



THE SENTRY

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Subcommittee on Africa, Global Health, and Global Human Rights

Hearing on

The Impact of Sanctions in Africa

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Chair Bass, Ranking Member Smith, distinguished members of the Subcommittee on Africa, Global Health, and Global Human Rights, it is an honor and privilege to testify today on the critical subject of the impact of sanctions in Africa, and I am sincerely grateful for the invitation and opportunity to join this esteemed panel.

Two decades ago, I was part of a small team of US diplomats, led by Anthony Lake, Susan Rice, and Gayle Smith, that ended the Ethiopia-Eritrea war, which was the deadliest on the planet at the time. Two years of intensive diplomacy spearheaded by Special Envoy Lake, who had been President Clinton's National Security Advisor and had the full support of the US government, produced a diplomatic breakthrough that undoubtedly saved millions of lives, as Ethiopia was on the brink of a massive offensive that would have considerably deepened and widened the already deadly war.

Looking back on that, the main ingredient we were missing in the diplomatic effort was leverage. The two countries' leaders respected Lake greatly, and the Ethiopian Prime Minister at the time had close ties to America, but at the end of the day that kind of intensive, persuasive diplomacy is very rarely successful when it is not backed by serious leverage.

Today, as the new US envoy for the Horn of Africa, Jeffrey Feltman, labors to convince the Ethiopian and Eritrean heads of state to stop committing massive human rights abuses, I'm struck by how little has changed over these past two decades. The US sends very able diplomats out to cajole leaders to stop looting and wrecking their countries but provides very little in the way of effective, tailored, focused leverage to help the envoys succeed in their missions, with grave consequences for millions of Africans.

It took me three decades of searching for ways to better support human rights and peace in Africa to reach this conclusion about leverage being the critical missing ingredient of US peace and human rights efforts. Unless we can affect the cost-benefit calculations of those officials and their international commercial collaborators who are profiting from the deadly status quo, very little will fundamentally change. We might succeed in getting a short-term ceasefire here or a slightly better election there, but the violent kleptocratic systems that are the engines of human destruction are not being effectively challenged.

So, we created The Sentry to try to create that leverage to affect those calculations. Here's the thing: the US and other donors pour billions of dollars and euros and pounds each year into good causes in Africa, while natural resources are being violently looted and billions of dollars are pouring out of the continent every year in illicit financial flows. Unless we attack the warped incentive structure at the heart of conflict and crisis on the continent, why would the people and companies responsible for the mayhem—those profiting from it—have any reason to implement peace deals, respect human rights, or govern transparently?

Socrates said it 2,500 years ago: "All wars are fought for money." Conflict and corruption are immensely profitable for top officials and their international commercial collaborators, and there is very rarely any form of accountability for the human rights and financial crimes that drive the ongoing human and ecological destruction in Africa.

Now here's the silver lining: the stolen wealth is moved, usually surreptitiously, across the world: Nairobi,

Johannesburg, Dubai, New York, London, Melbourne, etc. The ill-gotten wealth, parked in foreign bank accounts, is then used to buy high-end properties, pay for expensive schools, and pursue lavish lifestyles, even as greed-fueled violence and misery consume the countries from which it originated. But those illicit financial flows are still mostly occurring in dollars, euros and pounds, not in renminbi or cryptocurrencies. Because of that, these illicit flows are vulnerable to targeted network sanctions, anti-money laundering measures, bank enforcement actions, asset recovery strategies, and other tools of financial pressure. And when those tools are used properly and strategically, they can be powerful points of accountability and leverage in advancing peace, human rights, and good governance objectives.

Why Sanctions Can—But Don't Often—Work as a Tool for Africa Policy

What financial investigations by The Sentry and others have shown is that access to Western currencies such as the US dollar is critically important for a range of African leaders and their networks of international enablers looking to move and store the proceeds of corruption and violence. The dollar continues to be the preferred currency in the global financial system, making it much easier to move money across borders. An overwhelming majority of dollars are cleared through New York, giving the United States authority to take action and disrupt these illicit flows. Tools of financial pressure, including targeted network sanctions, are therefore critical to disrupting this mass theft and helping to create much-needed leverage for human rights, peace, and governance efforts.

