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U.S. Security Partners and Selectivity in
the Global Magnitsky Sanctions Program

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Introduction

To live up to its commitments to protect human rights, Human Rights First urges the U.S. government to address the serious abuses and corruption of its partners by using Global Magnitsky sanctions, among other policy tools.

This report includes five brief case studies on countries where such an approach would be appropriate: Egypt, Equatorial Guinea, India, Mexico, and the Philippines. In situations like these, the U.S. government's ties to abusive or corrupt actors offer both a responsibility to take meaningful action and an opportunity to help deliver change.

After his predecessor's embrace of dictators whom the United States had typically kept at arm's length, President Biden's claim that his administration would "put human rights at the center of U.S. foreign policy" was welcome. How he and his administration would handle the abuses and corruption of U.S. partners was always going to be the key test of this commitment; it is one that this and previous U.S. administrations have often failed to meet.



March against gender violence in Mexico

clicksdemexico, shutterstock

The last two administrations have had a new tool that expands the options for advocating for human rights and fighting corruption in any diplomatic relationship: the Global Magnitsky Act of 2016 and the targeted sanctions program that implements it. Using these sanctions, the U.S. government can impose tangible consequences – asset freezes, visa bans, and bans on transacting with sanctioned parties, as well as the stigma the sanctions carry – on foreign officials and other individuals responsible for human rights abuse or corruption anywhere in the world.

Global Magnitsky sanctions are a unique tool in the foreign policy toolkit.

- They make specific calls for accountability in particular cases, rather than generic ones that other governments can more easily sidestep.
- They address the perennial bureaucratic concern that using other, less-targeted measures would be too sweeping a response to a partner's human rights abuses.
- They can be reinforced by other governments that, like the United States, have Magnitsky-style sanctions programs.
- Unlike many other diplomatic tools, they are visible to outside observers, making it easier for civil society in both the affected country and the United States to evaluate the seriousness of U.S. advocacy and the partner's response.
- They both stigmatize the sanctioned party and keep them and their ill-gotten wealth out of the United States.

Nearly five years after its [creation](#), the Global Magnitsky program has been used by the Trump and Biden administrations to address abuses and corruption in 40 countries. Human Rights First and other civil society groups are concerned, however, that Global Magnitsky sanctions have gone unused in many prominent situations where the party responsible for serious abuses or corruption is a U.S. partner. These omissions do not appear to be due to the U.S. government choosing other policy tools to confront its partners over their actions, but part of an all-too-common practice of the U.S. government failing to challenge abuses by its friends.

Of course, U.S. adversaries also commit human rights abuses and practice corruption. For example, the abuses committed in China's genocidal campaign against the Uyghur population in Xinjiang; by Russian authorities in their brutal assault on Ukraine; and by the Iranian government against its own people, are vast and cry out for justice. Human Rights First and other civil society groups have sought targeted sanctions in those situations, and the U.S. government has often imposed them.

Sanctions against adversaries will be more credible, though, if tools like the Global Magnitsky program are also used with respect to the serious abuses and corruption of allies and partners. This does not require a posture of false equivalence: while not all U.S. partners are abusive or corrupt, many are – some to a shocking degree. Even established democracies face the risk of sliding into authoritarianism and instability if they fail to confront emerging abuse or corruption; they can reverse those trends if their friends help and press them to do so.

Sometimes at the prompting of civil society groups, both the Trump and Biden administrations have seen the value of using Global Magnitsky sanctions to press a U.S. partner to rein in corrupt or abusive actors. We estimate that 77 percent of those sanctioned under Global Magnitsky were sanctioned for abuses or corruption committed in countries that are not adversaries. Perhaps because the U.S. government has more influence with its friends than its enemies, these sanctions actions have been among the most directly impactful.

If not part of a broader and credible strategy, though, targeted sanctions can be drowned out by more consequential actions. For instance, President Biden's July 2022 visit to Saudi Arabia and embrace of the country's brutal crown prince – including by granting immunity from legal action seeking to hold him accountable for Jamal Khashoggi's murder – have far outweighed the administration's January 2021 decision to impose Global Magnitsky sanctions on an additional Saudi official responsible for that



murder. Governments seeking to promote human rights must recognize that one action can gravely undermine the credibility and impact of another.

Methodology and Terminology

☛ **Why focus on Global Magnitsky?** The U.S. government maintains other sanctions programs that address human rights and corruption, including State Department visa restrictions. This report focuses specifically on the Treasury Department's Global Magnitsky program because of its higher profile and more tangible impact; its implementation is publicly visible, unlike certain visa restrictions that are sometimes implemented confidentially; other jurisdictions with similar Magnitsky-style sanctions can act jointly with the U.S. government; and Magnitsky sanctions are more likely to be used to sanction actors in a friendly state than are country-specific sanctions program, which are often created to address acts by adversaries.

☛ **Who counts as a U.S. partner?** This report does not define "U.S. partner," though it distinguishes between U.S. allies and adversaries while recognizing that most countries are something in between. "Allies" are defined here as NATO members and other countries the U.S. has listed as "major non-NATO allies." "Adversaries" are defined as the set of countries the U.S. government lists as a state sponsor of terrorism, identifies as a "foreign adversary" under the Commerce Department's information-technology supply chain program, or of which the U.S. government has sanctioned the head of state or another top leader.¹

☛ **How to measure abuses and corruption?** To identify gaps in U.S. sanctions implementation, this report draws on three common data sets that offer an imperfect but somewhat objective basis to identify countries where serious human rights abuses and corruption are taking place to an especially high degree.

- For human rights abuses, the report uses the 2022 edition of Freedom House's Freedom in the World index and focuses on the 38 countries ranking in the two worst tiers on the civil liberties sub-score (i.e., scoring 6 or 7).
- It also uses the 2022 edition of the Political Terror Score, which specifically evaluates violent abuse by state agents, to focus on the 37 countries that score at or below the second-worst tier (4) in the average of the three component scores.
- For corruption, the report uses the 2022 edition of Transparency International's Corruption Perception Index and focuses on the 37 countries with scores in the worst quintile.

☛ **What is a "primary" or "derivative" sanction?** The Treasury Department sanctions some individuals or entities for their involvement in sanctionable abusive or corrupt acts, and others solely for their relationship to other sanctioned persons. This report calls the former "primary" sanctions and the latter "derivative" sanctions, relying on the Treasury Department's public statements and descriptions of the sanctioned person's involvement in abuses to make the distinction. This report

¹ This yields 11 countries. The current U.S.-listed state sponsors of terrorism are Cuba, Iran, North Korea, and Syria. The additional countries identified as foreign adversaries by the Commerce Department are China, Russia, and Venezuela; and the additional countries where the head of state or another de facto leader is currently sanctioned by the U.S. are Belarus, Nicaragua (Vice President Rosario Murillo), Myanmar (junta leader Min Aung Hlaing), and Zimbabwe.



focuses on primary sanctions, because when a single primary sanction is sometimes accompanied by dozens of derivative sanctions (e.g., targeting a corrupt official and the companies they control), including the derivatives can skew statistics about where the sanctions program has been focused.

Who has been sanctioned under Global Magnitsky?

By some measures, the Global Magnitsky program's coverage has been relatively comprehensive. It has not, for example, been disproportionately focused on any single region.

- The U.S. government has used the program to target perpetrators of serious human right abuse or corruption in 40 different countries, touching on all regions of the globe.²
- Sub-Saharan Africa has the largest share of the overall number of primary Global Magnitsky designations (22 percent), though nearly every other region comes close (between 17 and 20 percent). South and Central Asia, with only 6 percent of the total share, is the exception.

A common critique of U.S. sanctions tools is that the U.S. government primarily uses them against its adversaries. This is not the case with the Global Magnitsky program, which has focused on countries that are neither formal allies nor clear adversaries of the United States.

- As of September 2022, about 23 percent of the 199 individuals or entities that had been primary targets of Global Magnitsky sanctions were sanctioned for abuses or corruption committed in the eleven countries that this report considers U.S. adversaries.
- Another 5 percent of the total are from countries that are either U.S. NATO members or formally designated as major non-NATO allies.
- The remaining 72 percent of Global Magnitsky designations targeted individuals from countries that are neither ally nor adversary. Many of those in this group are countries with which the U.S. government has serious ties and partnerships, if less formal than a treaty alliance, such as Bangladesh, Liberia, and Saudi Arabia.

Not all Global Magnitsky sanctions targeting individuals from a U.S. partner country represent an effort to hold the sitting government to account. Some sanctions have targeted former officials of a government that had left office or individuals who had fallen out of favor with the ruling party.

For example, the U.S. government sanctioned three businessmen from the [Gupta family](#) for corruption in South Africa only after the president whom they influenced had resigned and they fled the country. It sanctioned one senior [Ugandan general](#) only after he had been fired from his position. Depending on the context and the presentation, such U.S. sanctions can be criticized as coming unhelpfully late, or as attempts to please the sitting government rather than helping hold abusers to account. These sanctions may nonetheless be worthwhile and appropriate:

- It can take time to develop evidence of sanctionable acts;

² This report uses the U.S. Department of State's regional divisions – Europe and Eurasia, sub-Saharan Africa, East Asia and the Pacific, South and Central Asia, Near Eastern (i.e., the Middle East and North Africa), and the Western Hemisphere.



