

Review of *Sanctions: What Everyone Needs to Know*

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INTRODUCTION

As the title would suggest, *Sanctions: What Everyone Needs to Know* by Bruce Jentleson¹ is indeed a useful overview of much of the current scholarly landscape on sanctions. Sanctions, of course, have reached new prominence with the general public this year as historic sanctions were imposed against Russia for its invasion of Ukraine.² Sanctions have only grown in relevance as they have been ratcheted up in response to the continuing conflict and Russia's annexation of the four territories of Donetsk, Kherson, Luhansk, and Zaporizhzhia.³ More generally, sanctions have also grown in frequency of use in recent years, particularly by the United States, but also increasingly by the European Union and China.⁴

This book is timely and relevant for understanding the Russia sanctions as well as sanctions in general, both modern and historic. And of particular note, the book deals with recent major developments that may shift or at least refine our prior understanding of the effects and potential capabilities

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¹ BRUCE W. JENTLESON, *SANCTIONS: WHAT EVERYONE NEEDS TO KNOW* (2022).

² CORY WELT & CONG. RESEARCH SERV., IN11869: RUSSIA'S 2022 INVASION OF UKRAINE: OVERVIEW OF U.S. SANCTIONS AND OTHER RESPONSES 1 (2022), <https://perma.cc/GY7N-NNNW>; Edward Wong et al., *Five Ways Sanctions Are Hitting Russia*, N.Y. TIMES (Nov. 4, 2022), <https://perma.cc/X7XU-3XJQ>.

³ See, e.g., Council of the EU, *EU Adopts Its Latest Package of Sanctions Against Russia over the Illegal Annexation of Ukraine's Donetsk, Luhansk, Zaporizhzhia and Kherson Regions*, EUR. COUNCIL (Oct. 6, 2022, 10:55), <https://perma.cc/ES8S-FQHG>; Charles Maynes, *Putin Illegally Annexes Territories in Ukraine, in Spite of Global Opposition*, NPR (Sept. 30, 2022, 3:50 PM EST), <https://perma.cc/J93W-FCGM>.

⁴ Richard Haas, *Economic Sanctions: Too Much of a Good Thing*, BROOKINGS (June 1, 1998), <https://perma.cc/RC6H-RCNR>.

of sanctions.

The value of a high-level overview such as this—the book covers centuries of history and a plethora of legal provisions in relatively brief measure—is that it provides an opportunity to discern common characteristics of sanctions and a chance to appreciate the staggering variety of sanctions over time, both in nature and in effects. Various chapters outline key themes recurring throughout multiple case studies of sanctions. Major challenges to the effective and targeted use of sanctions include issues around accurately measuring their impact; the relationship between sender states and private actors affected by their sanctions, including the tendency of private actors to overcomply with legal provisions; and the use of sanctions to address human rights violations compared to sanctions' tendency to wreak humanitarian harms when deployed in a comprehensive manner. While this review focuses on these particular themes, Jentleson's book covers many other sanctions-related considerations and is valuable to understanding the topic as a whole.

I. How to Measure the Impact of Sanctions

Jentleson recognizes a key difficulty in understanding the impact of already-imposed sanctions and designing a sanctions program *ex ante*: the challenge of measuring the effectiveness of sanctions, and even defining what effectiveness means. He identifies a key aspect of sanctions: that they have been used in different situations to attempt to reach different goals, which can vary in scope and nature. Often, a single set of sanctions may have disparate goals.

To explain the range of sanctions goals, Jentleson characterizes sanctions as primary or secondary. He further classifies the goals of primary sanctions as limitation of military capabilities, foreign policy restraint, or domestic political change. Secondary sanctions similarly break down further into the subcategories of target deterrence, third party deterrence, or symbolic action.⁵ Jentleson notes that the use of sanctions to reach the more limited objectives is more likely to be successful.