But sanctions have not always been used to great effect, and that has given the concept of sanctions a bad name, despite their recent evolution. The Sentry conducted an extensive study of various sanctions programs targeting African countries, including those imposed by the United States. The resulting report, which we published in 2019 and have submitted for the record today, showed that African sanctions programs have suffered from poor conceptualization, coordination, implementation, and enforcement, undermining the effectiveness of sanctions as a foreign policy tool. Comprehensive sanctions on Sudan and extensive targeted sanctions on Zimbabwe, each in place for close to two decades with insufficient attention paid to managing the underlying policies behind the sanctions, led to both ineffective results and damaging impacts on the people of these countries and the humanitarian groups working with them.

However, this is changing. The Sentry's research also showed that sanctions can be incredibly effective when designed, implemented, and enforced thoughtfully and transparently. Instead of sanctioning individuals one at a time over an extended period, sanctions are much more effective when targeting networks—which include the targeted officials, their local and international commercial collaborators, and the companies through which they do business and move money—and when paired with anti-money laundering measures such as Financial Crimes Enforcement Network (FinCEN) advisories.

Two recent stories of relative sanctions success

One relatively positive example is the case of South Sudan. The United States initiated a focused series of targeted network sanctions and anti-money laundering actions in October 2019. First, the Treasury Department sanctioned two businessmen along with six of their companies for “engaging in bribery,

kickbacks, and procurement fraud while draining state coffers.” A few weeks later, five individuals were sanctioned for their role in the murder of activists, followed by the sanctioning of two high-ranking officials for obstructing the peace process. At this point, implementation of the country’s peace deal had been long delayed, and violence continued. The United States then sanctioned First Vice President Taban Deng Gai in January 2020.

Several non-sanctions actions by the US and others also played a key role. In September 2017, the Treasury Department’s FinCEN issued an Advisory on the risks to the US financial system from high-level South Sudanese political corruption. The Advisory encouraged financial institutions to investigate the activities of corrupt senior officials and their networks of facilitators around the world. In March 2018, the US took action against 15 South Sudanese oil-related entities. The Department of Commerce added them to the Entity List, alerting private sector actors to the risk of indirectly contributing to violence in South Sudan by exporting goods to these companies and ministries. South Sudan became the African country with the greatest number of entities on the Entity List, and the only African country with government ministries included. Later that year, Australian police moved to seize an opulent house in Melbourne that belonged to the family of a top general. And early last year, the United Kingdom National Crime Agency issued its own advisory, an Amber Alert, on the risks from South Sudanese corruption.

This sustained, escalating use of pressures, combined with intensive diplomatic efforts and local South Sudanese civil society peace advocacy, was effective. The deadlock was broken, and President Salva Kiir and opposition leader Riek Machar agreed to form a unity government in February 2020. There is, of course, still a long way to go in South Sudan, and none of the underlying issues motivating conflict have been addressed. Frankly, the easing up on financial pressures since then has rewarded backsliding in Juba, so progress has ground to a halt. But if we apply the lessons of recent history, noting that a return to full-scale war has been averted as a result of earlier pressures, we could reasonably conclude that a new round of stinging multilateral pressures—using Global Magnitsky authorities and expanding on the original FinCEN advisory—could potentially break the logjam again, offering a real chance for peace in that long-suffering country.

The sanctioning of Dan Gertler and his network of companies in 2017 and 2018 is another example of the effective and impactful use of network sanctions. Gertler made hundreds of millions of dollars off corrupt mining and oil deals in the Democratic Republic of Congo (DRC) and, given his very close ties to former DRC President Joseph Kabila, was a central player in the country’s kleptocracy. In December 2017, the US sanctioned him, his main business associate, and dozens of his companies using the Global Magnitsky authority. Crucially, the US followed up in June 2018 by sanctioning several more of his companies. That same year, Gertler’s activities were also highlighted in a FinCEN Advisory on corrupt enablers of human rights abuses.

