

THE GLOBAL HUMAN RIGHTS SANCTIONS REGULATIONS 2020

REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Sanctions Act**”) in relation to the Global Human Rights Sanctions Regulations 2020. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that each of the purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Sanctions Act;ⁱ why the Minister considers that there are good reasons to pursue those purposes; and why the Minister considers that the imposition of sanctions is a reasonable course of action for those purposes.

Purposes and reasons for pursuing the purposes

2. The purposes of the Regulations, as stated in regulation 4, are to deter, and provide accountability for, activities which, if carried out by or on behalf of a State within the territory of that State, would amount to a serious violation by that State of an individual’s –
 - a. right to life,
 - b. right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and
 - c. right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour.
3. Such activities could be carried out by or on behalf of a State or a non-State actor, and could be carried out by anyone outside the UK and by non-UK persons in the UK.
4. Carrying out these purposes would meet one or more of the conditions set out in section 1(2) of the Sanctions Act. In particular, carrying out these purposes would provide accountability for, or be a deterrent to, gross violations of human rights, or otherwise promote compliance with international human rights law or promote respect for human rights (subsection (2)(f)), and promote respect for democracy, the rule of law and good governance (subsection (2)(i)).
5. There are good reasons for pursuing these purposes. Inherent to all human beings by virtue of their dignity, human rights are the universal concern of all States. Human rights form an integral part of the rules-based international system, which the UK seeks to promote and defend by encouraging fulfilment by States of their international human rights obligations, increasing pressure on repressive and authoritarian States, and holding States to account for human rights violations. Protection and promotion of human rights is in the UK national interest. Human rights violations and abuses perpetuate violent conflict, create a world in which terrorism can flourish and weaken democratic institutions and inclusion. They have a devastating impact on individuals and place the safety of societies at risk. Successfully deterring human rights violations and abuses can help create fairer and more just societies, which support the long-term global conditions most conducive to security economic growth and the safety of all.

6. There are good reasons for focussing on the three human rights in question: (a) the right to life, (b) the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and (c) the right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour. Although the UK does not recognise a hierarchy of human rights, and takes all of its international legal obligations seriously, violations and abuses of these particular rights directly concern the physical and mental integrity of the person, and have a devastating and often irreversible impact on individuals, as well as on wider society. It is important to deter such violations and abuses from occurring, provide accountability, and send a clear message that such acts are unacceptable. The rights in question are also reflective of the human rights sanctions regimes of other international partners, including the US and Canada. Focusing on providing deterrence and accountability for serious violations and abuses of the above rights allows coordinated, targeted, and appropriate responses to the most serious human rights violations and abuses across the world.
7. There are also good reasons for seeking to deter and provide accountability for acts by both State and non-State actors. The UK position is clear that non-State actors do not have obligations under international human rights law. We nonetheless recognise the harmful and devastating impact that non-State actors can have on individuals' mental and physical well-being. In some cases non-State actors have acquired a degree of control over people and in the process exhibit behaviours that are incompatible with respect for human rights. Non-State actors are also often prominent perpetrators of human rights abuses in the context of key FCO human rights priorities, including with respect to modern slavery, conflict-related sexual violence and attacks on human rights defenders and journalists. Where such behaviour by non-State actors goes unchecked and is able to flourish, there can be a wider negative impact on the safety of individuals and on the effective functioning of democracy, rule of law, and good governance in a country. Focussing only on State actors would accordingly only provide partial accountability for such behaviour.
8. Carrying out these purposes would also further the UK's foreign policy goals (subsection (2)(d)). In the Public Bill Committee Debate during the passage of the Sanctions Act (*Hansard, Third Sitting, 1 March 2018*) in the House of Commons the Minister said:

"I put on record again that the Government are committed to promoting and strengthening universal human rights, and to holding to account states and individuals who are responsible for the worst violations. We will continue to do that after we leave the EU. We intend the powers in the Bill to allow us to be part of a global network of like-minded jurisdictions that work together to tackle those who commit gross human rights violations."