- A successor government may need to be pressed to hold even its rivals to account for grave wrongdoing;
- Sanctions may help discourage a successor from committing its own abuses or corruption; and
- There is value in keeping a corrupt actor who has lost power from hiding ill-gotten assets in the United States.

Some of the most impactful Global Magnitsky sanctions *have* targeted individuals who are closely linked to the sitting governments of U.S. partners, including senior officials or their close associates. Prominent examples of these targets include: three [senior officials](#) in the Liberian government; a unit of the [security forces](#) in Bangladesh and several of its officers; another top Ugandan [security official](#); and an [Israeli billionaire](#) in the Democratic Republic of the Congo with high-level political connections in both of those countries.

Who hasn't been sanctioned among the abusive and corrupt?

Despite the occasional use of Global Magnitsky sanctions against actors in countries with which the U.S. has treaty alliances and other forms of partnership, several countries with which the U.S. has close relationships are conspicuous for not having their officials be the target of sanctions.

- Countries that score the worst on their human rights record seem the most likely to have individuals targeted under the Global Magnitsky program, or to face a separate, country-specific sanctions program covering human rights abuses – and many do.³
- Among the worst-scoring countries, however, the ones that have been spared this kind of targeted sanction⁴ include U.S. partners of various kinds. Those countries include formal allies (i.e., Bahrain, Egypt, Israel, and the United Arab Emirates, as well as pre-2021 Afghanistan) and other countries that are also top recipients of U.S. security assistance (e.g., Mexico).
- Among countries that score the worst on perceptions of corruption, those spared targeted sanctions do *not* include formal U.S. allies – but they do include countries with significant U.S. diplomatic or commercial relationships (e.g., Chad, Nigeria, Equatorial Guinea).

This report includes case studies on five countries where either human rights abuses or corruption are occurring that satisfy the Global Magnitsky program's standards, but where no individuals or entities have been targeted for these sanctions by the U.S. government. These countries – Egypt, Equatorial Guinea, India, Mexico, and the Philippines – were chosen based on these criteria:

³ For the poorest performers on the Freedom House scale, 58 percent have either seen one or more of their nationals sanctioned under Global Magnitsky or are subject to a country-specific sanctions program. The figure is 70 percent for the poorest performers on the Political Terror Scale. These lists include traditional U.S. adversaries such as China and Iran and U.S. partners including Saudi Arabia and Turkey.

⁴ On the Freedom House scale, the 16 omitted countries are Afghanistan, Azerbaijan, Bahrain, Cameroon, Chad, Congo-Brazzaville, Egypt, Equatorial Guinea, Eswatini, Laos, Rwanda, Tajikistan, Turkmenistan, United Arab Emirates, Uzbekistan, and Vietnam. On the Political Terror Scale, the nine omitted countries are Afghanistan, Brazil, Burkina Faso, Burundi (for which the U.S. government had a country sanctions program until 2021), Egypt, Israel, Mexico, Mozambique, and the Philippines. Ethiopia is not an "omitted" country insofar as the U.S. has had a country-specific sanctions program for it since 2021, but that program has only been used against perpetrators aligned with the Eritrean government.



- The absence of Global Magnitsky sanctions targeting individuals or entities from that country for human rights abuse or corruption;⁵
- The existence of civil society recommendations supporting such sanctions, either publicly announced or confidentially submitted; and cross-regional representation.

Drawing partly on more detailed recommendations that civil society groups have submitted to the U.S. government, this report shows that these cases demand the imposition of Global Magnitsky sanctions for three reasons:

Gravity. The human rights abuse or corruption taking place in these countries meet the legal and evidentiary standards to be sanctionable under the Global Magnitsky program, and they are no less grave than in other countries where the U.S. has used sanctions.

- Under the Global Magnitsky program, any “serious human rights abuse” is sanctionable. That term is not defined in law, but the U.S. government’s past practice shows that violent acts by state officials or their associates undoubtedly qualify. Covered acts would range from extrajudicial killings to custodial torture and sexual violence to arbitrary detention.
- Corruption is flexibly defined as being sanctionable under the Global Magnitsky program, provided the corruption is financial in nature or includes the provision of some other improper benefit, and has a nexus to public officials.
- The sanctionable acts are egregious in relative terms. For example, Equatorial Guinea has rated near the worst in the world in perceptions of corruption and the U.K. government has sanctioned a top official there for corruption under its Magnitsky-style sanctions program.

Alternative tools. The failure to use Global Magnitsky sanctions to address abuses and corruption in these countries is worrisome because it often coincides with the U.S. government’s failure to use other key accountability measures as well.

- The U.S. government can be a strong advocate for human rights and against corruption without using targeted sanctions. In practice, though, the U.S. government very seldom specifies what it will do or how any aspect of its relationship will change if a partner’s abuses or corruption persist.
- At least in public, the U.S. government usually focuses on process and inputs – e.g., [stressing](#) that it continues to “make the case” with partners to better respect human rights, or [noting](#) in positive terms that progress on human rights is “essential to strengthening” a relationship.
- The U.S. government imposes few conditions on security assistance or other forms of support. Congress has required some conditions by law, yet even many of those are not implemented.

Impact. As part of a broader policy approach, targeted sanctions have the strong potential to help address the abuse or corruption. The impact of any sanctions measure will depend on the context, and the Global Magnitsky program may not always be the right tool. There is no apparent reason, though, why the situations covered in the case studies would fall outside the criteria the U.S. government generally [cites](#) to explain its priorities for sanctions, which mostly focus on their anticipated impact.

⁵ Global Magnitsky sanctions have been imposed on a Mexican official and his associates for corruption, but this report’s Mexico case study focuses on human rights abuse.



- Because many officials of U.S. partner governments have financial and other ties to the United States from their personal travel, professional training, or other experience, Global Magnitsky sanctions could have real financial bite.
- The U.S. government prefers to act multilaterally when possible and convenient. A growing number of its allies have Magnitsky-style sanctions programs with which they can match U.S. sanctions against abusers or corrupt actors anywhere in the world.
- U.S. officials also say they prefer to sanction when the policy objective is clear and sanction can be lifted upon achieving that aim. In these cases as in others, the U.S. government can specify the accountability measures or other reforms it wants, ideally focusing on action in specific cases as well as systemic accountability.
- These are not countries where extensive use of targeted sanctions has dulled their political and diplomatic impact. U.S. diplomats have several ways of mitigating and making constructive use of any diplomatic backlash to new sanctions designations, from acting jointly with other Magnitsky jurisdictions to focusing on particularly egregious test cases.

In several cases, the record of Global Magnitsky sanctions targeting abusive or corrupt actors associated with partner governments has shown a clear and significant impact in promoting accountability or discouraging abuses, without rupturing the U.S. government's relationship with that country.

- U.S. sanctions against three allegedly corrupt senior officials close to Liberia's president in August have prompted Liberian authorities to suspend them from office.
- Global Magnitsky sanctions against Bangladesh's Rapid Action Battalion in December 2021 prompted an unprecedented, albeit temporary, halt in the unit's extrajudicial killings.
- Sanctions against an allegedly corrupt Latvian official in December 2019 led national authorities to remove him from office and end his control over a major port facility.

There is no guarantee of this kind of impact, perhaps especially in more authoritarian states, though other forms of impact are possible. Saudi and Kyrgyz authorities responded to Global Magnitsky sanctions against government officials with judicial proceedings that produced [little real](#) accountability. But even accountability efforts that are not genuine can provide openings for continued diplomacy. Civil society organizations have also told Human Rights First they see intrinsic value in the U.S. government showing its disapproval of abuse or corruption, especially when it reinforces the findings of civil society organizations about the abuses. That value will increase if the program is applied consistently in response to abuses and corruption, regardless of the geopolitical alignment of the perpetrator.



CASE STUDIES



Protesters march to commemorate International Human Rights Day in Manila, Philippines

Jes Aznar (Getty)



EGYPT

Serious human rights abuse

The United States government has a close security and diplomatic relationship with its Egyptian counterparts. It has pursued this relationship with little adjustment even as the Egyptian officials responsible for serious human rights abuses have continued to commit or allow such abuses over limited U.S. objections. Based on the appalling human rights record of Egyptian security forces, the Global Magnitsky sanctions program would be an appropriate tool for applying targeted pressure in pursuit of accountability, especially if U.S. officials remain generally unwilling to use other policy tools.

Serious human rights abuses by Egyptian officials. Egyptian security forces and government officials have committed a wide range of violent abuses and denials of liberty against Egyptians. Nearly all these abuses meet the relevant legal criteria for U.S. human rights sanctions.

Extrajudicial killings. Egypt's most notorious mass atrocity – the [2013 massacre](#) of 1,100 encamped protesters in a brutal operation by security forces in Cairo's Rab'a Square – is past the five-year window in which a Treasury Department sanctions program such as Global Magnitsky could have been applied. But the country's security forces have committed many other extrajudicial killings in recent years.

