

# Walking the Talk:

2021 Blueprints for a Human Rights-Centered  
U.S. Foreign Policy

Chapter 1: Holding Human Rights Abusers  
and Corrupt Actors Accountable Through  
Global Magnitsky and Other Targeted  
Sanctions

# Acknowledgments

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Human Rights First challenges the United States of America to live up to its ideals. We believe American leadership is essential in the struggle for human dignity and the rule of law, and so we focus our advocacy on the U.S. government and other key actors able to leverage U.S. influence. When the U.S. government falters in its commitment to promote and protect human rights, we step in to demand reform, accountability, and justice.

When confronting American domestic, foreign, and national security policies that undermine respect for universal rights, the staff of Human Rights First focus not on making a point, but on making a difference. For over 40 years we've built bipartisan coalitions and partnered with frontline activists, lawyers, military leaders, and technologists to tackle issues that demand American leadership.

Human Rights First is led by President and Chief Executive Officer Mike Breen and Chief Operating Officer Nicole Elkon.

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# Holding Human Rights Abusers and Corrupt Actors Accountable Through Global Magnitsky and Other Targeted Sanctions

# Introduction

Human rights violations and corruption destroy lives, erode rule of law, undermine international security, and inhibit economic development. Foreign government officials and their enablers who exploit public office for private gain and maintain power through repression should not expect impunity. Yet all too often, the world's most corrupt actors and egregious human rights violators are shielded from accountability.

Cognizant of this reality, the United States and a growing number of likeminded governments have recently enacted, or are in the process of enacting, laws that enable targeted sanctions against individuals, corporations, security force units, and other organizations found to be involved in human rights violations and corruption. The United States pioneered the use of global targeted sanctions to hold accountable human rights violators and corrupt officials by passing, in late 2016, the Global Magnitsky Human Rights Accountability Act (“Global Magnitsky Act”), which enables visa restrictions and asset freezes against designated individuals and entities anywhere in the world.<sup>1</sup> Today, the Global Magnitsky Act, as implemented by Executive Order 13818, is perhaps the most well-known example of an expanding roster of targeted sanctions programs intended to address human rights violations and corrupt acts.<sup>2</sup> Internationally, Canada, Estonia, Kosovo, Latvia, Lithuania, and the United Kingdom have each passed their own “Magnitsky-like” targeted human rights sanctions regimes, though these programs vary widely in scope and implementation.<sup>3</sup> Similar laws are under consideration in Australia, the European Union, and Japan.<sup>4</sup>

As a diplomatic tool, all sanctions programs are a means to achieve policy ends, not an end unto themselves. Yet when included as one element in a larger diplomatic strategy, targeted human rights and anti-corruption sanctions offer a powerful means to contest impunity, weaken criminal networks, signal support for international legal obligations and standards of behavior, and protect journalists, activists, and others at risk for their work.<sup>5</sup> Additionally, by penalizing those directly responsible for human rights abuses and corruption, as well as their enablers, targeted sanctions sidestep many of the downsides inherent in embargoes and other comprehensive sanctions programs.<sup>6</sup> When managed and messaged adroitly, targeted human rights and anti-corruption sanctions can isolate individual actors and networks within foreign governments without rupturing bilateral relations, while greatly lessening the risk of penalizing the innocent.<sup>7</sup>

Despite a poor record of upholding America's commitment to human rights more broadly, the Trump

1 The Global Magnitsky Human Rights Accountability Act, 22 U.S.C. § 2656 note (2016) available at <https://www.humanrightsfirst.org/sites/default/files/GMA-Law.pdf>.

2 Similar programs include the 2012 Sergei Magnitsky Act, so-called Section 7031(c) visa restrictions (*see infra* note 5), Presidential Proclamation 7750 of 2004, and country-specific targeted sanctions programs intended to address human rights, democracy, and rule of law. Such programs are herein jointly referred to as U.S. targeted human rights and anti-corruption sanctions.