These concerted actions signaled that the US was serious about combating high-level corruption in the DRC. With a key ally sanctioned and the threat of further sanctions against himself or his family, Kabila ultimately did not postpone elections indefinitely, run for an unconstitutional third term, or change the constitution, thereby offering a modest but real victory for democratic aspirations in the DRC. And again, the DRC

undoubtedly has a long way to go, but Kabila's kleptocratic grip was shaken. There is now a small window open for real reforms, if buttressed by further concerted financial pressures.

Increasing the Effectiveness of Sanctions

Network sanctions

The United States has used both comprehensive and targeted sanctions in Africa. Comprehensive sanctions are designed to affect the entire economy of a country. They also unfairly impact civilians and humanitarian efforts and therefore are the less preferred, often less effective option.

Targeted sanctions, by contrast, can be deployed to directly impact problematic actors and networks. Their focused reach can make sanctions more effective in bringing about behavior change. Here, too, it is important to deploy sanctions against those with connections to the global financial system. In the past, many targeted sanctions were used only against those with limited or no connections to the formal financial sector or to international businesses. Additionally, targeted sanctions can be largely symbolic when they are only imposed on one individual at a time, rather than on that person's broader commercial network with whom he does business and through which he moves money out of the country.

To be more effective, designations should go beyond targeting a few elites and should cast a net over entire transnational networks of enablers who profit from conflict and corruption. These networks are critical to kleptocrats and their ability to steal and move money out of their countries, but they are also extremely vulnerable to sanctions, given their dependence on the global financial system.

When sanctions are imposed against entire networks that are connected to the global financial system, including key officials and their financial enablers and facilitators, they can also serve as a powerful deterrent, forcing other potential facilitators to think twice and to consider the risk of being sanctioned themselves when they are determining whether or not to provide their services to bad actors in the future.

The Global Magnitsky Act, passed by Congress in 2016 as part of the National Defense Authorization Act (NDAA), provides the United States with the authority to deploy precisely the type of network sanctions, targeting corrupt networks anywhere in the world, that we saw in the Gertler case. Tireless bipartisan efforts from the House and Senate, including from ranking member Rep. Smith (R-NJ), who was an original cosponsor of the House bill, Rep. McGovern (D-MA), and Reps. Cicilline (D-RI) and Issa (R-CA), who were both cosponsors, demonstrate that fighting corruption and human rights abuses around the world is not a partisan issue but supports the values and interests of the United States.

Sanctions as part of a strategy

Sanctions are one tool in a broad foreign policy toolbox. Too often, sanctions are the low-hanging fruit when policymakers need to be seen to be doing something in response to a crisis. However, using sanctions as a policy unto itself undermines their effectiveness. We saw this in the case of the 2006 sanctions in response

to the Darfur genocide. Seven individuals with no real connections to the global financial system were sanctioned, and still are, with no tangible results, follow-up, or attention. It was just a one-time “sanctions by press release.” This is the kind of symbolic effort that gives sanctions a bad name, and we need to expose it if we are going to reclaim sanctions as an effective tool of foreign policy in Africa.

To be maximally effective, sanctions should be intentionally designed, imposed on networks, deployed as part of a thorough strategy, and attached to clear foreign policy outcomes. The targets, timing, and messaging, therefore, should be considered with a focus on their relationship to overall strategic goals.

Sanctions are also just one of several tools of financial pressures available to the United States. Anti-money laundering measures like FinCEN advisories to banking institutions, asset seizures, and other law enforcement actions, as well as tools like Commerce’s export control powers and State’s visa bans, can also be used to disrupt corruption- and conflict-related stealing. When these tools are utilized in conjunction with network sanctions and as part of a larger foreign policy strategy with significant diplomatic assets, the US has a much great chance of achieving its objectives.

