

The Role of Civil Society in Advancing Humanitarianism through Sanctions Reform

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To discuss the role of civil society in global sanctions policy is to tell a story of two campaigners. The first campaigner, a passionate advocate for reform, is pleading with the outside world to ‘do something’ about a ruthless regime or an abusive armed group. The other campaigner is fighting for organisational survival, trying to meet the basic needs of suffering people or helping others to do so. Both reformers belong to something described nebulously as civil society, a term encompassing a wide range of non-government actors. This can include aid organisations, community groups, peacebuilding charities, human rights advocates, academic and research institutions, activists, professional associations, cultural institutions, religious congregations, and others working towards social change.² These groups lobby powerful states for action—however, when it comes to sanctions, the two sets of reformers have conflicting prescriptions. Some are pushing for tougher sanctions while others want the opposite.

This paper will explore these two countervailing tendencies within civil society, recent reforms undertaken by states, and how policymakers may use a ‘checklist’ and ‘code of conduct’ to evaluate these competing claims and reduce the collateral damage of sanctions regimes. It does not seek to provide an authoritative definition of any of the actors described below, nor does it intend to prescribe a way forward. Rather, this paper is intended to provide some food for thought about civil society as it relates to global sanctions policy and launch a conversation about the topic among Wilton Park participants.

Advocates for Sanctions

The first category of reformers are vociferous campaigners for the imposition of sanctions. They appeal to the international community to take a stand: for example, in response to egregious violations of human rights, the suppression of dissent, or corruption.³ They say that sanctions can punish, stigmatize, and isolate abusers and sometimes incentivize these wrongdoers to change their

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² Michael Edwards, *Civil Society*, (Cambridge: Polity Press, 2014) and George Ingram, “Civil Society: An Essential Ingredient of Development”, *Brookings Institution*, 6 April 2020.

³ “Civil Society Groups Warn Against Sanctions Relief for Mining Tycoon Dan Gertler”, *The Sentry*, 7 March 2023; “Three NGOs Call on the EU to Adopt Further Sanctions Against Human Rights Violators in Tibet and Uyghur Region”, *International Federation for Human Rights*, 31 January 2022; and Kristen Gelineau, Victoria Milko and Lori Hinnant, “Myanmar Public Urges Gas Sanctions to Stop Military Funding”, *Associated Press*, 16 December 2021.

behaviour—or at least make it harder for them to perpetrate further abuses by denying them resources.⁴ Sometimes they even hope that sanctions will topple a distasteful regime.⁵

These advocates for sanctions generally emerge from three types of civil society groups. The first are locally based organisations in countries experiencing conflict or living under repressive regimes. Such local organisations often comprise a small but brave chorus of voices documenting and publicizing abuses happening inside the country. They propose sanctions in the hope that economic restrictions will help to change the grievous situations in their countries. For example, in 2021 dozens of civil society organisations in Myanmar called on the European Union and other governments to impose economic sanctions on that country’s military rulers, whose attacks against civilians have been widely documented.⁶

The second group is international civil society organisations.⁷ They sometimes emphasize the importance of signalling international solidarity with victims and their local advocates.⁸ Examples include international human rights and anti-corruption organisations that see sanctions as accountability measures; they sometimes help local civil society groups to submit evidence-based recommendations to sanctioning authorities such as the United States Department of State and Treasury.⁹ Such organisations typically recommend targeted sanctions instead of broad-based sanctions that affect larger populations, given the common understanding that the latter have deleterious consequences on civilians.

