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Thank you to the Commission for inviting the Congressional Research Service to join this discussion. As requested, I will focus my attention on the origins of global targeted human rights sanctions tools—namely, the Global Magnitsky law and associated executive order, as well as Section 7031(c) visa sanctions. In addition and also as requested, I will comment briefly on how some foreign governments have responded to the use of these sanctions tools in cases related to religious freedom.

Global Magnitsky Sanctions

The Global Magnitsky Human Rights Accountability Act (Global Magnitsky Act; Title XII, Subtitle F of P.L. 114-328) authorizes the President to impose economic and visa sanctions on foreign persons identified as engaging in human rights violations or corruption.¹

The Act has its origins in a 2012 law focused on Russia, the Sergei Magnitsky Rule of Law Accountability Act (Title IV of P.L. 112-208). Magnitsky, a tax lawyer and auditor in Russia, had documented rampant Russian government corruption before being arrested and ultimately dying in prison in November 2009. Congress passed the Magnitsky law to require sanctions against persons involved in his detention, abuse, or death, as well as those responsible for other gross violations of human rights in Russia.

Although the 2012 law focused on Russia, some earlier versions of the legislation would have provided authority to sanction persons globally, and some Members of Congress expressed a hope that future legislation would create such a global authority.² Members of Congress introduced legislation toward this goal in subsequent legislative sessions, ultimately culminating in passage of the Global Magnitsky Act in December 2016.

Numerous Members of Congress described both the Russia-focused law and the later global law as providing the United States with tools to impose some measure of accountability against perpetrators of human rights violations, particularly when foreign governments are unable or unwilling to do so.³

As a targeted sanctions tool, Global Magnitsky sanctions contrast with some other provisions in law that contemplate broader restrictions on relations with governments on the basis of human rights.⁴ In addition,

¹ For additional background, see “The Global Magnitsky Human Rights Accountability Act,” at <https://crsreports.congress.gov/product/pdf/IF/IF10576>.

² See remarks by numerous Senators during Senate consideration of the House-passed Sergei Magnitsky Rule of Law Accountability Act of 2012. Senator Ben Cardin, for example, stated, “I think it would have been much better if we would have incorporated the international standards and global provisions ... But there is a clear message here: This bill is our standard. We will be holding countries to this standard ... We will look for other opportunities to reinstitute the global application of the Magnitsky standards.” *Congressional Record*, daily edition, vol. 158 (December 5, 2012), pp.S7429-S7445.

³ For example, during Senate consideration of the 2012 law, Senator John McCain stated, “If citizens and civil society groups in Russia do not have a path to justice in Russia, then the international community has a responsibility to show these people that there can still be accountability, that there can still be consequences, for what they are suffering ... The Magnitsky Act does not require the Russian government or Russian citizens to do anything they do not wish to do. It cannot force human rights abusers in Russia to stop what they are doing. But if they continue, what this legislation does do is tell those individuals that they cannot bank their money in the United States, that they are not welcome in this country, that they cannot visit this country, and that they will have no access to the U.S. financial system.” *Ibid.* In a 2015 briefing discussing the potential global law, Representative James McGovern stated, “this legislation is not a substitute for strengthening rule of law in the countries where these kinds of abuses are occurring. But it would allow us to ensure that people responsible for abuses do not benefit from being able to come to our country and do business here.” See Tom Lantos Human Rights Commission (TLHRC), “Global Magnitsky 101,” briefing, April 28, 2015.

⁴ For example, restrictions on U.S. assistance to foreign governments pursuant to Section 116 (22 U.S.C. §2151n) or Section

as a standing global authority, the law provides the executive branch with a relatively nimble means of imposing sanctions without requiring the establishment of a broader country-specific sanctions regime, which can be time consuming and diplomatically challenging.⁵

Executive Order 13818

The executive branch has implemented Global Magnitsky sanctions through a 2017 Executive Order (E.O.), E.O. 13818.⁶ This E.O. builds upon the Global Magnitsky Act by drawing on other presidential authorities.⁷ It includes differences in language that expand the scope beyond that stated in the law, providing the executive branch with the capacity to target a broader range of persons globally. For instance, the E.O. broadens the standard of behavior for sanctionable targets from those responsible for certain statutorily defined gross human rights violations, to those simply determined to be responsible for or complicit in “serious human rights abuse.” The E.O. also lays out additional categories of potential sanctions targets, including broader networks of individuals or entities associated with the human rights abuse.

Section 7031(c) Sanctions

Aside from Global Magnitsky, Congress has also required the Secretary of State to bar entry into the United States by foreign officials about whom the Secretary has credible information of involvement in significant corruption or a gross violation of human rights.⁸ This recurring provision in State Department appropriations bills, which in recent years has been found under Section 7031(c), has its origins in Fiscal Year 2008 appropriations. Although originally focused solely on corruption, Congress later added human rights to the sanctionable criteria, and also authorized the Secretary to publicly identify the sanctioned officials.

Unlike Global Magnitsky, this authority is limited to visa restrictions. It is also limited to foreign officials, although it additionally extends visa sanctions to the immediate family members of such officials. In some cases, the executive branch has publicly designated individuals pursuant to both Global Magnitsky and Section 7031(c).⁹

Foreign Government Responses to Sanctions

The executive branch has utilized these tools to impose sanctions for some human rights violations related to religious freedom. Foreign government responses have varied from highly critical and at times retaliatory on one end of the spectrum, to openly supportive on the other.

