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Unilateral human rights sanctions: enforcement, selectivity, and the limits of the Magnitsky model

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Abstract

This article examines the emergence and implications of unilateral human rights-based (Magnitsky-like) sanctions as a tool for enforcing human rights protections globally. Focusing on the legal frameworks and early practice of the United States, the European Union, the United Kingdom, Canada, and Australia, it combines comparative analysis with a normative assessment under international law. The article argues that, although these regimes respond to a genuine enforcement deficit and may in some cases increase pressure on perpetrators of grave abuses, they remain structurally limited as tools of human rights enforcement. Their legal basis is contested, designation and de-listing standards are often indeterminate, implementation is selective, and their effectiveness depends on an exceptional degree of multilateral coordination. In practice, they function less as reliable instruments of behavioural change than as expressive and stigmatizing measures. They should therefore be understood as supplementary, politically contingent tools rather than substitutes for multilateral enforcement.

Keywords: unilateral sanctions, human rights abuse, responsibility of states for wrongful acts, listing and de-listing, international coordination, behavioural change

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1. Introduction

When the United States (US) enacted the Global Magnitsky Human Rights Accountability Act in late December 2016,[1] the measure was widely welcomed as a significant innovation in the international protection of human rights.[2] By authorizing asset freezes and travel bans against foreign individuals deemed responsible for serious human rights abuses committed anywhere in the world, the Act appeared to offer a concrete response to atrocities that too often escape meaningful legal or political consequence.[3] Its adoption also had an immediate diffusion effect: the European Union (EU),[4] the United Kingdom (UK),[5] Australia[6] and Canada[7] subsequently established comparable sanctions frameworks, while other jurisdictions began to consider whether to do the same.[8]

The appeal of these regimes is readily understandable. For decades, international human rights law has been marked by a striking imbalance between normative expansion and institutional weakness. States have accepted an increasingly dense body of treaty obligations,[9] yet the enforcement architecture remains fragile: in the absence of a dedicated

1 See Global Magnitsky Human Rights Accountability Act Pub L No 114-328, title XII, subtitle F, 130 Stat 2533 (2016), codified at 22 USC § 10101 et seq.

2 See Human Rights First, *Human Rights First Welcomes Initial Global Magnitsky Sanctions Designations and Calls for Additional Accountability* (22 December 2017), available at: https://humanrightsfirst.org/library/human-rights-first-welcomes-initialglobal-magnitsky-sanctions-designations-and-calls-for-additional-accountability/ [last accessed 10 April 2026]; Sultoon, *Global Magnitsky Sanctions: Raising the Human Rights and Anti-Corruption Bar* (Atlantic Council Issue Brief, 20 November 2018), available at: https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/global-magnitsky-sanctions-raising-the-human-rights-and-anti-corruption-bar/ [last accessed 10 April 2026]. But contra, see Van der Borght, 'From Jackson-Vanik to Magnitsky: Continuing a Tradition of Ineffective Human Rights Bolt-ons to Trade Bills' (2013) 7 *Human Rights and International Legal Discourse* 237; and Evans, 'Russian Roulette: The Magnitsky Act's Implications for US-Russian Relations in an Increasingly Precarious Legislative Game' (2014) 29 *Maryland Journal of International Law* 210.

3 For a defence of the view that economic sanctions may, in some cases, be morally justified as a means of upholding human rights, see Fabre, *Economic Statecraft* (2018) at 29–75.

4 See Council Decision (CFSP) 2020/1999 concerning restrictive measures against serious human rights violations and abuses [2020] *OJ L 410I; and* Council Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses [2020] *OJ L 410I*. Estonia and Lithuania are unique among EU Member States, as they enacted domestic human rights sanctions regimes before the EU adopted its own legal acts, respectively in 2016 and 2018. For a short description of the peculiarities of the *laws of Lithuania and Estonia, see Law Library of Congress, Worldwide Global Magnitsky Act Legislation (July 2022),* available at: https://tile.loc.gov/storage-services/service/ll/llglrd/2022666106/2022666106.pdf [last accessed 10 April 2026]. More recently, on 1 December 2022, the Czech parliament adopted Act No. 1/2023 Coll., on restrictive measures against certain serious acts in international affairs (Sanctions Act). The Sanctions Act, known also as 'the Czech Magnitsky Act', entered into force on 3 January 2023, allowing the Czech government to impose sanctions on foreign entities violating human rights alongside EU sanctions. See at: https://www.humanrightscentre.org/blog/magnitsky-act-czech-republic-will-not-tolerate-human-rights-violations-abroad [last accessed 10 April 2026].

5 See Global Human Rights Sanctions Regulations 2020, SI 2020/680. The UK legislation also applies to British Overseas Territories, including the Cayman Islands and Bermuda. Jersey and Gibraltar have legislation that broadly aligns with the UK framework. See also Worldwide Global Magnitsky, supra n 4 at 12–14.

6 Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Regulations 2021, 16 December 2021.

7 Canada Justice for Victims of Corrupt Foreign Officials Act (JVCFO) (Sergei Magnitsky Law), S.C. 2017, c. 21, 18 October 2017 (Last amended on June 22, 2023).

8 In Japan, for instance, parliamentary discussions on the adoption of Magnitsky-related legislation began as early as July 2020. However, as of the time of writing, the process had stalled. See at: https://www.isdp.eu/publication/its-time-to-enact-japans-magnitsky-act/ [last accessed 10 April 2026].

9 According to Posner, *The Twilight of Human Rights Law* (2014) at 92, 'the number of human rights increased from 20 in 1975 to 100 in 1980, to 175 in 1990, to 300 today'. See also Hennebel and Tigroudja, *International Human Rights Law. A Treatise* (2025) at 43–53.

international human rights court with general jurisdiction,[10] implementation has depended largely on supervisory bodies,[11] regional mechanisms,[12] and forms of political pressure that often rely more on monitoring, reporting and reputational exposure than on coercive effect.[13] Against that background, unilateral human rights sanctions promise something the existing system often lacks: a rapid and tangible means of responding to grave abuses, even where the United Nations Security Council (UNSC) is unwilling or unable to act.[14]

Yet the emergence of these sanctions also raises a more troubling question. Should global human rights sanctions regimes—often described as Magnitsky-style regimes—be understood as a genuine effort to address the enforcement deficit that has long afflicted international human rights law? Or do they instead reflect, at least in part, an attempt to circumvent the constraints of multilateral decision-making through recourse to unilateral action? The question is especially acute because these regimes are concentrated in a relatively united and small group of economically powerful Western actors—led by the US—that can exert considerable influence and control over global financial flows, cross-border transactions, and access to assets. From one perspective, such leverage may confer on human rights protection a degree of practical effectiveness that it has historically

[10] On the proposed project of an international (or world) court of human rights under the auspices of the UN, see Nowak, Kozma, Scheinin, *A World Court of Human Rights. Consolidated draft Statute and Commentary—2011 Report of the Panel on Human Dignity* (Geneva Academy of International Humanitarian Law and Human Rights 2011). Contra, see Alston, 'Against a World Court for Human Rights' (2014) 28 *Ethics & International Affairs* 197.

[11] For an overview of the role and contribution of the various committees currently operating, particularly within the regulatory framework of the UN, see various chapters in Alston and Mégrét (eds), *The United Nations and Human Rights: A Critical Appraisal* (2nd ed, 2020); and Hennebel and Tigroudja, supra n 9 at 184–207. See also Rodley, 'The Role and Impact of Treaty Bodies' in Shelton (ed), *The Oxford Handbook of International Human Rights Law* (2013) 621; and Rodriguez-Garavito, 'Human Rights 2030. Existential Challenges and a New Paradigm for the Human Rights Field' in Bhuta et al. (eds), *The Struggle for Human Rights* (2021) at 328. From an empirical and sociological standpoint, the examination of the effectiveness of human rights law in promoting rights in practice is well encapsulated in the seminal studies by Hathaway, 'Do Human Rights Treaties Make a Difference?' (2002) 111 *The Yale Law Journal* 1935; and Simmons, *Mobilizing for Human Rights* (2009). Recently, for an overview linked to the practice of unilateral sanctions, see Bogdanova, *Unilateral Sanctions in International Law and the Enforcement of Human Rights* (2022) at 162.

[12] For an introduction on the role and practice of human rights courts established by treaties within regional organizations -such as the European Court of Human Rights, the Inter-American Court of Human Rights (IACHR), the African Court Human and People's Rights, as well as the project of a future Arab Court for Human Rights—see Hennebel and Tigroudja, supra n 9 at 212–304.

[13] See, on this point, Hennebel and Tigroudja, supra n 9 at 437–438. In 2006, the UN Human Rights Council (HRC) established a new procedure known as the Universal Periodic Review (UPR). See GA Res 60/251 UN Doc A/RES/60/251, 15 March 2006. For more on the UPR, see Tistounet, *The UN Human Rights Council: A Practical Anatomy* (2nd ed., 2025) at 8–13; Tomuschat, 'Universal Periodic Review: a New System of International Law with Specific Ground Rules?' in Fastenrath et al. (ed), *From Bilateralism to Community Interests: Essays in Honour of Bruno Simma* (2011) at 609; Cowell, 'Understanding the legal status of Universal Periodic Review recommendations' (2018) 7 *Cambridge Journal of International Law* 164.

[14] On the contribution of the UN generally, and the UNSC more specifically, to the promotion and protection of human rights, see Hennebel and Tigroudja, supra n 9, 159–171. According to Kufuor and Brunner, 'Economic Sanctions' in Binder et al. (eds), *Elgar Encyclopedia of Human Rights* (2022) at 18, '10 out of 14 UN sanctions regimes in place as of mid-2021 have human rights protection as one of their explicit objectives'. See also Mégrét, 'The Security Council' in Alston and Mégrét, supra n 11 at 93. An analysis of the UNSC's actions reveals that the category of 'threat to peace' is commonly invoked to justify the use of such human rights sanctions. However, there is on-going debate about whether human rights violations alone can justify economic sanctions, or if they must be linked to other factors such as armed conflict. See Siatitsa, *Serious Violations of Human Rights: On the Emergence of a New Special Regime* (2022) at 103. See recently, among many others, SC Res 2571, 16 April 2021, S/RES/2571 (2021); SC Res 2577, 28 May 2021, S/RES/2577 (2021); SC Res 2588, 29 July 2021, S/RES/2588 (2021); SC Res 2752, 18 October 2024, S/RES/2752 (2024).

lacked. From another, however, that concentration fuels suspicions that such measures are yet another means of exploiting economic and trade relations to induce compliance with preferred forms of conduct.

Seen in this light, it is hardly surprising that many states—particularly those belonging to the Group of 77 and the Non-Aligned Movement (NAM), often with the support of China and Russia[15]—have long viewed with deep skepticism sanctions adopted unilaterally by individual states, that is, without prior authorisation by the Security Council under Chapter VII of the UN Charter. In their view, such measures are less neutral instruments for the enforcement of legal norms than geopolitical tools through which powerful states seek to shape the internal affairs of others.[16] State practice, moreover, has long displayed a marked asymmetry in unilateral sanctions flows, not least in the relative rarity of sanctions imposed by states of the Global South upon those of the Global North. That asymmetry is explained not only by the greater economic weight of Northern states, which enhances the coercive potential of their sanctions, but also by the simple fact that smaller states are seldom in a position to generate meaningful leverage against more powerful actors.[17] Human rights-based sanctions, notwithstanding their distinctive focus on individual perpetrators, are not insulated from that broader structural critique.

This article argues that the normative attraction of Magnitsky-style sanctions is real, but that their promise as enforcement tools has often been overstated. These regimes respond to a genuine gap in the international protection of human rights, and, in some circumstances, they may contribute to accountability, increase diplomatic pressure, or reinforce broader strategies of international condemnation. Even so, their early practice suggests that they do not amount to a robust alternative enforcement architecture. Their legal basis under international law remains contested, the standards governing designation and de-listing are often vague or underdeveloped, their application is markedly selective, and their practical effectiveness depends on a level of multilateral coordination that has so far proved the exception rather than the rule. As a result, they are better understood not as consistently effective instruments of behavioural change, but as supplementary, politically contingent, measures, serving functions of signalling and stigmatization.

The article develops this argument through a comparative examination of the sanctions regimes adopted by the US, the EU, the UK, Canada, and Australia, and is structured as follows. Section 2 examines the emergence of Magnitsky-style sanctions, the principal features of the relevant domestic legal regimes in the five jurisdictions under examination, while also mapping key patterns in their early practice. Section 3 situates these domestic frameworks within the broader international legal context by considering the principal rules that shape the adoption of unilateral sanctions, including the law of state responsibility for internationally wrongful acts, the limits of jurisdiction, the principle of non-intervention in the internal affairs of other states, and the protection afforded by the immunities of heads of state. Section 4 turns to the principal substantive concerns raised by global human rights sanctions regimes: the breadth and indeterminacy of listing and de-listing standards, the lack of effective international coordination, the problem of selectivity, the prospect of countermeasures by states of nationality of targeted individuals, and the uncertain relationship between the declared aims of these sanctions and their actual effects.

15 The Group of 77 currently includes 134 states.

16 See Hofer, ‘The Developed/Developing Divide on Unilateral Coercive Measures: Legitimate Enforcement or Illegitimate Intervention?’ (2017) 16 *Chinese Journal of International Law* 175.