Intentional steps post-designation

Once sanctions are issued, they should be maintained, adjusted, updated, and enforced. Policy goals and outlooks can—and, indeed, must—evolve over time. As a result, sanctions should also be adjusted and modified according to shifts in policy and on-the-ground realities. Sanctions are also often unevenly enforced. With more staff and intelligence, better sanctions enforcement can enhance their effectiveness. The Iran sanctions, which were tweaked, fine-tuned, and strictly enforced over the course of many years in response to Iran’s efforts at evasion and the changing situation on the ground in the lead up to the 2015 signing of the Joint Comprehensive Plan of Action (JCPOA), are perhaps the best example of this, but in the Africa context, the DRC provides a strong case. Initially focused on addressing conflicts in the country and illicit exploitation of natural resources, the DRC sanctions program was effectively refocused and deployed from 2016 to 2018 to support democracy. Specifically, sanctions targeted a range of actors within the network of former President Kabila, who was poised to change the constitution so that it allowed him to seek a third term, which would have been disastrously destabilizing for the country. As the policy evolved, so did the sanctions, and with strong effect.

We also need to understand that, once that incredibly effective pressure has been reduced, as we are seeing in the South Sudan and DRC examples today, backsliding is inevitable, putting at risk previous progress and emboldening some of the worst offenders and their commercial collaborators.

On the flip side, there should also be a path for individuals and entities to be delisted, and that path should be clearly and publicly articulated. The possibility of delisting can create a positive path forward for the targets and incentivize the types of changes the sanctions are hoping to achieve.

Multilateralize sanctions

Sanctions are most effective when they are multilateral because they then have a wider reach. It is encouraging that both the United Kingdom and the European Union now have their own human rights sanctions regimes. The UK recently also added a corruption sanctions authority. These regimes are modeled after the United States' own Global Magnitsky sanctions authority. The US should intensify its engagement with these partners, and others like Australia and Canada, to multilateralize sanctions against those profiting from corruption and violence in Africa.

We recently saw this multilateralism in action. The United States sanctioned Sudanese businessman Ashraf Seed Ahmed, known as "Al-Cardinal," and his companies in 2019 under the Global Magnitsky authority for his role in South Sudanese corruption. Just last month, the UK also sanctioned Al-Cardinal under their new anti-corruption sanctions authority. Al-Cardinal has been a key enabler in South Sudanese grand corruption, and with his extensive connections to the global financial system, he is an ideal target for US and UK sanctions.

US allies, such as Japan, that are considering implementing their own Global Magnitsky-style sanctions should be encouraged by the US to do so.

Public messaging

The US has often lost the public relations battle on sanctions. Corrupt leaders, while siphoning off public coffers, run a campaign discrediting sanctions and blaming them for their country's economic woes. In Zimbabwe, there is even a fervent annual "anti-sanctions day."

Moreover, when the messaging on targeting isn't clear, the broader policy is uncertain, or sanctions are too sweeping, with humanitarian exemptions that are too complex to follow, global banks are left to over-comply out of fear of the unknown. This often leads to de-risking, when banks deem the risk too high to continue business in a market and pull out completely. De-risking has devastating consequences for a country's economy, affects innocent people, and makes it harder for humanitarian agencies to operate. Reporting by The Sentry and other civil society organizations, anti-corruption investigators, and journalists can be crucial, helping banks obtain the detailed information they need to more precisely target corrupt and illicit activity, rather than shut down all operations.

The United States and its in-country embassies should help educate local populations on the purpose and intention of targeted sanctions. The public needs to know why the sanctions are in place and what will result from their removal. Furthermore, messaging needs to convey that easing sanctions is unlikely to fix every economic woe a country faces and that other risks and economic mismanagement are often at the core of economic calamity in these contexts. The Biden administration should also invest in new strategies for outreach to local populations. This outreach should include sophisticated, sustained campaigns that employ specific new and popular ways in which local populations can be educated and influenced. They should also clarify and articulate what the sanctions are and what they intended to achieve and directly counter any

disinformation. A clear overall policy goal and strategy for how sanctions are deployed can also help make public messaging more successful, because if the sanctions are ineffectively deployed, no marketing job can cover for that.

