

# The War Party's anti-China agenda stumbles

By Richard Bardon

14 Sept.—The Morrison government's campaign to make Australia the front line in a Cold War with China has stumbled somewhat over recent weeks, as dissenters within the public service and federal Cabinet push back against the agenda of the Anglo-American "War Party" that holds Morrison's strings. Plans for an Australian Magnitsky Act, to let Canberra impose "targeted sanctions" on foreign officials it accuses of violating human rights, have been quietly knocked on the head by the government itself despite its previous support, apparently due to opposition from within the Departments of Foreign Affairs and Trade (DFAT), Prime Minister and Cabinet (DPMC), and Defence. Similarly the government offered "in-principle" support to, but then voted against, a related bill introduced by independent Senator Rex Patrick to ban goods allegedly produced by slave labour in China. And last week it emerged that the federal Cabinet is "split" over whether to tear up Chinese company Landbridge's lease of the Port of Darwin, a strategically immaterial but highly symbolic move that goes hand in hand with plans revealed by Defence Minister Peter Dutton in June for a huge expansion of the US military presence in northern Australia. Whilst none of these issues are fully settled, and the War Party will undoubtedly continue to pursue them, it is heartening to see that it is not able to get everything its own way.

Plans have been afoot to have Australia join the so-called Global Magnitsky Movement since at least December 2018, when Labor MP Michael Danby introduced his "International Human Rights and Corruption (Magnitsky Sanctions) Bill", modelled upon the USA's *Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012*. The bill having lapsed, and Danby retired, when Parliament was dissolved ahead of the May 2019 election, Danby's protégé Sen. Kimberley Kitching gave notice in December of that year that she would introduce her own bill to the same effect, whereupon Foreign Minister Sen. Marise Payne commissioned an inquiry into the matter by the Human Rights Sub-committee of Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade. The Australian Citizens Party was the only political party to oppose an Australian Magnitsky Act, noting in a submission to the inquiry that such laws violate the human rights they purport to uphold, by imposing sanctions on the basis of mere accusation without due legal process; and violate the principles of national sovereignty and non-interference that are enshrined in the United Nations Charter, the bedrock of modern international law. Of 162 submissions to the inquiry, all but a handful were in favour of the proposed Act. Many were solicited from anti-China activist groups, and "nongovernmental" organisations that promote regime change against Anglo-American geopolitical targets.<sup>1</sup>

## 'Magnitsky' gets the cold shoulder

After repeated interruptions by COVID-19 restrictions, the inquiry report, titled *Criminality, corruption and impunity: Should Australia join the Global Magnitsky Movement?*, was released 7 December 2020. In order to recommend Australia adopt a Magnitsky Act, the Sub-committee suppressed evidence supplied in a detailed submission by

1. "'Rigged' Magnitsky Act inquiry serves regime-change warmongers", AAS, 10 June 2020.



The Port of Darwin, leased to Chinese company Landbridge for 99 years, which anti-China political forces claim is a strategic threat to Australia. Even the former head of ASIO called this claim "alarmist nonsense", and the government is backing away from calls to cancel the lease.

legendary American investigative journalist Lucy Komisar proving that the fundamental premise of the Global Magnitsky Movement, London hedge fund operator William Browder's account of the 2009 death in custody of his former accountant Sergei Magnitsky, is a hoax.<sup>2</sup>

With the Government, Labor and the Greens all in favour, an Australian Magnitsky Act appeared a foregone conclusion; but the *Sydney Morning Herald* reported 23 June that senior DPMC officials were "holding up the drafting of [the] new laws" out of concern about the diplomatic consequences of sanctioning foreign officials. "There is also widespread concern within the government about further antagonising China, with the new laws likely to place pressure on Australia to sanction Chinese officials for [alleged] human rights crackdowns in the far-western province of Xinjiang."<sup>3</sup> Defence officials were also reportedly concerned, and whilst DFAT was not mentioned in the article, it had expressed similar sentiments in its own Senate submission. It seems from the Government's 5 August 2021 response to the Sub-committee's report that these voices of moderation carried the day. Whilst the Government "agree[d] with the majority of the Sub-committee's recommendations" and pledged to implement them *in substance*, the most important of them—from the War Party's perspective—were rejected out of hand.