17 See Bâli, ‘Weapons Against the Weak: International Law and the Political Economy of Coercion’ (2024) *Yale Journal of International Law* 1.

On that basis, the article makes two broader claims. First, the practical operation of these regimes reveals persistent rule-of-law and legitimacy concerns, particularly in relation to indeterminate designation criteria, weak de-listing pathways, and the highly selective distribution of sanctions across geopolitical contexts. Secondly, the existing record casts doubt on the assumption that Magnitsky-style sanctions primarily operate as effective instruments of compliance induction. Especially where the target state is economically or strategically powerful, these measures appear more likely to serve stigmatizing or bargaining functions than to produce sustained behavioural change at the highest levels of decision-making.

2. Global human rights sanctions regimes: development, normative framework, and empirical patterns

Section 2.1 traces the origins and development of global human rights sanctions regimes within the legal systems of the five jurisdictions that currently constitute the principal human rights-based sanctioning powers: US, EU, UK, Canada, and Australia. Section 2.2 examines the domestic legal architecture underpinning these regimes, drawing attention to both convergences and divergences that characterize the legislative instruments employed, the categories of restrictive measures adopted, the criteria governing the designation process, and the standards applied to determine the requisite degree of individual involvement. Section 2.3 turns to state practice, drawing on empirical data from the initial years of implementation to assess how these sanctions regimes have functioned in concrete operational terms.

2.1. The origins and development of global human rights sanctions regimes

The use of *autonomous economic sanctions*—that is, sanctions imposed without prior authorization from the UNSC under Chapter VII of the Charter (see Section 3 below)—to promote adherence to human rights norms is not a recent phenomenon. Since the 1960s, individual states have occasionally adopted such measures. Notable examples include the US and European sanctions against Uganda in the 1970s in response to the grave human rights situation there,[18] the measures taken against Poland in the 1980s for the arrests and detentions of political opponents,[19] and the arms embargo against China following the Tiananmen Square massacre in 1989.[20] All of these measures, however, together with others imposed in subsequent years,[21] fall within the category of *country-based sanctions*,

18 See for the US, Uganda Trade Boycott, CQ Almanac 1978 (34th ed., Washington, DC: Congressional Quarterly, 1979), 428–29. As for the European Economic Community, see Council Declaration on the Situation in Uganda (21 June 1977), 10 Bulletin EC 6–1977, 92–93.

19 See Address by President Reagan to the Nation (23 December 1981), available at: https://history.state.gov/historicaldocuments/frus1981-88v01/d76 [last accessed 10 April 2026].

20 For the EU, see European Council, Presidency Conclusions (Madrid, 26 and 27 June 1989).

21 The EU currently maintains almost a dozen sanctions regimes targeting human rights abuses and the erosion of democracy and the rule of law in specific countries, such as Zimbabwe (Council Decision 2011/101); Iran (Council Decision 2011/255); Belarus (Council Decision 2012/642); Syria (Council Decision 2013/25); Myanmar (Council Decision 2013/184); Venezuela (Council Decision 2017/2074); Nicaragua (Council Decision 2019/1720); Lebanon (Council Decision 2021/1277); Burundi (Council Decision 2015/1763); Russia (Council Decision 2024/1484); and Guatemala (Council Decision 2024/254). Other states, including the US, Canada, UK and Australia have also been active proponents of unilateral sanctions in response to grave human rights violations localised in specific countries. While the targeted countries often overlap, the US has implemented unique sanctions regimes addressing human rights abuses in Hong Kong (EO 13936 [2020]); Ethiopia (EO 14046 [2021]); and the West Bank (EO 14115 [2024]).

in that they were directed against specific states and linked to human rights violations occurring within their territories. As such, they remain closely tied to territorial criteria and to broader geopolitical considerations. Global human rights sanctions regimes belong, by contrast, to a different category of unilateral sanctions, namely *thematic (*or *horizontal)* sanctions. Such regimes make it possible to designate individuals and entities responsible for conduct—including human rights abuses, drug trafficking, the proliferation of weapons of mass destruction, the use of chemical weapons, terrorism, and cyber-attacks—irrespective of nationality or place of operation.[22]

The first legislative initiative of this kind emerged in the US following the death of Sergei Magnitsky, a Russian lawyer who uncovered tax fraud and corruption linked to individuals within the Russian government. Arrested by Russian authorities in November 2008, Magnitsky suffered torture and other grave human rights abuses during his detention, ultimately dying in custody in November 2009.[23] In 2012, the US enacted targeted sanctions legislation addressing those implicated in his case,[24] subsequently broadening this framework through the Global Magnitsky Human Rights Accountability Act (Public Law 114–328 [2016]), which empowered the US government to impose sanctions on *any foreign individual* involved in gross human rights violations or significant corruption*, regardless of jurisdiction.*[25] This regime became operational in 2017 under Executive Order (EO) 13818, issued by President Trump, which identified 'the prevalence and severity of human rights abuse and corruption' as threats to 'the stability of international political and economic systems' and 'to the national security, foreign policy, and economy of the United States'.[26]

This US initiative inspired similar human rights horizontal sanctions in other countries.

Canada was the first to follow suit, enacting the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law) on 18 October 2017.[27]

The UK developed its own legislative architecture based on four principal instruments. The Criminal Finances Act 2017 establishes the definitional framework for human rights abuses and the criteria for individual accountability,[28] while the Sanctions and Anti-Money Laundering Act 2018 constructs a comprehensive sanctions regime to fill the regulatory void created by the UK's withdrawal from the EU and the consequent discontinuation of EU-level sanctions.[29] Building on these foundations, the Global Human Rights Sanctions Regulations were introduced in June 2020, and the Global Anti-Corruption Sanctions Regulations in April 2021.[30]

22 On the difference between country-based and thematic or horizontal sanctions, see Eckes, 'EU Human Rights Sanctions Regime: Striving for Utopia Backed by Sovereign Power?' (2021) *European Foreign Affairs Review* 219; Tilhaun, 'What Is the Added Value of the EU Global Human Rights Sanctions Regime?' (2021) 26 *European Foreign Affairs Review* 477; Portela, 'Horizontal sanctions regimes: targeted sanctions reconfigured' in Beaucillon (ed.), *Research Handbook on Unilateral and Extraterritorial Sanctions* (2021) at 441; and Ciampi, 'Human Rights-Specific Sanctions' Contribution to Human Rights', in Bultrini, Giumelli, Portela and Sossai (eds), *International Sanctions in Practice: An Interdisciplinary Perspective* (2024) at 184.

23 See European Court of Human Rights (Third Section), *Magnitsky and others v Russia*, Applications Nos 32,631/09 and 53,799/12, Judgment, 27 August 2019.

24 Sergei Magnitsky Rule of Law Accountability Act of 2012 (Public Law 112–208 [2012]).

25 Global Magnitsky Act, supra n 1.

26 Executive Order (EO) 13818—Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption, 20 December 2017.

27 JVCFO, supra n 7.

28 Criminal Finances Act 2017 c. 22, 27 April 2017.

29 Sanctions and Anti-Money Laundering Act 2018 c. 13, 23 May 2018.

30 Global Human Rights Sanctions Regulations, supra n 5; and Global Anti-Corruption Sanctions Regulations, Statutory Instrument No. 488, 26 April 2021. See the description in Pinto and McCombe, 'Human Rights Sanctions' in Pinto, Haines, O'Sullivan (eds), *UK Sanctions Law and Practice* (2026) at 167–182.

Australia, for its part, established autonomous sanctions frameworks addressing both human rights violations and corruption on 16 December 2021, through amendments to the Autonomous Sanctions Act 2011 and its accompanying regulations.[31]

The EU, meanwhile, adopted its own horizontal sanctions regime in December 2020, following a process initiated by the Netherlands two years prior.[32] The EU Global Human Rights Sanctions Regime (EU GHRSR) rests on a Council decision and regulation grounded in Article 215 of the Treaty on the Functioning of the European Union.[33] Notably, the EU framework diverges from its US, Canadian, British, and Australian counterparts in one significant respect: it is confined exclusively to human rights violations, with acts of corruption falling expressly outside its scope.[34]

The contemporary spread of Magnitsky-style sanctions regimes has produced a family of legal frameworks that are recognizably similar in purpose but far from identical in design.[35]

2.2. The legal architecture of horizontal global human rights sanctions regimes

All five regimes rely on a broadly consistent *repertoire of measures*: asset freezes, prohibitions on making funds or economic resources available to designated persons, and travel bans or visa restrictions. These are precisely the measures that, since the mid-1990s, have come to define the targeted, or 'smart', sanctions adopted by the UNSC under Chapter VII of the UN Charter. As is well established, the UNSC had initially relied, pursuant to Article 41, on comprehensive trade embargoes: measures designed to curtail virtually all transactions with a targeted State, encompassing both imports and exports.[36] The sanctions imposed in the early 1990s against Iraq,[37] the former Yugoslavia,[38] and Haiti[39] stand as paradigmatic illustrations of this approach. Yet a growing body of evidence—including reports commissioned by UNICEF and by the UN itself—documented the devastating humanitarian consequences of such measures, particularly their effects on economic inequality, public health, and the enjoyment of fundamental rights.[40] This prompted the UNSC, as a first

[31] Autonomous Sanctions Amendment, supra n 6. The Act is no longer in force. The relevant legislation for the serious violations or serious abuses of human rights sanctions framework includes the following: Autonomous Sanctions Act 2011 No. 38, 2011; Autonomous Sanctions Regulations 2011, Select Legislative Instrument No. 247, 2011; and the Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Thematic Sanctions) Instrument 2022. See also Australian Government, Department of Foreign Affairs and Trade, *Serious violations or serious abuses of human rights sanctions framework*, available at: https://www.dfat.gov.au/sites/default/files/sanctions-snapshot-serious-violations-serious-abuses-human-rights-framework.pdf [last accessed 10 April 2026].

[32] See EU Parliament, Amended Motion by Member Omtzigt et al. on the Magnitsky Act, Parliamentary Document 22,112, No. 2529 (3 April 2018).

[33] Council Decision 2020/1999, supra n 4; Council Regulation 2020/1998, supra n 4.

[34] The UK adopted a distinct Global Anti-Corruption Sanctions Regulations, supra n 30.

[35] See for an overview, Worldwide Global Magnitsky Act Legislation, supra n 4; and European Parliament, *Global Human Rights Sanctions. Mapping Magnitsky Laws: The US, Canadian, UK and EU approach* (November 2021).

[36] See Cortright and Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (2000).

[37] See SC Res 661, 6 August 1990, S/RES 661 (1990).

[38] The first economic comprehensive sanctions against the former Yugoslavia were imposed by the UNSC through SC Res 757, 30 May 1992, S/RES/757 (1992). Further measures were adopted in the months and years that followed, making the sanctions regime against the former Yugoslavia one of the most far-reaching in the history of the UN. For a reconstruction and overview of these measures, see Bultrini, 'Former Yugoslavia' in Charron, Portela, Sossai (eds) *Elgar Encyclopedia on International Sanctions* (2025) at 161–163.

[39] See SC Res 917, 6 May 1994, S/RES/917 (1994).

[40] See, among many others, Kondoch, 'The Limits of Economic Sanctions Under International Law: The Case of Iraq' (2001) 1 *Journal of International Peacekeeping* 267; Neuenkirch and Neumeier, 'The Impact

response, to introduce so-called humanitarian exceptions, intended to mitigate the severity of comprehensive sanctions by permitting access to food and other basic necessities.[41] As these carve-outs proved largely inadequate, the UNSC—alongside other major sanctions actors—gradually shifted away from comprehensive embargoes and towards targeted measures directed at specific individuals, entities, or sectors.[42] Magnitsky-style sanctions fit squarely within this targeted model, being designed to affect identified persons rather than the economy of a state as a whole. Each of the five regimes under examination further reinforces this approach through significant derogations and humanitarian carve-outs.[43]

A further area of convergence concerns the *category of persons* susceptible to designation. Across all five regimes, sanctions may be imposed on foreign individuals or entities—encompassing both state officials and public bodies, as well as non-state actors—while states themselves remain expressly excluded.

The *criteria for applying sanctions*—and in particular the identification of the types of conduct capable of triggering designation—reveal both convergence and divergence. All five jurisdictions purport to address serious human rights abuses, yet they do so through somewhat different legal vocabularies and thresholds of gravity. The US and Canadian frameworks confine sanctions to cases involving 'gross violations of internationally recognized human rights',[44] a formulation that, in the US context, encompasses extrajudicial killings, torture and such flagrant denials of the right to life, liberty and security as defined under the 1961 Foreign Assistance Act.[45] The UK and Australia similarly target 'serious violations' of fundamental rights, including the right to life, the prohibition of torture and cruel, inhuman or degrading treatment, the prohibition of slavery and servitude, and the prohibition of forced or compulsory labour.[46] The EU GHRSR adopts a more structured approach, organising sanctionable conduct into three distinct categories that appear to reflect an implicit hierarchy of gravity. The first encompasses genocide and crimes against

of US Sanctions on Poverty' (2016) 121 *Journal of Development Economics* 110; Peksen, 'Better or Worse? The Effect of Economic Sanctions on Human Rights' (2009) 46 *Journal of Peace Research* 59; Early and Peksen, 'Does Misery Love Company? Analyzing the Global Suffering Inflicted by US Economic Sanctions' (2022) 2 *Global Studies Quarterly* 1; and Gordon, 'Economic sanctions in conflict with human rights', in Ashley and Butler (eds), *The Incoherence of Human Rights in International Law* (2024) at 52. See also UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No 8: The Relationship between Economic Sanctions and Respect for Economic, Social and Cultural Rights' (12 December 1997) UN Doc E/C.12/1997/8.

