

# A New Dawn for Accountability?



The Sentry

Feb 24 · 4 min read

*As Human Rights Face a Historic Global Assault, Powerful Financial Tools Arise to Counter Abusers*

By Brad Brooks-Rubin



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Around the world today, human rights face historic threats. In 2019, humanitarian aid funding fell, there were 951 attacks on health workers and facilities, and 304 human rights defenders were killed. We are living through an era where respect for human rights is in all but full retreat. In the United States, and in many regions around the world, it can sometimes appear as though governments are moving away from their

commitments to uphold the basic laws meant to protect us all from murder, violence, and repression.

Amid this apparent assault, the power of financial tools of pressure against human rights abusers and their support networks can provide new hope. The use of these tools, at least in some areas, has grown significantly and is already making a difference.

We are experiencing a slow but meaningful evolution in how the private sector partners with civil society and governments to engage where the risk of human rights abuses is high. And while the increasing use of these financial tools does not offset the more disturbing trend in human rights writ large, it does present an important opportunity from which advocates and communities can build. This is especially true as financial institutions and the broader private sector begin to recognize that the same muscles they have used to exercise due diligence related to sanctions, anticorruption, and financial crimes can be deployed to human rights concerns.

Here are just a few of the key ways these tools and changes are being applied:

- **The imposition of more impactful sanctions.** Sanctions, including asset freezes and visa bans, have been used for decades against individuals responsible for human rights abuses. But until recently — when the Global Magnitsky program in the United States was implemented — these sanctions were usually symbolic and, in many cases, imposed on actors with limited ties to the international financial system. Now the focus is on having a tangible impact on the financial interests of high-level human rights abusers by sanctioning key perpetrators, their enablers, and the broader corporate networks that make these crimes possible and profitable. From the response to the murder of Jamal Khashoggi, to Iraq, to Nicaragua and Myanmar, to various crises across sub-Saharan Africa, sanctions are laser-targeting the dirty money that motivates those actors responsible for human rights abuses. And those sanctions are aimed straight at those previously considered too politically sensitive or powerful to sanction. Recent US sanctions against government officials responsible for the killing of outspoken opposition activists in Burma, Pakistan, Libya, Slovakia, Democratic Republic of the Congo, and South Sudan are just one set of examples.
- **The integration of anticorruption and anti-money laundering tools.** In 2018, the US Department of the Treasury issued a public advisory to thousands of financial institutions warning of the intersection between money laundering and serious human rights abusers. More specific anti-money laundering actions against

Venezuela and Iran have noted the ways in which these regimes have abused the human rights of their citizens while engaging in rampant corruption. Similarly, there have been recent anticorruption sanctions actions against a Sudanese businessman (and his network) profiting from business with the South Sudanese government, which has been responsible for grave human rights abuses. These actions show how the US government can target those ultimately responsible for human rights abuse by hitting their corporate enablers — individuals and entities who may not have engaged directly in human rights abuses themselves.

- **The use of trade-based remedies.** US Customs and Border Protection recently broadened its use of “withhold release orders” — directives to Customs ports to restrict the entry of certain products. Usually, these orders are issued with respect to one company, or network of companies, because of a specific concern. In recent action, Customs used these orders with regard to geographic areas where human rights concerns, and specifically forced labor, were directly connected to the supply chain, as in the case of gold from Eastern Congo or diamonds from a specific area in Zimbabwe. This action thus requires that end users in the United States ensure that their imported goods are not made from the raw materials connected to these complex supply chains, due to the underlying concern for the workers and communities that produce them.
- **The move away from boycotts and toward the integration of human rights due diligence with broader processes.** In the late 1990s and early 2000s, the typical approach toward companies doing business in areas with serious human rights risk was for advocates to demand they exit. If a company failed to do so, the advocates usually boycotted their goods or services. Now, particularly since the adoption of the UN Guiding Principles on Business and Human Rights in 2011, which focuses on “human rights due diligence” and a range of examples in which corporate exit from troublesome areas had negative consequences, the focus of advocates is to demand that companies stay. But the demand is that they stay and engage responsibly, using the same type of complex risk assessment approaches that they have developed in other areas, such as political risk, for human rights risks. Advocates now understand that, when acting responsibly, businesses can be among the most essential voices in defense of human rights.

Today, financial measures can be deployed quickly and with broader applications than ever before. Governments and the private sector are just waking up to the power of these tools to target human rights abusers and bring them to real account. As we

witness an erosion of rights around the world, human rights defenders must counter that trend, expanding awareness of these tools and advocating for their use. We are all stakeholders in this existential fight, and we can't leave anything on the table.

***Brad Brooks-Rubin*** is Managing Director of *The Sentry* .

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