3 The three Baltic states' programs, though global in scope, focus on human rights abuses by Russian nationals, and are limited in penalty to travel ineligibilities. Canada's law, which includes both human rights violations and corruption, and includes both visa ineligibilities and asset blocking, is titled the Justice for Victims of Corrupt Foreign Officials Act (S.C., c. 21) (2017), and is available at <https://laws.justice.gc.ca/eng/acts/j-2.3/>. The United Kingdom's law is limited in scope to human rights violations, and includes both visa ineligibilities and asset blocking. It is titled the Global Human Rights Sanctions Regulations 2020, SI 2020/680, art. 55(3), Sanctions and Anti-Money Laundering Act, and is available at <https://www.legislation.gov.uk/uksi/2020/680/made>. Note that Kosovo has passed a Global Magnitsky Act, but the act has yet to be implemented by the new government. Xhorxhina Bami, *Outgoing Kosovo Govt Adopts Magnitsky Act*, Balkan Insight (Jan. 29, 2020) available at <https://balkaninsight.com/2020/01/29/kosovo-to-adapt-magnitsky-act/>.

4 *See* Australian Lawyers for Human Rights, *Inquiry into whether Australia should examine the use of targeted sanctions to address human rights abuses* (Feb. 7, 2020) available at <https://www.aph.gov.au/DocumentStore.ashx?id=866bce8c-f689-44ed-9c42-e502cdf26aae&subId=678469> (recommending the Australian Parliament adopt a US-style Global Magnitsky law); Alexander Brzozowski, *EU ministers break ground on 'Global Magnitsky Act'*, EurActiv (Dec. 10, 2019) available at <https://www.euractiv.com/section/justice-home-affairs/news/eu-ministers-break-ground-on-european-magnitsky-act/> (describing foreign ministers launching 'preparatory work' to enact a US-style Global Magnitsky sanctions regime); Narumi Ota, *Japan eyes bill to sanction human rights abuses in Hong Kong*, Asahi Shimbun (Jul. 30, 2020) available at <http://www.asahi.com/ajw/articles/13591720> (detailing the formation of a group of lawmakers and activists designed to respond to human rights abuses in Hong Kong, and considering a bill that would allow for targeted sanctions against those who have committed human rights abuses).

5 In addition to the Global Magnitsky Act, the U.S. government has made significant use in recent years of visa restrictions authorized through Section 7031(c) of the annual appropriations bill for the Department of State, Foreign Operations, and Related Programs (SFOPS). For more information, see Congressional Research Service, R46362, *Foreign Officials Publicly Designated by the U.S. Department of State on Corruption or Human Rights Grounds: A Chronology* (May 18, 2020) available at <https://crsreports.congress.gov/product/pdf/R/R46362>. A comprehensive list of designations made under Section 7031(c) authority can be found on Human Rights First's targeted sanctions resources page, available at <https://www.humanrightsfirst.org/topics/global-magnitsky/resources>.

6 *See, e.g.*, Richard Haas, Brookings Institution, *Economic Sanctions: Too Much of a Bad Thing* (Jun. 1, 1998) available at <https://www.brookings.edu/research/economic-sanctions-too-much-of-a-bad-thing/> (noting the adverse side effects of broad, non-targeted sanctions on innocent civilians); *see also* United Nations Office of the High Commissioner for Human Rights, *UN Experts: Sanctions proving deadly during pandemic, humanitarian exemptions not working* (Aug. 7, 2020) available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26155&LangID=E>.

7 Collin Anderson et al., *Enough Project, U.S. Sanctions Regimes & Human Rights Accountability Strategies* (Jun. 2018) available at [https://enoughproject.org/wp-content/uploads/2018/06/ToolsOfTrade\\_Enough\\_ICAR\\_June2018.pdf](https://enoughproject.org/wp-content/uploads/2018/06/ToolsOfTrade_Enough_ICAR_June2018.pdf).

administration has implemented targeted human rights and anti-corruption sanctions robustly. In December 2017, it significantly expanded the Global Magnitsky Act's scope and potential utility through the issuance of Executive Order 13818.<sup>8</sup> At the same time, it designated 52 serious human rights abusers and corrupt actors in countries ranging from China to Myanmar to Nicaragua to the Democratic Republic of the Congo. As of mid-September 2020, the U.S. government has sanctioned 214 individuals and entities, from 27 countries, under the Global Magnitsky program; 127 for corruption, 72 for human rights abuses, and 15 on both grounds.<sup>9</sup> Many of these designations were made in consultation with, or based on inputs

