constitutes credible information for designation under 7031(c)? Under what circumstances might concurrent application of 7031(c) and financial sanctions bolster their respective impacts, and When is the use of one tool more applicable or appropriate than another?

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