A third group of pro-sanctions campaigners can be broadly defined as diaspora communities, usually those that have departed their homelands amid violence or repression and have settled elsewhere.¹⁰ Cuban-American lobbying groups fall into this category; they have been advocating for the continuation of Washington’s embargo against Cuba for decades.¹¹ Other more recent examples include Syrian-American organisations that oppose lifting sanctions on the Assad regime, Colombian-American constituencies that opposed Washington’s move to remove Colombia’s Revolutionary Armed Forces of Colombia (FARC) from the State Department foreign

⁴ Bryan R. Early & Amira Jadoon, “Do Sanctions Always Stigmatize? The Effects of Economic Sanctions on Foreign Aid, International Interactions”, *Empirical and Theoretical Research in International Relations*, 42 no. 2 (2016): 217-243 and Justyna Gudowska and John Prendergast, “Can Sanctions be Smart? The Costs and Benefits of Economic Coercion”, *Foreign Affairs*, (March-April 2022).

⁵ Manuel Oechslin, “Targeting Autocrats: Economic Sanctions and Regime Change”, *European Journal of Political Economy*, V. 36, December 2014.

⁶ “Letter to the EU and its Member States on the Myanmar Crisis”, *Human Rights Watch*, 8 April 2021 and “IndustriALL Supports Campaign for Comprehensive Economic Sanctions against Myanmar Junta”, *IndustriALL*, 31 August 2021.

⁷ “Human Rights First Recommends Sanctions for Vladimir Kara-Murza’s Detention and Poisoning”, *Human Rights First*, 14 October 2022 and “Myanmar: Abuses Mount Since Military Coup,” *Human Rights Watch*, 12 January 2023.

⁸ Annie Boyajian, “Leveraging Targeted Sanctions in Defense of Religious Freedom”, Testimony to the U.S. Commission on International Religious Freedom, 27 October 2021 and Michael Breen, “Congress Must Stand with Civil Society and Strengthen the Global Magnitsky Program”, *Just Security*, 20 April 2021.

⁹ “Submission Template with Sample Text for Targeted Human Rights & Anti-Corruption Sanctions Recommendations to the United States Government”, *Human Rights First*, 5 February 2021.

¹⁰ Tyler Kustra, “Sanctioning the Homeland: Diaspora’s Influence on American Economic Sanctions Policy,” *Journal of Conflict Resolution*, April 2022, 66 no. 3 (2016) and “Sudanese Diaspora Urge USA Not to Lift Khartoum Sanctions”, *Dabanga Sudan*, 17 September 2017.

¹¹ Walt Vanderbush, “Exiles and the Marketing of U.S. Policy toward Cuba and Iraq”, *Foreign Policy Analysis* 5 (3): 287-306.

terrorist list, and Iranian-American groups who in the context of recent widespread protests against the regime have called on Western policymakers to tighten sanctions against Iran.¹² In some of these cases, the rationale for sanctions is that they will help lead to regime change, or make it harder for the regime to profit from corruption.¹³

Voices of Restraint

At the same time, and in the same places, opposing groups of campaigners argue for restraint when it comes to sanctions. These reformers are usually part of civil society groups that have experienced the costs associated with sanctions in the course of their work. In recent years they have led efforts to alert policymakers of sanctions' impacts on them and on the communities they serve. Broadly speaking, they exercise significant caution when recommending sanctions—if they recommend economic coercion at all—and favour measures to mitigate sanctions' collateral effects. In some cases, such as those where sanctions have broad economic impacts, they call on policymakers to lift or relax sanctions. They could be categorized into the following four groupings.

The first is local civil society actors who—along with whole societies—face constrained access to basic necessities as a result of broad-based economic sanctions.¹⁴ Factors associated with sanctions such as reduced household consumption, depressed business activity, lower wages, higher unemployment, soaring inflation, lack of access to medicine, lack of fuel for heating, and cuts to public expenditure make it harder for these actors to work towards social change.¹⁵ It also makes it harder for them to mobilise. In Iran, for example, research indicates that protest movements have lacked the resources needed to build broad coalitions.¹⁶ A related concern in autocratic states is that sanctions have in some cases, perversely, strengthened authoritarian regimes by concentrating power around elites and giving them a rationale to restrict civil liberties under the guise of combating external threats.¹⁷