41 See Moret, 'Humanitarian Carveouts' in Charron, Portela, Sossai (eds) *Elgar Encyclopedia on International Sanctions* (2025) at 187–195.

42 See, above all, Cortright and Lopez (eds), *Towards Smart Sanctions: Targeting Economic Statecraft* (2002). Notably, certain recent episodes of both multilateral and unilateral sanctions—such as those against Syria since 2011, and the most recent US sanctions against Iran and Cuba—appear to point to a certain 're-comprehensivization' of sanctions, that is, an intention to impose severe restrictions that have led, or at the very least contributed, to the widespread deprivation of civilian populations. See, among others, Moret, 'More Civilian Pain Than Political Gain (Again?): The Demise of Targeted Sanctions and Associated Humanitarian Impacts', in Charron and Portela (eds) *Multilateral Sanctions Revisited: Lessons Learned from Margaret Doxey* (2022) 177–192.

43 See for the US, EO 13818, supra n 26, sec. 1(b). For UK, Global Human Rights Sanctions Regulations, supra n 5, Part 5. For Canada, JVCFO, supra n 7, sec. 4. For Australia, Autonomous Sanctions Regulations, supra n 31, Part 4. For the EU, see Council Regulation, supra n 4, Articles 4 and 5. The latter features a specific so-called 'humanitarian derogation clause' that allows EU member states to release frozen funds for humanitarian purposes, such as medical supplies, food, or evacuations.

44 Global Magnitsky Act, supra n 1, sec. 3; JVCFO, supra n 7, sec. 4.

45 Foreign Assistance Act of 1961 (Public Law 87–195, 4 September 1961, as Amended Through P.L. 119–4, 15 March 2025).

46 See for UK, Global Human Rights Sanctions Regulations, supra n 5, Part 1; and for Australia, Autonomous Sanctions Regulations, supra n 31, Part 6A (4).

humanity, which may attract sanctions as such. The second covers 'serious violations or serious abuses', including torture, slavery, extrajudicial killings, enforced disappearances and arbitrary arrests or detentions. The third is broader in scope but more conditional in application: sanctions are available only where violations are widespread, systematic, or otherwise of serious concern, and where action is consistent with the EU's foreign and security policy objectives under Article 21 of the Treaty on European Union.[47] This category includes, inter alia, human trafficking, sexual and gender-based violence, and violations of freedoms of assembly, expression, and religion.[48]

Divergences also emerge with respect to the *degree of individual involvement* required to ground a designation. The US, Canadian, and Australian frameworks restrict sanctions to individuals who are '*Responsible for* or *complicit in* human rights violations',[49] though EO 13818 extends this in the US context to 'leaders or officials' of entities whose members have engaged in such abuses, irrespective of direct personal responsibility.[50] The UK and EU regimes adopt a notably broader approach, introducing a third criterion by which sanctions may be applied to individuals '*associated with*' primary offenders.[51] This concept of association is defined in expansive terms in both frameworks—and particularly so in the EU's—extending even to those with a tenuous connection to individuals who merely *encouraged the conduct in question*.[52] While the ambition to foreclose the grey areas in which impunity flourishes and to tighten the avenues for sanctions circumvention is undoubtedly commendable, this significant expansion of the personal scope raises serious concerns regarding the evidentiary standards required to establish the genuine involvement of designated individuals.[53]

Finally, from the procedural standpoint, the five frameworks diverge quite considerably in their decision-making architectures and in the respective roles assigned to legislatures and executives. A full analysis of these dimensions falls outside the scope of the present article and has been addressed elsewhere in the literature.[54] It suffices to note here that, by targeting individuals as rogue actors rather than the states to which they belong, these regimes afford greater speed and flexibility than traditional country-based sanctions.[55] The EU constitutes an exception in this regard. Despite the High Representative—with broad support from the Commission and the European Parliament—proposing the use of qualified majority voting,[56] the Union ultimately opted to retain the ordinary sanctions procedure. As a result, the imposition of such sanctions continues to require unanimity among all

47 Council Decision, supra n 4, Article 1.

48 Council Decision, supra n 4 at Article 1(1)(d). For more on this, see van der Have, 'The Proposed EU Human Rights Sanctions Regime. A First Appreciation' (2019) 30 *Security and Human Rights* 56 at 66; Eckes, 'EU global human rights sanctions regime: is the genie out of the bottle?' (2022) 30 *Journal of Contemporary European Studies* 255 at 257

49 Global Magnitsky Act, supra n 1, sec. 3; JVCFO, supra n 7, sec. 4(2); Autonomous Sanctions Regulations, supra n 31, Part 6A (4).

50 EO 13818, supra n 26, sec. 1 (ii)(C).

51 Council Decision, supra n 4, Article 2(1)(c); and Global Human Rights Sanctions Regulations, supra n 5, Part 2(6)(2)(d).

52 Eckes, supra n 48 at 257.

53 See Blockmans, 'The EU's Magnitsky Act: Obsolete in the Face of Russia's Crimes in Ukraine?' (2023) 28 *European Foreign Affairs Review* 109 at 113.

54 See Worldwide Global Magnitsky Act Legislation, supra n 4; and Mapping Magnitsky Laws, supra n 35.

55 Tilhaun, supra n 22 at 480; Ciampi, supra n 22 at 183; Eckes, supra n 48 at 262.

56 von der Leyen, President of the EU Commission, *State of the Union* (16 September 2020); Juncker, President of the Commission, *State of the Union* (12 September 2018); Joint communication of the European Commission and the High Representative to EU Parliament and the Council EU, *Action Plan on Human Rights and Democracy 2020–2024* (25 March 2020); EU Parliament Resolution 2019/2580(RSP) of 14 March 2019, para 6.

27 member states, a requirement that significantly slows the decision-making process and confers upon each member state an effective veto over designation decisions.[57]

2.3. Mapping practice: comparative listings and emerging patterns

According to the dataset compiled for the purposes of this article, as of 10 April 2026, the US maintains by far the most extensive global human rights sanctions practice among the five jurisdictions examined. The Global Magnitsky programme, administered through the Specially Designated Nationals and Blocked Persons (SDN) List, encompasses 326 legal entities and 259 individuals, for a total of 585 designated subjects.[58] The comparable figures are considerably more modest elsewhere: 172 subjects under the EU GHRSR, comprising 135 individuals and 37 entities;[59] 174 subjects under the UK regime, including 140 individuals and 34 entities;[60] 80 foreign individuals listed by Canada;[61] and 105 subjects under the Australian framework, made up of 87 individuals and 18 entities.[62]

Differences in scale are accompanied by equally striking divergences in geographical distribution. The most granular analysis available concerns the EU. A study published by the EU in June 2025 reveals that 74.4 per cent of individuals and 48.5 per cent of entities listed under the EU regime are of Russian origin,[63] with the remainder distributed across 14 other countries; among these, Israel accounts for 7.7 per cent of listed individuals and 15.2 per cent of listed entities.[64] While equivalent official studies are not available for all jurisdictions considered here, the broader comparative picture suggests only partial convergence with the European pattern. The UK list similarly contains a significant number of Russian designations (39), though this falls well short of the EU proportions. The UK regime also includes a significant number of individuals and entities connected with Israel (24), Cambodia (18), and Saudi Arabia (16). The US SDN List under the Global Magnitsky Act presents a markedly different profile: it includes only 10 individuals of Russian nationality and six entities. This discrepancy is attributable in part to the fact that many Russian nationals sanctioned under the EU GHRSR appear on the US SDN List under the earlier 2012 Magnitsky Act. Overall, the US Global Magnitsky programme is considerably more geographically diverse, encompassing subjects connected to nearly 50 countries. Among the most represented are the Democratic Republic of the Congo (30), the United Arab Emirates (30), China (28), Zimbabwe (20), Cyprus (14), South Sudan (14), the Gambia (13), Cuba (13), Burma/Myanmar (12), Haiti (10), Guatemala (9), and Mexico (8). In many of these cases, designation has been grounded not only on human rights abuses but also in acts of foreign corruption. Canada likewise appears to maintain a relatively broad geographical spread, though the publicly available data do not always permit precise verification of the nationality or origin of listed persons.[65] Australia, by contrast, presents

57 Council Decision, supra n 4, Article 5.

58 See at https://sanctionssearch.ofac.treas.gov [last accessed 10 April 2026].

59 See at: https://www.sanctionsmap.eu/#/main/details/50/?search=%7B%22value%22:%22%22,%22searchType%22:% 7B%7D%7D [last accessed 10 April 2026].

60 See at: https://www.gov.uk/government/publications/the-uk-sanctions-list [last accessed 10 April 2026].

61 See at: https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng [last accessed 10 April 2026].

62 See at: https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list [last accessed 10 April 2026].

63 Portela and Tilahun, *Effectiveness of the EU Global Human Rights Sanctions Regime* (European Parliament, Directorate General for External Policies, June 2025).

64 Ibid at 4.

65 See at: https://www.international.gc.ca/world-monde/assets/pdfs/international_relations-relations_internationales/sanctions/sema-lmes.pdf [last accessed 10 April 2026].

the most concentrated pattern of all: its current designations are confined to Russia (42 individuals), Iran (36 individuals and 17 entities) and Israel (9 individuals and one entity).

These divergences carry implications that extend well beyond descriptive taxonomy. They indicate that, despite the formal similarity of the legislative instruments in question, sanctioning states have not converged on a shared understanding of where and how Magnitsky-style measures should be deployed. The divergence is particularly striking when one considers the contrast between the breadth of the US programme and the concentrated, and in some cases highly selective, geographical orientation of the other regimes. The existence of a common legislative template has therefore not given rise to a common sanctions policy. Even at this early stage of practice, the evidence suggests that human rights sanctions remain deeply shaped by national priorities, political judgment, and differing tolerances for diplomatic and economic risk.

The available evidence also sheds light on the profile of those most frequently targeted. The EU data are particularly revealing in this regard, displaying a pronounced predominance of designations (55.6 per cent of the total) involving persons connected with the repressive apparatus of the state, including prison officials, prosecutors, judges, and other actors implicated in detention, prosecution, or internal security functions.[66] This pattern is significant, as it clarifies the operational logic underlying these regimes. Magnitsky-style sanctions are not directed primarily at abstract state responsibility; rather their animating purpose is the individualisation of blame within state hierarchies. At the same time, the concentration of functionaries embedded in the machinery of repression gives rise to questions that will assume central importance in later sections of this article: whether such actors are indeed susceptible to external pressure, and whether sanctions imposed on them are best understood as instruments of behavioural change, as acts of symbolic condemnation, or as serving both functions simultaneously. In the absence of official studies for remaining jurisdictions—and given that the relevant designation lists do not consistently provide sufficiently full or transparent information either as to the role of the designated person or as to the grounds upon which sanctions were imposed—it is not possible to establish comparable percentages with an acceptable degree of precision and reliability. That said, in the cases of Australia and the UK at least, a clear predominance of designations concerning persons associated with the State's repressive apparatus appears discernible.

A similarly selective pattern emerges with respect to the categories of violations most invoked as grounds for designation. Here too, robust comparative data are available only for the EU, and the picture that emerges is even more sharply defined than in relation to the profiles of designated persons. Within the EU regime, the overwhelming majority of listings concern torture or other forms of cruel, inhuman, or degrading treatment (50 per cent of listings), arbitrary arrest (46 per cent), extrajudicial killings (17 per cent), and sexual and gender-based violence (16 per cent).[67] Particularly noteworthy is the complete absence, to date, of any designation explicitly grounded in genocide or crimes against humanity, notwithstanding the formal prominence accorded to those categories in the legal architecture of the EU regime. The sanctions adopted in response to abuses against Uyghurs and other predominantly Muslim minorities in Xinjiang offer a telling illustration of this tendency. Although the underlying allegations have frequently been characterized in international discourse in terms implicating crimes against humanity,[68] the designations

[66] Portela and Tilahun, supra n 63 at 8.

[67] Ibid at 9–10.

[68] See Office of the UN High Commissioner for Human Rights, *Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China* (31 Aug. 2022), para 148. See also Blockmans, supra n 53, at 115.

imposed by the EU have been framed through considerably narrower legal categories, such as arbitrary detention or degrading treatment.[69]

3. The international legal framework of global human rights sanctions regimes

At the universal level, the only sanctions whose legitimacy under international law is beyond dispute are those imposed by the UNSC under Chapter VII.[70] In determining the existence of threats to international peace and security, breaches of the peace, or acts of aggression pursuant to Article 39,[71] the UNSC is empowered to adopt a broad range of measures not involving the use of armed force, including economic and commercial sanctions, as provided for under Article 41.[72] The authority of such measures derives from the Charter itself, and in particular from Article 25, as well as from the institutional legitimacy conferred by collective decision-making within the UN system.[73] Whatever controversies their use may have generated, UNSC sanctions have remained formally anchored in a multilateral legal framework that distinguishes them categorically from unilateral coercive measures adopted by individual states.