- Among broader patterns of extrajudicial killings, NGOs have documented the apparent killing of civilians by Egyptian security forces operating against an Islamic State affiliate in the Sinai Peninsula, as well as forcible disappearances and mass demolitions of civilian homes.⁶
- In the Egyptian mainland, Human Rights Watch documented in 2021 “a pattern of suspicious killings and probable extrajudicial executions” committed by police forces.
- High-profile individual cases include the apparent death in custody of activist and scholar Ayman Haddoud earlier this year; and the 2016 kidnapping and murder of Italian scholar Giulio Regeni, for which Italian authorities charged four officials of Egypt's National Security Agency.
- Egyptian authorities have also executed large numbers of prisoners based on patently unfair trials or coerced confessions.

Custodial abuses. Egyptian security forces have inflicted extensive abuses on prisoners, including torture and sexual violence.

- In 2017, the UN Committee Against Torture [concluded](#) that “torture is a systematic practice in Egypt” and perpetrators “almost universally enjoy impunity.” Human Rights Watch found the practice [likely](#) constituted a crime against humanity and affected [children](#) as young as 12.
- Sexual violence is also widespread. An Egyptian and a U.S. NGO recently [documented](#) “655 instances of sexual violence against detainees and their loved ones” in Egyptian prisons in the last seven years. The report described “the [Egyptian] state's use of sexual violence as a method to coerce, punish and bring population under its control.”

⁶ The Islamic State affiliate in the Sinai has also committed killings and other grave abuses in Egypt, though they are not the focus of this report because U.S. policy is already aggressively focused on the individuals responsible for those acts.



Arbitrary detention and enforced disappearances. Egyptian authorities have systematically used arbitrary detention and enforced disappearances, including against human rights defenders, lawyers, reporters, scholars, and artists.

- The Egyptian Commission for Rights and Freedoms [reported](#) in 2020 that it had documented 2,723 cases of enforced disappearances by security forces in the previous five years.
- The UN's Working Group on Arbitrary Detentions has [concluded](#) there is “a systemic problem with arbitrary detention in Egypt,” citing cases in which it found that Egyptian authorities were arbitrarily detaining children, as well as torturing them and violating their fair trial rights.
- PEN America [identified](#) Egypt as the “sixth-highest detainer of writers and public intellectuals globally” and using “long, repeated cycles of pretrial detention” to jail critics. Reporters Without Borders has [documented](#) the use of prolonged pretrial detention to arbitrarily detain journalists.
- Human Rights First has [reported](#) the use of arbitrary detention to harass the family members of politically active Egyptians.

U.S. assessments. The U.S. government itself has generally acknowledged the extent and seriousness of the Egyptian government's abuses.

- The State Department's 2021 [human rights report](#) on Egypt found that “[m]embers of the security forces committed numerous abuses” and cited “credible reports” of many abusive acts similar to those above.
- The report noted that “[i]n most cases the government did not comprehensively investigate allegations of human rights abuses, including most incidents of violence by security forces, contributing to an environment of impunity.”

Abuses in comparison. The above conduct by Egyptian officials would [satisfy](#) the “gross violations” or “serious abuse” standards found in most U.S. human rights sanctions authorities. By some measures, Egypt's human rights record is *at least* as poor as that of other countries whose officials the U.S. government has heavily sanctioned on human rights grounds.

- In Freedom House's 2022 [report](#), Egypt scored lower on civil liberties and political rights than Russia, the Democratic Republic of the Congo (DRC), Nicaragua, and Zimbabwe.
- Under a scholarly [measure](#) that focuses more narrowly on “violations of basic human rights to the physical integrity of the person by agents of the state,” Egypt also scored a poorer rating in 2021 than the other named countries, except for the DRC.⁷

U.S. interests in human rights and the relationship with Egypt. The United States and Egypt have many security and diplomatic ties that are sometimes seen as impeding serious U.S. advocacy for accountability – and yet make such advocacy all the more essential.

⁷The measure is the Political Terror Scale (PTS). Egypt's average PTS rating across three sources in 2021 was a 4, which corresponds to: “Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances, and torture are a common part of life.”



- The U.S. government counts Egypt as a “major non-NATO ally.” It made a conditional commitment to “an expanded security relationship with Egypt” in the context of the country’s 1979 peace agreement with Israel.
- Over the last five years, Egypt has been the third-highest recipient of U.S. security assistance (\$6.5 billion) and a major purchaser of U.S. arms (\$4.9 billion in notifications, 22nd highest).⁸
- The U.S. government also depends on Egypt for regional diplomatic goals, such as brokering ceasefires between Israel and Palestinian armed groups.

Beyond its interest in protecting the dignity and human rights of Egyptians, other U.S. interests would also be well served by promoting accountability for the above abuses and discouraging them in the future.

- Massively financing and equipping a persistently abusive partner closely associates the United States with that partner’s abuses. Limiting arms sales to those that are ostensibly “defensive” does not address this problem of complicity, especially in the eyes of local human rights defenders demoralized to see U.S. support continue while abuse persists. In practice, some U.S.-provided arms have been used recklessly, and their use often cannot be monitored.
- Some Egyptian abuses directly fuel international terrorism. Impunity for torture in Egyptian prisons continues to promote recruitment by the Islamic State’s Egyptian affiliate.
- Egyptian abuses do not spare U.S. citizens, including dual nationals who have been jailed for years and allowed to die in prison, as well as a U.S. tourist wounded in a reckless air strike.

Minimal U.S. use of alternative policy tools. While this report focuses on sanctions, the U.S. government has generally failed to use *other* policy tools to persuade Egyptian authorities to provide accountability or impose consequences for abusive conduct.

Conditioning security assistance. The U.S. government has not allowed broad restrictions on assistance to Egypt to take effect. Much as it declined to recognize Egypt’s 2013 military coup as such, the United States has declined to conclude that its abuses amount to a “consistent pattern of gross violations of human rights,” a finding that would generally prohibit security assistance. The U.S. government has also been reluctant to allow or enforce more targeted restrictions, even as little to no progress has been made on Egypt’s human rights record.

- Congress imposes specific human rights conditions – including progress toward accountability for security-force abuses – on just a fraction of one form of security assistance to Egypt.⁹
- The U.S. government has typically waived even those limited restrictions and provided the funds without the conditions being met, though it did ultimately withhold 10 percent of the funds in each of the last two years. Congress’s attempts to impose specific conditions have been undercut by the administration’s substitution of other conditions in their place.

⁸ Data from Security Assistance Monitor, covering 2018 to 2022 for security assistance and 2017 to 2021 for arms sales notifications.

⁹ This refers to funds that the U.S. government provides under the Foreign Military Financing budget account. Out of the \$1.3 billion that Congress appropriated in Fiscal Year 2020, for example, it conditioned \$300 million.



- Separately, U.S. arms sales to Egypt – including more than \$3 billion in sales of [missiles](#), [aircraft](#), and [radar systems](#) authorized in just the last two years – are made with no such conditions at all.

Diplomatic messaging. Based on the public record, the U.S. government's diplomatic messaging on accountability for human rights abuses does not appear to have been particularly vigorous.

- The administration's official statements have touched on Egyptian human rights only [gingerly](#) or in [vague terms](#), especially at high levels. President Biden [stressed](#) in a July 2022 meeting with Egyptian President Sisi that he was “a valuable, valuable friend.”
- U.S. officials have offered [unearned praise](#) for ostensible progress against sexual violence and on other issues. They have [also welcomed](#) Egypt's launch of a “national human rights strategy” that [local](#) and [outside activists](#) have assessed to be a public-relations maneuver with little substance.
- In rare multilateral scrutiny, the United States joined 30 governments [expressing](#) “dee[p] concer[n] about the trajectory of human rights in Egypt” at the UN Human Rights Council in 2021. Since joining the Council, the U.S. government has not followed up on this initiative.

Other accountability tools. Most of the above abuses do not fall within U.S. federal criminal jurisdiction, though the U.S. Justice Department did recently [arrest](#) a U.S.-based Egyptian-American who surveilled U.S.-based critics of the Egyptian government, charging him with failing to register as Egypt's agent. For its part, the State Department has omitted Egypt from lists of concern on which it arguably belongs:

- It created a new travel-warning indicator this year [highlighting](#) to U.S. travelers the “risk of wrongful detention by a foreign government,” but it did not apply the indicator to [Egypt](#). A top U.S. official [indicated](#) more countries may join the list if they detain U.S. nationals more often.
- The State Department has not included Egypt on its “special watch list” for violations of religious freedom as the U.S. Commission for International Religious Freedom has [recommended](#).

Availability and potential impact of targeted sanctions. Much as the U.S. government has trodden lightly around Egyptian abuses in these other policy contexts, it also has imposed no targeted sanctions on Egyptian officials.

- The White House has not created an Egypt-specific sanctions program, and the Treasury Department has not imposed Global Magnitsky sanctions on any Egyptian nationals.
- The State Department has not publicly sanctioned any Egyptian officials using the separate visa restriction [authorities](#) it employs against abusive or corrupt officials in other countries.

Civil society organizations, however, have recommended that several Egyptian officials or agencies be sanctioned under Global Magnitsky for their roles in various serious human rights abuses. For example:

- Human Rights Watch has [recommended](#) that Egypt's National Security Agency be sanctioned as an entity and several officials individually for their roles in extrajudicial killings on the mainland.
- Democracy for the Arab World Now [recommended](#) that a judge on the Cairo Criminal Court be sanctioned for his role in upholding the detention of peaceful protestors.
- Other civil society organizations have confidentially submitted recommendations that Egyptian officials at low, middle, and high levels be sanctioned for human rights abuses.