¹² “Position on Syria Sanctions in the Aftermath of the Turkiye-Syria Earthquake”, *American Coalition for Syria*, 10 February 2023; Tweet by Annette Taddeo, Democratic member of the Florida State Senate, @Annette_Taddeo, 5:35pm, 24 November 2021; Tweet by Daniella Levine-Cava, Democratic Miami-Dade County mayor, @MayorDaniella, 2:06am, 24 November 2021; “Gonzalez Meets Colombians in Miami to Explain FARC Decision,” *Miami Herald*, 29 November 2021; and Esfandiyar Batmanghelidj, “How Sanctions Hurt Iran’s Protestors”, *Foreign Affairs*, 4 April 2023.

¹³ Leopoldo Lopez, @leopoldlopez, “Estamos en el Senado de EEUU resaltando la necesidad de promover acciones más firmes contra las autocracias”, Twitter, 28 March 2023, <https://twitter.com/leopoldlopez/status/1640815941960302592?s=20>.

¹⁴ “Syrian Organizations Respond to the UN Special Rapporteur on Unilateral Coercive Measures”, *Syria Justice and Accountability Centre*, 26 January 2021.

¹⁵ For research on sanctions' economic impact on populations, see Esfandiyar Batmanghelidj and Erica Moret, “The Hidden Toll of Sanctions: Why Washington Must Reckon with the Devastating Inflation its Policies Cause”, *Foreign Affairs*, 17 January 2022; Zoe Pelter, Camila Teixeira, and Erica Moret, “Sanctions and their Impact on Children”, *UNICEF*, 17 February 2022; Luis Oliveros, “The Impact of Financial and Oil Sanctions on the Venezuelan Economy,” Washington Office on Latin America, October 2020; Aron Lund, “The Blame Game over Syria’s Winter Fuel Crisis”, *The New Humanitarian*, 5 March 2019; and Dursun Peksen, “Socio-Economic and Political Consequences of Economic Sanctions for Target and Third-Party Countries”, United Nations Office of the High Commissioner of Human Rights, 2017.

¹⁶ Esfandiyar Batmanghelidj, “How Sanctions Hurt Iran’s Protestors”, *Foreign Affairs*, 4 April 2023.

¹⁷ Zaki Mehchy and Rim Turkmani, “Understanding the Impact of Sanctions on Political Dynamics in Syria,” Conflict Research Program, London School of Economics and Political Science, January 2021; Agathe Demarias, “Why

The second group of campaigners calling for restraint is drawn from non-governmental organisations providing assistance in crisis contexts. Humanitarian, peacebuilding, and human rights groups often fall into this category. They have published a large body of work detailing the ways that sanctions obstruct delivery of vital assistance as well as programming and organisational mandates. These include raising administrative and legal costs, sometimes prohibitively; creating pressure to "de-risk" or withdraw from sanctioned areas; hindering access to private sector partners; reducing funding and resources; and complicating efforts to uphold humanitarian principles. Limited access to financial service providers, which as a matter of practice have refused services to "high risk" clients such as those operating in heavily sanctioned environments, have posed a major hurdle for these organisations.¹⁸ Aid groups also note about the way that sanctions discourage the kind of face-to-face engagement with sanctioned authorities that is necessary for the sake of negotiating access on the ground, gathering evidence of human rights abuses, and pursuing conflict resolution.¹⁹ Another concern they raise is that worsening economic and social conditions that arise as a result of broad based sanctions worsen outcomes for the vulnerable populations whom they serve, and make it harder to overcome humanitarian crises or achieve development goals.²⁰

The February 2023 earthquake in Turkey and Syria offers a recent example. Emergency assistance was slow to arrive in Syria, due in part (but by no means entirely) to sanctions. Humanitarian actors noted that while licenses and amendments to U.S. and EU sanctions regimes authorised emergency assistance for earthquake relief, aid workers still faced compliance challenges, hurdles in transmitting funds due to financial sector de-risking, and delays in bringing equipment into Syria due to U.S. export controls.²¹ Conditions after the earthquake were especially dire against a

Sanctions Don't Work Against Dictatorships", *Journal of Democracy*, November 2022; and Nesrine Malik, "Sanctions Against Sudan Didn't Harm an Oppressive Government – They Helped It", *Foreign Policy*, 3 July 2018.