Unilateral sanctions imposed by individual states—that is, measures adopted without prior authorization from the UNSC, or extending beyond the scope of Council-mandated sanctions—occupy a fundamentally different legal position. There is neither a treaty rule nor a settled body of customary international law that expressly authorizes states, acting autonomously, to impose asset freezes or travel bans on foreign states or individuals. The legality of such measures must therefore be assessed indirectly, by reference to the general law on state responsibility, the permissibility of extraterritorial jurisdiction, and the rules governing the immunities of foreign state officials. That assessment, however, does not yield a single or uniform answer. Rather, it suggests that the legal status of unilateral sanctions—including Magnitsky-style sanctions—is contingent upon the character of the measures adopted, the nature of the violations to which they respond, and the legal basis on which they purport to rest.[74]

69 See Council of the EU, Press Release, *EU imposes further sanctions over serious violations of human rights around the world* (22 March 2021); and European Parliament, *Statement by the Chair of the Delegation for relations with the People's Republic of China* (23 March 2021).

70 It is worth noting that regional organizations, such as the African Union, the Organization of American States, MERCOSUR (Southern Common Market), the Andean Community and the Economic Community of West African States, also exercise sanctioning powers at the international level, on the basis of treaty provisions and directed against their own member states. Regional (or 'institutional') sanctions of this kind are generally regarded as legally uncontroversial and command broad legitimacy. For a general overview, see Hellquist and Palestini, 'Regional Sanctions and the Struggle for Democracy: Introduction to the Special Issue' (2021) 42 *International Political Science Review* 437; and Sossai, 'Regional Sanctions Against Member States: A Comparative and Relational Approach' in Adinolfi, Lang, Ragni (eds.), *Sanctions By and Against International Organizations* (2025) at 93.

71 United Nations Charter (26 June 1945), Article 39. For an explanation, see de Wet, 'Article 39' in Simma et al. (eds), *The Charter of the United Nations: A Commentary* (4th ed, 2024) at 1623.

72 For an explanation, see de Wet, 'Article 41' in Simma et al., supra n 71 at 1665.

73 See, among many others, Crawford, 'The Relationships between Sanctions and Countermeasures' in Gowlland-Debbas (ed), *United Nations Sanctions and International Law* (2001) at 57; Gowlland-Debbas, 'The Security Council and Issues of Responsibility under International Law' in (2012) 353 *Recueil des Cours* at 225; D'Aspremont, 'Security System and the Enforcement of International Law' in Weller (ed), *The Oxford Handbook on the Use of Force* (2015) at 129; Wood and Sthoeger, *The UN Security Council and International Law* (2022).

74 In favour of the emergence of a customary law norm that would legitimize the use of unilateral sanctions to promote compliance with international human rights, see Damrosh, 'Politics Across Borders: Non-intervention and Non-forcible Influence Over Domestic Affairs' (1989) 83 *American Journal of*

A useful point of departure is the distinction, well-established in the law of state responsibility, between *retorsion* and *(collective) countermeasures*.[75] Retorsion denotes acts of discourtesy or unfriendliness that nonetheless remain within the bounds of the acting state's lawful freedom of action. As the International Law Commission (ILC) explained in its commentary to the 2001 Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), measures of retorsion do not, in themselves, breach any international obligation owed to the target state.[76] Certain forms of travel restriction may plausibly fall within this category, particularly where they amount to no more than a refusal to admit foreign nationals to the territory of the sanctioning state. To the extent that a state merely declines to grant entry, without thereby contravening any treaty or other international obligation, the measure may properly be characterized as an instance of lawful retorsion.

That characterization, however, cannot readily be extended to measures that deprive an individual of a right previously enjoyed, as is the case with asset freezes. Such measures are more appropriately examined through the framework of countermeasures: conduct that would ordinarily be unlawful, but which may become temporarily permissible when adopted by an injured state in response to a prior internationally wrongful act.[77] Their lawfulness is subject to the stringent substantive and procedural conditions set out in Articles 49 to 53 of ARSIWA. The invoking state must act with the specific aim of inducing the responsible state to cease its unlawful conduct and, to the extent possible, to provide reparation or mitigate the consequences of the breach.[78] Countermeasures must be temporary in character (Article 49, para 2), imposed in a manner that preserves the possibility of resuming compliance with the violated obligation (Article 49, para 3), and subject to substantive constraints, foremost among which is the requirement of proportionality (Article 51).[79] The customary status of the rules governing countermeasures is no longer in question today.[80]

International Law 1 at 46; Cleveland, 'Norm Internalization and U.S. Economic Sanctions' (2001) 26 *Yale Journal of International Law* 1 at 52.

75 See Abi-Saab, 'The Concept of Sanction in International Law' in Gowlland-Debbas (ed), *United Nations Sanctions and International Law* (2001) at 32; Ronzitti, 'Sanctions as Instruments of Coercive Diplomacy: An International Law Perspective' in Ronzitti (ed) *Coercive Diplomacy, Sanctions and International Law* (2016) at 1; Ruys, 'Sanctions, retortions and countermeasures: concepts and international legal framework' in van den Herik (ed), *Research Handbook on UN Sanctions* (2017) at 19; Hofer, 'The "curiouser and curiouser" legal nature of non-UN sanctions: the case of the US sanctions against Russia' (2018) 23 *Journal of Conflict and Security Law* 75; Hovell, 'Unfinished business of international law: the questionable legality of autonomous sanctions' (2019) 113 *American Journal of International Law* 140; and Asada, 'Definition and Legal Justification of Sanction' in Asada (ed), *Economic Sanctions in International Law and Practice* (2020) at 3.

76 International Law Commission (ILC), Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) with Commentary, Annex to UNGA Res. A/56/83, UN Doc. A/RES/56/83 (12 December 2001) at 128.

77 Ibid. The term 'countermeasure' was first used by the arbitral tribunal established to decide the case of the *US-France Air Services Agreement on December 9, 1978*, in (2007) 28 *Reports of International Arbitral Awards* 417 para 81.

78 ICJ, *Gabčíkovo-Nagymaros Project (Hungary v Slovakia)*, Merits, Judgment, ICJ Reports 1997, at para 56, the objective of countermeasures 'must be to induce the wrongdoer to comply with its obligations under international law, and therefore the measure must be reversible'.

79 In addition to these, a series of procedural conditions are outlined in Article 52 ARSIWA. Among these, notable requirements include the obligation to notify the responsible state and the offer to negotiate with it. See Iwasawa and Iwatsuki, 'Procedural Conditions' in Crawford, Pellet, Olleson (eds), *The Law of International Responsibility* (2010) at 1149.

80 See Alland, 'The Definition of Countermeasures' in Crawford, Pellet, Olleson (eds), *The Law of International Responsibility* (2010) at 1135; Paddeu, *Justification and Excuse in International Law* (2018) at 262; White and Abass, 'Countermeasures and Sanctions' in Evans (ed), *International Law* (2018) at 521. Some

The difficulty, however, is that global human rights sanctions sit uneasily within this classic bilateral framework. It is far from self-evident that a State may be regarded as directly injured, in the legally relevant sense, by human rights violations committed abroad against foreign nationals.[81] Any attempt to justify such sanctions within the law of state responsibility must therefore look not to bilateral countermeasures, but to the considerably more contested category of *collective* (or *third-party*) *countermeasures*.[82] These are measures adopted by States that are not themselves directly injured, yet nonetheless seek to respond to breaches of obligations owed to the international community as a whole.

It is at this juncture that Article 54 ARSIWA becomes central. Crucially, that provision does not expressly recognize a general entitlement on the part of non-injured states to adopt countermeasures. Rather, it preserves—deliberately and in notably cautious terms—the possibility that 'lawful measures' may be taken by states entitled to invoke responsibility under Article 48 in response to serious breaches of obligations *erga omnes*.[83] Article 54 was accordingly drafted as a saving clause (or 'without prejudice' provision), reflecting the ILC's assessment that the relevant state practice remained limited and embryonic at the time of drafting. Its significance lies precisely in its restraint: rather than resolving the question, it consciously leaves it open.[84]

Whether third-party countermeasures have since crystallized into a rule of customary international law remains a deeply contested question. Some commentators argue that subsequent state practice—particularly in response to grave breaches of fundamental norms—supports the emergence of a customary entitlement on the part of non-injured states to adopt collective countermeasure.[85] Others remain unconvinced, pointing to the unevenness of state practice, the ambiguity of official legal justifications advanced in support of such measures, and the persistent difficulty of identifying the requisite *opinio*

doubts may be raised regarding the procedural requirements of the obligations to notify and negotiate, see Pellet, 'The New Draft Articles of the International Law Commission on the Responsibility of States for Internationally Wrongful Acts: A Requiem for States' Crime?' (2001) 32 *Netherlands Yearbook of International Law* 55; and Sicilianos, 'La codification des contre-mesures par la Commission du droit international' (2005) 38 *Revue Belge de Droit International* 447.

81 See Crawford, *State Responsibility: The General Part* (2013) at 692.

82 See, for instance, Tilahun, 'The EU Global Human Rights Sanctions Regime: between Self Help and Global Governance' (2021) 25 *International Community Law Review* at 3.

83 See Gaja, 'The Protection of General Interests in the International Community' (2011) 364 *Recueil des cours* at 128; D'Argent, 'Les Obligations Internationales' (2021) 417 *Recueil des cours* at 104.

84 Among the members of the ILC, one of the sharpest critics of so-called collective countermeasures was Professor Ian Brownlie. See Yearbook of the International Law Commission, vol. I, 2001 (A/CN.4/SER.A/2001), at 35 ff. According to the statement made by Martti Koskenniemi, then representative of the Nordic countries in the Sixth Committee of the General Assembly (A/C.6/56/SR.11, para. 27), 'Like any good compromise, the Commission's text could be called a victory of both the bilateralist and the communitarian schools'. See also Sicilianos, 'Countermeasures in Response to Grave Violations of Obligations Owed to the International Community', in Crawford, Pellet, Olleson (eds), *The Law of International Responsibility* (2010) at 1144, observing that Article 54 should be compared, because of its ambiguity, 'to the oracle at Delphi'. Similarly, Ronzitti, supra n. 75 at 28, describes it as 'an example of constructive ambiguity'.

85 See, among others, Tams, *Enforcing Obligations Erga Omnes in International Law* (2005) at 228; Katselli Proukaki, *The Problem of Enforcement in International Law: Countermeasures, the Non-Injured State and the Idea of International Community* (2010) at 90; Dawidowicz, *Third-Party Countermeasures in International Law* (2017) at 245; Bogdanova, supra n 11 at 82–85; Hathaway, Mills, Poston, 'War Reparations: The Case for Countermeasures' (2024) 76 *Stanford Law Review* 1001; and Webb, 'Legal Options for Confiscation of Russian State Assets to Support the Reconstruction of Ukraine' (European Parliamentary Research Service, February 2024) at 25.

juris which, on the generally accepted account of custom formation,[86] is indispensable to the emergence of a new customary rule.[87] On balance, the more cautious view remains the more persuasive: collective countermeasures cannot yet be regarded as uncontroversially established under general international law.

Assessing the legality of human rights sanctions as collective countermeasures accordingly demands a nuanced, case-by-case analysis, which must take into account, first, the nature of the specific measures in question—whether they take the form of travel bans or asset freezes—as well as the legal positions of the parties concerned and the rights they previously held. The argument for permissibility is at its most compelling where the underlying conduct amounts to a grave breach of obligations of fundamental importance to the international community,[88] and in particular where peremptory (or *jus cogens*) norms are implicated. In such situations—including genocide, crimes against humanity, or the large-scale and systematic use of torture—the case for permitting some form of collective response by non-injured states is both normatively compelling and doctrinally more defensible. Even then, however, legality cannot simply be assumed; it must be assessed against the conditions traditionally governing countermeasures, including proportionality, reversibility, and orientation toward inducing compliance rather than inflicting punishment.

Many of the violations targeted by Magnitsky-style sanctions, however grave, do not fall within those categories of serious *jus cogens* breaches for which international law can be said to recognize a settled entitlement of third states to respond through otherwise unlawful measures. In such cases, any attempt to justify unilateral sanctions as collective countermeasures rests on considerably more uncertain ground. In a limited number of areas, international law does recognize universal jurisdiction as a basis for the exercise of enforcement authority irrespective of territoriality or nationality. Where conduct such as genocide, crimes against humanity, torture, or certain war crimes is at issue, the existence of universal jurisdiction lends additional support to the argument that third states may, in at least some circumstances, take legal action notwithstanding the absence of a direct injury.[89] Universal jurisdiction remains, however, an exceptional basis for state actions,

86 Haggenmacher, 'La doctrine des deux éléments du droit coutumier dans la pratique de la Cour International' (1986) 90 *Revue général du droit international public* 5; Danilenko, *Law-Making in the International Community* (1993) at 81; Condorelli, 'Customary International law: The yesterday, Today, and Tomorrow of General International Law', in Cassese (ed), *Realizing Utopia* (2012) at 147.

