

Global human rights cop

By Simon Lester, trade policy analyst, Cato Institute - 08/31/12

The House and Senate are currently considering legislation that contemplates punishing foreigners who commit certain human rights violations abroad. While the motives of the legislation's supporters are no doubt noble, the United States should not be the sole arbiter of human rights around the world. Any unilateral action against foreign citizens for acts committed abroad requires great care and delicacy in execution.

The legislation was prompted by the death of Sergei Magnitsky, a Russian anti-corruption lawyer who was tortured in prison by Russian officials. U.S. legislators are seeking to express their condemnation of the officials involved by imposing restrictions on their financial activities and travel as a penalty. The House version takes a narrow approach, targeting only Russian human rights violators involved in the Magnitsky case. By contrast, the Senate version of the bill is much broader, targeting foreign officials found to have been connected to various human rights violations in any country around the world.

The supporters of the Senate legislation no doubt respect human rights, and they would like to convince others to do so as well. But it is important to take into account the full impact, both political and economic, of condemning the actions of foreign officials as human rights violations.

The issue seems easy and straightforward, looked at exclusively from one's own perspective. The bad acts of others should be punished if possible. However, stepping outside of one's own parochial perspective, we can see that many other people, including non-Americans, also believe they are good people who respect human rights, and want to promote them at home and abroad.

The problem is, the various groups of good people who respect human rights sometimes disagree about what constitutes a human right. When this happens, conflict can arise.

Let's take a look at some obvious examples. People in some parts of the world feel very strongly that the death penalty is abhorrent, and should be abolished. Feeling as they do, should foreign governments who take this view impose Magnitsky-type sanctions against Americans who are involved in executions?

Many people have condemned the U.S. treatment of prisoners at Guantanamo Bay. Should foreign governments who take this view impose Magnitsky-type sanctions against Americans who are involved in Guantanamo Bay?

The fundamental problem is trying to determine when behavior is beyond the bounds of an acceptable moral code. Who gets to decide this question? If individual nations take this responsibility on themselves actions to condemn the behavior of others can easily spiral out of control, as we all begin sanctioning each other for perceived sins.

For Americans, the calculus may be that, as the most powerful country in the world, we will come out ahead in any conflict over human rights norms. Our sanctions hurt them worse than their sanctions would hurt us, so we win.

While that may be the case for now, the rest of the world is a big place, and its economic might is growing. Setting a precedent that policing human rights abroad is acceptable may be something that we come to regret if the global power balance shifts against us.

Even if we think we win, we may be losing in ways that are not immediately apparent. Condemning Russia, for example, and punishing Russian officials may feel good. But it will make it much harder to work with Russia on other important issues. The downsides are clear, the upside far less so: Russia and other targeted countries are unlikely to change their practices as a result of such laws.

Unilateral determinations that the behavior of foreigners crosses some moral threshold, and can be called a human rights violation, should not be taken lightly. There may be some behavior that nearly all people would condemn (such as genocide and slavery), and the Magnitsky case may qualify. If so, coordinating with other nations may be a way to ensure that domestic responses to perceived human rights violations are appropriate. Where there is widespread agreement that particular behavior and actions should be condemned, sanctions against acts committed abroad may be useful.

Any such responses should be carried out in a careful, targeted way, with international cooperation, rather than -- as the Senate bill seems to -- opening the door for domestic actions that push the boundaries of what constitutes a human right, and takes on such a potentially broad range of human rights issues around the world. Otherwise, we risk aggravating relations with the rest of the world, without accomplishing anything on important human rights concerns.

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