¹⁸ Tom Keatinge and Florence Keen, "Humanitarian Action and Non-state Armed Groups: The Impact of Banking Restrictions on UK NGOs", *International Security Department and International Law Programme*, 2017.

¹⁹ Jacob Kurtzer, Sue Eckert and Sierra Ballard, "Mitigating Financial Access Challenges," Center for Strategic and International Studies, 25 October 2022; Emma O'Leary, "Politics and Principles: The Impact of Counter-Terrorism Measures and Sanctions on Principled Humanitarian Action," *International Review of the Red Cross*, February 2022; "When the Giving Gets Tough: Navigating Risk in Sanctioned Locations," *Charity and Security Network*, 5 November 2021; "Safeguarding Humanitarian Action in Sanctions Regimes", *International Peace Institute*, June 2019; "Principles Under Pressure: The Impact of Counterterrorism Measures and Preventing/Countering Violent Extremism on Principled Humanitarian Action," *Norwegian Refugee Council*, 2018; Kate Mackintosh and Patrick Duplat, "Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action," *Norwegian Refugee Council*, July 2013. *Charity & Security Network and Charities Aid Foundation America*, "When the Giving Gets Tough: Navigating Risk in Sanctioned Locations", November 2021; "Negative Impacts of Sanctions on Civil Society", *Charity & Security Network*, May 2021; Tom Lantos Human Rights Commission Hearing on Considerations on Economic Sanctions, 4 October 2022. Dustin Lewis, Naz Modirzadeh, and Gabriella Blum, "Medical Care in Armed Conflict: International Humanitarian Law and State Responses to Terrorism," *Harvard Law School Program on International Law and Armed Conflict*, September 2015, Sophie Huvé and Rebecca Brubaker, "UN Sanctions and Humanitarian Action Policy Memo 2/4, The Notion of "Humanitarian Activities", *United Nations Centre for Policy Research*, March 2022; and Isabelle Glimcher, "U.S. Counterterrorism Rule Hampers Vital Humanitarian Aid in Nigeria", *Just Security*, 23 January 2020.

²⁰ Dursun Peksen, "Socio-Economic and Political Consequences of Economic Sanctions for Target and Third-Party Countries", *United Nations Office of the High Commissioner of Human Rights*, 2017.

²¹ Rachel Alpert and Alyssa Bernstein, "Breaking Down Barriers to Emergency Earthquake Aid in Syria", *Just Security*, 16 March 2023.

backdrop of an economy ravaged by war and struggling to recover in part—but by no means only—because of sanctions.

A third group that has expressed concern about the costs of sanctions includes academics and researchers. Those who study sanctions targets have experienced their own work being curtailed as their institutions turn down proposals to meet with sanctioned actors or conduct fieldwork because of potential legal ramifications and reputational risks.²² Others report increased legal and administrative costs, concerns that sanctions laws will be “applied against them”, and limited access to resources when studying sanctioned countries or targets.²³ Academics based in sanctioned countries describe difficulties collaborating with foreign colleagues, traveling to conferences and workshops, publishing in international journals, and paying for society subscriptions and event registrations and a decline in those countries’ academic output even after sanctions are lifted.²⁴ This group of campaigners note that, besides limiting their work, such restrictions have skewed sanctions research towards reflecting the views of policymakers who impose sanctions while limiting study of their targets—or indeed the effectiveness of sanctions themselves. They have also warned about the imperfect track record of sanctions efficacy.²⁵