The various goals of sanctions must be considered when asking the broad question of whether sanctions can be considered effective. The question of effectiveness is often construed as whether sanctions have achieved their intended goals. This question is complicated by the variety of goals a particular set of sanctions may attempt to achieve, or by a lack of clarity around those articulated goals. And indeed, as others have noted, the stated goals of sanctions might not be the only goals by which to evaluate effectiveness. "Another challenge in sanctions effectiveness assessment lies in the ability to learn the expected outcomes behind sanctions. Official announcements do not necessarily expose the motives and grounds behind

⁵ JENTLESON, *supra* note 1, at 13–14.

sanctions.”⁶ This further impedes the assessment process.

Jentleson also identifies various complications that impede quantitative assessment of sanctions. What, for instance, constitutes a single example of imposing sanctions where the restrictions were escalated or otherwise changed over time? The success of sanctions also often depends on a longer temporal scope.⁷ For example, the recent export controls imposed against Russia might undermine the Russian economy—but it might take a relatively long period of time to observe the full extent of the effects.⁸

While judging the effectiveness of already-imposed sanctions can be difficult⁹, anticipating the effects of sanctions *ex ante* poses even greater challenges. Such an assessment requires “accurate and timely information on not only the sanctioned country’s economy, but also on its commercial and financial relationships with other countries—both current and potential.”¹⁰ The design of sanctions and features affecting their potential success also depends on factors such as whether they are imposed multilaterally or unilaterally, along with other attributes.¹¹

The effects of sanctions are not the only factor to be used in calculating their effectiveness; they must be weighed against their costs. In response to an article by Pape, Baldwin argued that “only the combined analysis of costs and effectiveness allows one to make judgments about the efficiency of economic sanctions.”¹² While sanctions may produce notable economic effects on the target nation, they may be considered effective only if they do not outweigh the costs those same measures impose on targeting states, third-party nations, and others who are not the intended targets of the sanctions.¹³

Other factors impact the effectiveness of sanctions as well. Bryan Early’s work has examined why economic sanctions often fail, breaking down many

⁶ Beata Stepien et al., *Challenges in Evaluating Impact of Sanctions – Political vs Economic Perspective*, 4 PRZEGLAD POLITOLOGII 156, 165, <https://perma.cc/T8DU-R88Q>.

⁷ Robin Wright, *Why Sanctions Too Often Fail*, THE NEW YORKER (Mar. 7, 2022), <https://perma.cc/NE27-V898> (“Sanctions take a comparative eon in the scheme of war or a humanitarian crisis”).

⁸ *Western Sanctions Will Eventually Impair Russia’s Economy*, THE ECONOMIST (Aug. 24, 2022), <https://perma.cc/62Z5-2ZKF>.

⁹ See, e.g., Jill Jermano, *Economic and Financial Sanctions in U.S. National Security Strategy*, 7 PRISM 63, 71 (2018) (“Measuring effectiveness and comparative utility can be difficult if there are multiple objectives or if the combined use of several instruments produces synergies or multiplier effects.”).

¹⁰ JOHN FORRER & ATL. COUNCIL, *ALIGNING ECONOMIC SANCTIONS 2* (2017), <https://perma.cc/W3R5-J688>.

¹¹ See, e.g., William H. Kaempfer & Anton D. Lowenberg, *Unilateral Versus Multilateral International Sanctions: A Public Choice Perspective*, 43 INT’L STUDIES Q., 1999, at 37, 48, 52.

¹² David Baldwin, *Evaluating Economic Sanctions*, 23 INT’L SEC. 13 (1998).

¹³ See, e.g., Esfandiyar Batmanghelidj & Erica Moret, *The Hidden Cost of Sanctions*, FOREIGN AFFS. (Jan. 17, 2022), <https://perma.cc/4HTA-VA2Y>.

failures into the major categories of trade-based and aid-based sanctions busting.¹⁴ The readiness of other states to engage in sanctions-busting activity may depend on numerous factors such as existing commercial ties between states, the diplomatic stance of a sanctioning and target state, or the economic profile of third-party states.