***[I]n keeping with its broader approach to human rights, the Trump administration frequently implemented sanctions in a highly selective manner.***

from, non-governmental organizations specializing in documenting human rights violations and corrupt activity. Noteworthy designations include those against persons involved in atrocities perpetrated against the Rohingya in Myanmar,<sup>10</sup> corrupt mining contracts in the DRC,<sup>11</sup> the assassination of Jamal Khashoggi by Saudi government agents,<sup>12</sup> the

Odebrecht bribery and money laundering scandal,<sup>13</sup> and the ethnic cleansing of Uyghurs and other minority groups in the Xinjiang region of China.<sup>14</sup> These designations are complemented by new, country-specific targeted sanctions programs, such as those addressing the situations in Hong Kong and Nicaragua, as well as the robust use of Section 7031(c) visa restrictions.

Notwithstanding this activity, the administration's implementation of targeted human rights and anti-corruption sanctions has been met with criticism in certain cases. Most notably, although the administration sanctioned 17 Saudi government officials and agents for the premeditated killing of Saudi dissident and *Washington Post* columnist Jamal Khashoggi, it declined to sanction Saudi Crown Prince Mohammed bin Salman, despite credible reports from U.S. intelligence agencies that the Crown Prince likely ordered the killing.<sup>15</sup> Furthermore, in keeping with its broader approach to human rights, the Trump administration frequently implemented sanctions in a highly selective manner. The administration declined to impose targeted sanctions against, and in some instances openly supported, foreign government officials credibly documented to have systematically engaged in sanctionable activities. For example, the administration took no action to designate the architects of kleptocratic systems and brutal repression in countries including Azerbaijan, Bahrain, Egypt, the Philippines, Tajikistan, the United Arab Emirates, and Uzbekistan, among others. This inaction endured despite overwhelming, credible documentation of systematic rights violations and theft that in many instances threatened U.S. interests on matters ranging from counterterrorism to energy security.<sup>16</sup>

In some instances, sanctions decisions appear to have also been influenced by political considerations. In mid-August 2018, the Trump administration sanctioned two senior Turkish officials for what it described

8 For a detailed explanation of EO 13818, see Rob Berschinski, *Trump Administration Notches a Serious Human Rights Win*. No, really, Just Security (Jan. 10, 2018) available at <https://www.justsecurity.org/50846/trump-administration-notches-human-rights-win-no-really/>.

9 All figures provided are current as of September 15, 2020. See Human Rights First, *Global Magnitsky Designations*, available at <https://www.humanrightsfirst.org/sites/default/files/200113-USG-GMA-Designations.xlsx>.

10 U.S. Department of the Treasury, *United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe* (Dec. 21, 2017) available at <https://home.treasury.gov/news/press-releases/sm0243>; U.S. Department of the Treasury, *Treasury Sanctions Commanders and Units of the Burmese Security Forces for Serious Human Rights Abuses* (Aug. 17, 2018) available at <https://home.treasury.gov/news/press-releases/sm460>; U.S. Department of the Treasury, *Treasury Sanctions Individuals for Roles in Atrocities and Other Abuses* (Dec. 10, 2019) available at <https://home.treasury.gov/news/press-releases/sm852>.

11 *United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe*, *supra* note 10; U.S. Department of Treasury, *Treasury Sanctions Fourteen Entities Affiliated with Corrupt Businessman Dan Gertler Under Global Magnitsky* (Jun. 15, 2018) available at <https://home.treasury.gov/news/press-releases/sm0417>.

12 U.S. Department of the Treasury, *Treasury Sanctions 17 Individuals for Their Roles in the Killing of Jamal Khashoggi* (Nov. 15, 2018) available at <https://home.treasury.gov/news/press-releases/sm547>.

13 *United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe*, *supra* note 10.