87 See, among others, Paddeu, 'Book Review: Third-Party Countermeasures in International Law', in (2018) 77 *Cambridge Law Journal* 427; D'Argent, supra n 83 at 104; Gestri, 'Sanctions, Collective Countermeasures and the EU' (2023) 32 *Italian Yearbook of International Law* 67; Schmitt and Watts, 'Collective Cyber Countermeasures?' (2021) 12 *Harvard National Security Journal* 376; Brunk, 'Central Bank Immunity, Sanctions, and Sovereign Wealth Funds' (2023) 91 *George Washington Law Review* 1616; Jackson and Paddeu, 'The Countermeasures of Others: When Can States Collaborate in the Taking of Countermeasures?' (2024) 118 *American Journal of International Law* 231; and Hofer, 'Third-Party Countermeasures: Making Custom Out of Ambiguous Practice' (2025) 74 *International and Comparative Law Quarterly* at 287. See also Silingardi, *Le sanzioni unilaterali e le sanzioni con applicazione extraterritoriale nel diritto internazionale* (2020) at 343.

88 The prevailing view today is that only serious human rights violations can be deemed breaches of *erga omnes* obligations, see ARSIWA, supra n 76 at 126. See also Tams, supra n 85 at 89; Ruys, 'Legal Standing and Public Interest Litigation – Are All *Erga Omnes* Breaches Equal?' (2021) 20 *Chinese Journal of International Law* 457; and Tilahun, supra n 82 at 14. For the minority view, which argues that all human rights impose *erga omnes* obligations on states, see Meron, *Human Rights and Humanitarian Norms as Customary Law* (1991) at 199.

89 See Lagerwall and Hébert-Dolbec, 'Universal Jurisdiction' (2022) *Max Planck Encyclopedia of Public International Law*. See also Institut de Droit International, *Universal criminal jurisdiction with regard to the crime of genocide, crimes against humanity and war crimes' (Session of Kraków, 2005)* Article 3. The

and the majority of human rights violations captured by contemporary sanctions regimes fall outside its clearly established scope. It cannot, for that reason, furnish a general legal foundation for horizontal human rights sanctions regimes; at most, it reinforces the case for permissibility in a narrow subset of cases involving the gravest international crimes.[90]

A further layer of complexity arises in relation to the immunities of foreign state officials. Recent practice under Magnitsky-style regimes reflects a growing willingness to target heads of state and senior officeholders, as illustrated by EU and US sanctions against high-ranking government officials from Venezuela, Russia, and Iran, as well as by the more recent US measures against Zimbabwe's President Emmerson Mnangagwa.[91] This development raises difficult questions concerning the interaction between sanctions and the personal or functional immunities recognized under international law. The compatibility of travel restrictions with such immunities may, in some circumstances, be easier to defend, particularly where the measure takes the form of a refusal of entry into the territory of the sanctioning state. Asset freezes and analogous economic restrictions are, by contrast, considerably more problematic. Such measures may interfere more directly with the legal and practical incidents of high office, and their compatibility with immunity *ratione personae* in particular remains far from settled.[92]

Finally, for a significant number of states, largely identifiable with the contemporary Global South, the principles of sovereign equality and non-intervention remain central to the question of whether, and under what conditions, unilateral sanctions may lawfully be imposed.[93] On this view, measures adopted outside the framework of UNSC authority—which alone carries the legal competence to impose economic sanctions—ought to be regarded as presumptively unlawful.[94] This position finds apparent support in a substantial body of UN General Assembly resolutions on 'human rights and coercive measures', adopted since 1996, and on 'unilateral economic measures as a means of political and economic

remaining bases of jurisdiction are as follows. The *territoriality* principle governs conduct occurring within the territory of the state or producing effects therein, encompassing, in this sense, what is commonly referred to as the effects doctrine. The *nationality* principle, or active personality, confers jurisdiction on the basis of the offender's citizenship. The *passive personality* principle applies where the conduct in questions victimises nationals of the asserting state. Finally, the *protective* principle pertains to acts directed against the vital interests of the state itself. For an explanation of the content and limitations of each criterion (including universal jurisdiction), see Akehurst, 'Jurisdiction in International Law' (1972–73) 46 *British Yearbook of International Law* 145–179; and Ryngaert, *Jurisdiction in International Law* (2015) at 101–144. Also, refer to the Institut de Droit International, *The extraterritorial jurisdiction of states (Session of Milan, 1993)*, Articles 5–8; and Report of the ILC to the GA, *Annex E—Extraterritorial Jurisdiction*, UN Doc. A/61/10, 3 November 2006, at 521. On the relationship between unilateral sanctions and the respect for the afore-mentioned limits of general international law, see also Kerbrat, 'Unilateral/Extraterritorial Sanctions as a Challenge to the Theory of Jurisdiction' in Beaucillon (ed), *Research Handbook on Unilateral and Extraterritorial Sanctions* (2021), 165–185.

90 Beaucillon, 'Long-arm Collective Sovereignty Through the EU: The EU Global Human Rights Sanctions Regime Transcending the Limits of the Fight Against Impunity' (2023) 8 *European Papers* 1679.

91 See at: https://home.treasury.gov/news/press-releases/jy2154 [accessed 10 April 2026].

92 Moiseienko, 'Crime and Sanctions: Beyond Sanctions as a Foreign Policy Tool' (2024) 25 *German Law Journal* 17–47 at 45.

93 See Palestini and Portela, 'The Global South and the contestation of unilateral sanctions against Russia' (2025) *Cooperation and Conflict* 1.

94 See Jazairy, 'Unilateral Economic Sanctions, International Law, and Human Rights' (2019) 33 *Ethics and International Affairs* 291; and Subedi, 'The Status of Unilateral Sanctions in International law', in Subedi (ed), *Unilateral Sanctions in International Law* (2021) at 57–59, arguing that 'there is now a new rule of customary international law emerging out of the more recent practice of states which renders high intensity unilateral sanctions unlawful, even if they are claimed to be countermeasures'.

coercion against developing countries', adopted since 1993.[95] From this critical vantage point, even human rights-based sanctions appear not as neutral instruments of individual accountability, but as mechanisms through which economically powerful states seek to project political influence under the guise of universal norms. That reading, however—at least in its most far-reaching form, which would imply the unlawfulness of all unilateral sanctions—is now widely regarded as untenable.[96] That conclusion is further reinforced by the conduct of two of the states most explicitly committed to opposing unilateral sanctions on this legal basis—Russia and China[97]—both of which have, in recent years, repeatedly resorted to coercive economic measures falling squarely within the very category they purport to condemn.[98]

The overall picture that emerges is one in which, however compelling the normative appeal of Magnitsky-style sanctions may be—especially in situations marked by atrocity and institutional paralysis—their legality cannot be divorced from the unresolved doctrinal questions on which it ultimately depends. As will be examined in the following section, any assessment of their effectiveness or legitimacy must begin from the recognition that such measures are not merely instruments of human rights enforcement. They are also—and perhaps equally—manifestations of an evolving and still unsettled effort to harness unilateral state power in the service of values that international law has not yet fully learned to enforce through collective means.

4. Structural limits and normative functions of global human rights sanctions regimes

Section 4 evaluates the compatibility of the human rights-based sanctions regimes adopted by the US, EU, UK, Canada, and Australia with applicable international legal obligations. It does so through an analysis of four interrelated dimensions: the formulation and application of listing and de-listing criteria, with particular regard to legal certainty, procedural safeguards, and the sufficiency of the evidentiary basis for designation; questions of selectivity, consistency, and international coordination, with a view to assessing whether the operation of these regimes reflects principled enforcement or, instead, reveals patterns of uneven and politically contingent application; the reactions of targeted States and the legality of any countermeasures or responsive action they may adopt; and, finally, the broader normative question of whether such sanctions operate primarily as instruments for inducing behavioural change and securing compliance, or whether they are better understood as measures that serve predominantly punitive, expressive, or signalling purposes.

4.1. Listing and de-listing criteria

Any assessment of Magnitsky-style sanctions regimes must begin with the legal and procedural architecture through which individuals and entities are designated and, where

[95] See Barber, 'An Exploration of the General Assembly's Troubled Relationship with Unilateral Sanctions' (2021) 70 *International and Comparative Law Quarterly* 343.

[96] With the caveat that unilateral sanctions have no extraterritorial reach. See recently, among many others, Ruys, supra n 75 at 50; Hofer, supra n 16 at 186; Beaucillon, 'An Introduction to Unilateral and Extraterritorial Sanctions: Definitions, State of Practice and Contemporary Challenge' in Beaucillon (ed), *Research Handbook on Unilateral and Extraterritorial Sanctions* (2021) at 7; and Ronzitti, supra n 75 at 20.

[97] See Press Release, Ministry of Foreign Affairs, of the People's Republic of China, The Declaration of the People's Republic of China and the Russian Federation on the Promotion of International Law (26 June 2016, updated 9 May 2025), available at: https://www.mfa.gov.cn/eng/zy/jj/xjpdelsjxgsfwcxjnslwgzzslqd/202505/t20250509_11617838.html [accessed 10 April 2026]

[98] See Bogdanova, supra n 11 at 69.

appropriate, removed from sanctions lists. Because these measures attach serious reputational, financial, and mobility consequences to named persons without the procedural guarantees associated with criminal process, the standards governing listing and de-listing assume particular importance.

A first difficulty lies in the breadth and indeterminacy of many designation criteria. Expressions such as ‘responsible for’, ‘complicit in’, ‘involved in’, and ‘engaged in’ confer wide discretion upon the political authorities responsible for imposing sanctions, while the relevant evidentiary thresholds are formulated in equally general terms. Under the US Global Magnitsky Act, the President must determine that there is ‘credible evidence’ of the target’s involvement in sanctionable conduct.[99] The Canadian framework, by contrast, requires no more than that the government form ‘the opinion’ that the relevant circumstances exist.[100] In the UK, a designation must be accompanied by a statement of reasons—a brief indication of matters that the Secretary of State ‘knows, or has reasonable grounds to suspect’, as sufficient to satisfy the designation criteria.[101] The Australian and European frameworks are even less exacting: in Australia, it suffices that the Minister be ‘satisfied’;[102] under the EU framework, the Council is merely required to communicate its decision, together with the grounds for listing, to the person or entity concerned.[103]

These concerns are further compounded when one turns to de-listing. The possibility of removal from a sanctions list is an essential component of any defensible targeted sanctions regime; in practice, however, de-listing pathways under global human rights sanctions regimes are often weak, opaque, or difficult to access.[104] The EU framework merely provides, in Article 5, that the Council ‘shall review’ designations ‘where observations are submitted, or where substantial new evidence is presented’, without specifying the substantive conditions under which removal must follow.[105] The US legislation is somewhat more detailed, yet still leaves de-listing heavily dependent on executive discretion, including national security considerations. Under the US Global Magnitsky Act, removal from the list is available where: credible information establishes that the person did not engage in the relevant activity; the person has been prosecuted for that activity; the person has credibly demonstrated a significant change of behaviour and has accepted responsibility for the relevant conduct; or termination of the sanctions is in the vital national security interests of the United States.[106] In Canada, the UK and Australia, the legislation does little more than permit the designated person to apply to the relevant Minister for de-listing, leaving the decision to executive judgement, whether framed in terms of ‘reasonable grounds’[107] to recommend removal or of the determination that the designation criteria are no longer met.[108]

99 Global Magnitsky Act, supra n 1 sec. 3(a).
100 JVCFO, supra n 7 sec. 4(1).
101 Global Human Rights Sanctions Regulations, supra n 5 Part 2 (8)(3)(a).
102 Autonomous Sanctions Regulations, supra n 31 Part 10.
103 Council Decision, supra n 4 Article 5(2).
104 Pasculli and Stanford, ‘Form and Flexibility: The Normalisation of “Magnitsky Sanctions” in the Face of the Rule of Law’ (2023) 15 *Hague Journal on the Rule of Law* at 128; Eckes, supra n 48 at 265. See also, with regard to the original 2012 Magnitsky Act, Hersey, ‘No Universal Target: Distinguishing Between Terrorism and Human Rights Violations in Targeted Sanctions Regimes’ (2013) 38 *Brooklyn Journal of International Law* 1231, at 1257.
105 Council Decision, supra n 4 Article 5(3).
106 Global Magnitsky Act, supra n 1, sec. 3(g).
107 JVCFO, supra n 7 sec. 8(2)(3).
108 Global Human Rights Sanctions Regulations, supra n 5, Part 2 (8)(6)(b).

In practice, de-listing under human rights-based sanctions regimes remains extremely rare, and the available cases shed little light on how these mechanisms operate. Within the EU, removal from the list has occurred in only two instances, both following the death of the designated individuals.[109] A comparable absence of practice is apparent in the UK, Canada and Australia. In the US, 16 de-listing decisions have been taken under the Global Magnitsky Act, including in cases involving corruption.[110] However, since OFAC is under no obligation to disclose the reasons for de-listing, these cases afford no meaningful transparency. It should nonetheless be noted that, in the EU context, listed persons may challenge restrictive measures—including those adopted under the GHRSR—before the Court of Justice of the EU; where such a challenge succeeds, the individual's name must be removed from the sanctions list.[111] Even so, judicial review does not fully compensate for the lack of clear legislative standards governing administrative de-listing.