Jentleson provides a useful introduction to the difficulties of assessing the impact and success of sanctions. While questions around sanctions' effectiveness remain outstanding and will certainly perplex the easy design and analysis of sanctions well into the future, this book does an excellent job of highlighting some of the most notable difficulties associated with assessing the effectiveness of sanctions.

II. Overcompliance by Private Actors

Jentleson also details the role of private actors in determining how legal provisions are actually implemented in practice. Private actors may overcomply with sanctions beyond the scope of actual legal restrictions. Such was the case with how many private companies responded in early 2022 to sanctions imposed against Russia, a trend Jentleson describes:

In contrast to most cases in which major multinational companies resist sanctions, close to 1000 companies—oil companies like BP and ExxonMobil, retail companies like Nike and Ikea, restaurant chains like McDonald's and Starbucks, auto companies like BMW and Ford, entertainment companies like Disney, tech companies like Apple and Google, and Coinbase the largest US cryptocurrency exchange—ended or at least suspended business in and with Russia.¹⁵

Jentleson's sanctions framework thus acknowledges an interesting aspect of sanctions today: they are often expanded in reality by the behavior of private firms. These private entities may overcomply with sanctions for a variety of different reasons. Overcompliance may be cheaper to implement than strict compliance with a complex set of restrictions. The potential legal and reputational penalties associated with imperfect compliance may induce a risk-averse private entity to instead select overcompliance as an insurance policy against incurring such penalties. Or certain legal provisions can contribute to overcompliance, like the 50% Rule of the United States Department of the Treasury's Office of Foreign Assets Control (OFAC).¹⁶

¹⁴ BRYAN R. EARLY, *BUSTED SANCTIONS: EXPLAINING WHY ECONOMIC SANCTIONS FAIL* 3–4 (2015).

¹⁵ JENTLESON, *supra* note 1, at 95.

¹⁶ Cameron Johnston, *Sanctions Against Russia: Evasion, Compensation and Overcompliance*, E.U. INST. FOR SEC. STUDIES 1, 4 (May 2015) <https://perma.cc/4U2S-SC5G>; Emmanuel Breen, *Corporations and US Economic Sanctions: The Dangers of Overcompliance*, in RSCH. HANDBOOK ON UNILATERAL & EXTRATERRITORIAL SANCTIONS 256, 256–57, 262–63 (Charlotte Beaucillon ed.,

Under this rule, an entity may be subject to sanctions restrictions, even when not specifically designated, if it is owned 50% or more by parties designated as Specially Designated Nationals and Blocked Persons (SDNs).¹⁷ Determining ownership may be unavailable, so private entities might instead simply choose to not do business with an entity where ownership is unclear.

Extraterritorial sanctions regulations may also encourage overcompliance. For example, robust extraterritorial enforcement by a sanctions regulator (as has been the case with the United States)¹⁸ might encourage overcompliance abroad. The trend of overcompliance may also interact with the expanded use of secondary sanctions, whereby a party may become formally sanctioned due to its support of an already-sanctioned party, even if such support was permitted by the existing legal framework.¹⁹ Where secondary sanctions are possible or anticipated, overcompliance may be desirable to a regulated party to avoid the risk of direct sanctions being imposed, along with the reputational harm that would accompany such a designation. Public opinion and reputational risks may provide additional non-legal impetus to select overcompliance instead of strict compliance.²⁰ Financial institutions also have the power to propagate trends of overcompliance as they require their customers to adhere to their own understanding and implementation of sanctions and other legal restrictions.²¹

2021).

¹⁷ *Entities Owned by Blocked Persons (50% Rule)*, U.S. DEP'T OF THE TREASURY (Aug. 11, 2020), <https://perma.cc/L9ZS-D7CP>.

