

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
The Global Magnitsky Human Rights Accountability Act

March 24, 2021 - 12:30 p.m.
Virtual

Statement of Senator Benjamin L. Cardin

Thank you, Representative McGovern and Representative Smith, for convening this important hearing on the Global Magnitsky Act. The Act is one of America's most important tools to hold human rights abusers and kleptocrats accountable—and one of the most important pieces of legislation I have ever had the privilege to lead.

I now also have the privilege to lead the reauthorization of this legislation, which we will discuss at this hearing. It is imperative that we pass this reauthorization swiftly so as to ensure that we can protect our shores and financial system against global criminals, and provide a modicum of justice to those around the world denied it.

I introduced the original Magnitsky Act back in 2010, working closely with my friend the late Senator John McCain and the Ranking Member of the Helsinki Commission in the Senate, Senator Roger Wicker. Even then, we had a vision to expand the legislation to apply to all human rights abusers and kleptocrats and not simply those limited to Russia. We immediately began work upon the Global Magnitsky Act and, before long, had passed this decisive piece of legislation, which forever changed human rights advocacy.

As we examine the success and efficacy of the Global Magnitsky Act, I think the first conclusion we can reach is that it has undoubtedly become the central focus of both human rights advocates and corrupt officials. Civil society all over the world has come together to submit information pertaining to human rights abusers and kleptocrats, such that the United States can sanction these individuals for their crimes. Globe-hopping kleptocrats and war criminals alike fear placement on the Global Magnitsky list. Magnitsky is now synonymous with accountability and many allies—including Canada, the United Kingdom, and the European Union—have adopted similar sanctions programs.

However, Global Magnitsky is not a cure-all and cannot serve as a replacement for a comprehensive human rights and anti-corruption strategy. Global Magnitsky is one of the strongest sticks in the U.S. toolbox, but the United States must also compose and pursue a strategy to push for respect for human rights and accountability around the world that makes use of all of our tools. I have introduced two bills to help build exactly this comprehensive strategy—the Combating Global Corruption Act and the Countering Russian and Other Overseas

Kleptocracy Act, or the CROOK Act, which was introduced in this chamber by my friend Representative Keating.

Global Magnitsky has been enforced aggressively. The authority under which it is enforced—Executive Order 13818—expanded upon the language that Congress passed. We have adopted much of this language into the reauthorization of the Act in the Senate. It is important that we codify this language, which has been so effective and come to be seen as the gold standard in targeted sanctions. I hope that the House will introduce the same version of this bill when it decides to move forward, and enable us to move quickly to pass this legislation.

Despite this aggressive enforcement, there have been setbacks. Just recently, it was revealed Mohammad bin Salman was behind the murder of Jamal Khashoggi. I immediately called for Global Magnitsky sanctions on all of those involved in the murder of Khashoggi. It undermines the credibility of the Global Magnitsky program when we identify such heinous acts and then fail to act.

There was also the case of Dan Gertler, the infamous mining magnate, who was sanctioned for corruption in the very first tranche of Global Magnitsky sanctions. In the waning days of the previous administration, he was granted a surprise license that removed these sanctions. This license was deeply surprising and entirely unjustified. It has since been reversed by the Biden administration—but almost certainly not before Gertler had the chance to move his unfrozen assets somewhere safe. The whole episode cut at the credibility of Global Magnitsky sanctions and we must ensure that something similar never happens again.

We should also target the enablers of human rights abuse and kleptocracy. Global Magnitsky provides the authority to sanction those who “materially assist” in human rights abuse and corruption, and we should use this law more often to disable the middlemen that make human rights abuse and corruption pay. These include the accountants, lawyers, auditors, investment advisors, consultants, and others who gladly accept dirty money in exchange for dirty services like money laundering and reputation laundering.

Finally, we should double-down on urging other countries to adopt their own Magnitsky sanctions. Australia, Japan, and Taiwan are all considering adoption of Magnitsky sanctions and we should encourage that. We should also encourage the EU and the United Kingdom to adopt corruption sanctions. Currently, their Magnitsky sanctions only apply to human rights abuse, which means that they cannot be harmonized fully with U.S. sanctions.

I look forward to hearing the other witnesses today on how they view the future of Global Magnitsky enforcement. For my part, I call on the administration to keep up aggressive enforcement of this law, especially in concert with other tools to deliver accountability and justice around the world, and stand with the victims of kleptocracy.