This issue is of particular concern because de-listing is not a merely technical or administrative matter, it is, in itself, a human rights question. Where individuals are subjected to severe reputational, financial, and legal consequences without having been criminally tried, let alone convicted, the absence of clear and effective de-listing standards risks undermining the presumption of innocence and transforming sanctions into a form of quasi-penal condemnation unaccompanied by the safeguards of criminal process. Furthermore, where de-listing standards are absent, vague, or functionally unavailable, the behavioural logic underlying the regime begins to unravel. A sanction that cannot realistically be lifted in response to changed circumstances resembles less a calibrated instrument of pressure than an indeterminate form of stigmatisation (see further, Section 4.4 below). Such measures may still carry expressive value, but they sit uneasily with the claim that they operate primarily as forward-looking tools of compliance induction.

4.2. Coordination and selectivity

The absence of a multilateral and coordinated approach to human rights-based sanctions is among the most striking findings to emerge from an analysis of current practices. Among the 1,116 individuals or entities currently subject to horizontal sanctions for human rights violations (585 of whom are listed under the US Global Magnitsky Act alone), none appears across all five jurisdictions examined.[112] When designations under the original US

109 Portela and Tilahun, supra n 63 at 15.

110 This was the case of Satish Seemar, a horse trainer for Ramzan Kadyrov (the head of Russia's Chechen Republic designated in relation to the murder of Boris Nemtsov), who was designated in December 2020 for having 'materially assisted, sponsored, or provided financial material, or technological support for, or goods and services to or in support of' Kadyrov. Seemar was de-listed on 3 August 2023, see at: https://ofac.treasury.gov/recent-actions/20230803 [last accessed 10 April 2026].

111 Among many others, see Borlini and Silingardi, 'Defining Elements and Emerging Legal Issues of EU Sanctions' (2018) 27 *Italian Yearbook of International Law* 33; Poli, 'The Right to Effective Judicial Protection with Respect to Acts Imposing Restrictive Measures and its Transformative Force for the Common Foreign and Security Policy' (2022) 59(4) *Common Market Law Review* 1045–1080; Havas and Hoffmeister, 'The Review of Targeted Sanctions of the UN and the EU at the International Level', in Sturma (ed), *International Sanctions and Human Rights* (2024) at 211–246; Poli, Finelli, 'La giurisprudenza della Corte di Giustizia dell'Unione Europea in materia di misure restrittive a tre anni dall'aggressione russa dell'Ucraina', in Alì (ed), *Le sanzioni dell'UE nei confronti della Russia tra sicurezza internazionale e diritti umani* (2025), 109–162; Challet, 'Judicial Review (European Union)' in Charron, Portela, Sossai (eds) *Elgar Encyclopedia on International Sanctions* (2025) at 204–208; and Sztulman, *EU Sanctions Litigation* (2026).

112 Calculation made by the author on data retrieved from the SDN Lists of the five countries examined. See also Human Rights First, *Multilateral Magnitsky Sanctions at Five* (November 2022), available at: https://humanrightsfirst.org/wp-content/uploads/2022/11/Multilateral-Magnitsky-Sanctions-at-Five-Years_November-2022.pdf [last accessed 10 April 2026]. According to this report, the 85 per

Magnitsky Act of 2012 are also taken into account, only three individuals are sanctioned by all five jurisdictions; two further individuals may be added when other EU autonomous sanction regimes are included in the analysis.[113]

This absence of coordination reveals a significant structural deficiency in the design of human rights-based sanctions. It is well-established that, for sanctions to exert maximum pressure and remain effective, two conditions are of critical importance. First, the sanctioning state must occupy a sufficiently central position within the global trade network to project political leverage through its trade relationships.[114] Second, sanctions must be imposed in a coordinated—or multilateral—manner, through the joint identification of targets and consistency in timing, thereby reducing the risk of free-riding among sender states and of circumvention through gaps in the regime.[115] In the field of Magnitsky-style sanctions, the most compelling illustration of effective multilateral coordination is provided by the measures imposed by the EU, US, UK, and Canada against 32 Russian nationals—including judges, prosecutors and law enforcement officials—in connection with the poisoning, arrest and prolonged detention of Vladimir Kara-Murza, the Russian journalist and opposition activist. Arrested in April 2022 and subsequently sentenced to 25 years' imprisonment for his anti-corruption activities and public criticism of Russia's war of aggression against Ukraine,[116] Kara-Murza was released on 1 August 2024 as part of a prisoner exchange. Although the precise dynamics of the negotiations remain unclear, the multilateral character of the sanctions imposed is widely regarded as having been instrumental in creating the conditions for that outcome.[117]

Why, then, if the overall effectiveness of the human rights-based sanctions framework depends heavily on multilateral coordination, has this sanctioning tool not been consistently applied in other instances of serious human rights abuses? Three perspectives are worth considering.

The first, and most descriptive, perspective suggests that different jurisdictions may classify the same conduct differently, placing individuals on lists associated with distinct—horizontal or country-based—sanctions regimes. One illustrative example involves an individual listed by the UK, Canada and the US for human rights violations, but sanctioned by

cent of the 455 unique perpetrators subjected to sanctions for human rights abuses, as of the date of the report's publication, were sanctioned by only one jurisdiction.

113 These are one designation made under Council Regulation 2018/1542 concerning restrictive measures against the proliferation and use of chemical weapons [2018] OJ L 259; and one made under Council Regulation No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2014] OJ L 78.

114 See Lenzen and Debiel, 'Can Sanctions Backfire' (2026) 37 *Defence and Peace Economics* 38.

115 See, among others, Morgan, Bapat, Kobayashi, 'Threat and Imposition of Economic Sanctions 1945–2005: Updating the TIES Dataset' (2014) 31 *Conflict Management and Peace Science* 541; Early, *Busted Sanctions: Explaining Why Economic Sanctions Fail* (2015); and Early, 'Making sanctions work: promoting compliance, punishing violations, and discouraging sanctions busting' in van Bergeijk (ed), *Research Handbook on Economic Sanctions* (2021) at 167. With regard to the US Magnitsky legislation, see Djankov and Su, 'Are US Sanctions Off-Target: Evidence from the Magnitsky Act' (2024) 242 *Economics Letters* 111889.

116 See Parliamentary Assembly of the Council of Europe, Report (Doc. 15,939), *Sanctions against persons on the 'Kara-Murza list'* (16 March 2024).

117 See Moraitou-Politzi, 'Magnitsky Sanctions and Political Prisoners: Lessons from the Case of Vladimir Kara- Murza', *Just Security* (23 August 2024) at: https://www.justsecurity.org/98823/magnitsky-sanctions-political-prisoners/ [last accessed 10 April 2026]; and Kubesch, 'Magnitsky sanctions as a tool for accountability for human rights', in *Targeted Sanctions and Human Rights: Reflecting on the Global Human Rights Sanctions Regime in the UK and Beyond* (King's College London Report, 4 April 2025) at 14, available at: https://www.kcl.ac.uk/law/assets/docs/collection-of-speeches-targeted-sanctions-and-human-rights.pdf [last accessed 10 April 2026].

Australia and the EU under their respective country-based Myanmar sanctions regimes.[118] Such instances, however—including the small number of Russian individuals sanctioned by the US under the Magnitsky Act of 2012—remain relatively infrequent.

A second perspective holds that significant differences in the legal bases for designation across jurisdictions complicate the identification of shared interests. That argument has limited force, however: with the notable exception of the EU's exclusion of corruption from the GHRSR, the definitions of covered conduct are broadly comparable across instruments, indicating a substantial degree of alignment at the level of human rights violations.

The third, and most analytically significant, perspective concerns the subjective political interests of each state. Sanctions—whether multilateral or autonomous—are inherently political in character.[119] In the context of Magnitsky-style measures, a series of revealing examples suggests that states frequently give precedence to political, economic, and geopolitical considerations over the consistent protection of human rights. The EU's response to the killing of journalist Jamal Khashoggi is paradigmatic in this regard. Although the US, Canada, and the UK imposed sanctions on Saudi nationals allegedly responsible for the murder, the EU refrained from doing so. The most plausible explanation is that broader political and strategic considerations ultimately prevailed over human rights concerns.[120] A similar dynamic appears to have shaped Australian practice. Australia has confined its Magnitsky-style measures to individuals associated with Russia, Iran, and Israel, while declining to deploy them within the Asia-Pacific region—most strikingly, refraining from any comparable action against China, notwithstanding the coordinated sanctions adopted by the UK, the US, the EU, and Canada in response to documented human rights violations against the Uyghur population in Xinjiang.[121] The same reticence is apparent with respect to alleged abuses in Vietnam and Sri Lanka. In these cases, the explanation appears to lie less in the gravity of the underlying violations than in the economic and strategic significance of the states concerned—China above all—as major trading partners.[122]

A further illustration of the instrumentalisation of autonomous sanctions—activated where interests align and set aside where they do not—is provided by the inconsistent US response to serious human rights violations against Palestinians in the West Bank. While Australia, the EU, Canada and the UK have sanctioned Israeli nationals in connection with such violations,[123] the US adopted a markedly different approach. On 1 February 2024,

118 The reference is to Min Aung Hlaing (Commander-in-Chief of the Myanmar Armed Forces, Chair of the State Administration Council and Prime Minister of Myanmar) who was listed by the EU according to Council Regulation No 401/2013 concerning restrictive measures in view of the situation in Myanmar/Burma [2013] OJ L121; and by Australia according to the Autonomous Sanctions (Designated and Declared Persons—Myanmar) Amendment Instrument 2023.

119 See, on this, recently, Österdahl, 'A New UN: The Regrettable Irrelevance of the Security Council', in Klamberg, Svanberg, Rönnelid (eds), *Reconstructing Power and Hegemony in Public International Law* (2026) at 474.

120 See Oppenheim, 'You Never Listen to Me: the European-Saudi Relationship After Khashoggi' Center for European Reform (2 May 2019), available at: https://www.cer.eu/sites/default/files/pbrief_saudi_2may19.pdf [accessed 10 April 2026].

121 See Wintour, 'US and Canada follow EU and UK in sanctioning Chinese officials over Xinjiang' (*Guardian*, 23 March 2021).

122 See Parsons, 'Australia joins the "global Magnitsky movement"' (2022) 28 *Australian Journal of Human Rights* 187; and Brosinsky and Orchard, 'Seeking international accountability at home: Australia's use of the Magnitsky-style sanctions and universal jurisdiction in response to international crimes' (2024) 30 *Australian Journal of Human Rights* 232. See also Sambul, 'Australia's Magnitsky-style sanctions go unused in Asia-Pacific, critics say' (*ABC News*, 6 March 2025).

123 Australia has designated 9 Israeli nationals; the EU sanctioned 13 individuals and 5 entities; and the UK has designated 5 individuals and 4 entities. All three countries had acted under their respective human rights-based sanctions regimes. Canada, for its part, imposed sanctions on 17 individuals and 7

President Biden issued EO No 14115, targeting individuals involved in conduct threatening peace, security and stability in the West Bank, or who had directly or indirectly participated in acts of violence or property destruction in the region.[124] These sanctions were imposed not under the Global Magnitsky Act, but under a distinct legal framework specifically established for that purpose. President Trump revoked this Executive Order on 20 January 2025, the day he assumed office, de-listing all previously designated individuals and unblocking all associated property interests.[125] Subsequently, on 4 September 2025, the US State Department sanctioned three foreign non-governmental organisations pursuant to EO 14203, in connection with their involvement in ICC efforts to investigate Israeli nationals on charges of war crimes in Gaza.[126] A further illustration of the Trump Administration's indifference to multilateral consensus was its designation, in July 2025, of Justice Alexandre de Moraes of the Brazilian Supreme Federal Court under the Global Magnitsky sanctions regime for alleged human rights abuses, a measure prompted by the judicial investigations he had conducted into former Brazilian President Jair Bolsonaro.[127]

The inconsistent and uncoordinated application of human rights-based sanctions raises significant concerns about selectivity and double standards. States frequently sanction nationals of countries they do not regard as allies, while overlooking comparable or more serious violations committed by those they do. That concern is not merely incidental to the critique of Magnitsky-style sanctions; it constitutes one of the principal grounds on which their legitimacy is contested, particularly within the Group of 77 and the NAM. From that perspective, as already noted, global human rights sanctions are not perceived as neutral devices of norm enforcement, but, like unilateral sanctions more generally, as instruments through which economically powerful states externalise their policy preferences and intervene in the domestic affairs of weaker or less strategically significant states.[128]

4.3. Counter-countermeasures by targeted states and their international legality

Given the contested status of unilateral human rights sanctions under international law, the possibility of responsive action by targeted states must also be taken seriously. Where states regard collective countermeasures adopted by third parties as unlawful, they may seek to

entities pursuant to the Special Economic Measures (Extremist Settler Violence) Regulations (SOR/2024–91) adopted under the Special Economic Measures Act (S.C. 1992, c. 17). The designations lists exhibit partial overlaps, the most notable divergence being that the UK, Canada and Australia sanctioned the Israeli Minister of Finance and the Minister of National Security, while the EU refrained from doing so.

124 EO 14115—Imposing Certain Sanctions on Persons Undermining Peace, Security, and Stability in the West Bank (1 February 2024).

