

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on

“The Global Magnitsky Human Rights Accountability Act: Taking Stock”

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Co-Chair McGovern, Co-Chair Smith, and distinguished members of the Commission: Thank you for the opportunity to testify on the Global Magnitsky sanctions program, its impact, and how it can be strengthened to help counter rising threats to human rights and the rule of law around the world. Senator Cardin, thank you for your leadership on these issues.

Human Rights First is an independent, non-profit advocacy organization that challenges America to live up to its ideals. For more than four decades, we have urged the United States to take a leading role in promoting and protecting human rights – both at home and around the world.

This work has never been more important, or more urgent. Autocratic leaders are gaining power around the world, while many rights-respecting democracies are backsliding. Crackdowns on pro-democracy and protest movements have led to violent repression in Hong Kong, Belarus, Myanmar, Thailand, Nigeria, Uganda, and elsewhere. Dozens of governments have exploited the coronavirus pandemic to target and imprison dissidents, human rights defenders, and journalists. Corruption is too often left unchecked to fuel a dangerous disillusionment with the institutions of democracy.

Faced with these alarming trends, we welcome the Biden administration's commitments to strengthening democracies, protecting human rights, and advancing an active anti-corruption agenda. Addressing these challenges requires a comprehensive strategy, one that draws on all the tools of diplomacy and foreign policy. We believe that targeted sanctions, and in particular the Global Magnitsky program, are a distinctive and valuable addition to that toolkit.

Global Magnitsky sanctions can help provide a measure of accountability to the world's worst human rights violators and corrupt actors, by exacting personal and financial repercussions for their actions. These sanctions can help stigmatize and isolate individual actors within foreign governments, while preserving the United States' broader bilateral relationship with that country. They can help frustrate the work of criminal networks, and send a powerful signal of solidarity with journalists, human rights defenders, and others at risk for their work. They can send a message to foreign actors that there is a price to pay for violating international norms and obligations, even if local authorities fail to take action. Perhaps most importantly, *targeted* sanctions can help ensure that it is the perpetrators themselves who pay that price, not innocent people who too often suffer from the humanitarian and economic fallout of comprehensive sanctions. And in some cases, targeted sanctions can simply express our national abhorrence at shocking acts, by identifying those responsible and ensuring that they cannot enter the country or take advantage of our financial system.

Since 2017, Human Rights First has built a global network of more than 250 human rights and anti-corruption NGOs in coordination with Freedom House, working to bring information about sanctionable acts to the U.S. government. Our coalition members fight for justice on a wide range of abuses, including religious persecution, attacks on journalists and human rights defenders, human trafficking, gender-based violence, genocide and other mass atrocities, and corruption. To date, we have helped civil society groups submit case files to the Treasury and State Departments that document human rights abuses and corruption by more than 400 individuals or entities, including dictators, kleptocrats, security forces, oligarchs, gangs, militias, and more.

Effectiveness of the Global Magnitsky Sanctions Program

Today, I want to share our perspective on how the U.S. government has used Global Magnitsky sanctions, what impact they have had in certain cases, and how Congress can strengthen the Global Magnitsky program in the future. To date, 250 individuals and entities, spanning 34 countries on five continents, have been sanctioned through the Global Magnitsky program since the first designations were announced in December 2017. While the U.S. government has its own sources of information, we are proud that more than one-third of these designations have a basis in recommendations from our coalition partners.

Yet even a well-targeted and responsive sanctions program is not a panacea for addressing serious abuses and corruption. The impact of any one sanctions designation is difficult to measure, especially when the tool is used appropriately as part of a more comprehensive strategy to protect human rights and the rule of law.

Moreover, there are some situations in which the U.S. government has not used these tools, despite credible reports of large-scale corruption or serious abuses. Their selective use risks sending the wrong message – that accountability bends to power – as we cautioned when the U.S. failed to designate the Saudi Crown Prince for his role in ordering the killing of dissident Jamal Khashoggi. But without the Global Magnitsky program, it is unlikely any of the 19 Saudi persons who were sanctioned for Mr. Khashoggi’s death would have faced serious consequences. We will continue to work with our partners to encourage the new administration to fight any perception that it is using these tools selectively.

Today, I want to highlight four ways that Global Magnitsky sanctions can contribute to an effective U.S. foreign policy going forward.

First, sanctions under this program have helped reinforce and show support for *national* efforts to provide accountability. These include the Gambia’s ongoing efforts to investigate abuses and recover stolen assets linked to the country’s former president, whom the United States sanctioned in 2017; and South Africa’s investigation of the corrupt capture of state authorities by members of an influential family, several of whom the United States sanctioned in 2019. In some instances, a Global Magnitsky designation has directly spurred national action. Days after the United States sanctioned a corrupt Latvian official in 2019, for example, national authorities passed legislation ending the official’s control over a major commercial port, and he has since been convicted of corruption.

Second, Global Magnitsky sanctions have also enabled the United States and its partners to respond more precisely and forcefully to grave international crimes. Just this week, the European Union, the UK, and Canada joined the United States in imposing sanctions on specific officials and a commercial entity complicit in abuses against minorities in China’s Xinjiang region – a multilateral effort with the potential for even greater impact.

