

‘Rigged’ Magnitsky Act inquiry serves regime-change warmongers

By Melissa Harrison. Following is Part 1 of a two-part report, “Sanctioned Targets: The Australian Magnitsky Inquiry”, on the Australian Parliament’s inquiry into whether Australia should legislate a so-called Magnitsky Act to allow targeted sanctions of foreign officials accused of human rights abuses, based on a proven fraud—British-American hedge fund manager Bill Browder’s false claims about the death of his Russian accountant Sergei Magnitsky. ALP Senator Kimberley Kitching has given notice she will introduce the International Human Rights and Corruption (Magnitsky Sanctions) Bill 2020 in September.

The Parliament’s Magnitsky investigation is rigged. The Joint Standing Committee on Foreign Affairs, Defence and Trade—Human Rights Sub-committee’s Inquiry into “targeted sanctions to address human rights abuses” (a.k.a. “Magnitsky” legislation) is a litany of biased submissions, selective witnesses, and suppression of vital evidence which revealed Magnitsky-architect Bill Browder’s lies and exposed sanctions for what they are: a coercive trade weapon that has nothing to do with human rights.

Inquiry submissions are 91 per cent in favour of Magnitsky-type legislation. Of these, 39 per cent express qualifications, including: identifying diplomatic impact; resource requirements; or the possibility of weaponisation of sanctions (61 per cent are pro-Magnitsky, without reservation). The submitters whom the Committee expressly invited are all advocates of international Magnitsky legislation. Conspicuously absent are global leaders on targeted sanctions research, including Targeted Sanctions Consortium participants, the Watson Institute and the United Nations. If they were invited, their submissions aren’t published.

The Committee’s witness line-up included: An alleged financial criminal who has repeatedly lied in court and his former lawyer, a celebrity human rights lawyer who has also formerly represented war criminals and human rights abusers; an anti-Putin activist; and billionaire-backed Human Rights Watch—described by independent journalist Ben Norton as a “regime change-hungry” human rights group which functions as “a revolving door between the NGO sector and the US government”. Other witnesses include China-phobic Hong Kong and Uyghur activist organisations. All witnesses were pro-Magnitsky legislation.



The fix is in: in this 2015 deposition under oath, hedge fund hustler Bill Browder admitted he did nothing to help his Russian accountant Sergei Magnitsky, but the Australian committee let Browder testify unchallenged and suppressed the evidence that his story is a fraud. Photo: Screenshot

Contradictory evidence suppressed

Selective witnesses and submission invitations aside, the Committee appears to have engaged in intentional and timely suppression of vital evidence which challenged the testimony of Browder, and the founding premise of Magnitsky sanctions. Independent journalist Lucy Komisar is an award-winning veteran of exposing financial corruption and has investigated the Browder story for nearly a decade. Her submission was a damning exposé of the lies and crimes of Bill Browder, backed up by forensic analysis and court documents. Komisar’s submission remained unpublished for weeks, Committee staff blaming their

Winner of Gerald Loeb Award,
the major US prize for financial
journalism



The Komisar Scoop

Aussie parliament committee censors Komisar's Browder take-down, redacting photos, text, evidence links

By Lucy Komisar
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The Australian Parliament Foreign Affairs subcommittee, considering a "Magnitsky" sanctions act promoted by convicted tax fraudster William Browder to target people in "enemy" states (read Russia), invited submissions by citizens and foreigners. I sent mine in late March. It was finally posted, heavily redacted to cut out key elements, including forensic photos of Sergei Magnitsky showing no beating marks. The whole argument of the "Magnitsky Act" was that he was beaten to death. It's a lie. This shows it. The Aussies redacted it.



Though links on other submissions exist, mine were all killed, dozens, all leading to evidence in public and official documents and testimony. I had said at the top of the submission: "please be aware of and retain the hyper-text links which connect to the supporting documentation." I click on my pdf original and go to the evidence. I click on what the Australians posted, and the

US investigative reporter Lucy Komisar's article on how her submission to the Australian inquiry was suppressed.

workload—which didn't stop them publishing other submissions dated weeks after Komisar's. The Committee gave Browder a chance to respond to Komisar's allegations, but first sat on her submission for six weeks. Browder claimed the Committee sent him Komisar's submission on 17 May, which was, curiously, on a Sunday when bureaucrats don't work, and two days after the final public hearing. This delayed publication of vital evidence gave politicians who participated in the hearings a convenient excuse to pretend incriminating proof of Browder's fraud didn't exist. Committee Members ignored the Magnitsky origin story and did not challenge Browder's narrative. Komisar's submission was heavily redacted and its hyperlinks deactivated—although all link to publicly available evidence. The Committee's concern with "protecting" information was applied selectively: a number of submissions alleging Chinese human rights abusers were only partially redacted—detailed employment histories and a last name remain visible. Attached to one submission is a non-profit's report alleging China-backed human rights criminals, with identifying photos, names and family members.

