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The Magnitsky Sanctions and the politics of individual accountability

Franklin De Vrieze
WFD Senior Governance Adviser

Human rights violators should be scared. More and more democratic countries are holding them individually accountable for their crimes and are issuing individual so-called 'Magnitsky sanctions' to target them where it hurts most: their pockets and their freedom to travel.

The UK Government is seizing assets in Britain belonging to human rights violators, freezing their bank accounts, and banning them from entering the country. The policy of individual accountability for the gravest human rights violations can make the UK an even stronger force for good in the world in the years ahead, as argued by UK Secretary of State for Foreign, Commonwealth and Development Affairs Dominic Raab.

Now, UK MPs are pushing for and the Government is moving towards applying the same strategy toward corrupt officials. This could be an important deterrent for major corruption and help improve governance worldwide.

Laundering blood money

Welcomed across all parties in the UK House of Commons, on 6 July 2020, Foreign Secretary Dominic Raab introduced long-awaited sanctions against human rights abusers.

[He stated](#): 'If you're a kleptocrat or an organised criminal you will not be able to launder your blood money in this country. Those with blood on their hands, the thugs of despots, the henchmen of dictators, will not be free to waltz into this country, to buy up property on the King's Road, to do their Christmas shopping in Knightsbridge or frankly to siphon dirty money through British banks or other financial institutions.'

In other words, individuals named by the new regulations will not be able to travel to the UK or to use the British banking system and other institutions, and the authorities will freeze any property within the country which can be identified as belonging to the named individuals. It is a variation on the old theme of [hurting criminals in their pockets and travel agendas](#).

When introducing the new regulations, the Foreign Secretary, who had championed them for years during his time on the backbenches, paid tribute to other MPs who were part of the cross-party effort. The new legislation [uses powers contained in the 2018 Sanctions and Anti-Money Laundering Act](#), which is the UK's main legislation against [money laundering](#).

The purposes of the new [Global Human Rights Sanctions Regulations 2020](#) are to deter, and provide accountability for, activities which amount to a serious violation of an individual's right to life, right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour. These new regulations are also called Magnitsky Sanctions, after a Russian lawyer who exposed serious corruption and was subsequently killed in detention in Moscow.

The UK blacklist

Although the names of persons under sanctions, including visa bans, have [usually been kept confidential in the UK](#), under the new Global Human Rights Sanctions Regulations 2020 that has changed. On 6 July 2020, the Foreign, Commonwealth and Development Office named 49 individuals, including 20 Saudis involved in the death of Jamal Khashoggi (a Saudi journalist killed in the Saudi Consulate in Istanbul), 25 Russians involved in the murder of Sergei Magnitsky, two high-ranking Myanmar military generals involved in the systematic brutality against the Rohingya and other ethnic minorities, and two organisations involved in the enforced labour, torture and murder in the North Korean gulags. Entities that are owned or controlled by these persons are also subject to asset freezes.

British Overseas Territories have worked in concert with the UK's new individual sanctions regime. The Islands of Guernsey and Jersey and the Cayman Islands have frozen all accounts in their jurisdiction named in the UK sanctions list released on 6 July 2020. This is a significant development. Many kleptocrats keep part of their wealth hidden in offshore accounts in places like, for instance, the Cayman Islands, as revealed by investigations into the [Panama Papers](#), for example.

Individual accountability

The Magnitsky sanctions create real world consequences that human rights violators and their masters are terrified of: individual accountability.

Sanctions can be used to change behaviour, constrain damaging action, or send a signal of condemnation. The [threat of sanctions](#) can also deter actors from taking unacceptable courses of action. Sanctions can be an effective and reasonable foreign policy tool if they are part of a broader foreign policy strategy for a country or thematic issue and are appropriate to the purposes they are intending to achieve. The freezing of financial assets of persons involved in serious human rights violations and abuses provides a deterrent to those involved, including those who profit financially from the violations and abuses. For many of these individuals, dependence on the western financial system is their key weakness.

Corruption offences

It is interesting to note that the Foreign Secretary has not, at this stage, imposed sanctions on persons that are deemed to be involved in corruption.

In March of this year, [Members of the Houses of Commons and Lords](#) made a case for the UK to follow the US and Canada in imposing sanctions on persons deemed to be involved in corruption, in addition to those involved in human rights abuses. [John Penrose MP, the Prime Minister's anti-corruption champion](#), said: 'Britain can do without kleptocrats and organised criminals whose dirty money comes from abusing human rights while they loot foreign countries.'