A fourth group that campaigns for sanctions reforms includes non-academic civil society actors such as religious congregations, activist associations, and others who are sometimes prevented from engaging with their peers due to sanctions-related restrictions. They have noted that sanctions have limited their ability to build coalitions or share knowledge with likeminded actors. For example, in Colombia, a conference of all the major landmine removal organisations blocked the participation of deminers previously associated with the FARC, because of concerns that USAID had bought the snacks for the attendees—and the coffee break treats could be construed as material support for listed terrorists.²⁶

Towards Reform

Governments are listening to both sides of this debate, which gets contentious as campaigners point to the high stakes. They are faced with a dilemma. After all, no politician wants to be accused of going ‘soft’ on odious regimes and terrorist groups; at the same time, no policymaker wishes to be blamed for imposing restrictions that exacerbate a famine or jeopardize human rights work.

While enthusiasm for sanctions as an instrument of foreign policy continues to grow and their use has proliferated, awareness has also grown in recent years about sanctions’ collateral impacts, particularly on humanitarian action. Sanctioning countries have shown increased willingness to

²² Author telephone interviews, researchers, 2022.

²³ Author telephone interview, scholar, 2022 and Louise Bezuidenhout, Ola Karrar, Javier Lezaun, and Andy Nobes. “Economic Sanctions and Academia: Overlooked Impact and Long-term Consequences.” *PloS one* vol. 14,10, 1 October 2019.

²⁴ Louise Bezuidenhout, Ola Karrar, Javier Lezaun, and Andy Nobes. “Economic Sanctions and Academia: Overlooked Impact and Long-term Consequences.” *PloS one* vol. 14,10 1 October 2019.

²⁵ Daniel W. Drezner, “Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice”, *International Studies Review*, 13, no.1 (2011); Thomas Biersteker, Sue Eckert and Marcos Tourinho, eds., *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, (Cambridge, 2016); and Elizabeth Rosenberg, Zachary K. Goldman, Daniel Drezner and Julia Solomon-Strauss, “The New Tools of Economic Warfare: Effects and Effectiveness of Contemporary U.S. Financial Sanctions”, Center for a New American Security, 2016.

²⁶ Author interviews, former FARC combatants and a landmine removal NGO, Colombia, 2022.

issue licenses and exemptions for humanitarian aid delivery. Exemptions issued by the United States and the United Nations to facilitate assistance to Afghanistan in December 2021 and the early months of 2022 are recent examples.²⁷ Perhaps most notable were the major reforms that took place in December 2022. First the United Nations Security Council adopted a standing humanitarian “carve-out” from Council asset freezes, and this was followed by the United States Department of Treasury publishing a series of licenses to mitigate sanctions-related impediments to the flow of aid, authorising humanitarian, peacebuilding, and other assistance in areas where United States sanctions are in place.²⁸ Other states such as Canada and EU member states have also started to adjust sanctions regimes in implementation of the resolution.²⁹

While recent reforms represent a step forward, the changes do not fully address the obstacles that sanctions pose to civil society and other unintended harms.³⁰ Not all sanctioning entities have agreed to adopt humanitarian carve-outs for their autonomous sanctions regimes. For example, while the European Union has implemented the exemptions for the 14 UN Security Council sanctions regimes transposed into EU law, it has not granted a general humanitarian exemption that applies to all of its non-Security Council EU sanctions (although exemptions apply to some of the EU’s autonomous sanctions). It prefers a system of derogations, which humanitarian groups see as unfit for emergency response given that they are complex, time-consuming, slow, and unpredictable. Nor do the United Nations carveouts necessarily alleviate the “chilling effect” of sanctions on financial institutions and businesses, which may choose to deny transfers to sanctioned contexts despite permissions in place.