While the impact of sanctions is always difficult to forecast, Egyptian authorities would undoubtedly be surprised by U.S. sanctions targeting specific officials and would face pressure to take the action seriously. To increase the impact of such sanctions, the U.S. government should:

- ***Choose emblematic or egregious cases of human rights abuse.*** An initial set of sanctions can test the Egyptian government's willingness to hold any of its officials to account.
- ***Include abusive officials who visit, were trained in, or have property in the United States.*** Many Egyptian military officers and security officials have such ties.
- ***Link the sanctions to other policy measures and a broader strategy.*** This should include stating that the statutory conditions for U.S. military financing cannot be considered satisfied without genuine investigation and appropriate action regarding the acts of those being sanctioned.
- ***Coordinate its sanctions with parallel actions in other Magnitsky jurisdictions.*** Doing so would amplify the message and take the issue outside purely bilateral channels.



EQUATORIAL GUINEA

Corruption

Equatorial Guinea has not been a close U.S. partner by most standards. The oil-rich country's repressive dictatorship and profound official corruption have rightly impeded some forms of partnership between its government and the United States. The U.S. and other foreign governments have even brought criminal or civil cases against top Equatoguinean officials for corrupt conduct that extended abroad. Yet other interests – including commercial ties and concerns about China's influence – have led the U.S. government to embrace Equatorial Guinea's government to a surprising degree, and to refrain from imposing sanctions that could help press for reform or impede the country's corrupt senior officials from storing their wealth in the United States.¹⁰

Corruption by Equatoguinean officials. Anti-corruption activists have described Equatorial Guinea as an “almost perfect [kleptocracy](#),” often pointing to the gaudy accumulation of wealth abroad by President Obiang's son, Teodoro “Teodorin” Nguema Obiang Mangue, who has been one of the country's vice presidents since 2012. Official corruption is also apparent in the government's failure to transform substantial oil revenues into progress against the country's severe poverty. Access to clean water, vaccinations, and primary education [have lagged](#) the average in sub-Saharan Africa, even as the country's per capita income has for many years been the region's highest.

Foreign governments have brought compelling allegations of corruption against top Equatoguinean officials in their own courts, often based on information from civil society organizations.

- In 2017, a French court responding to a complaint by NGOs [convicted](#) Teodorin *in absentia* for laundering embezzled state funds into France. The court seized roughly [150 million euros](#) worth of his assets, including top luxury and sports cars, and sentenced him to a suspended three-year prison sentence; the conviction was upheld on appeal.
- Other governments have also seized assets from Teodorin, including Switzerland, which in 2019 [closed](#) a money-laundering investigation (and controversially [returned](#) a \$100 million yacht to him) when he agreed to forfeit another set of luxury cars.
- The Equatoguinean government has aggressively [defended](#) its officials in such proceedings, claiming immunity for them before the International Court of Justice and invoking the absence of domestic conflict-of-interest legislation as a defense of their conduct.

In two recent exposés, the Organized Crime and Corruption Reporting Project (OCCRP) has reported evidence of alleged corrupt schemes involving top Equatoguinean officials.

- Gabriel Mbega Obiang Lima, the president's second son and the current mining minister, [allegedly](#) used his position “to siphon off millions of euros of state money” under a 2010 construction contract. The funds reportedly “ended up in offshore companies and accounts controlled by [Obiang] associates.”

¹⁰ Equatorial Guinea's human rights record is extraordinarily poor as well. This case study focuses on corruption, but human rights abuses that are sanctionable under Global Magnitsky are undoubtedly also occurring.



- Separately, Gabriel [allegedly](#) extorted bribes from businessmen in 2018; a former government official said it was understood that failure to make payment would prompt retaliation.
- Antonio Oburu, the chief executive of Equatorial Guinea's national oil company (GEPetrol) and husband to a niece of the country's first lady, [may have](#) benefited from a scam in which an oil-trading company diverted millions of dollars in profits from sales involving GEPetrol.

Abuses against those challenging corruption. Human rights abuses and regulatory crackdowns on anti-corruption activists have helped sustain the country's kleptocracy against domestic scrutiny.

- The leaders of an Equatoguinean NGO focused on corruption and pressing the country to join the Extractive Industries Transparency Initiative (EITI) were arbitrarily [detained](#) for several weeks in 2017; one was abducted and beaten in 2018 by men who appeared to be security officials. In [2019](#), their NGO had its charter revoked by the government, leaving it unable to operate.

U.S. government assessments. Both the U.S. State Department and Justice Department have been quite candid about official corruption in Equatorial Guinea.

- In court proceedings, top Justice officials [said](#), "through relentless embezzlement and extortion, [Teodorin] shamelessly looted his government and shook down businesses in his country to support his lavish lifestyle, while many of his fellow citizens lived in extreme poverty."
- The State Department's most recent [human rights report](#) noted that "[c]orruption at all levels of government was a severe problem" and that "[o]fficials frequently engaged in corrupt practices with impunity."
- It added that "[t]he president and members of his inner circle continued to amass personal fortunes from the revenues associated with monopolies on all domestic commercial ventures." It noted the continued absence of laws on conflicts of interest and nepotism, as well as the government's failure to effectively implement penalties for official corruption.
- The State Department's 2022 [investment climate statement](#) assessed that most of the government's recent reforms "exist on paper only."

Corruption in comparison. Because they involve public officials and financial corruption, the above acts would satisfy the Global Magnitsky program's standard for corruption. Many of the alleged corrupt acts occurred more than five years ago, outside the temporal range of Global Magnitsky sanctions; but because the transfer of the proceeds of corruption is also sanctionable, those acts may still be relevant.

Moreover, corruption in Equatorial Guinea reaches levels that are among the most egregious in the world.

- In Transparency International's annual Corruption Perception Index (CPI), Equatorial Guinea has consistently ranked among the worst in the world. In 2021, the country placed 172 out of the 180 states evaluated; most of the few countries it outperforms have been devastated by years of war.
- The U.S. government has imposed corruption sanctions in countries with much lower overall levels of graft, targeting corrupt networks in treaty allies such as Bulgaria and Latvia and top government officials in Liberia, also a close partner.



U.S. interests in anti-corruption and the relationship with Equatorial Guinea. The U.S.-Equatorial Guinea relationship has few of the trappings of real partnership, but commercial ties and emerging geopolitical concerns appear to have dampened U.S. advocacy for reform or accountability.

- Despite the absence of trade or investment [agreements](#), U.S. commercial ties to Equatorial Guinea have been deep. U.S. oil companies have been the largest investors in the country, although the two largest [announced](#) the sale of their shares in the country's oil fields this year.
- Recent U.S. policy toward the country has been dominated by a [concern](#) that Equatorial Guinea (or [other African states](#) on the Atlantic coast) will host a Chinese naval base on its territory.
- The United States has provided very little security assistance or arms sales in recent years, though that may be changing. Recent naval visits have featured U.S. [claims](#) that the country is "an important partner...in promoting peace and security in Africa."

The United States has an interest in helping the people of Equatorial Guinea prosper, rather than seeing their resources looted for self-enrichment. That interest and several others would be advanced by efforts to seek accountability for corruption.

- The credibility of the Biden administration's ambitious anti-corruption [agenda](#) is jeopardized by this conspicuous exception, one that is hard to justify even by the double standards of close friendships.
- Top Equatoguinean officials have repeatedly shown a willingness or even a preference to use the U.S. and its financial system to store their ill-gotten gains. They have also [received assistance](#) from U.S.-based banks and lawyers.
- Reductions in corruption would make for a better investment [climate](#) for U.S. and other businesses in the country.

Limited U.S. use of alternative policy tools. The U.S. government has taken some legal actions targeting Equatoguinean officials for acts of corruption with a nexus to the United States. At the multilateral level, and presumably with U.S. support, an International Monetary Fund loan [program](#) and the Extractive Industries Transparency Initiative's [decision](#) not yet to admit Equatorial Guinea as a candidate both aim to address public corruption. As that corruption has persisted, though, it is not clear what else the U.S. government has done in bilateral channels to press for accountability and change.

Legal action against corruption with a U.S. nexus. The U.S. government has sought accountability for some elements of Equatorial Guinea's corruption that fell under federal jurisdiction.

- In 2011, the U.S. Justice Department began a [civil forfeiture](#) action alleging Teodorin had abused his position as the agriculture and forestry minister to amass more than \$100 million in assets.
- The action led to a 2014 [settlement agreement](#) under which Teodorin eventually forfeited part of the proceeds from the auction of his Malibu mansion and one sports car. U.S. attempts to return some of the funds to the Equatoguinean people in some form are [still](#) under way.
- In 2017, the Justice Department reached a [settlement](#) in which a Dutch oil-drilling equipment manufacturer and its U.S. subsidiary paid a \$238 million criminal penalty for bribing at least nine officials in Equatorial Guinea, among other countries.



- Previously, the U.S. Senate's primary investigative [subcommittee exposed](#) the role of U.S. banks, lawyers, and other professionals in enabling money laundering by senior Obiang family members.