14 U.S. Department of the Treasury, *Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act* (Jul. 9, 2020) available at <https://home.treasury.gov/news/press-releases/sm1055>.

15 See *supra* note 12; Shane Harris, Greg Miller, Josh Dawsey, *CIA concludes Saudi crown prince ordered Jamal Khashoggi's assassination*, *Washington Post* (Nov. 16, 2018) available at [https://www.washingtonpost.com/world/national-security/cia-concludes-saudi-crown-prince-ordered-jamal-khashoggis-assassination/2018/11/16/98c89fe6-e9b2-11e8-a939-9469f1166f9d\\_story.html](https://www.washingtonpost.com/world/national-security/cia-concludes-saudi-crown-prince-ordered-jamal-khashoggis-assassination/2018/11/16/98c89fe6-e9b2-11e8-a939-9469f1166f9d_story.html).

16 For example, the administration refrained from sanctioning Egyptian officials central to that country's program of widespread torture, despite documentation of the links between the treatment of detainees and ISIS radicalization within Egypt's prison system. See, e.g., Human Rights First, *Like a Fire in a Forest: ISIS Recruitment in Egypt's Prisons* (Feb. 2019) available at <https://www.humanrightsfirst.org/sites/default/files/Like-a-Fire-in-a-Forest.pdf>.

as their role in the unlawful detention of an American evangelical pastor.<sup>17</sup> Shortly thereafter, Turkish leaders released the pastor, at which point the administration lifted the sanctions.<sup>18</sup> The move, while illustrating the power of Global Magnitsky sanctions to achieve discrete U.S. foreign policy ends and successfully winning the welcome repatriation of a U.S. citizen, attracted criticism for ignoring other, widespread human rights abuses in Turkey—including the ongoing detention of Turkish-American dual citizens—while providing a marketable policy victory likely geared at President Trump’s evangelical base.<sup>19</sup>

The Trump administration’s mixed record concerning targeted human rights and anti-corruption sanctions leaves room for improvement. Most importantly, Global Magnitsky and similar human rights sanctions should be applied objectively and in a systematic manner. Further action should also be taken to bolster the credibility, robustness, and procedural safeguards of the sanctions regimes to assure their long-term viability. Thus, an administration that assumes office in January 2021 could improve upon the U.S. government’s record to date through a series of executive actions and Congressional engagement in five key areas: growing capacity; minimizing charges of hypocrisy; ameliorating due process concerns; multi-lateralizing designations; and maintaining and codifying improvements.

## Recommendations

### ✓ Maintain, clarify, and codify EO 13818’s improvements to the Global Magnitsky Act

Despite being less well-known than the law it rests upon and implements, Executive Order 13818 significantly and beneficially expanded the scope, reach, and potential power of the Global Magnitsky Act.<sup>20</sup> In comparison with the Act itself, EO 13818 broadens the range of crimes subject to potential sanctions, eliminates key barriers to the imposition of sanctions related to the status of victims, and vastly increases the number of perpetrators who can be held at risk of sanction through so-called status-based targeting. As the vehicle by which all designations commonly referred to as “Global Magnitsky” sanctions are effectuated, EO

17 Adam Goldman, Gardiner Harris, *U.S. Imposes Sanctions on Turkish Officials Over Detained American Pastor*, New York Times (Aug. 1, 2018) available at <https://www.nytimes.com/2018/08/01/world/europe/us-sanctions-turkey-pastor.html>.

18 U.S. Department of the Treasury, *Global Magnitsky Designations Removals* (Nov. 2, 2018) available at <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20181102>.

19 Rob Berschinski, *U.S. Sanctions Against Turkey Undercut a Key Human Rights Tool*, Just Security (Aug. 6, 2018) available at <https://www.justsecurity.org/60039/u-s-sanctions-turkey-undercut-key-human-rights-tool/>.

20 Executive Order 13818, *supra* note 8. For a detailed analysis of the ways in which EO 13818 expanded upon and improves the Global Magnitsky Act, see Rob Berschinski, *Trump’s surreptitious move against foreign human rights abusers*, Newsweek (Jan. 10, 2018) available at <https://www.newsweek.com/trumps-surreptitious-move-against-foreign-human-rights-abusers-777186>.