Komisar's submission exposed Magnitsky legislation itself: "The Magnitsky Act was political cover for a trade bill ... the basic assertions of the US Magnitsky Act are false, created by William Browder to cover up his financial corruption and used by its sponsors in the US Congress for their own goals, to support a foreign policy hostile to Russia." Hillary Evans, writing for the *Maryland Journal of International Law*: "The Magnitsky Act makes it clear that one of its main purposes ... is to ensure that Russia complies with its obligations under the WTO. The first sentence of the Act declares an important purpose to be to 'require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organisation'."

The Committee delayed publication of three other submissions until after the final public hearing. Two list examples of targeted sanctions applied with existing legislation (no Magnitsky Act required), including by the Australian government. The third was pro-Magnitsky, but unwittingly exposes the true purpose of the legislation, admirably declaring: "Magnitsky Acts are becoming a new weapon in the West...."

Submissions coordinated—but by whom?

There's more behind-the-scenes coordination. A number of submissions have a practically identical paragraph, a protectionist spiel claiming Australia's "sovereignty would be jeopardised if agents of authoritarian states can freely settle in Australia and interfere with our domestic politics and national security." If Australia doesn't join other "western democracies" in legislating a sanctions scheme, "agents of authoritarian states" may invest in and "take control of vital infrastructure", "undermine our national security" and "threaten our fundamental freedoms and human rights". Comparing this coordinated phrasing to China-hawk MP Andrew Hastie's contribution to a recent report published by British regime-change cheerleaders, the Henry Jackson Society, you'd be forgiven for thinking they hired the same script writer. Those submitters who used this coordinated phrasing identify as Australian and Hong Kong citizens, with one intriguing exception: Washington DC-based "Campaign for Uyghurs". Submission author and Executive Director, Rushan Abbas, was identified by independent news website The Grayzone as "the US national security state's favourite 'human rights activist'". Abbas' own bio (now scrubbed) detailed her "extensive experience working with US government agencies, including Homeland Security, Department of Defence, Department of State, and various US intelligence agencies". The Grayzone reports Campaign for Uyghurs is part of the World Uyghur Congress: a "US-backed right-wing regime-change network seeking the 'fall of China'." Coincidentally, Abbas was in Canberra meeting with Australian MPs and hosted a roundtable at the US Embassy the day after the Magnitsky Inquiry was announced by the Committee. The US *Uighur Human Rights Act*, legislation calling for sanctions against China over alleged human rights abuses (allegations the Grayzone exposed as "based on two highly dubious 'studies'"), passed the US House of Representatives on 3 December 2019, the same date the Australian Magnitsky Inquiry was instigated by the Minister for Foreign Affairs.

When asked about the effectiveness of Magnitsky sanctions, no witness could provide more than anecdotal evidence, not even the star-studded international panel. Anecdotes of the supposed success of the Act included claims of "a nervousness of criminals", the "hostile reaction of [the] Russian government", and an article which apparently "upset" the Communist Party of China. Browder said: "[T]he whole tone has changed.... It's hard to measure scientifically, but I can promise you that it creates a counterweight, it creates a consequence and it creates something that every bad person in the world thinks about when they consider doing bad things." Geoffrey Robertson (Browder's former lawyer) admitted Magnitsky sanctions are "not going to end human rights abuse, which comes from political motives as well as from desire for financial gain. They're not going to stop all the criminals of the world from laundering their money, but I think they do have an important deterrent effect." Money laundering is referenced in 41 per cent of submissions, although only one refers to Australia's plethora of existing anti-money laundering mechanisms. Lawyer Amal Clooney revealed there has been no "definitive study" of the deterrent impact of Magnitsky sanctions: "obviously something that's very difficult to prove", she deflected, adding: "What would have happened if sanctions hadn't been in place?"



Amal Clooney's testimony in support of the Magnitsky Act gave support to ALP Senator Kimberley Kitching's agenda to use the law as a weapon against China. Photo: Twitter

Ineffective for genuine human rights cases

It appears witnesses may have been dodging the question. While there has been no definitive study of Magnitsky effectiveness perhaps, "targeted sanctions" were developed in the 1990s as a politically attractive solution to the humanitarian failure of conventional sanctions. In 2016, the Targeted Sanctions Consortium (TSC), a collaboration of over 50 academics and policy experts, published the first comprehensive analysis of UN sanctions implemented in 1991-2013. The TSC concluded UN targeted sanctions were effective only 22 per cent of the time. In addition, the TSC identified unintended consequences occurred in 94 per cent of all case episodes. The most frequent unidentified consequence was increased corruption and criminality (58 per cent of cases), followed by negative humanitarian consequences (44 per cent), strengthening of authoritarian rule (35 per cent) and diversion of resources (34 per cent).