Conditioning security assistance. While the U.S. government has provided only limited assistance to Equatorial Guinea's [abusive security forces](#), no specific conditions on that assistance are in place requiring progress on corruption.

- The U.S. government has authorized very little in arms sales to Equatorial Guinea in the last five years. It provided no security assistance in that timeframe until the country's participation in the International Military Education and Training (IMET) program [resumed](#) in 2021.
- The country's ranking on the lowest tier of the U.S. Trafficking in Persons report had generally blocked the provision of U.S. security assistance until that ranking was upgraded in [2021](#).¹¹

Diplomatic messaging. Public accounts of recent high-level meetings between U.S. and Equatoguinean officials suggest that issues of corruption have not been addressed at all.

- [Some](#) general [statements](#) of U.S. foreign policy priorities regarding Equatorial Guinea refer gingerly to "promoting good governance" or encouraging "greater fiscal transparency."
- Three high-level U.S. delegations have visited the country in the Biden and late Trump administrations, [all apparently focused](#) on discouraging the government from inviting a Chinese military presence and [none](#) of which appeared to address corruption.
- [Because of](#) its high per capita income, Equatorial Guinea is ineligible for duty-free trade benefits under the U.S. Africa Growth and Opportunity Act and the U.S. has not assessed its record against that program's good governance [criteria](#).

Availability and potential impact of targeted sanctions. The U.S. government has not used any targeted sanctions tools to attempt to hold corrupt officials in Equatorial Guinea to account. In striking contrast, the U.K. government sanctioned Teodorin when [launching](#) its anti-corruption sanctions program in 2021, citing "his involvement in the misappropriation of state funds into his own personal bank accounts, corrupt contracting arrangements and soliciting bribes." This is a rare and conspicuous instance of the U.S. government failing to match a partner government's sanction under a Magnitsky-style program.

Civil society organizations have repeatedly and publicly recommended U.S. Global Magnitsky sanctions against corrupt Equatoguinean officials, especially Teodorin, and their associates.

- The organizations Human Rights Watch and EG Justice in 2020 jointly [recommended](#) that Teodorin be sanctioned under the Global Magnitsky program for corruption.
- EG Justice further called for sanctions to be imposed on "Western professional enablers who materially assist sanctionable persons and offenses" in congressional [testimony](#) in 2021.

The Equatoguinean government's corrupt leaders will not hold themselves to account; even the stigma of criminal proceedings abroad does not appear to have spurred serious change. Still, targeted

¹¹ The U.S. government has never concluded that Equatorial Guinea has committed a "consistent pattern of gross violations of human rights," which would bar most security assistance.



sanctions could have a valuable impact in helping keep ill-gotten gains out of the United States, deterring enablers, and potentially securing reforms. To increase the impact of such sanctions, the U.S. government should:

- **Target top officials.** The U.S. government has recognized that the country's top leaders themselves commit and condone grand corruption. President Obiang's recent decision to serve yet another term himself could make it diplomatically easier to focus on Teodorin and other senior lieutenants.
- **Link the sanctions to a broader strategy and offer their reversal on conditions.** The U.S. government should make clear that any sanctions are in part a defensive measure against further money laundering into the U.S. financial system, and that they may be suspended or expanded depending on genuine future progress toward anti-corruption reforms.
- **Include Western enablers.** If any U.S. or other foreign bankers or attorneys are continuing to assist sanctionable Equatoguinean corruption, they too can be sanctioned; doing so would make clear the U.S. government will use all available tools to address the role of Americans and other countries in enabling kleptocracy and discourage professionals from doing so.



INDIA

Serious human rights abuse

The U.S. government attaches great importance to the U.S.-India relationship. Despite and because of this, it does not appear to have taken significant steps to address the serious human rights abuses against Muslims and others that have accompanied the rise of Hindu extremism in India. A wide range of Indian officials and non-state actors have engaged in abusive conduct that violates national law and international norms¹² and meets the criteria for Global Magnitsky sanctions, and for which Indian institutions have provided little accountability. The stakes are high for India's stability and its endangered future as a democracy; the [U.S. Holocaust Memorial Museum](#) ranks India second-highest in the world at risk of mass atrocities. The United States thus has powerful interests in promoting accountability for ongoing abuses and taking meaningful steps to discourage them, even if diplomatic sensitivities make this difficult. The U.S. government should use Global Magnitsky sanctions and other policy tools to that end.

Serious human rights abuses by Indian officials. As India's human rights record has worsened from "free" to "partly free" over the last five years in Freedom House's reckoning, the country has experienced a deepening trend of abuses against [various minority groups](#), especially [Muslims](#), but also including other religious minorities, Dalits, tribal communities, and [migrants](#). In Jammu and Kashmir (Kashmir), [Indian Security Forces](#) and [armed groups](#) are responsible for abuses including against Hindus (the minority in that state) and other minorities. Some perpetrators of such abuses have been held to account, but in many instances [specific laws have](#) shielded the perpetrators from accountability. The [discriminatory](#) Citizenship Amendment Act of 2019 (CAA), which grants a fast track to Indian citizenship for non-Muslims from certain surrounding countries, has spurred protests to which authorities have responded with further abuse. Key categories of sanctionable abuses are illustrated below.

Extrajudicial killings and enforced disappearances.

- According to a [panel of independent international experts](#), since July 2019, "Muslims have been specifically targeted or have disproportionately fallen victim" to the practice of extrajudicial killings across India.
- In 2019, UN human rights experts [expressed concern](#) to Indian authorities about extrajudicial killings in Uttar Pradesh state (UP), highlighting information on 15 cases, mostly regarding Muslim victims from impoverished backgrounds. Indian NGOs reported that police have carried out at least [146 extrajudicial killings](#) since Yogi Adityanath became UP's chief minister in 2017.
- Prisoners or detainees have reportedly been killed or died in police and judicial custody. A report from the [National Campaign Against Torture](#) reported 111 deaths of persons in police custody in 2020, over half of which were allegedly due to torture or foul play. Authorities have also met peaceful demonstrations with [lethal force](#).

¹² See <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/india>; <https://www.hrw.org/news/2022/03/31/human-rights-watch-submission-universal-periodic-review-india>.



- In Kashmir, killings by both government and nongovernment forces have been [reported](#). In 2021, for example, [UN special rapporteurs](#) expressed concern regarding the apparent custodial killing of shopkeeper Irfan Ahmad Dar by police and the lack of accountability for his death.
- Killings by non-state actors have included Hindu extremist mob [lynchings](#) of Muslims and other [killings](#) of minorities. In many cases, police have been [complicit in](#) mob killings and the government has failed to hold perpetrators accountable; in some, police have abetted the violence.
- Enforced disappearances have been of particular concern in Kashmir, where Indian NGOs have [reported](#) the state's failure to neutrally investigate enforced disappearances. In 2021, [UN special rapporteurs](#) sought information on the case of Naseer Ahmad Wani, who disappeared in 2019 after being questioned by army soldiers in Kashmir.

Torture, cruel treatment, and other abuses. Police forces and other officials have [inflicted](#) torture and other cruel, inhuman, and degrading treatment or punishment.

- The National Campaign Against Torture reported in 2020 that Indian authorities used torture to coerce confessions and extract bribes from detainees or their family members, and that women were subjected to sexual violence and custodial rape by security forces.
- Children in custody have also been victims of torture, sometimes even resulting in death. For instance, there were reports that police in UP tortured children after they were detained during a crackdown on protests against the CAA.
- Reports of police beatings of peaceful protesters have been prevalent, including against individuals demonstrating against the CAA and India's annexation of Kashmir.

Arbitrary detention. Indian authorities have [postponed](#) the judicial review of arrests and imposed pretrial detention that the U.S. government has described as "arbitrary and lengthy, sometimes exceeding the duration of the sentence given to those convicted" and sometimes used to coerce confessions.

- After India's 2019 annexation of Kashmir, thousands were arbitrarily arrested and detained to stifle protests. Human rights defenders and journalists in Kashmir continue to be arbitrarily detained for expressing dissent. In 2021, the UN Working Group on Arbitrary Detention and a UN special rapporteur expressed alarm regarding "alleged arbitrary detention and intimidation of journalists covering the situation in Jammu and Kashmir."
- Arbitrary detention has been regularly documented elsewhere in the country. In 2021, for example, the UN Working Group on Arbitrary Detention found that Sikh human rights activist Jagtar Singh Johal was arbitrarily detained "on discriminatory grounds, owing to his status as a human rights defender and based on his political activism, religious faith and opinions," and called for his release. UN rapporteurs expressed concern about the detention of 16 activists in 2018 under "overly broad national security legislation."

U.S. interests in human rights and the relationship with India. The U.S.-India relationship is a complex one, which Secretary Blinken has [referred](#) to as "one of the most consequential in the world."

- The U.S. government views India as a critical counterweight to China's [rising influence](#) in the Indian Ocean and elsewhere, including through its role in the "[Quad](#)" of the United States, India, Japan, and Australia.



- With [limited success](#), U.S. officials are also seeking India's support for efforts to deny resources to Russia's invasion of Ukraine.
- U.S. discussion of human rights abuses in India has prompted some pushback from Indian officials, such as when India's foreign minister [noted](#) that "we also take our views on other people's human rights situation, including that of the United States."