¹⁸ BRYAN R. EARLY & KEITH A. PREBLE, ENFORCING ECONOMIC SANCTIONS: ANALYZING HOW OFAC PUNISHES VIOLATORS OF U.S. SANCTIONS 28 (2018), <https://perma.cc/MH5L-FZ9J>; Sachsa Lohmann, *Extraterritorial U.S. Sanctions: Only Domestic Courts Could Effectively Curb the Enforcement of U.S. Law Abroad*, STIFTUNG WISSENSCHAFT UND POLITIK (Feb. 6, 2019), <https://perma.cc/MH5L-FZ9J>.

¹⁹ See Daniel Meagher, *Caught in the Economic Crosshairs: Secondary Sanctions and the American Sanctions Regime*, 89 FORDHAM L. REV. 999, 1014–15 (2020).

²⁰ JIM WOODSOME ET AL., POLICY RESPONSES TO DE-RISKING: PROGRESS REPORT ON THE CGD WORKING GROUP'S 2015 RECOMMENDATIONS 5 (2018), <https://perma.cc/FVL8-4VFJ> (“[D]e-risking is driven by several interacting factors, including AML/CFT risk, compliance risk, and compliance costs, but also profitability considerations and financial institutions’ unrelated business strategy decision. Reputational risks and heightened concerns about the security climate may also be a factor.”); Paul L. Lee, *Compliance Lessons from OFAC Case Studies – Part II*, 131 BANKING L.J. 717, 742 (2014) (“In addition to the regulatory and financial consequences, there were significant reputational and governance consequences for HSBC from these law enforcement and regulatory actions.”).

²¹ *Schemes and Subversion: How Bad Actors and Foreign Governments Undermine and Evade Sanctions Regimes: Hearing Before the H.R. Subcomm. on Nat'l Security, Int'l Development, and Monetary Policy of the Comm. on Fin. Serv.*, 117th Cong. 13 (2021) (Testimony of Lakshmi Kumar), <https://perma.cc/8S8X-SCWN>, (“[G]atekeepers [such as traditional centralized exchanges] often understand and implement sanctions compliance programs and have served as key force

As other research has noted, overcompliance is also often a function of targeted sanctions and overlapping sanctions regimes.²² Targeted sanctions, or smart sanctions, are unlike comprehensive sanctions regimes in that they sanction particular individuals or entities, rather than an entire jurisdiction.²³ While many the imposition of many new sanctions have been coordinated among jurisdictions in the case of the recent Russia sanctions, some significant differences do exist in cases of particular provisions between jurisdictions, thus raising the cost of strict compliance as opposed to a wholesale de-risking by way of overcompliance.²⁴ Targeted sanctions may be more precise instruments, but they may be harder to understand and implement than a comprehensive ban on most types of financial transactions with a particular nation or area.

De-risking and overcompliance have certainly become notable trends in recent years, significantly with recent sanctions against Russia, but they are by no means universal across different types of sanctions. Jentleson notes the limits of overcompliance: “Indeed at the same time that a number of companies were ending and cutting back on their Russia business, they were trying to get around the Uyghurs sanctions in China.”²⁵ A recent op-ed noted instances of non-compliance with the Uygher sanctions, suggesting a combination of imperfect enforcement and similar shortfalls in corporate compliance.²⁶ But, while no means universal, overcompliance is certainly a significant factor in determining what effects sanctions may produce in reality.

Overcompliance is not without greater societal drawbacks. In the financial sector, the World Bank has commented that broad de-risking:

may threaten progress that has been achieved on financial inclusion...has the potential to reverse some of the progress made in reducing remittance prices and fees, may result in humanitarian organizations losing access to financial

multipliers of U.S. sanctions, ensuring that a wide range of individuals and companies abide by their obligations.”) (contrasting behavior of such gatekeepers with the risks posed by cryptocurrency platforms).

²² See Francesco Giumelli & Michal Onderco, *States, Firms, and Security: How Private Actors Implement Sanctions, Lessons Learned from the Netherlands*, 6 EUR. J. INT’L SEC. 190, 191 (2021).