Some individuals sanctioned by the UN successfully challenged the listings in court, because the targeted sanctions did not respect procedural fundamental human rights—the rights of defence and due process. The TSC identified a number of sanctions evasion techniques, including disguising identity or using front companies—individuals and companies will try to evade sanctions, as they would evade a domestic legal system.

Witnesses Robertson, Clooney and Professor Irwin Cotler recommended an independent "expert panel" or "tribunal" to determine sanctions targets and provide oversight, which Clooney said would "reduce selectivity and potential abuse of sanctions powers". Robertson suggested this quasi-judicial "Magnitsky tribunal" could also manage the appeal process of its own decisions, preferably acting independently of Ministerial power. Robertson inadvertently demonstrated the possibility of manipulation to pressure governments to impose sanctions: "by having a tribunal, by having as much of the hearing in public, there would of course be pressure on the minister to accept and to explain if he or she didn't [apply sanctions]."

Cotler recommended the expert panel be formalised in Magnitsky legislation, "[establishing] a kind of interstate coordination committee amongst the Five Eyes" (Australia, Canada, New Zealand, UK, USA). Eight per cent of submissions referenced Australia's position in the Five Eyes intelligence network, saying Magnitsky sanctions would demonstrate solidarity and "strengthen the network".

Clooney recommended sweeping sanctions criteria, including "sexual violence, corruption, persecution on grounds of race, religion or sexuality, detention on false

charges and silencing of the media [and internet shut-downs]", applying to individuals, companies, government officials, business people and "the network of collaborators who facilitate their crimes". This is arguably a precedent for moving "towards a world police", a concern of targeted sanctions researchers. Magnitsky sanctions are a politically motivated interventionist strategy, intended to undermine and interfere with a nation's domestic legal system. For all the concern over "authoritarian interference in Australia's sovereignty", there's little issue with "democratic" countries doing the same.

Twenty-six per cent of submissions referenced Australia's human rights obligations or glorified Australia as a "global human rights leader", saying advocating for human rights is in our "national psyche". Everyone ignored the CIVICUS Monitor's 2019 downgrading of Australia's democracy from "open" to "narrowed", the very day the Magnitsky Inquiry was announced. Only one Committee MP, Maria Vamvakinou, acknowledged the possibility of human rights abuses in democratic countries. Australian Lawyers for Human Rights' submission made the only reference to Australia's lack of human rights protections, saying "if Australia is to properly promote human rights law internationally and protect persons within Australia, it must remedy its position as the only developed Western liberal democracy without a federal Human Rights Act or Bill of Rights."

Thirty-nine per cent of submissions want international cooperation of "Western allies". As one expressed: "It is time for the democratic countries to reunite to get the world's order back" in the "global fight to protect human rights". The undercurrents of self-righteous grandiosity and hostility towards an appointed collective enemy are dangerously reminiscent of the 2003 call for a "coalition of the willing"—an illegal allied invasion over fabricated WMDs, resulting in the death of a million Iraqi people. Troublingly, Clooney's testimony referred to a "coalition of the committed". Many submissions expressed anti-China (38 per cent) or anti-Russia (16 per cent) sentiments, including identifying these countries as a "target" of Magnitsky legislation. Cold War vibes abound: alleged "killings by the Kremlin"; Chinese "gulags"; "rise of Chinese Nazism" (disregarding history—China fought with Allied Powers against the Nazis in WWII); "Chinazism" as the "hybrid of Nazism and the dark side of the Chinese Cultural Revolution". Are submitters truly concerned about human rights, or is this the product of propaganda-driven Russia/China phobia? Only 21 per cent of submissions acknowledged due-process implications of Magnitsky sanctions—the human right to legal defence and procedural safeguards. Some submissions made hostile recommendations which directly contravene human rights law.

The Parliamentary Committee are self-appointed narrative managers—cherry-picking submissions, witnesses and evidence. Leading research indicates targeted sanctions work only 22 per cent of the time, usually worsening human rights conditions. Evidently irrelevant to the Committee and star witnesses, glaring omissions expose their hypocrisy: Magnitsky sanctions have nothing to do with human rights. They are a coercive foreign policy tool, a grotesque weaponisation of the fundamental rights of human beings, an interventionist workaround which bypasses international courts, undermining sovereign nations and domestic rule of law. The Magnitsky Act is for sanctioned targets—determined by regime-change warmongers, abetted by duped or complicit governments. Australia should not be one of them.