In addition to its interest in protecting the human rights of Indians, other U.S. interests would be well served by promoting accountability for and discouraging the above abuses.

- The U.S. government emphasizes India's reputation as a diverse, multiparty democracy and stresses that the U.S.-India partnership "is founded on a shared commitment to freedom, democratic principles, equal treatment of all citizens, human rights, and the rule of law."
- This rhetoric will be untenable if Indian authorities continue to allow or commit serious abuses against the country's minorities. India's stability and that of the broader region could be jeopardized by human rights abuses on sectarian lines.

Limited use of other U.S. policy actions. The U.S. government appears to have made limited use of other policy tools that could help persuade Indian authorities to provide accountability for such conduct, or that would otherwise impose consequences for it.

Conditioning security assistance. India has been a major recipient of U.S. arms sales over the last five years (\$11.3 billion, or 14th in the world), and a more modest recipient of U.S. security assistance. While U.S. [Leahy laws](#) prohibit funding assistance to specific units of foreign security forces credibly implicated in gross violations of human rights, the U.S. government [has not conditioned](#) security aid to India more generally.

Diplomatic messaging. In public, U.S. government officials have expressed at least gentle criticism regarding human rights abuses in India

- For example, Secretary of State Blinken has [stated](#) that the U.S. is "monitoring some recent concerning developments in India including a rise in human rights abuses..."; and a State Department spokesperson recently [said](#) that "[w]e regularly engage with the Indian Government at senior levels on human rights concerns, including freedom of religion or belief, and we encourage India to promote respect for human rights."
- U.S. officials have often framed such criticism in a way that suggests openness to self-reflection as well. At a civil society roundtable in New Delhi, for example, Secretary Blinken [said](#) that "[b]oth of our democracies are works in progress" and that "it's vital that we two world-leading democracies continue to stand together in support of these ideals."

International religious freedom (IRF). In its annual IRF report, the U.S. government has not listed India among the "countries of particular concern" despite the U.S. Commission on IRF's annual [recommendation](#) since 2020 that it do so.

- The Commission most recently stated that "religious freedom conditions in India significantly worsened" that year, citing government policies affecting religious minorities.



- If India were to be listed as a country of particular concern, the executive branch [by law](#) would be required to impose a freeze or cut to security assistance to India or take other policy responses, though this requirement can be [waived](#).

Availability and potential impact of targeted sanctions. Since the Global Magnitsky program's creation in 2017, the U.S. government has not used it to impose sanctions on any individuals or organizations responsible for the conduct described above.

- The Treasury Department does not have an India-specific sanctions program, and the State Department has not publicly sanctioned any Indian officials using the separate visa restriction [authorities](#) that it has employed extensively against abusive or corrupt officials in other countries.
- Prime Minister Modi was [denied a visa](#) to the U.S. in 2005 when he was chief minister of Gujarat state. The visa ban was issued on religious freedom grounds for Modi's ignoring Hindu extremists' killings of predominantly Muslims during Hindu-Muslim riots in 2002. The U.S. government lifted the visa ban in 2014 when Modi was elected prime minister.

Civil society groups have recommended that several Indian officials or agencies be sanctioned under Global Magnitsky for their roles in various serious human rights abuses.

- The U.S.-based Guernica 37 Centre [filed a submission](#) earlier this year recommending the U.S. government sanction Uttar Pradesh chief minister Adityanath; Om Prakash Singh, the recently-retired Director-General of the police of UP; and Sanjeev Tyagi, police superintendent of the district of Kanpur, for their role in extrajudicial killings.
- Other organizations have confidentially recommended sanctions for serious human rights abuses in India.

The impact of sanctions targeting government officials is difficult to forecast, especially in the context of a powerful state such as India. To better target and increase the impact of such sanctions, the U.S. government should:

- ***Begin with a focus on egregious cases.*** An initial set of sanctions, perhaps focused on a discrete set of perpetrators who have attracted particular concern from Indian civil society, can begin a broader advocacy effort to see whether Indian authorities will hold abusive actors to account.
- ***Act jointly with other partners with aligned interests.*** Acting in coordination with other Magnitsky jurisdictions who share concerns about the human rights abuses could help reinforce the message and distribute any diplomatic risks.
- ***Emphasize Indian interests.*** Indian authorities will not welcome a targeted sanctions announcement regardless of how it is presented. Emphasizing that impunity for human rights abuses threatens key pillars of India's national strength – such as its pluralist heritage, basic stability, and attractiveness for investment – could nonetheless help mitigate the defensive response.



MEXICO

Serious human rights abuse

The United States and Mexico have close ties as neighbors and trading partners. The U.S. government has done [too little](#), however, to advocate for accountability for the serious human rights abuses committed by Mexican security forces, among other pressing rule of law issues. This lack of action is a missed opportunity to address one of the drivers of instability and migration and curb organized criminal activity. As part of a broader effort to promote structural change and sustainable improvement in the human rights situation in Mexico, the U.S. government should use the Global Magnitsky sanctions program to encourage accountability for serious abuses.

Serious human rights abuses by Mexican officials. Human Rights First and its partners have [reported](#) on violent attacks by Mexican government officials on asylum-seeking migrants forced to remain in Mexico. Mexican police and military forces have committed other violent human rights abuses as well that would meet the criteria for targeted sanctions under the Global Magnitsky program.

Enforced disappearances. There is an appalling pattern of enforced disappearances in Mexico, committed by both organized criminal groups and state security forces, often in collaboration with each other. Although the state is not always the sole perpetrator of these serious abuses, its involvement is significant and systematic. As many as 98 percent of enforced disappearances remain [unprosecuted](#).

Most notorious was the [enforced disappearance of 43 students](#) in Ayotzinapa in September 2014. Following [mishandled investigations](#) and longstanding suspicions of state participation in the atrocity, in August 2022, the Mexican military was [directly tied to the disappearances](#), which a government commission declared a “state crime.”

- As of September 2021, Mexico’s National Search Commission reported that there were [over 90,000 disappeared persons in the country](#). A majority of recorded disappearances occurred from [2006 onward, coinciding with the start of the “war on drugs”](#) and the militarization of public security. Human rights organizations have [reported](#) that in addition to criminal groups, the police and military are responsible for a significant number of disappearances each year.
- In 2018, the UN High Commissioner for Human Rights [urged Mexico to end “a wave of disappearances”](#) near the city of Nuevo Laredo, citing “strong indications that these crimes [had] been committed by federal security forces.” The UN documented [23 disappearances](#) between February and May 2018, while a local human rights organization put the number at closer to 40.
- Marginalized populations have often been targeted in enforced disappearances. The UN Committee on Enforced Disappearances in [2021 reported](#) that it had “found information on the disappearance of LGBTIQ+ persons by security forces or organized crime groups for the purpose of social cleansing or sexual exploitation, mainly after they have been forced to enter reconversion centres.”
- [Migrants](#) are also often forcibly disappeared, amid a stark and “[notable increase](#)” in the disappearances of women, children, and teenagers that the UN has observed in the last decade.

Extrajudicial killings. Numerous reports indicate that the Mexican police and military have engaged in extrajudicial killings, and impunity for these actions is common.



- Human rights organizations [indicate](#) that militarized policing in Mexico has contributed to extrajudicial killings by military officers, including executions of unarmed civilians. Many such killings occur [during the course of law enforcement activities](#).
- In a rare case of criminal charges against law enforcement, 12 police officers were arrested in February 2021 for the [massacre of 19 people](#), including [three smugglers and 16 Guatemalan migrants](#) traveling to the United States.
- Mexico has long faced extreme rates of gender-based violence, including an alarming [uptick in femicides](#) (killings of women because of their gender). A staggering [88 percent](#) of these crimes go unpunished, and state officials are sometimes implicated. In 2021, four police officers were [charged with femicide](#) for killing a Salvadoran refugee named Victoria Salazar during an arrest.
- Mexico is [one of the most dangerous places in the world for journalists](#) and [human rights defenders](#), and the perpetrators include both nonstate and state actors. In one prominent example, the UN High Commissioner for Human Rights in 2020 urged Mexico to investigate [the death of an independent journalist while in police custody](#).

Torture. Mexican security forces have also engaged in torture, often in the context of arbitrary detentions.

- Between 2006 and 2018, [10,534 complaints of torture and cruel, inhuman, or degrading treatment](#) were filed before Mexico's National Human Rights Commission; [more than half](#) were attributed to the armed forces. During the same period, 27,342 criminal investigations of torture were initiated at the national level, but only [50 convictions were issued](#).
- The UN Committee against Torture [found](#) that [Mexican police in 2013 had tortured](#) [Damián Gallardo Martínez](#), a human rights defender who campaigned for education and indigenous rights. The police broke into his home, arrested him with no warrant, and held him incommunicado in a secret detention center where officers tortured him for information. He signed a forced confession and was sent to a high-security prison for five years, during which time he was also tortured.
- The Mexican national statistics office [reported](#) in a 2016 survey that, of the 64,000 people incarcerated in Mexico, "almost two-thirds (64 percent) reported physical violence at the time of arrest, including electric shocks, choking, and smothering."