Regional engagement

Sanctions are often only as effective as their implementation. Investigations by The Sentry and others have highlighted that sanctioned entities, including North Korean actors, have been able to access banking services in the DRC without difficulty, curtailing the usefulness of US sanctions against North Korea.

In many countries in Africa, limited regulatory capacity and weak anti-money laundering laws mean that sanctions are poorly implemented. Lack of political will and active political meddling also lead to a lack of sanctions enforcement. But these countries, especially highly dollarized ones like the DRC, also need access to dollars and to the international financial system, providing the US with important leverage. The US should more actively and concertedly engage regional partners diplomatically, urging governments to robustly enforce sanctions, provide regulators with resources, and help build a culture of sanctions compliance. These engagements should especially include regional economic hubs like Kenya, which are often the main conduits for money flows out of neighboring countries like South Sudan. The United States should also rapidly expand support and technical assistance to domestic regulatory bodies, helping build better anti-money laundering regimes that can more robustly implement sanctions and disrupt illicit money flows. International organizations like the World Bank, the United Nations Office on Drugs and Crime (UNODC), and the Financial Action Task Force (FATF) and its regional affiliates can be key partners in these expanded efforts.

Strengthening local and regional capacity will not only enhance the implementation of Africa-related sanctions but will have the added benefit of preventing adversaries, such as North Korea, from exploiting weak links in the region.

What Steps Can Congress Take?

Increase funding

Congress should continue to fund and grow staffing and resources (e.g., funds to support travel and meetings, access to data sets, ability to use advanced software, etc.) for Africa-related sanctions work. Historically, Africa sanctions programs have been underfunded at the Treasury Department. While other sanctions programs like Iran and Venezuela have several staff assigned, there are few dedicated to Africa-related designations, and often they are moved to focus on other priorities. This makes the task of intelligence gathering, updating designation lists, adjusting sanctions, and delisting individuals difficult to accomplish. Congressional earmarks for work on Africa sanctions programs, as well as human rights and corruption programs more broadly, attract bipartisan support, are cost effective, and can help ensure the programs are flexible enough to act when needed. We urge you to work with your colleagues in the Financial Services and General Government Appropriations Subcommittee to increase funds specifically earmarked for human rights, corruption, and Africa sanctions programs housed in the Office of Terrorism and Financial Intelligence

as a necessary ingredient for the overall programs to be more effective.

Similar challenges are seen at the State Department, too, where there is limited funding for staffing and resources on Africa and sanctions issues. There is a need for increased resources in order to better integrate sanctions into overall policymaking. This could include staffing focused on Africa-related sanctions in the re-forming Sanctions Coordinator's office and the State Department's Economic Bureau, which manages sanctions engagement at State. State's Africa Bureau should also have one staff member dedicated to economic and financial pressures, including developing information from embassies and desks, as well as managing interagency coordination. Funding should also be dedicated to training diplomats on effective approaches to sanctions policy and sanctions messaging.

Increase the use of the Global Magnitsky Authority and pass new kleptocracy legislation that goes beyond sanctions

The Global Magnitsky sanctions authority is an especially nimble tool. It allows the United States to designate individuals and networks perpetuating corruption and human rights abuses anywhere in the world that doesn't have a country-specific program and without having to declare a national emergency and issue a new executive order.

By not being tied to a particular country or region, Global Magnitsky sanctions are less likely to be exploited by corrupt leaders to justify economic mismanagement. Because they carry less stigma than sanctions rooted in a particular country, they are also less likely to trigger blanket de-risking by financial institutions.

The Global Magnitsky Act sunsets in December 2022, and we urge Congress to reauthorize the amended version of the Act. Congress should also urge the Biden administration to utilize this tool to its maximum potential to go after problematic actors who are actively destabilizing countries in Africa.