13818 has proven to be an important and flexible tool in America’s human rights toolkit. Under any future administration, it should be maintained.

In so doing, the next administration should seek to clarify key terms. Among its other positive adaptations of the Global Magnitsky Act, EO 13818 altered the standard for sanctionable actions from “gross violations of internationally recognized human rights” (a term defined under U.S. law) to “serious human rights abuses” (a legally undefined concept). Beyond underscoring that Global Magnitsky sanctions may be applied against non-state actors in addition to state officials, the change in standard from “gross violations” to “abuses” remains vague and poorly understood. An incoming administration should therefore seek to remedy any uncertainty concerning this key definition. Doing so may improve the Global Magnitsky program’s deterrent effect, while also resulting in more relevant sanctions recommendations from civil society.

Finally, recognizing that the Global Magnitsky Act is due to sunset (i.e., expire) in December 2022, a new administration should work with Congress to pass a reauthorization that incorporates EO 13818’s beneficial elements.



### ✓ **Minimize charges of selectivity and hypocrisy**

As highly coercive measures, it is imperative to U.S. foreign policy that the government’s human rights and anti-corruption sanctions be viewed as legitimate, credible, and fairly administered. The key to maintaining widespread support for sanctions, therefore, is for the U.S. government to minimize selectivity in its application of the tool, in line with the Global Magnitsky Act’s rationale as reflected in EO 13818:

Human rights abuse and corruption undermine the values that form an essential foundation of stable, secure, and functioning societies; have devastating impacts on individuals; weaken democratic institutions; degrade the rule of law; perpetuate violent conflicts; facilitate the activities of dangerous persons; and undermine economic markets.<sup>21</sup>

The insights reflected in EO 13818 remain true no matter where sanctionable activity is found. Yet the tendency within the executive branch to value perceived stability and access over any action deemed likely to upset bilateral relations has remained difficult to dislodge, despite obvious harms to American credibility. Such a perception has endured despite mounting evidence that targeted sanctions can be beneficially applied to foreign nationals of countries with which the United States maintains positive relations.<sup>22</sup>

To decrease selectivity in application, therefore, the Secretary of State should establish a standing process by which representatives of the department’s regional bureaus routinely coordinate with staff from the bureaus for Economic and Business Affairs (EB), Democracy, Human Rights, and Labor (DRL), and International Narcotics and Law Enforcement (INL) to jointly develop a human rights and anti-corruption targeting list informed by the State Department’s annual Country Reports on Human Rights Practices and reporting from credible human rights and anti-corruption NGOs. Such a list should include inputs on meaningful targets supplied by U.S. diplomatic posts, each of which should be required by the Secretary to nominate potential targets on a recurring basis.<sup>23</sup>

21 Executive Order 13,818, *supra* note 8.

22 Examples include Global Magnitsky sanctions designating nationals of Israel, Mexico, and Saudi Arabia, among other close U.S. partners.

23 While in some cases it may be appropriate to exclude from this process embassies operating in countries with criminal justice systems functioning under rule of law, history has shown that actors in such countries may have transnational linkages to corrupt and/or human rights-abusing actors (such as through facilitation networks). In these instances, targeted sanctions may serve as a valuable accountability tool when implemented in close coordination with the host government.

## ✓ **Multilateralize sanctions designations through information-sharing and coordination with key partners**

Sanctions are most effective, and seen as most legitimate, when implemented multilaterally. As noted above, at present, Canada, the UK, the three Baltic states, and Kosovo each possess a rough equivalent to the Global Magnitsky Act, while the EU, Australia, and Japan, among other jurisdictions, are in varying stages of considering adopting similar laws.<sup>24</sup> In order to maximize the potential for coalition-based multilateral sanctions designations in the future, the next administration should build on efforts undertaken to date to routinize information sharing and sanctions-related decision-making.