Arbitrary arrests and detentions. Mexican authorities frequently arrest and detain individuals arbitrarily, and these actions have often been linked to other human rights abuses committed by the state.

- Prompted by a 2008 case in which Mexican police arbitrarily detained Hugo Martínez Gorostieta, the UN Working Group on Arbitrary Detention noted receiving many cases "in recent years in connection with arbitrary deprivation of liberty in Mexico," which "may reflect a systemic problem of arbitrary detention in Mexico."
- The Working Group has urged Mexico to abolish mandatory pre-trial detention (called "automatic preventive detention" in Article 19 of the Constitution) because it creates significant risks of human rights violations, including arbitrary detention.
- Police officers are often detained but later released without any accountability for their actions. In August 2021, four municipal police officers were arrested following the death of José Eduardo



Ravelo Echeverría. Officers allegedly detained and interrogated him without reasonable suspicion or probable cause, and there were indications that he had suffered sexual abuse during his detention. The officers involved were ultimately released because of a lack of evidence.

U.S. assessments. The United States government has repeatedly documented the human rights abuses committed by Mexican security forces.

- The U.S. Department of State's [2021 human rights report on Mexico](#) acknowledged "significant human rights issues," citing among others "unlawful or arbitrary killings by police, military, and other governmental officials; forced disappearance by government agents; torture and degrading treatment by security forces; harsh and life-threatening prison conditions; arbitrary arrest or detention; restrictions on free expression and media, including violence against journalists...."
- In the same report, the State Department also acknowledged that "[i]mpunity and extremely low rates of prosecution remained a problem for all crimes, including human rights abuses and corruption," and noted reports of state complicity with organized crime.

Abuses in comparison. The violations described above by Mexican security forces would almost certainly meet the threshold of "serious human rights abuses" necessary for the United States to impose targeted sanctions. The United States has sanctioned officials and entities of other countries with comparably poor human rights records.

- Mexico's performance on broader [indicators](#) of civil liberties and political rights is moderate, but the country stands out unfavorably on narrower measures. When evaluated for [violations of physical integrity by state agents](#), Mexico's scores in 2021 were the same as or worse than those of heavily sanctioned nations including Russia, Nicaragua, and Zimbabwe.

U.S. interests in human rights and the relationship with Mexico. Key aspects of the U.S.-Mexico relationship may be seen as impediments to advocating for accountability.

- This relationship is a sensitive one. The current Mexican administration has shown a willingness to undermine other U.S. interests when [pressed](#) to pursue or allow accountability for corruption, as the recent tension stemming from the U.S. extradition of former Defense Secretary Cienfuegos suggests. In turn, some U.S. [officials](#) have gone to extraordinary lengths in pursuit of goodwill from Mexico's frequently hostile president.
- U.S. officials rely upon continued Mexican [cooperation](#) and [action](#) to prevent the entry of asylum seekers and other migrants into the United States, with both governments [violating](#) their legal [obligations](#) and political [commitments](#) with respect to asylum seekers.
- Mexico has been a top recipient of security assistance from the U.S. government ([\\$435 million](#) over the last five years, or 12th in the world) and in the top 40 in U.S. arms sales (\$1.56 billion).

Achieving greater accountability for human rights abuses committed by Mexican officials would serve a range of U.S. interests, in addition to the promotion of human rights.

- Human rights abuses against Mexicans and migrants in Mexico are one driver of the migration that U.S. foreign policy seeks to discourage, and impunity allows those abuses to continue.
- Progress toward security and a basic trust in government depends more generally on the discipline and effectiveness of Mexico's security institutions, including their ability to address ruthless [organized criminal groups](#) without themselves engaging in brutality.



- Massive provision of [defense equipment](#) to Mexican security forces associates the United States with their continuing abuses. Impunity for the [corrupt diversion](#) of weapons to criminal groups also threatens U.S. interests.
- Creating a climate conducive to U.S. business interests in [Mexico, which is the United States' second largest trading partner](#), also depends on stability and a stronger rule of law.

U.S. use of alternative policy tools. In addition to making little use of targeted sanctions, the United States has largely refrained from using other policy tools to seek accountability for human rights abuses.

Diplomatic messaging. Though the U.S. has recently provided some assistance – at the request of the Mexican government – into the Ayotzinapa investigation, its public messaging has generally avoided significant criticism of Mexican security forces' human rights abuses or focusing on accountability.

- Seeking [Mexico's cooperation on migration policy](#), the Biden administration has largely [refrained from directly criticizing](#) President López Obrador's increasingly authoritarian domestic policies.
- In recent [meetings with high-level Mexican counterparts](#), U.S. officials referred to human rights in broad terms, if at all, with the focus on other issues such as [economic cooperation and migration](#). Those issues have a human rights dimension, but the discussions around them have rarely examined abuses committed by Mexican security forces.
- In the context of corruption, the U.S. ambassador to Mexico actually [appeared](#) to endorse President Lopez Obrador's calls for the U.S. to cease funding a Mexican anti-corruption NGO. After Vice President Harris stated that she had pressed not just the Guatemalan president but also the Mexican president on impunity, she issued a [correction](#) clarifying that that was [not the case](#).

Conditioning security assistance. Since the expansion of U.S. security assistance to Mexico under the [Mérida Initiative](#) to address drug trafficking and related violence in 2008, that assistance has only sometimes and to a limited degree been tied to progress on human rights.

- Civil society organizations in Mexico and the U.S. have [called on the U.S. government to withhold assistance](#) due to the [Mexican government's failures](#) on human rights.
- For several years, Congress [conditioned](#) a fraction of U.S. security assistance to Mexico on a State Department verification of progress on human rights issues. Since 2016, this has been replaced with a requirement that the State Department simply report to Congress on those issues.

Availability and potential impact of targeted sanctions. Despite a clear awareness of the significant human rights abuses and calls from civil society to impose targeted sanctions for such conduct, the U.S. government has generally refrained from doing so.

- The Treasury Department did impose Global Magnitsky sanctions in 2019 against a former Mexican official and his network for [corruption](#), but it has not imposed sanctions for human rights abuse. There is no sanctions program focused specifically on Mexico.
- The State Department [imposed](#) Section 7031(c) visa restrictions for one former Mexican official's human rights abuses in 2021, though Mexican authorities had already arrested and charged him.



- Civil society organizations have publicly and confidentially urged the U.S. government to impose Global Magnitsky sanctions on Mexican officials for serious human rights abuses.
- One such recommendation concerned the Mexican navy's involvement in a range of abuses against 27 people, including arbitrary detention, torture, execution, and enforced disappearance, [documented](#) by the National Human Rights Commission (CNDH). The navy accepted the CNDH's description of the events and recommendations but provided no accountability.

Global Magnitsky sanctions against individuals involved in such abuses could send a strong message that Mexico must hold its security forces to account. To maximize their impact, U.S. officials should:

- ***Use the prospect of joint action with Mexico to encourage accountability.*** U.S. sanctions in Mexico have often focused on cases where Mexican authorities have already taken some steps towards justice, allowing a [narrative of cooperation](#) rather than confrontation. If this approach is preferred, U.S. officials could privately note that they plan to sanction specific actors under Global Magnitsky and offer to frame the action as a joint one if Mexican officials agree to launch and pursue appropriate investigative proceedings.
- ***Act with other Magnitsky jurisdictions.*** If joint action with Mexican authorities is not forthcoming, imposing sanctions in concert with *other* governments (including Canada) could help amplify the message and avoid delivering it solely through frayed bilateral channels.
- ***Be creative if needed to reach key cases.*** While some notorious cases, including the enforced disappearance of students from Ayotzinapa, are now too far past for Treasury sanctions, the State Department has greater flexibility in imposing visa sanctions under [Section 7031\(c\)](#).



THE PHILIPPINES

Serious human rights abuse

The long-standing and deep partnership between the United States and the Philippines fits uncomfortably with the massive campaign of extrajudicial killings that Philippines security forces have carried out in recent years. Especially if the new Marcos administration fails to break the pattern of impunity for these and other serious abuses, and if the U.S. government remains unwilling to advocate for progress using many other potential means, the Global Magnitsky sanctions program would be an appropriate tool to press for accountability.

Serious human rights abuses by Philippines officials. Extrajudicial killings. While extrajudicial killings in the Philippines long predated his administration, then-President Rodrigo Duterte's "war on drugs" produced a shocking surge of such killings by police forces beginning in 2016. Some of these killings now fall outside the five-year recency requirement for Global Magnitsky sanctions, but many do not.

- The UN has cited a "conservative" estimate of more than 8,000 people killed in this context, but also a figure as high as 27,000; a government agency acknowledged more than 6,000 killed through May 2022. Rates of drug-related killings reportedly surged at the start of the coronavirus pandemic, with some degree of decline over the last two years.
- A panel of judges at the International Criminal Court (ICC) concluded in 2021 that the extrajudicial killings and other abuses in connection with the "war on drugs" amounted to crimes against humanity; civil society groups had previously reached the same conclusion.
- Then-President Duterte repeatedly rejected outside scrutiny of such killings and promised impunity for government agents who committed them. Investigations by Philippine law enforcement agencies have led to only three convictions, which came in a single, high-profile case and remain under appeal. In June, the ICC prosecutor found that a lack of meaningful investigations at the national level still required the ICC's involvement as a court of last resort.
- Extrajudicial killings have been pervasive outside the specific context of the "war on drugs" as well. The UN has verified the killings of more than 200 human rights defenders between 2015 and 2019, often in connection with spurious charges of being Communist sympathizers or members ("red-tagging").
- For example, Philippine forces last year reportedly killed nine community activists critical of the government in a series of raids across several provinces.