A bigger problem is that United Nations licenses pertain exclusively to humanitarian assistance, but the concerns raised by civil society are much broader than the narrow issue of humanitarian aid delivery. The aforementioned United States Treasury licenses, which followed the United Nations Security Council resolution, do include a range of activities beyond humanitarian affairs such as peacebuilding. However, they do not address the consequences of all United States sanctions such as the foreign terrorist organisation list, which civil society groups note exposes them to risks of criminal liability.³¹ Nor do they resolve issues related to Department of Commerce restrictions, such as export controls, which have complicated the earthquake response in Syria.³²

²⁷ “U.S. Treasury General License to Facilitate Economic Activity in Afghanistan”, United States Department of Treasury, press release, 25 February 2022.

²⁸ The resolution obliges UN member states to permit the provision of funds, goods, and services necessary for humanitarian aid delivery and not consider it a violation of asset freezes imposed by the Security Council. United Nations Security Council Resolution 2264 (2022) and “Treasury Implements Historic Humanitarian Sanctions Exemptions,” U.S. Department of Treasury, 20 December 2022.

²⁹ Dylan Robertson, “Liberals to Amend Criminal Code Terrorism Provisions that Block Aid to Afghanistan”, *CTV News*, 9 March 2023 and “Bill C-41: An Act to Amend the Criminal Code and to Make Consequential Amendments to Other Acts”, Public Safety Canada, 9 March 2023.

³⁰ Liz Hume and Megan Corrado, “The Treasury Department’s Material Support Carveouts are a Welcomed First Step – But Congress Must Act to Create a Sustainable Fix”, *Just Security*, 24 January 2023.

³¹ *Ibid*; Naz K. Modirzadeh, Dustin A. Lewis and Claude Bruderlein, “Humanitarian Engagement Under Counter Terrorism: A Conflict of Norms and the Emerging Policy Landscape”, *International Review of the Red Cross*, September 2011; and Charles Doyle, “Terrorist Material Support: An Overview of 18 U.S.C. §2339A and §2339B”, Congressional Research Service, 8 December 2016.

³² Rachel Alpert and Alyssa Bernstein, “Breaking Down Barriers to Emergency Earthquake Aid in Syria”, *Just Security*, 16 March 2023.

Fundamentally, issuing carve-outs without addressing other underlying issues that negatively impact civil society will only go so far. If policymakers heed the advice of the first group of campaigners—those who campaign for the imposition of sanctions as a response against atrocities—without taking sufficient steps to address the concerns of the second group—those who call for sanctions restraint—sanctions will continue to have undue collateral consequences.

One way of solving this dilemma is to take a more structured approach. A checklist and a code of conduct could be a good first step. They would give policymakers frameworks to understand the potential costs of sanctions on civil society and the people they serve, better equipping them to issue sanctions in response to abuses—without causing unintended suffering. The frameworks would spell out the concerns of civil society organisations to sanctioning authorities, allowing governments to take them into account when implementing, and considering existing sanctions. They could also call for a consultative mechanism to enable civil society organisations to feed into—and advise on potential negative impacts of—sanctions design and implementation processes. Ultimately, this would foster a more balanced approach to sanctions, one that could satisfy the demands of both campaigners.

A Way Forward

This paper explained the crucial role civil society plays in shaping the global sanctions landscape and explored the conflicting views within this important constituency. It discussed how civil society sees sanctions as a useful tool for stigmatizing or punishing abusers on the one hand and has sounded the alarm about the collateral damage that sanctions have posed on the other. In efforts to balance the demands of these opposing groups, policymakers have adopted reforms, such as the United Nations' standing humanitarian carve-out. These represent progress but are not comprehensive solutions. A more structured approach through a checklist and a code of conduct could be one way to reach a more durable sanctions policy framework. It could help policymakers consider the potential costs of sanctions on civil society and the people they serve when issuing sanctions and allow them to impose responsible sanctions that answer the calls of sanctions advocates. In this way, global sanctions policy will better reflect a balance between both reformers.