125 The decision was taken based on the EO 14148—Initial Rescissions of Harmful Executive Orders and Actions (20 January 2025). See also OFAC, *Termination of Emergency With Respect to the Situation in the West Bank; West Bank-related Designation Removals* (24 January 2025) available at: https://ofac.treasury.gov/recent-actions/20250124 [last accessed 10 April 2026].

126 See Press Release from the Secretary of State, Marco Rubio, *Sanctioning Foreign NGOs Directly Engaged in ICC's Illegitimate Targeting of Israel* (4 September 2025). See also EO 14203—Imposing Sanctions On The International Criminal Court (February 6, 2025). According to this EO, the US initially imposed sanctions on nine people associated with the ICC, including the Chief Prosecutor.

127 See US Department of the Treasury, Treasury Sanctions Alexandre de Moraes (Press Release, 30 July 2025). The sanctions imposed against De Moraes and his wife were lifted a few months later, in December 2025, as part of negotiations between Brazil and the US aimed at rolling back the US 50 per cent tariffs on Brazilian imports. See Tiago Rogero, 'US treasury lifts sanctions on Brazilian judge who presided over Bolsonaro case' (*The Guardian*, 12 December 2025).

128 See, for example, de Zayas, 'Unilateral sanctions and international cooperation', in Douhan (ed), *Humanitarian Impact of Unilateral Sanctions and Over-Compliance. Theoretical challenges and practical implications* (2025) at 59.

justify measures of their own in response. This question is particularly salient where asset freezes and travel bans are imposed on persons closely connected to the state apparatus. In such circumstances, the targeted state may characterize the initial sanctions as an unlawful interference with its sovereign prerogatives and may respond through what might be described as counter-countermeasures, for instance by enacting 'blocking legislation' that prohibits the domestic implementation of foreign unilateral coercive measures and imposes penalties on enterprises that cooperate in their implementation.[129]

The international legitimacy of such counter-countermeasures is, however, especially difficult to sustain where human rights-based sanctions are grounded in violations of peremptory norms of international human rights law which, by their very nature, give rise to obligations *erga omnes*, including the prohibitions of torture, slavery, and racial discrimination.[130] The exchange between the EU and China following the sanctions imposed on 17 March 2021 under the GHRSR against certain Chinese individuals and entities in connection with human rights violations against the Uyghur minority illustrates this problem with particular clarity. On 22 March 2021, China announced retaliatory sanctions against 10 individuals and four entities, including members of the European Parliament and the Council's Political and Security Committee,[131] characterising the EU measures as 'gross interference' in its internal affairs and 'flagrant violations of international law'.[132] Formally, the Chinese response may be read as an attempt to reframe the dispute in the language of sovereignty and unlawful intervention. Substantively, however, its legitimacy is far more difficult to defend. As noted above, the 2022 report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) strongly suggested that the conduct at issue in Xinjiang may have amounted, at least at that stage, to crimes against humanity.[133] If that characterisation is even provisionally accepted, the underlying conduct falls within the category of serious breaches of norms of the highest rank in the international legal order. In such circumstances, it is difficult to regard retaliatory measures directed against foreign parliamentarians, public bodies, or other actors involved in criticising or sanctioning those abuses as internationally legitimate. Whatever one's view of the precise doctrinal status of collective countermeasures, the deployment of retaliatory measures to shield a state from consequences linked to alleged crimes against humanity sits in deep tension with the basic structure of an international legal order founded on the special gravity of peremptory norms and on the corresponding interest of the international community in their protection.

4.4. What is the goal of the global human rights sanctions regimes?

Traditionally, sanctions—whether grounded in a supranational legal mandate or adopted autonomously by States as an extension of their foreign policy—have been associated with

[129] Ibid at 65.

[130] See ILC, Draft conclusions on identification and legal consequences of peremptory norms of general international law (jus cogens) 2022, in *Yearbook of the International Law Commission*, 2022, vol. II, Part Two, Annex. According to Chachko and Newman, 'Building norms of economic coercion' (2025) 28 Journal of International Economic Law 542 at 555, 'The objective of Magnitsky Sanctions is arguably collective ... Under our framework, Magnitsky sanctions thus have a high degree of legitimacy'.

[131] European Parliament Research Service, *Chinese Counter-sanctions on EU targets* (May 2021). A further example of this category of countermeasures is the decision by the Russian Federation, shortly after the adoption of the original 2012 Magnitsky Act, to prohibit American nationals from adoptions of Russian children, enacted through the so-called Dima Yakovlev Law, see Hersey, supra n 104 at 1246.

[132] See 'China sanctions EU officials over Uyghur row' (*Deutsche Welle*, 22 March 2021). These sanctions remained until 30 April 2025. See European Parliament, Press release, *China lifts sanctions against MEPs* (30 April 2025).

[133] See supra n 68.

a *preventive and deterrent function*. At the heart of this understanding lies the assumption that sanctions are designed to produce a causal effect: to alter the calculations of the target and induce conduct that would not otherwise have occurred. In the case of comprehensive sanctions, the intended target is ordinarily the state itself. In the case of targeted sanctions, the audience is more circumscribed: individuals who exercise decision-making authority, form part of the repressive apparatus of the state, or are sufficiently connected to governing elites to influence official conduct. In either case, the underlying logic is instrumental. Sanctions are expected to generate pressure sufficient to modify behaviour in the desired direction—whether by halting ongoing violations, deterring further abuses, or restoring a degree of compliance with international law.[134] Some scholars contend that targeted sanctions are capable of mitigating, at least in part, the collateral damage associated with comprehensive measures. On this view, however, their more limited humanitarian impact is achieved at the cost of diminished coercive effectiveness, particularly where the target government attaches high political significance to the issue in dispute.[135] Other commentators are more sceptical, arguing that targeted sanctions continue to produce unintended spillover effects, with indirect economic, social, and political repercussions extending beyond the immediate designees to the broader population. If that assessment is correct, targeted sanctions may ultimately reduce effectiveness without adequately resolving the very problem of collateral harm they were intended to address.[136]

Government statements accompanying the adoption of unilateral measures frequently articulate preventive and deterrent objectives in explicit terms, presenting sanctions as instruments of pressure intended to modify the conduct of a country, government, or individual actor.[137] Yet the often uncoordinated nature of such measures, combined with the relatively limited number of states willing to impose them, significantly reduces the prospect of achieving the desired behavioural change.

In the specific context of human rights-based sanctions, the attainment of such an outcome is rendered even more elusive. Concerns about their effectiveness were raised in scholarly literature shortly after the adoption of the EU GHRSR,[138] and subsequent practice has amplified those concerns. In the cases of Iran, Russia, Belarus, Myanmar and China, not only do the conduct patterns that prompted designation appear to persist, but there is

[134] See, among others, the seminal studies by Doxey, *International Sanctions in Contemporary Perspective* (1987); Hufbauer, Schott, Elliot, Oegg, *Economic Sanctions Reconsidered* (2007); and Baldwin, *Economic Statecraft: New Edition* (2020). For more recent introductions to the idea of 'effectiveness' of sanctions and a summary of the legal, sociological, and economic discussions surrounding it, see Giumelli, 'Comprehensive Approach to Sanctions Effectiveness: Lessons Learned from Sanctions on Russia' (2024) 30 *European Journal on Criminal Policy and Research* 211; Portela, 'The Evaluation of Sanctions Efficacy', in Kirkham (ed), *The Routledge Handbook of the Political Economy of Sanctions* (2024) 13; McLean, 'Economic Coercion', in Pevenhouse, Seabrooke (eds), *The Oxford Handbook of International Political Economy* (2021) 254; and Biersteker, 'Measuring Sanctions' Effectiveness', in Charron, Portela, Sossai (eds) *Elgar Encyclopedia on International Sanctions* (2025) at 212.

[135] See, among others, Ang and Peksen, 'When Do Economic Sanctions Work? Asymmetric Perceptions, Issue Salience, and Outcomes' (2007) 60 *Political Research Quarterly* 135; and Cortright and Lopez, *Sanctions and the Search for Security* (2002).

[136] See Eriksson, 'The unintended consequences of United Nations targeted sanctions', in Biersteker, Eckert and Tourinho (eds), *Targeted Sanctions. The Impact and Effectiveness of United Nations Effects* (2016), at 190; and Bierseker, Tourinho, Eckert, 'The effectiveness of UN targeted sanctions', in *ibidem*, at 220.

[137] See Council of the European Council, *Sanctions Guidelines (Update)*, 5664/18 (4 May 2018) at 5. For the US, see EO 13818, supra n 26, preamble. For Australia, see Wong, 'Why I'm imposing sanctions on human rights abusers' (*The Sydney Morning Herald*, 10 December 2022).

[138] See, among others, Eckes, supra n 22 at 239; Tilahun, supra n 82 at 18; van der Have, supra n 48 at 60; Ruys, 'Introductory note to the European Union Global Human Rights Sanctions Regime (EUGHRSR) (2021) 60 *International Legal Materials* 299; and Moiseienko, supra n 92 at 23.

no discernible willingness on the part of those states to reconsider their policies in light of any presumed deterrent or dissuasive effect attributable to the existence or threatened application of human rights-based sanctions. Any assessment of sanctions effectiveness is, of course, methodologically fraught, requiring engagement with the inherently speculative realm of counterfactual reasoning —that is, with the question of what a State would have done in the absence of the measures imposed. Such judgements can never be made with complete confidence.[139] Even so, it seems reasonable to conclude that unilateral human rights-based sanctions have, in large measure, failed to produce meaningful behavioural effects: the States of nationality of designated individuals do not appear to have acted materially differently from how they would likely have acted in the absence of those regimes.

That difficulty is especially apparent when one considers the profile of many designated persons.[140] In the EU context, a substantial proportion of designations—some 55 per cent of the total—concern members of the state's repressive apparatus, including prison officers, police officials, judges, prosecutors, and other functionaries directly implicated in abusive practices.[141] Similar patterns, with some variation, can be observed across the other major Magnitsky-style regimes, with the possible partial exception of the US. The behavioural assumptions underlying such designations are, however, open to serious question. Individuals operating within authoritarian or rights-repressive systems are often more responsive to domestic political incentives than to external financial or mobility restrictions imposed by foreign jurisdictions. Measures adopted by their own government may be more immediate, more severe, and more consequential for their careers and personal security than the prospect of being denied entry to, or having assets frozen in, a small group of foreign states. Moreover, many such individuals do not maintain substantial assets abroad and do not lead markedly transnational lives, a circumstance that further curtails the coercive reach of the measures in question. The release of Russian activist Vladimir Kara-Murza stands as a notable exception, illustrating how coordinated multilateral action from the EU, US, Australia, Canada and the UK can operate as a meaningful force multiplier.

A second factor that further diminishes the capacity of these sanctions to induce behavioural change is the failure of existing regimes to specify what steps, if any, a designated individual must take to secure de-listing. As noted above, this ambiguity creates a risk that listings effectively cease to function as temporary restrictive measures and instead assume an open-ended character, transforming asset freezes into *de facto* confiscations and travel bans into quasi-permanent restrictions.

Finally, the level of seniority of those targeted by human rights-based sanctions warrants particular attention. To the extent that sanctions are intended to serve a deterrent function, it is essential that they focus on those at the apex of the state apparatus and its armed forces, so as to prevent further wrongdoing at the highest levels of authority.[142] Among the five regulatory frameworks examined in this article, only the US Global Magnitsky Act partially reflects this approach. EO 13818 provides the legal foundation for designations against 'leaders or officials' of entities, including governmental ones, involved in human rights abuses.[143] The EU, UK and Canadian frameworks contain no comparable provision;

139 See Bodansky, *The Art and Craft of International Environmental Law* (2024) at 358.
140 Ciampi, supra n 22 at 192, positing that human rights-based sanctions primarily aim to change the behaviour of alleged perpetrators is for most of the concerned countries 'to postulate an unworkable criterion'.
141 Portela and Tilahun, supra n 63 at 9.
142 Moiseienko, supra n 92 at 44.
143 EO 13818, supra n 26, sec. 1 (ii)(C).

while Australia applies an analogous formulation only in relation to corruption-related designations.[144] It would nonetheless be naïve to assume that a different approach would readily yield better outcomes, as all the states examined consistently refrain, save in a small number of exceptional cases,[145] from imposing sanctions on heads of state or governmental ministries, so as to preserve political and economic relationships of strategic importance. The measures imposed by the US, the UK, and Canada against lower-ranking Saudi officials allegedly responsible for the murder of Jamal Khashoggi illustrate this dynamic with particular clarity. The decision not to pursue accountability higher within the Saudi chain of command is evidently linked to the perceived necessity of maintaining political, military, and economic ties with a crucial partner in one of the world's most conflict-ridden regions. In conclusion, while Magnitsky-style sanctions may carry a more meaningful deterrent impact when directed against individuals from developing or least-developed states, their effectiveness against major economic or geopolitical powers—such as China, Saudi Arabia, Russia, and Iran—is in large measure minimal, and risks provoking backlash, entrenching resistance to the values championed by sanctioning states, and contributing to the consolidation of anti-Western coalitions.

These observations suggest that human rights-based sanctions, as they are currently applied, are not primarily oriented towards inducing significant behavioural changes at the highest levels of government. Rather, they appear to serve other functions, most notably the *curtailment of the impunity* that perpetrators of human rights abuses might otherwise enjoy, and the communication of a broader normative and political message through what may be characterised as a *signalling function*.