9. The Government Response to the Foreign Affairs Committee Report "Fragmented and incoherent: the UK's sanctions policy (HC1703)" was published on 9 September 2019. In it the Government said:

"By establishing such a sanctions regime we would develop the UK's role as a global moral anchor, demonstrating our continued commitment to the promotion and protection of human rights worldwide. Such a sanctions regime would allow us to respond to human rights abuses and violations as they arise around the world, even when a geographically focused sanctions regime is not currently in place. The UK will also work closely with key allies, particularly the US and Canada, who already have human rights sanctions regimes in place in order to coordinate our efforts." (HC 2642, pages 2-3)

10. Pursuing these purposes is consistent with, and will complement, other elements of the UK's foreign policy. This includes using existing geographical human rights sanctions regimes to address human rights violations and abuses in particular States (including the regimes relating to the Democratic Republic of the Congo, Iran, Libya, Mali, Myanmar, South Sudan, Venezuela and Zimbabwe), using bilateral tools such as political lobbying, public statements, human rights dialogues, project work, technical assistance, and also through multilateral engagement.
11. Carrying out these purposes would also further the interests of national security (subsection (2)(b)). HMG is working to address the root causes of terrorism and other national security problems. It seeks to build alliances to strengthen the rules-based international system, and promote our values and interests, and to weaken the drivers of terrorism by supporting extensive work on human rights and good governance. Pursuing these purposes will send strong messages to those who perpetrate serious human rights violations or abuses, including those involved in terrorism.
12. Finally, there are good reasons for targeting serious human rights violations or abuses carried out in the UK by non-UK persons. In some cases individuals acting on behalf of a foreign state, or visiting from a foreign State, have carried out human rights violations on UK territory and then have left the jurisdiction making traditional forms of law enforcement ineffective. It is entirely appropriate to take action in such cases, and doing so would promote compliance with international human rights law and respect for human rights.

Why sanctions are a reasonable course of action

13. The imposition of prohibitions and requirements of the kind imposed by these Regulations is a reasonable course of action for the purposes set out in the Regulations.
14. 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. HMG believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
15. 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 such violations and abuses. Protecting the integrity of the UK financial system is a fundamental interest of the UK. It is, furthermore, in the interests of UK public policy that persons who have been involved in serious human rights violations or abuses should not be permitted entry to the UK, nor should the financial capital of such persons or financial capital that might have been accrued from such activities be held or invested in the UK.
16. There are two principal kinds of prohibition in the Regulations: those relating to financial sanctions, and those relating to immigration sanctions. These restrictions include an asset freeze ensuring a designated person's funds and economic resources are not dealt with, and ensuring that funds and economic resources are not made available to or for the benefit of a designated person, directly or indirectly, and a travel ban. These restrictions can only be imposed upon specified persons who meet the criteria set out in the Regulations, namely that the Secretary of State considers there are reasonable grounds to suspect that the person is, or has been, involved in the activities set out in the Regulations and the Secretary of State considers that the designation of that person is appropriate, having regard to the purposes stated in regulation 4 and the likely significant effects of the

designation on that person. This is in order to ensure that the sanctions are clearly targeted at those who are involved in these activities and therefore fulfil the stated purpose of the sanctions.

17. The Regulations allow for exceptions to the travel ban and also provide for a licensing framework and certain exceptions for the financial sanctions. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any counter-productive impacts, and allow funds to be released where essential, for example in relation to basic needs, legal expenses, and humanitarian assistance activity.
18. The policy intention is that any designations made under the sanctions regime will remain in place until HMG is assured that the designated persons are no longer motivated to commit or contribute to serious violations or abuses of the listed human rights and/or a sufficient degree of accountability has been secured. This position may be reached by evidence that the person is no longer involved in the activities for which they were designated, or by evidence of a clear/significant change in the behaviour of that person or by evidence of accountability measures that have been taken. These might include prosecutions and/or reparations being provided. Designations may also remain in place, notwithstanding such evidence, to deter others from involvement in human rights violations or abuses.
19. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable HMG to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

Conclusions

20. The purposes of these Regulations are to provide accountability for and deter serious violations and abuses of certain human rights. For the reasons set out in this report, carrying out these purposes meets one or more of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing these purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action.

The Rt Hon Dominic Raab MP
Secretary of State for Foreign and Commonwealth Affairs

ⁱ Section 1(2) states:

“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*

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- f) *provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
 - (i) *compliance with international human rights law, or*
 - (ii) *respect for human rights,*
 - g) *promote compliance with international humanitarian law,*
 - h) *contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
 - i) *promote respect for democracy, the rules of law and good governance.”*