With this goal in mind, the Secretaries of Treasury and State should announce an intention to create an information-sharing arrangement with Canada, the UK, and other like-minded jurisdictions as their “Magnitsky-like” laws are adopted, with the long-term goal of establishing a semi-permanent human rights and anti-corruption information fusion, targeting, and enforcement cell.<sup>25</sup> Leadership of this effort should be vested with a new office of the Coordinator for Sanctions Policy, in coordination with relevant regional and functional bureaus (see final recommendation below). Under such a model, likeminded governments could agree to share pre-decisional and enforcement-related information and analysis in accordance with pre-determined criteria, once certain notification thresholds had been crossed. Recognizing that the United States’ tally of applicable designations under the Global Magnitsky program and related authorities far exceeds those of other countries, such an effort would also work to standardize past designations where applicable.

## ✓ **Ameliorate due process concerns by enacting a more robust administrative review and appeals procedure**

At present, the administrative process provided by the Treasury Department’s Office of Global Targeting to persons seeking to challenge designations issued against them is not well understood by external audiences and arguably insufficient, leaving the U.S. government open to criticism that it is able to impose significant penalties with little meaningful opportunity for recourse. In keeping with the section above, improvements can and should be made to targeted sanctions’ administrative appeals processes to minimize any risk—or even perception—of unjust implementation.

The next administration should therefore issue updated guidelines and processes for how a designated individual could seek removal from the Specially Designated Nationals and Blocked Persons (SDN) list.<sup>26</sup> Such reforms should include:

- **Providing more information to the public at the time of initial designation.** Under current practice, targeted sanctions designations are published as updates to the SDN list and announced via a press release issued by the Treasury Department. These statements generally provide a brief overview of the behavior that gave rise to the sanction, but do not provide an explanation of the actions that the U.S. government wishes to see the designated individual take so as to become eligible for removal from the SDN list. Notably, in the sole Global Magnitsky sanction whereby the Treasury Department used its designating press release to clearly signal the U.S. government’s desired behavior modification, the desired change was made rapidly.<sup>27</sup> Subsequent to this action, the U.S. government promptly lifted sanctions from the designated persons.<sup>28</sup> As this single example demonstrates, transparency about the desired outcomes of targeted sanctions provides the sanctioned individual with a clear framework

<sup>24</sup> See *supra* notes 3, 4, and accompanying text.

<sup>25</sup> Differences in legal authorities will likely preclude fully coordinated action across national jurisdictions in some instances. Notwithstanding this fact, information sharing in the context of targeted human rights and anti-corruption sanctions is likely to involve fewer hurdles than similar programs focused on antiterrorism and non-proliferation, given that much of the information used to target human rights abusers and corrupt actors is open-source and thus unclassified.

<sup>26</sup> For OFAC’s current guidance on filing an appeal to remove sanctions, see *U.S. Department of the Treasury, Filing a Petition for Removal from an OFAC List*, available at <https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-list-sdn-list/filing-a-petition-for-removal-from-an-ofac-list>.

<sup>27</sup> U.S. Department of the Treasury, *Treasury Sanctions Turkish Officials with Leading Roles in Unjust Detention of U.S. Pastor Andrew Brunson* (Aug. 1, 2018) available at <https://home.treasury.gov/news/press-releases/sm453>.

<sup>28</sup> *Global Magnitsky Designations Removals*, *supra* note 18.

within which to consider modifications to his or her behavior, as well as any potential appeal on the merits of the designation. Incidentally, such guidance would also be of value to human rights and anti-corruption advocates, who could better monitor and assess the post-designation activities of sanctioned persons.

- **Making the administrative appeals process more robust.** All designated persons should be guaranteed a fair, clearly delineated, and well-understood opportunity for appeal. To do so, the Office

*[T]ransparency about the desired outcomes of targeted sanctions provides the sanctioned individual with a clear framework within which to consider modifications to his or her behavior, as well as any potential appeal on the merits of the designation.*

of Global Targeting should initiate a review of best practices in administrative appeals procedures adopted by other government entities, and expand its processes accordingly. An example for consideration is to offer at least one in-person hearing to the designated individual, their appointed counsel, or both, to present their case to adjudicating officials. Such a meeting could be arranged by granting an allowance for the designated individual to

appear in person at a U.S. diplomatic facility in their home country, or by allowing designated counsel to appear at government offices in Washington D.C. This meeting could be followed by a mandatory formal adjudication letter that clearly states the administration's position regarding the case following review of any information shared in the hearing, to include the provision of justification for either maintaining or lifting sanctions.