Viewed through the lens of impunity reduction, human rights-based sanctions may be understood as 'a form of criminal punishment, in which named individuals are publicly accused of crimes, and a punishment or sanction is prescribed and implemented'.[146] The instrumentalisation of sanctions for primarily *punitive purposes* presents certain practical advantages for states. It allows them to take visible action without committing to the more substantial measures that might jeopardise broader national interests. It also proves particularly useful in situations where more direct forms of pressure are unavailable, while still enabling governments to project the image of a 'global policeman' willing to respond to atrocity. Targeting a select number of individuals in this manner minimises broader political or economic repercussions, generating, as has been observed in the literature, maximum publicity at minimum cost.[147] Reconciling punitive purposes with the nature of sanctions as instruments of foreign affairs administered by executive agencies is, however, a complex endeavour. Unilateral international sanctions lack the due process protections characteristic of domestic legal systems; they are imposed on the basis of permissive evidential standards—such as 'credible evidence' or 'reasonable grounds to suspect'—which

144 Autonomous Sanctions Regulations, supra n. 31, Part 6A(6).

145 The most notable exceptions pertain to the designations by the UK, Canada and Australia of Israeli Minister of Finance Bezalel Smotrich and Minister of National Security Itamar Ben-Gvir. The US, Canada and UK have also sanctioned Hlaing Min Aung, the Burmese military officer who has ruled Myanmar under various titles since seizing power in 2021 and has served as Commander-in-Chief of Defence Services since 2011. Additionally, the US sanctioned Ramzan Kadyrov, the Head of the Chechen Republic, for being a leader of the Kadyrovtsy, an organization whose members have committed serious human rights abuses. Other designations of ministers and heads of state, such as Nicolás Maduro, President of Venezuela; Emmerson Mnangagwa, President of Zimbabwe; and Oscar Rolando Castri, Minister of Labor of El Salvador, pertain to sanctions for corruption-related offenses.

146 Alston, 'Criminalizing Human Rights' (2023) 15 *Journal of Human Rights Practice* at 662. See also Moiseienko, supra n 92 at 21.

147 Alston, supra n 146 at 672.

fall significantly short of the criminal standard of proof 'beyond reasonable doubt'; and they afford designated individuals limited opportunities to scrutinise or effectively challenge their listings.[148] This selectivity not only reinforces concerns about double standards, further distancing such measures from the protections afforded by domestic criminal systems, but also casts additional doubts on the already difficult question of effectiveness. If human rights-based sanctions are in substance akin to criminal measures, the appropriate metrics for evaluating their success remain unclear. Traditional criteria for assessing the efficacy of criminal sanctions, such as recidivism rates and patterns of re-offending,[149] have no clear analogue in the domain of international sanctions.

An alternative way of conceptualising human rights-based sanctions is to view them not primarily through the lens of effectiveness, but rather as instruments for conveying a message to one or more targets. On this account, sender states conceive of and employ sanctions as a means of publicly identifying certain conduct as unacceptable, attributing individual responsibility, and signalling that grave abuses will not pass entirely without external response. In doing so, they stigmatise perpetrators, shape diplomatic narratives, restrict international engagement, and contribute to broader processes of political and legal contestation. The *signalling* (or, *stigmatisation*) logic of sanctions is now widely recognised in the academic literature on sanctions policy.[150] On this view, the value of such measures resides less in their capacity to compel immediate behavioural change than in their capacity to mark wrongdoing, support documentation and accountability efforts, and render visible an international judgment of condemnation in contexts where formal adjudicatory mechanisms are unavailable or have been blocked. This does not preclude the possibility that designated individuals or states may modify their conduct to avoid reputational costs or to preserve future advantages, or that targets may adjust their behaviour to escape the costs associated with exclusion from cooperation and trade. Where a stigmatised actor accepts the label imposed upon it and alters its conduct in order to be readmitted into the relevant community, sanctions may indeed prove effective in the conventional sense.[151]

In the field of human rights, however, recent practice offers little support for the proposition that the signalling logic operates with meaningful effect. For stigma to function as an effective mechanism, the targeted actor must wish to remain a member of the relevant normative community and must experience a sense of shame in relation to the conduct that prompted its exclusion.[152] Yet, as already noted, many states today appear largely impervious to the stigma associated with human rights violations, even where the conduct in question involves breaches of peremptory norms of international law, including the prohibitions of torture, slavery, and racial discrimination. More than that, states whose

148 Ibid. at 668. But see the extensive practice within the EU framework of challenging, in particular, individual restrictive measures before EU judicial bodies, supra n 111.

149 See, for instance, Prescott, 'Criminal Sanctions and Deterrence', in Marciano and Ramello (eds) *Encyclopedia of Law and Economics* (2025), available at: https://doi.org/10.1007/978-1-4614-7883-6_19-4 [last accessed 10 April 2026].

150 On the signalling/stigmatising function, see, above all, Giumelli, *Coercing, Constraining and Signalling; Explaining UN and EU Sanctions after the Cold War* (2011); and Adler-Nissen, 'Stigma Management in International Relations: Transgressive Identities, Norms and Order in International Society' (2014) 68 *International Organizations* 143.

151 See also Hathaway and Shapiro, 'Outcasting: Enforcement in Domestic and International Law', (2011) 121 *Yale Law Journal* 252; Ciampi, supra n 22 at 192; and Hofer, 'All the World's a Stage, and Sanctions the Merely Props: an Interactional Account of Sender-Target Dynamics in the Ukrainian Crisis' (2021) 28 *International Peacekeeping* 259,

152 See also Whang and Kim, 'International Signaling and Economic Sanctions' (2015) 55 *International Interactions* 427.

nationals have been targeted by human rights-based sanctions have not merely resisted compliance with the demands of sanctioning states; in some instances, they have gone so far as to adopt counter-countermeasures of their own, grounded in an explicit refusal to recognize the legitimacy of collective countermeasures. From this perspective, the principal function of Magnitsky-style sanctions appears largely detached not only from the traditional objectives of deterrence and behavioural change, but also, to a significant degree, from stigmatisation understood as the imposition of reputational and material costs on targeted individuals. The stigmatising dimension of such measures is perhaps more accurately characterised as reflecting the intention of sanctioning States to reaffirm the importance of the norm that has been violated and to signal their refusal to engage, on ordinary terms, with individuals in other jurisdictions suspected of involvement in serious human rights abuses.

5. Conclusion

The field of human rights is marked by profound divergences in state sensitivity and normative commitment. While some states continue to uphold relatively demanding standards of rights protection, others remain wedded to considerably weaker conceptions of the obligations they owe in this domain. In his influential book *Human Rights in a Changing World*, published in 1990, Antonio Cassese identified certain structural forces that operate as barriers to the respect and progressive realisation of human rights at the global level. He attributes these forces to the architecture of the modern state and its assertion of sovereign authority within the international community. Cassese famously characterised these obstacles as ‘the Bastille we will have to take by storm’.[153]

More than thirty-five years on, the global landscape of human rights protection has remained largely unchanged. Against that backdrop, the appeal of Magnitsky-style sanctions is readily intelligible. By enabling states to impose, on their own initiative, targeted financial and travel restrictions on those allegedly responsible for grave human rights violations—including genocide, torture, slavery, arbitrary arrests and detentions, extrajudicial killings, and gender-based violence—such measures appear to offer a means of overcoming the structural impediments to human rights identified by Cassese and further exacerbated by the recent stagnation of the UNSC. It is noteworthy, in this regard, that multilateral human rights mechanisms have themselves, in at least two instances, contemplated or expressly called for the adoption of unilateral sanctions by states. The former Special Rapporteur on the situation of human rights in Iran recommended that states continue to apply ‘targeted sanctions for organizations and individuals that carry out serious violations of human rights’, alongside the full use of universal jurisdiction.[154] Similarly, in a joint communication addressing the transfer of weapons or ammunition to Israel for use in Gaza and the potential violations of international law that might ensue, several Human Rights Council special procedures emphasized that the duty to ‘ensure respect’ for international humanitarian law may require states to adopt measures—including sanctions—across areas such as trade, finance, travel, technology, or cooperation.[155]

[153] Cassese, *Human Rights in a Changing World* (1990) at 183. See also Hannum, ‘Reinvigorating Human Rights for the Twenty-First Century’ in Akande et al. (eds), *Human Rights and 21st Century Challenges* (2020) at 14.

[154] See Report of the Special Rapporteur, A/HRC/52/67 (7 February 2023) para. 78(c).

[155] See OHCHR, ‘Arms exports to Israel must stop immediately: UN experts’ (Press release, 23 February 2024). I am indebted to one of the anonymous reviewers for this observation, as well as for the preceding one.

Yet, the normative attractiveness of these regimes should not be permitted to obscure their structural limitations. Both the original design of these instruments and their implementation reveal critical gaps that risk undermining meaningful progress and effective compliance. They likewise caution against overstating the role of Magnitsky-style sanctions as a remedy for the broader enforcement deficit of the international system. On a closer examination, such measures may appear less as a principled response to the weaknesses of multilateral enforcement than as an attempt to bypass the constraints of international decision-making through recourse to unilateral action.[156] As one commentator has aptly observed, 'an uneven distribution of power to impose unilateral targeted sanctions is cementing de facto inequality between states'.[157]

This article has argued that Magnitsky-style sanctions do not, at least in their present form, constitute a robust alternative architecture for the international enforcement of human rights. Their legal basis under international law remains contested; the procedural standards governing listing and de-listing are often underdeveloped; their implementation has been marked by fragmentation and selectivity; and their practical effectiveness depends upon a degree of multilateral coordination that has, to date, proved uneven and episodic. These features do not render such sanctions irrelevant, but they do call for a more measured understanding of what they can realistically achieve.

The foregoing analysis gives rise to two sets of concluding considerations.

The first is legal and institutional in character. Claims that global human rights sanctions represent a straightforward or settled exercise of lawful unilateral enforcement are difficult to sustain. Even where such measures may be defended as retorsion—or, in more contested terms, as collective countermeasures connected to grave breaches of obligations owed to the international community as a whole—their legal justification remains far from uncontroversial. That difficulty is compounded by the fact that these regimes frequently operate through broad designation standards and imperfect review mechanisms, thereby raising concerns not only about their external legality under international law, but also about the adequacy of internal rule-of-law safeguards. If unilateral human rights sanctions are to retain legal credibility, greater attention must be devoted to evidentiary thresholds, to clearer grounds for designation, to the introduction of periodic review mechanisms, and to the provision of meaningful and accessible pathways for de-listing.

The second implication is functional. The evidence examined in this article suggests that Magnitsky-style sanctions may be instrumental in achieving favourable outcomes and contributing to the effective protection of human rights only in certain settings, and, above all, when coordinated across major jurisdictions. Such instances, however, appear exceptional rather than representative. The field of human rights is embedded in a particularly complex legal and political landscape, marked by profound divergences in the normative commitments and institutional sensibilities of states. In that context, sanctions—especially when adopted unilaterally—are not invariably the most effective instrument, not least given their inherent legal fragilities and practical limitations. In theory, Magnitsky-style sanctions are presented as universal responses to serious violations of human rights norms, irrespective of where such violations occur. In practice, however, their deployment has often reflected diplomatic alignments, strategic calculations, and uneven patterns of

[156] Among those who endorse a broader view of unilateral sanctions as normatively desirable instruments for the unilateral enforcement of international law, and even for its reshaping or redefinition through the discrete acts of hegemonic powers, see Hathaway and Shapiro, supra n 151 at 252; and Hakimi, 'Unfriendly Unilateralism' (2014) 55 *Harvard Journal of International Law* 105.

[157] Van Aaken, 'Introduction to the Symposium on Unilateral Targeted Sanctions' (2019) 113 *AJIL Unbound* 130.

political willingness. The result is a persistent gap between the universalist language in which these sanctions are justified and the selective manner in which they are applied, thus reinforcing the suspicion, voiced with particular force by states of the Global South, that such measures also function as instruments of geopolitical discretion. From this perspective, the principal challenge confronting these regimes is not simply that they are unilateral, but that their unilateralism is exercised selectively.

The more persuasive conclusion, therefore, is neither that Magnitsky-style sanctions have fundamentally transformed the enforcement of international human rights law, nor that they ought to be privileged over multilateral avenues for human rights protection. Their future legitimacy and practical role depend, rather, on whether sanctioning states are prepared to deploy them in conjunction with other instruments, as part of a broader and carefully integrated strategy—one in which sanctions constitute only one of several possible tools, each to be calibrated with due regard to the circumstances of the case at hand. From this perspective, a sustained commitment to engage with and utilize the available judicial and monitoring mechanisms at both the universal level—including the OHCHR and the broader UN treaty body system—and the regional level—encompassing the Council of Europe, the Organization of American States, and the African Union—is crucial for ensuring a genuinely multilateral and equitable safeguarding of human rights standards. As Cassese observed, an effective and lasting struggle for the realisation of human rights on a global scale requires 'a vast army … of commoners, of people who contribute in a thousand different ways and at different levels to the patient, humble tasks that must be accompanied day by day'.[158]

[158] Cassese, supra n 153 at 184.

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