²³ Gary C. Hufbauer & Barbara Oegg, *Targeted Sanctions: A Policy Alternative?*, 32 LAW & POL’Y INT’L BUS. 11, 11–12 (2000).

²⁴ See, e.g., *The Differences Between UK and EU Russian Sanctions*, KOBRE & KIM (May 9, 2022), <https://perma.cc/3EQS-SVPM>.

²⁵ JENTLESON, *supra* note 1, at 195.

²⁶ Josh Rogin, *There’s Never a Convenient Time to Try to Stop a Genocide*, WASH. POST (Sept. 1, 2022, 4:02 PM EDT), <https://perma.cc/EVX3-VCA> (“[A]gricultural products such as red dates from Xinjiang (which are produced by a state-run paramilitary conglomerate banned...) can still be found today in supermarkets across the Washington metropolitan area. Moreover, although the Biden administration has imposed sanctions on Chinese companies and officials for atrocities in Xinjiang in the past, it hasn’t used the new law’s sanctions powers even once.”).

services, and can frustrate AML/CFT [anti-money laundering/counter-terrorist financing] objectives...by pushing higher risk transactions out of the regulated system into more opaque, informal channels.²⁷

The United Nations Office of the High Commissioner for Human Rights cited “[a] Swedish bandage maker’s decision to halt shipments to Iran [as an example of] how over-compliance with U.S. sanctions harms the ability of Iranian patients to enjoy their human rights, particularly the rights to health.”²⁸ The general counsel of Access Now commented on digital access for Iranians: “Corporate overcompliance with Iran sanctions deprives vulnerable and marginalized people of the goods and services they need to stay safe and active in defense of human rights.”²⁹

Jentleson’s book therefore identifies the impact that overcompliance has on the implementation of sanctions and their effects. This is a core strength of the book; in addition to identifying the legal provisions of sanctions, it identifies a myriad of other factors, political and economic, that may affect the outcome of sanctions measures.

III. Humanitarian Impacts, and Addressing Human Rights Violations Through the Use of Sanctions

In his conclusion, Jentleson deals with the humanitarian problems often caused by sanctions. While sanctions are often imposed in the name of protecting human rights and vindicating human rights abuses, they can paradoxically become the source of harm for those suffering human rights abuses:

[E]thical issues remain if the sanctions bring high civilian pain. I especially wrestle with putting all these considerations together when it comes to human rights and atrocities. How could the US not impose sanctions on the Myanmar military amid its brutal February 2021 coup? Or against Serbia for the 1990s ethnic cleansing perpetrated against Bosnian Muslims? Or China for atrocities against the Uyghurs? Shouldn’t brutalizers be made to pay a price? Don’t internal opponents deserve to know that the international community stands with them? Isn’t there soft power value to affirming principles? Rarely, though, have such sanctions brought about substantial policy change. In some instances, they have been net negative, backfiring and making the problems even worse, and misfiring in hitting

²⁷ *De-risking in the Financial Sector*, WORLD BANK (Oct. 7, 2016), <https://perma.cc/83TY-R68T>.

²⁸ *Over-Compliance with US Sanctions Harms Iranians’ Right to Health*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R (Oct. 19, 2021), <https://perma.cc/32NB-CYCK>.

²⁹ *The World Must Support People in Iran: Sanctions Relief Helps Connect the Nation*, ACCESS NOW (Sept. 26, 2022, 10:31 AM), <https://perma.cc/A49Z-BBBJ>.

the populace more than the regime.³⁰

Indeed, the humanitarian concerns that Jentleson describes are often the basis for serious criticism of modern sanctions regimes, and ones which targeted sanctions are designed to address.³¹ As Jentleson notes, the sanctions against Iraq created a humanitarian crisis: “The 1990s Iraq sanctions, while succeeding in disarming Saddam’s WMD programs, hit the populace as ‘sanctions of mass destruction’ with thousands of deaths from malnutrition, lack of necessary medical supplies, inadequate drinking water, and poor sanitation.”³² As Farrell stated in his review of Mulder’s history of economic sanctions in the interwar period:

In the 21st century too, the economic weapon may inflict wounds that cannot heal. Lord Curzon has long since fallen to dust and bones, but the cries of hundreds of thousands in Afghanistan, threatened by sanctions-induced starvation, seem nearly as hard for modern policymakers to hear as they were a century ago.³³

And as Jentleson notes, sanctions designed to address human rights abuses may paradoxically trigger greater repression and human rights violations by targeted governments.³⁴ Research findings support this conclusion.³⁵

Targeted sanctions to address human rights abuses, however, have been adopted as measures intended to send a strong international message about

³⁰ JENTLESON, *supra* note 1 at 191.

³¹ Joy Gordon, *Smart Sanctions Revisited*, 25 ETHICS & INT’L AFFS. 315, 320–21 (2011).

³² JENTLESON, *supra* note 1 at 27; *see also* Iraq: 1989-1999, *A Decade of Sanctions*, INT’L COMM. OF THE RED CROSS (Dec. 14, 1999), <https://perma.cc/UF9D-BKBU>; Daniel W. Drezner, *How Smart are Smart Sanctions?*, 5 INT’L STUDIES REV. 107, 107 (2003), <https://perma.cc/79GJ-HDBW> (“[f]or over a decade, the comprehensive trade sanctions against Iraq have hung like a millstone around the practice of economic statecraft. Scholars and policymakers alike recognize that the sanctions have had a devastating humanitarian impact on the Iraqi population”); *Razing the Truth About Sanctions Against Iraq*, GENEVA INT’L CTR. FOR JUST., <https://perma.cc/GQC5-N8FD> (last visited Feb. 14, 2023); Daniel W. Drezner, *How Not to Sanction*, 98 INT’L AFFS. 1533, 1534–40 (2022). *See also* Tim Dyson & Valeria Cetorelli, *Changing Views on Child Mortality and Economic Sanctions in Iraq: A History of Lies, Damned Lies and Statistics*, 2 BMJ GLOB. HEALTH, Mar. 2017, at 1, 1, 2, 4–5.

³³ Henry Farrell, *The Modern History of Economic Sanctions*, LAWFARE (Mar. 1, 2022, 2:40 PM), <https://perma.cc/GVB2-WHYZ>.

³⁴ *See* Dursun Peksen, *Better or Worse? The Effect of Economic Sanctions on Human Rights*, 46 J. PEACE RSCH. 59, 74 (2009), <https://perma.cc/J9PE-CE3L>.

³⁵ *See, e.g., id.* at 74 (“[I]t is evident that the use of ‘sticks,’ at least in the form of economic coercion as a foreign policy tool, does not contribute to the advancement of human rights.”); U.S. GOV’T ACCOUNTABILITY OFFICE, *ECONOMIC SANCTIONS: AGENCIES ASSESS IMPACTS ON TARGETS, AND STUDIES SUGGEST SEVERAL FACTORS CONTRIBUTE TO SANCTIONS’ EFFECTIVENESS* 25–26 (2019), <https://perma.cc/XQH3-TUSU> (noting that some studies “suggest that sanctions may also have unintended consequences. For example, some studies suggest that sanctions have had a negative impact on human rights, the status of women, public health, or democratic freedoms in target countries.”).

the importance of protecting human rights, while attempting to limit the humanitarian harms arising from the use of more broadly constructed sanctions. Research suggests that while sanctions may not affect the behavior of human rights violators themselves, they can serve a signaling function to would-be bad actors that the international community will take action against similar abuses elsewhere.³⁶ Nations have clearly seen a place for sanctions to address human rights abuses. For example, sanctions imposed by the United States for human rights violations worldwide have sharply increased in recent years.³⁷ They have been deployed by the United States regarding human rights violations involving Bangladesh, Burma, Uyghurs in China, and North Korean workers in other countries, among other situations.³⁸