- **Instituting regular review.** Finally, any future administration should maintain current guidelines regarding accepting unlimited written appeals, and make an explicit commitment to periodic mandatory review of each designation (e.g., a designation is reviewed once every three years irrespective of any petition or request for review). Unlimited appeals and regular review guarantee sufficient opportunity for re-adjudication as circumstances change, helping better ensure accurate and fair designations that strengthen the U.S. sanctions regime as a whole.

## ✓ **Grow capacity and coordination at State and Treasury**

The U.S. government's ability to implement targeted human rights and anti-corruption sanctions is limited by staff and coordination constraints within the Treasury Department's Office of Foreign Assets Control (OFAC) and relevant bureaus within the State Department.<sup>29</sup> Over the past four years, both OFAC and the State Department have experienced staffing shortfalls linked to low morale, high workload, and significant private-sector demand.<sup>30</sup> In response to these shortfalls, in 2019 and 2020, Congress specifically appropriated funds to the Treasury Department to support targeted human rights and anti-corruption sanctions work.<sup>31</sup> This funding increase resulted in the Human Rights and Corruption Team at OFAC increasing in size from 6 to 11 officials, which has already led to perceptibly higher levels of critical civil society engagement. Even with this increase, however, the OFAC team is still limited to just two investigators each for Africa, Asia, Europe, and MENA, and just one for the entire Western Hemisphere—insufficient numbers to provide effective coverage of the abuses occurring in those regions and beyond.

As part of a larger effort to rebuild the diplomatic infrastructure weakened since 2017, the Secretaries

29 Executive Order 13818 authorizes the Secretary of the Treasury to act in consultation with the Secretary of State. Lead offices within the State Department for implementation of Global Magnitsky Act and several similar sanctions programs include the bureau for Economic and Business Affairs (EB), the bureau for Democracy, Human Rights, and Labor (DRL), and the bureau for International Narcotics and Law Enforcement (INL).

30 See, e.g., Saleha Mohsin, *Trump's Sanctions Staff Defects as U.S. Expands Economic War*, Bloomberg (Mar. 22, 2019) available at <https://www.bloomberg.com/news/articles/2019-03-22/trump-sanctions-staff-defects-even-as-u-s-expands-economic-war>; Bethany Milton, *My Final Break with the Trump State Department*, New York Times (Aug. 26, 2019) available at <https://www.nytimes.com/2019/08/26/opinion/trump-state-department.html>.

31 H.R. Report No. 115-792 (2019) available at <https://www.congress.gov/congressional-report/115th-congress/house-report/792/1>; U.S. Government Accountability Office, GAO-20-324, *Economic Sanctions: Treasury and State Have Received Increased Resources for Sanctions Implementation but Face Hiring Challenges* (Mar. 2020) available at <https://www.gao.gov/assets/710/705265.pdf>.

of State and Treasury should work closely with Congress to reverse staffing shortfalls that have limited the government's ability to implement and robustly enforce human rights and anti-corruption sanctions. Through its annual budget request, the incoming administration should ask that Congress increase funding directed toward OFAC and relevant State Department bureaus for this work.

At the same time, the Secretary of State should reestablish the office of the Coordinator for Sanctions Policy, to be headed by an official with the rank of ambassador. This senior official should report directly to the Secretary. He or she should be tasked with coordinating sanctions actions across State's regional and functional bureaus, and integrating such actions with broader bilateral and multilateral diplomatic strategies. Likewise, regional bureaus should consider designating senior-level leads for sanctions integration, in coordination with applicable teams in the bureaus for Economic and Business Affairs (EB), Democracy, Human Rights, and Labor (DRL), and International Narcotics and Law Enforcement (INL).



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