502B (22 U.S.C. §2304) of the Foreign Assistance Act of 1961.

⁵ During a 2015 hearing concerning a potential Global Magnitsky law, Daniel Calingaert of the nongovernmental organization Freedom House stated, “The global scope of this bill is a key strength. It means no country is singled out, and it would apply to countries like China and Saudi Arabia that tend to escape criticism for their human rights abuses because of competing economic or security interests.” U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, *The Global Magnitsky Human Rights Accountability Act*, hearing, 114th Cong., 1st sess., April 29, 2015 (Washington, DC: GPO, 2015).

⁶ E.O. 13818, “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” 82 *Federal Register* 60839, December 20, 2017.

⁷ Specifically, emergency authorities in the International Emergency Economic Powers Act (IEEPA) and the National Emergencies Act (NEA), as well as authority under the Immigration and Nationality Act (INA).

⁸ For additional background, see “FY2020 Foreign Operations Appropriations: Targeting Foreign Corruption and Human Rights Violations,” at <https://crsreports.congress.gov/product/pdf/IF/IF10905>.

⁹ Another relevant authority is Section 212 of the INA, which provides the executive branch with broad authority to deny entry into the United States on the basis of U.S. interests and foreign policy, and also explicitly makes inadmissible foreign government officials responsible for particularly severe violations of religious freedom. See 8 U.S.C. §1182.

For instance, with regard to the People’s Republic of China (PRC), a series of Global Magnitsky sanctions have targeted numerous officials and entities in relation to the repression of ethnic Uyghurs and other Muslim groups in Xinjiang.¹⁰ Among the targets is the current Xinjiang Party Secretary, Chen Quanguo.¹¹ In addition, and aside from Xinjiang, the State Department has utilized Section 7031(c) to designate two PRC officials for human rights violations against Falun Gong practitioners.¹² The PRC government has responded by criticizing U.S. sanctions as an interference in its internal affairs, and has imposed apparent retaliatory sanctions against certain U.S. individuals and entities, including the former Ambassador at Large for International Religious Freedom.¹³ As the Commission is aware, following U.S. sanctions actions earlier this year, the PRC announced sanctions against multiple former Commissioners.¹⁴

By contrast, some governments have supported the imposition of U.S. sanctions, particularly when such sanctions have aligned with their domestic accountability efforts. For instance, some observers have described sanctions related to corruption and human rights abuses by former Gambian President Yahya Jammeh as an expression of U.S. backing for Gambia’s ongoing efforts to provide accountability for abuses that occurred during Jammeh’s time in power.¹⁵ Gambia’s justice ministry explicitly communicated support for the sanctions along those lines.¹⁶ Although these sanctions were not directly focused on the issue of religious freedom, the Treasury Department noted that religious leaders had been among the targets of repression and violence during Jammeh’s reign.¹⁷

These examples, while not necessarily broadly representative, may help illustrate some of the general factors that influence how governments respond to the use of these sanctions tools. These factors likely include whether and to what extent the behavior being targeted is associated with the current government or its policies, the rank and status of any foreign government officials targeted for sanctions, and the state of U.S. relations with the foreign government and the power dynamics in that relationship.

¹⁰ A total of eight current or former officials and two entities have been sanctioned; three of the officials and their immediate family members were also designated pursuant to Section 7031(c). See “Human Rights in China and U.S. Policy: Issues for the 117th Congress,” at <https://crsreports.congress.gov/product/pdf/R/R46750>.

¹¹ In addition, Wang Junzheng, who is among the officials sanctioned for their roles in Xinjiang, was recently promoted to serve as Party Secretary of the Tibet Autonomous Region. See Jun Mai, “China Promotes its Most Sanctioned Official to Tibetan Communist Party Chief,” *South China Morning Post*, October 19, 2021.

¹² U.S. Department of State, “Public Designations of Current and Former Government Officials Under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act Due to Involvement in Gross Violations of Human Rights,” December 10, 2020; U.S. Department of State, “Designation of People’s Republic of China Official Due to Involvement in Gross Violations of Human Rights,” May 12, 2021.

¹³ Associated Press, “China Sanctions Cruz, Rubio, Smith, Brownback for Criticism,” July 13, 2020.

¹⁴ PRC Ministry of Foreign Affairs, “Foreign Ministry Spokesperson Zhao Lijian’s Regular Press Conference,” May 26, 2021; PRC Ministry of Foreign Affairs, “Foreign Ministry Spokesperson Announces Sanctions on Relevant US and Canadian Individuals and Entity,” March 27, 2021.

¹⁵ Sarah Allis and Joy Hammer, “Global Magnitsky: Using Sanctions in Cooperation with National Authorities,” *Human Rights First*, May 12, 2021. A series of sanctions actions under both Global Magnitsky and Section 7031(c) targeted Jammeh, his wife, and other immediate family members. See “The Gambia,” at <https://crsreports.congress.gov/product/pdf/IF/IF11046>.

¹⁶ Kebba Jeffang, “Gambia Seeks Sanction Extension to Jammeh’s Family,” *Foroyaa*, December 27, 2017; “Gov’t Welcomes US Banning of Jammeh,” *The Standard*, December 12, 2018.

¹⁷ U.S. Department of the Treasury, “United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe,” December 21, 2017; Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture, and Killings*, September 16, 2015.