In the context of Russia, the 2012 Sergei Magnitsky Act allowed the United States to sanction human rights abusers in Russia, spurred by the death of attorney Sergei Magnitsky in Russian police custody. The 2016 Global Magnitsky Act extended the United States' sanctioning power to address human rights abuses worldwide.³⁹ Countries and jurisdictions across the world adopted similar Magnitsky legislation, including the European Union, the United Kingdom, Canada, Australia, Estonia, Latvia, and Lithuania.⁴⁰ An account of the origin of these acts can be found in Bill Bowder's book *Red Notice* and its sequel *Freezing Order*.⁴¹ Provisions of the Countering America's Adversaries Through Sanctions Act (CAATSA) also impose sanctions against human rights violators, including those in Russia.⁴²

Similarly, the human rights abuses against the Uyghurs seem to call for a response from the global community. In August, the Office of the United

³⁶ Timothy M. Peterson, *Taking the Cue: The Response to US Human Rights Sanctions Against Third Parties*, 31 CONFLICT MGMT. & PEACE SCI. 145, 150 (2013).

³⁷ Jason Bartlett & Megan Ophel, *Sanctions by the Numbers: Spotlight on Human Rights and Corruption*, CTR. FOR A NEW AM. SEC. (Apr. 1, 2021), <https://perma.cc/H5F4-BEF3>.

³⁸ *Treasury Sanctions Perpetrators of Serious Human Rights Abuse on International Human Rights Day*, U.S. DEP'T OF THE TREASURY (Dec. 10, 2021), <https://perma.cc/NX3L-F2KK>; *Treasury Sanctions Chinese Government Officials in Connection with Serious Human Rights Abuse in Xinjiang*, U.S. DEP'T OF THE TREASURY, (Mar. 22, 2021), <https://perma.cc/SQ2T-XEDG>.

³⁹ *Permanent Global Magnitsky Act Will Ensure Perpetrators Face Consequences*, FREEDOM HOUSE (Apr. 12, 2022), <https://perma.cc/PW5G-ARF2>.

⁴⁰ CONG. RSCH. SERV., NO. IF10576: THE GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT 1 (2020); BEN SMITH & JOANNA DAWSON: BRIEFING PAPER NO. CBP 8374: MAGNITSKY LEGISLATION (2020), <https://perma.cc/8LRG-QWPC>; Christina Eckes, *EU Global Human Rights Sanctions Regime: Is the Genie Out of the Bottle?*, 30 J. CONTEMP. EUR. STUD. 255, 262 (2021).

⁴¹ *See How to Get Human Rights Abusers and Kleptocrats Sanctioned Under the Global Magnitsky Act: Hearing Before the U.S. Helsinki Commission*, 115th Cong. 2 (2018).

⁴² Ivan N. Timofeev, *Unilateral and Extraterritorial Sanctions Policy: The Russian Dimension*, in RSCH. HANDBOOK ON UNILATERAL & EXTRATERRITORIAL SANCTIONS 90, 94, 96, 98, 100 (Charlotte Beaucillon ed., 2021).

Nations High Commissioner for Human Rights issued a report concluding that “[t]he treatment of persons held in the system of so-called VETC facilities” was of concern, and that “[a]llegations of patterns of torture or ill-treatment, including forced medical treatment and adverse conditions of detention, are credible, as are allegations of individual incidents of sexual and gender-based violence.”⁴³ In 2018, Human Rights Watch issued a report documenting “the Chinese government’s mass arbitrary detention, torture, and mistreatment” of the Uyghur population.⁴⁴ These abuses seem to call for some sort of response—and the weapon of economic sanctions, though imperfect, is less incendiary in nature than some other direct action might be.⁴⁵