Third, we believe that sanctions under this program have helped frustrate or hinder large-scale corrupt schemes with serious implications for good governance and environmental protections. The United States sanctioned Israeli businessman Dan Gertler in 2017 for his role in corrupt

mining and oil deals that had diverted more than \$1 billion in public assets from the Democratic Republic of the Congo. After the designations against him and 28 commercial entities associated with him, Gertler reportedly undertook a number of efforts to try circumventing the sanctions that constricted his business empire, culminating in a request for a Treasury Department license that would effectively end the sanctions. That license was granted under circumstances that remain unclear, but it was revoked earlier this month by the new administration. The United States also targeted Cambodian businessman Try Pheap and 11 associated commercial entities, citing his alleged involvement in illegal logging.

Fourth, Global Magnitsky sanctions have helped signal solidarity and support for marginalized or vulnerable groups. In December, individuals involved in arbitrarily arresting, detaining, and raping politically active women in Yemen were sanctioned. Chechen leader Ramzan Kadyrov was also sanctioned in part for kidnapping, torturing, and killing LGBTQI persons.

Recommendations for Congress

The United States has this valuable tool today because of the broad, bipartisan support for combatting corruption and human rights abuses that Congress expressed through the Global Magnitsky Act of 2016. In turn, much of the program's flexibility stems from the 2017 executive order that significantly and beneficially broadened the scope and reach of the program beyond what the Act itself provided. As a result, the U.S. government can use this tool to respond to a broader range of abuses, without constraints on the types of perpetrators or class of victims, and with the flexibility to target individuals based on the abuses committed by groups they oversee.

We have recommendations for how the executive branch could improve upon its implementation of the program, contained in our report *Walking the Talk: 2021 Blueprints for a Human Rights-Centered U.S. Foreign Policy*. But I will focus today on our recommendations for Congress, which begin with our call for a permanent reauthorization of the Global Magnitsky Act that would codify the beneficial aspects of the 2017 executive order.

Reauthorizing the program provides an opportunity to make permanent and provide a strong footing for the improvements contained in the executive order. It would emphasize to the new administration and future administrations that Congress expects the executive branch to continue to be a leader in holding corrupt actors and human rights abusers to account. It would send a clear signal to other governments that have established or are considering similar targeted sanctions programs that the United States will remain a partner in this work. And it would renew the unique oversight provision that allows Congress to formally request the executive branch's assessment of whether a person has committed sanctionable acts.

More specifically, we recommend the following updates to the law:

- **First**, Congress should codify the aspects of the executive order that broaden the scope of victims, abuses, and perpetrators who can be sanctioned. This includes:

- Removing the arbitrary standard that victims must be, in effect, human rights defenders or whistleblowers. All victims, regardless of the reason for which they were targeted, should be protected equally.
 - Broadening the scope of covered human rights abuses to include single incidents of abuse, abuses committed by non-state actors or in a private capacity, and abuses committed outside the perpetrator's home country.
 - Allowing sanctions based on an individual's status as a leader of an abusive or corrupt organization, to ensure that leaders cannot wipe their hands clean of the acts committed by those they oversee.
- **Second**, in line with the practice of several other sanctions programs, Congress should extend the scope of the Global Magnitsky program to include the immediate family members of individuals who can be designated for their abusive or corrupt acts. In our work helping NGOs document patterns of human rights abuses and corruption, we often see that family members help perpetrators hide assets or benefit from ill-gotten gains. Extending sanctions to family members will appropriately increase the effect of a sanctions designation and make it more difficult to shield the benefits of sanctionable acts.
 - **Third**, Congress should clearly express its view that the administration should continue and expand upon its routine coordination with civil society and foreign government partners in exercising its Global Magnitsky authorities. Regular information sharing and coordinated decision-making – especially among the growing number of governments that have Magnitsky-style sanctions – can send a more powerful signal and better isolate bad actors from the global financial system.
 - **Finally**, we appreciate Congress's consistent support for providing the funding necessary for the key executive branch agencies to implement the Global Magnitsky program, and we encourage you to ensure the Departments of State, the Treasury, and Justice have the resources needed to build on this important work.

I want to conclude by emphasizing the perspective of our coalition members, on what this sanctions program has meant for them, and their work fighting human rights abuses and corruption in their own countries. They affirm what we already know: that the impact of sanctions spreads far beyond those designated. After the U.S. sanctioned an oligarch in Central Asia sanctioned for corruption, a local NGO told us the designation was “a real game-changer” for the whole region. They said it was sending a very strong signal to kleptocrats and those who would engage in corruption, of the possible severe consequences for their actions. And at a time when their own governments show indifference to accountability, the case has galvanized local civil society actors and brought new hope that accountability is possible for the abuses they have long been fighting.

On behalf of the brave people we work with who are engaged in this fight, I thank you for your time and your commitment to combating corruption and human rights abuses, and I look forward to our discussion.