Forced disappearances and arbitrary detention. State security forces have reportedly committed a wide range of other abuses in connection with the "war on drugs" and more broadly.

- Arrests in the context of the "war on drugs" have been so extensive – including more than 220,000 "[drug personalities](#)" between 2016 and 2019, per the government – as to raise concerns about broad arbitrary detention.
- Top critics of the Duterte government have been jailed or prosecuted on spurious grounds, including Senator Leila de Lima ([arbitrarily detained](#) for five years even after key witnesses [recanted](#)) and Maria Ressa (facing trumped-up and procedurally flawed [charges](#) of cyber libel).
- Cases with lower international visibility have been abundant as well. Just in recent months, for example, UN experts have [sought information](#) about the suspected enforced disappearance of a



human rights defender and peasant activist; and [local](#) and [international](#) civil society have called for the release of an arbitrarily detained paralegal of the human rights organization Karapatan.

U.S. government assessments. The U.S. government has generally recognized the outlines of the human rights abuses committed in the “war on drugs” and the broader situation in the Philippines.

- The State Department’s latest annual report on human rights in the Philippines acknowledged “credible reports that members of the security forces committed numerous abuses” and added in this regard that “[i]mpunity remained a problem.”
- U.S. officials also have appeared to embrace the conclusion of UN experts that Leila de Lima’s detention, for example, is arbitrary and have called for her release.

Abuses in comparison. The above-described abuses would satisfy the “gross violations” or “serious abuse” standards found in most U.S. human rights sanctions authorities. While the Philippines is generally freer and more democratic than other countries where officials have faced U.S. sanctions on human rights grounds, the incidence of killings by the state in the Philippines is extraordinarily high.

- In 2022, the Philippines scored a 55 out of 100 in Freedom House’s annual [report](#), placing it in the “partly free” category.
- In a measure more narrowly focused on “violations of basic human rights to the physical integrity of the person by agents of the state,” however, the Philippines scored as poorly as China and Sudan and among the 20 worst-rated countries in the world.¹³

U.S. interests in human rights and the relationship with the Philippines. The United States and Philippines have many security and diplomatic ties that ostensibly impede serious U.S. advocacy for accountability – though these ties are among the reasons why such advocacy is essential.

- [Past threats](#) by then-President Duterte to end the U.S. alliance and reorient the country toward China loom over U.S. diplomacy on any sensitive issue, though Duterte did not follow through on these threats and the new Marcos administration has not yet repeated them.
- The Philippines is a formal [treaty ally](#) and a major recipient of U.S. security assistance (\$330 million or 13th largest in the world over the last five years) and arms sales (\$4.7 billion or 25th in the world in that period).
- U.S. cooperation with the Philippines has focused in part on neutralizing terrorist organizations including an Islamic State affiliate – though Philippines officials frequently falsely [label critics or advocates](#) as sympathizing with terrorist or communist groups, often with lethal effect.

Reducing impunity for serious human rights abuses would serve several U.S. interests, including its interest in ensuring the well-being of the people of the Philippines.

¹³ The measure is the Political Terror Scale (PTS). The Philippines’ average PTS rating across three sources in 2021 was a 4.33, slightly worse than a rating of 4 which corresponds to: “Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances, and torture are a common part of life.”



- Unlike some other partnerships and alliances, the U.S. government touts that its relationship with the Philippines is based on shared values, [stating](#) that “U.S.-Philippines relations are founded on strong historical and cultural linkages and a shared commitment to democracy and human rights.”
- Widespread killings and persistent impunity are not a sustainable foundation for such an alliance, and they portend further democratic backsliding and instability that would drive the two countries apart. The killings of journalists and human rights defenders in particular threaten a vital and stabilizing check on the abuse of state power.
- The U.S. government’s deep ties with and extensive financing of Philippines security forces closely associates the United States with its partner’s abuses, especially if the abuses persist and the U.S. does not adjust its posture in response.

Limited U.S. use of alternative policy tools. This report focuses on sanctions, but the U.S. government appears to have made limited use of *other* policy tools to persuade Philippines authorities to provide accountability or impose consequences for abusive conduct.

Conditioning security assistance. Despite the involvement of Philippine security forces (especially but not solely the police) in grave and persistent human rights abuses, the U.S. government does not appear to link the continued provision of its security assistance to improvements in that record.

- U.S. legislators have recently proposed conditioning U.S. assistance on steps toward human rights accountability, among other criteria. Draft legislation to that end has not been enacted into law, though a provision focused specifically on the Philippines police passed the House this year.
- At the outset of the “war on drugs” in 2016, the U.S. government did halt one sale of weapons to the Philippines police at the insistence of a senior senator, but the new Trump administration sent supportive signals about drug-war brutality rather than critical ones.

Diplomatic messaging. The U.S. government has sometimes called for additional steps toward accountability, though primarily in multilateral venues and in emollient terms that avoid acknowledging the stark lack of progress.

- At least in general terms, senior U.S. officials have appeared to at least mention human rights issues in high-level engagements with their Philippine counterparts, [including with](#) newly elected Philippine President Marcos and in the [formal](#) “bilateral strategic dialogue.”
- U.S. officials have [recently](#) “[appreciate\[d\]](#) the commitment of the Philippines to advance accountability for extrajudicial killings,” albeit [while](#) “[encourag\[ing\]](#) additional action.”

Other accountability efforts. Several multilateral efforts to promote accountability are under way, including an investigation into extrajudicial killings that the ICC opened in 2021 and a “[joint program](#)” of technical assistance launched by the UN Human Rights Council (HRC).

- Even as the UN joint program has been slow to [deliver results](#), especially on accountability, the U.S. government and other HRC members [did not extend](#) the council’s scrutiny of the Philippines and related reporting by the UN high commissioner for human rights beyond the current year.
- The [Duterte](#) and [Marcos](#) governments have refused to cooperate with the ICC’s investigation. The United States has [acknowledged](#) the ICC inquiry but expressed no support for it, even



though it fits within general U.S. policy [preferences](#) regarding when and where the ICC should act.

Availability and potential impact of targeted sanctions. The U.S. government has made some use of its sanctions tools in the Philippines, though not evidently with respect to human rights abuses.

- Twelve individuals and three entities from the Philippines have been [sanctioned](#) under Treasury Department programs focused on counter-terrorism, Iran, and weapons of mass destruction.
- The Treasury Department does not have a Philippines-specific sanctions program and has not designated any Filipinos under the Global Magnitsky program. The State Department has not publicly designated any Filipinos under its visa restriction [authorities](#) focused on human rights violations and corruption.
- The U.S. government did reportedly in 2020 [revoke](#) the visa of Ronald Dela Rosa, who had been deeply involved in the “war on drugs” as Philippine National Police chief, though it is [unclear](#) on what specific grounds the U.S. government acted or what message it intended to send.

Civil society groups and others have recommended that several Philippine officials be sanctioned under Global Magnitsky, particularly for their involvement in extrajudicial killings.

- The International Coalition for Human Rights in the Philippines in March 2022 called for Global Magnitsky sanctions to be imposed on 12 senior Philippine officials, including Duterte, Dela Rosa, and several top security officials.
- Other civil society organizations have confidentially submitted recommendations that Philippine officials be sanctioned on similar grounds.
- U.S. members of Congress have also called for Global Magnitsky sanctions on Philippine officials, most prominently in a 2019 Senate resolution focusing on officials involved in extrajudicial killings or the arbitrary detention of Philippine senator Leila de Lima. The human rights organization Karapatan supported such calls.

Imposing Global Magnitsky sanctions on individuals responsible for these abuses could have a meaningful and constructive impact. To maximize that impact, U.S. officials should:

- **Act jointly with others.** Imposing sanctions in coordination with another Magnitsky jurisdiction could help amplify the message while softening the sting in the bilateral U.S.-Philippines channel.
- **Focus on individuals who have attracted specific concern and would be tangibly affected.** The U.S. government could help bolster local civil society by focusing on perpetrators whom they have identified as being of particular concern. Many sanctionable individuals likely travel to the United States or have financial interests here and would find their career prospects hampered by sanctions. The U.S. could initially target individuals who are not affiliated with the current administration but make clear that incumbent or more senior officials would be targeted next.
- **Act as part of a broader strategy.** The sanctions could be linked to – and lifted in exchange for – the Philippines’ cooperation with the ICC investigation, or genuine progress on domestic investigations of the sanctioned individuals and others. Members of Congress could emphasize that unconditional security assistance is unlikely to continue absent progress in that same vein.



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Mission Statement

Human Rights First works to create a just world in which every person's intrinsic human rights are respected and protected, to build societies that value and invest in all their people. To reach that goal demands assisting victims of injustice, bringing perpetrators of abuse to justice, and building institutions that ensure universal rights.

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