Indeed, some sanctions and trade measures have been considered or enacted in response. In 2022, the United States reportedly considered sanctioning Chinese company Hikvision, under the Global Magnitsky Act, for providing cameras and marketing facial recognition systems to monitor Uyghurs and enable China’s human rights abuses against that group.⁴⁶ In the context of the Uyghur genocide, import restrictions have also been enacted to supplement sanctions measures. At the end of 2021, President Biden signed into law the Uyghur Forced Labor Prevention Act, which acts to prevent the importation of goods mined, produced, or manufactured in the Xinjian Uyghur Autonomous Region of China into the United States, absent evidence sufficient to rebut the presumption that such goods were manufactured using forced labor.⁴⁷

Jentleson thus identifies a core tension inherent in the design and implementation of sanctions programs: the imperfection of sanctions to prevent or halt human rights abuses, compared with the moral imperative to address human rights violations. Such sanctions, as they are implemented in practice, seem to be designed for a moral principle rather than for economic effect.⁴⁸ A sanctioning power might also refuse, for moral reasons,

⁴³ OHCHR ASSESSMENT OF HUMAN RIGHTS CONCERNS IN THE XINJIANG UYGHUR AUTONOMOUS REGION, PEOPLE’S REPUBLIC OF CHINA, OFF. OF THE U.N. HIGH COMM’R FOR HUM. RTS. 43 (2022), <https://perma.cc/363H-DHPT>.

⁴⁴ *China: Massive Crackdown in Muslim Region*, HUM. RTS. WATCH (Sept. 9, 2018, 8:01 PM EDT), <https://perma.cc/38LB-D936>. See also Tirana Hassan, *The UN Needs to Address China’s Abuse of Uyghurs, Without Further Delay*, THE GLOBE & MAIL (Sept. 15, 2022), <https://perma.cc/KX2U-9H9X>.

⁴⁵ See Peterson, *supra* note 36, at 25–27 (positing that human rights-related sanctions signal to third party states the importance of complying with human rights norms).

⁴⁶ Jon Bateman, *U.S. Sanctions on Hikvision Would Dangerously Escalate China Tech Tensions*, CARNEGIE ENDOWMENT FOR INT’L PEACE (May 6, 2022), <https://perma.cc/L4T2-25AL>; Demitri Sevastopulo, *U.S. Moves Towards Imposing Sanctions on Chinese Tech Group Hikvision*, FT (May 4, 2022), <https://perma.cc/FXX8-8SFA>.

⁴⁷ *Uyghur Forced Labor Prevention Act*, U.S. CUSTOMS & BORDER PROT. (last visited Feb. 14, 2023), <https://perma.cc/RVK8-K89V>.

⁴⁸ See Aryeh Neier, *Do Economic Sanctions in Response to Gross Human Rights Abuses Do Any*

to economically fund or aid the target, even if there is some economic alternative which the target will use; even if the effects of the sanctions are muted; or even if they cause harm to the sanctioning power itself.⁴⁹ A constant challenge of sanctions is foreseeing economic effects, such that the moral justification of refusing to economically supply a targeted human rights violator is not used in such a way that results in economic hardship or greater repression for the very people the sanctions are intended to aid.

CONCLUSION

Jentleson's book is an interesting, informative work that describes significant examples of sanctions throughout history and raises important questions around the expansive use of sanctions. It highlights the important facts one needs to know about sanctions—as well as those issues for which we do not yet have answers.

Good?, JUST SECURITY (Apr. 29, 2021), <https://perma.cc/B63Q-6DCG> (“The real effect of Western sanctions is to tarnish the reputation of China’s leader, President Xi Jinping.”).

⁴⁹ Elizabeth Ellis, *The Ethics of Economic Sanctions*, IEP, <https://perma.cc/MS7L-CVPE> (last visited Feb. 14, 2023) (“[U]nder a clean hands conception of economic sanctions the imposition of sanctions is...a moral *duty*—a duty derived from the duty not to be complicit in human rights violations,” citing Noam Zohar, *Boycott, Crime and Sin: Ethical and Talmudic Responses to Injustice Abroad*, ETHICS & INT’L AFFAIRS (1993)).