I would also like to raise here the issue of the license granted to Gertler, currently sanctioned under Global Magnitsky, as mentioned earlier. In a secretive action, a license was granted to him in January of this year to do business with financial institutions. This was an incredibly damaging move, signaling that sanctioned actors can get away by making backroom deals. Thankfully, following very helpful Congressional pressure from Chair Bass, HFAC Chair Meeks (D-NY), and Rep. Himes (D-CT) and Senators Booker (D-NJ), Cardin (D-MD), and Durbin (D-IL), as well as from The Sentry and a large group of NGOs, the license has been reviewed and revoked by the Biden administration. Congress should help ensure that such secretive actions do not become commonplace. It should also urge the administration to update Gertler-related sanctions by designating new companies and entities he has set up to evade US sanctions, as has been reported by civil society organizations.

Finally, we understand that a Kleptocracy Caucus will launch in June, accompanied by the introduction of several new pieces of legislation that focus on other tools beyond sanctions. Support for this new caucus by members of the subcommittee will help ensure that Africa policy issues are considered in the debates on these bills, helping to ensure that sanctions are less of a default policy tool.

Support sanctions policy review

Sanctions are easily misunderstood and often blamed for overall policymaking failures. We urge the subcommittee to hold further hearings on Africa sanctions to make sure that they are well understood and that a variety of concerns are addressed. This would be especially timely given that the Treasury Department has embarked on a careful review of sanctions policy. The subcommittee can play a critical role in making sure that Africa-related concerns and opportunities are addressed in this review, as the spotlight is often limited to sanctions policy on Iran, Cuba, Venezuela, China, and Russia. This could be in the form of hearings or simple engagement by members and staff with Deputy Secretary Adeyemo and his team.

Engage directly with communities in Africa on sanctions impacts

We are hopefully nearing the end of the pandemic's most difficult phase, and we expect members of Congress and staff will begin to travel again. We encourage congressional delegations and staff delegations from this committee and others to visit countries where sanctions have been used well and where they have fallen short, as discussed today. Such delegations could meet with a range of local leaders and thinkers from civil society, the private sector, and government and bring back evidence to inform policy at Treasury and State. The Sentry would be pleased to cooperate on such efforts and suggest ideas, as I am sure my fellow witnesses would be.

Focus on cryptocurrency

Finally, one emerging area of interest is the role of cryptocurrency. There are many stories in the press about cryptocurrency—from its potential use in Africa, which is beginning to accelerate, to its contribution to the demise of the US dollar, to its role in illicit activity and money laundering, to its potential to contribute to sustainable development, to the way in which China is investing in its future. In recent months, the Office of Foreign Assets Control (OFAC) has issued penalties against two cryptocurrency companies for allowing transactions to sanctioned entities, and at least six agencies are reported to be reviewing proposals for rules and regulatory strategy that are all over the map with respect to cryptocurrency. More globally, FATF has issued revised guidance that would take a strict approach to the type of anti-money laundering compliance measures that cryptocurrency companies would need to adopt, and FinCEN in the US is currently evaluating thousands of comments received on a proposal to take a similar approach. The bottom line is that no one can say conclusively where these trends will go, but we do know that a more proactive and coherent strategy is needed.

Conclusion

When used effectively and calibrated closely with well-developed and -resourced policies, targeted network sanctions can be a potent tool in the United States' foreign policy toolbox. When deployed thoughtfully and intentionally, and implemented robustly with partners, sanctions can go a long way in bringing about real leverage for US diplomatic efforts to support peace, human rights, and good governance across the African continent.

And back to where I started with this testimony: let's give Special Envoy Feltman and our other able diplomats the leverage they need to begin to address the spiraling crisis in Ethiopia by imposing network sanctions on key officials and their networks in Ethiopia and Eritrea orchestrating military operations that have resulted in massacres, denial of food aid, mass rape, destruction of crops, and other war crimes. Leaders of the former regime now in opposition who are also complicit in war crimes should similarly be sanctioned. Visa sanctions on mid-level officials are simply not enough in the face of a raging fire of mass atrocities. Unless there are severe consequences for those profiting politically and financially from the destruction in Tigray, it's hard to imagine the conflict's end if it is simply left to the hollow pledges of leaders in Asmara and Addis and the toothless pleas for peace from governments around the world.