UK parliamentarians' push is receiving a response. Leading the [debate on the motion in the House of Lords to approve the Global Human Rights Regulations](#), Lord Ahmad, on behalf of the Government, said: 'We are already considering how a corruption regime could be added to our armoury of legal weapons. In particular, we will look at the UN Convention against Corruption and at practice under existing frameworks in jurisdictions such as the United States and Canada.'

The [UK National Crime Agency](#) estimates that as much as £100 billion illegally flows through the UK every year, as criminals, money launderers and human rights abusers buy up luxury flats or send their children to British boarding schools.

The Foreign Secretary is [set to expand](#) the UK Magnitsky legislation to include corruption offences. Kleptocrats and corrupt oligarchs will face visa bans and asset freezes under government plans to expand the new law. It will [add a 'corruption regime'](#) to the so-called Magnitsky sanctions.

Where it all started: Magnitsky's murder

Sergei Magnitsky was a 37-year-old Russian tax lawyer and auditor who in 2008 uncovered a £150 million theft from the Russian state that was sanctioned and carried out by officials from the country's interior ministry. When Magnitsky went public with his allegations, the very people whose crimes he had uncovered arrested and imprisoned him. He died from torture, without medical assistance, in one of Moscow's prisons in 2009.

Since then, Magnitsky's boss and businessman-turned-human rights activist [Bill Browder](#) has campaigned for justice. Browder's [innovative strategy](#) got around the fact that the perpetrators were highly unlikely to be punished in Russia by pushing for sanctions abroad. For many rich Kremlin officials, depriving them of their wealth and freedom to move around Europe would be painful.



Sergei Magnitsky's gravestone

Dmitry Rozhkov / CC BY-SA
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More Magnitsky Acts

In 2012, President Obama signed into law the so-called 'Magnitsky Bill', which barred Russian officials involved in Magnitsky's death from entering the US or using its banking system. Vladimir Putin retaliated by banning the adoption of Russian orphans by American families. Rather than succumbing to Putin's intimidation, the US Senators who backed the Magnitsky Act decided to expand its scope to dictators, kleptocrats and human rights abusers all over the world. As a result, in 2016 the US Congress passed the [Global Magnitsky Human Rights Accountability Act](#).

Several EU countries followed suit with their own Magnitsky acts, including [Latvia](#), [Lithuania](#) and [Estonia](#), as well as [Canada](#). Upon the [recommendation of the European Parliament](#), the [EU Council](#) adopted a draft [proposal for an EU Magnitsky Act](#), which is expected to be approved by the EU Member States in late 2020. [Australia](#), [Japan](#) and [Switzerland](#) are currently debating similar legislation.

Consistency is key

Reviewing the first UK list of 49 names, some argue there is a [compelling case](#) for broadening the list and including the names of Chinese officials involved in the repression in [Hong Kong](#), [Tibet](#) and [Xinjiang](#). The US has already imposed [sanctions on specific Chinese officials](#) over the mass detention and torture of millions of [Muslim Uighurs in Xinjiang](#).

With regards to the [massive human rights abuses in Belarus](#) following the recent fraudulent presidential elections, [the EU has decided](#) to impose visa sanctions and asset freezes on Belarus officials and a list of names is under preparation. The US has already a [sanctions architecture](#) in place since 2006 that specifically targets persons undermining democratic processes in Belarus. Hence, a question for any global financial sanctions regime is the possibility of including individuals that undermined democracy.

These examples, and many other cases of human rights violations and high-profile corruption, raise the question of consistency in the UK [policy of financial sanctions](#). If these 49 individuals have been targeted, will further lists of human rights violators and corrupt officials from other countries be added?

With its global reach and the number of potential targets, any meaningful application of the new legislation is destined to be selective. 'Since government ministers rather than law enforcement agencies will control the UK sanctions regimes, their actions will no doubt be informed by political considerations', as noted by the UK [Royal United Services Institute](#). The credibility of such an approach will depend on the consistency of how the regulations will be applied in practice, as a future Post-Legislative Scrutiny inquiry of the 2018 Sanctions and Anti-Money Laundering Act is likely to find out. If conscientiously implemented, the legislation may serve as a further symbol of the UK's commitment to the rule of law and human rights, and act as another stepping stone in the government's ambition to create a hostile environment for criminals and their assets.

To do so, there is need for a new integrated cross-Whitehall strategy to defend established democracies, support emerging or struggling democracies, and counter authoritarians. In a [recent paper](#) for Westminster Foundation for Democracy, [Alex Thier](#) argues that the UK should put democratic governance at the centre of its approach to foreign policy, development, and national security. The UK Global Human Rights Sanctions Regulations 2020 are a powerful new tool to protect democratic governance by tackling human rights abuses and corruption offences that fuel such abuses.