There will be no "Australian Magnitsky Act", nor indeed any new stand-alone sanctions regime. Responding to the Sub-committee's recommendation that "The long title of the legislation should include 'Magnitsky' to

2. "Wilful disregard for truth in Parliament's 'Magnitsky Act' inquiry report", AAS, 16 Dec. 2020. Ms Komisar's submission showed that Magnitsky was not a corruption-busting "lawyer" as Browder claims, but in fact Browder's tax advisor and accomplice in a US\$230 million tax fraud against the Russian government, whom Browder left holding the can when they got caught. Nor was he murdered; rather, medical neglect during pre-trial detention contributed to his death from an existing chronic illness. Ms Komisar's archive of articles and videos exposing Browder for the conman he is can be found on her website The Komisar Scoop at <https://www.thekomisarscoop.com/category/thebrowderhoax/>.  
3. "Human Rights Mafia seethes as Public Service delays 'Magnitsky Act'", AAS, 7 July 2021.

emphasis links with the Global Magnitsky movement”, the Government stated: “Not agreed. The current Act [the *Autonomous Sanctions Act 2011*] will be amended but the title will remain the same.” Rather than target “any particular country or issue”, the response continued, “the reforms will update the autonomous sanctions framework ... [in line] with contemporary foreign policy objectives.” The Government also rejected establishing an independent advisory body to “receive nominations for sanctions targets” from all comers, and examine them in public—an obvious ploy to enable human rights NGOs to shame the government of the day into levelling sanctions at their preferred targets, regardless of its own inclinations. Instead the process will stay in-house at DFAT where it belongs. And if (admittedly, a big “if”) the government stays true to its word simply to add human rights and corruption issues to the current legislative framework, Australia’s autonomous sanctions regime—which DFAT describes as imposing “restrictions on activities that relate to particular countries, goods and services, or persons and entities”, by counterpart persons and entities *in Australia*—will remain compliant with international law, under which multilateral and third-party sanctions are solely the province of the UN Security Council.

Prominent among the allegations upon which the purported need for a Magnitsky Act was premised is that the Chinese government had imprisoned up to one million Uyghurs, a predominantly Muslim people residing in the Xinjiang region of western China, and trafficked hundreds of thousands of them as “forced labour” throughout the country. South Australia’s Sen. Patrick, who has associated himself with the Adelaide-based expatriate Uyghur separatist East Turkistan Australian Association (ETAA; “East Turkistan” is their name for Xinjiang) in an apparent bid to bolster his chances for re-election,<sup>4</sup> introduced the “Customs Amendment (Banning Goods Produced by Uyghur Forced Labour) Bill 2020” in December 2020 to, as he put it, “address this pressing problem”. The bill was referred to the Senate Foreign Affairs, Defence and Trade Legislation Committee, chaired by government Senator Eric Abetz from Tasmania and of which Sen. Kitching is the deputy chair. After the Committee endorsed his bill’s objectives but recommended a global ban on the import of goods produced by forced labour rather than one specific to China, Patrick introduced a new bill to that effect, the “Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021”, on 24 June.

Given its endorsement by both major parties, Patrick’s bill should have been a shoo-in. Yet when it came time to vote on 23 August, it fell to a plainly embarrassed Abetz to inform the Senate that whilst he and the government “congratulate[d] Senator Patrick on this initiative” and sympathised with “that which motivates him in putting this bill before the Senate today”, the government would not support it. “Good intentions are always to be applauded”, Abetz said, but “too often, on examination, good intentions are exposed as sometimes naïve and sometimes counterproductive. I believe that, in this case, ... there is the possibility of unforeseen consequences or counterproductive outcomes which would not suit the purposes of the originator of this bill.”

Abetz suggested the Senate defer a vote on the bill “until we get the full government response and the analysis of the bill in some detail from [DFAT]”, but it passed with the

support of Labor and the whole cross-bench. The government however is sitting on it in the House, and can continue to do so indefinitely. Presumably this is because Abetz’s “counterproductive outcomes” would include blow-back against our “allies”. As Greens Sen. Janet Rice noted in her speech on Patrick’s bill, “there are other elements of forced labour, such as prison labour.... Exporting prison-produced goods is illegal under domestic and international trade law, but in the United States prison labour is a billion-dollar industry, and 37 states allow the use of prison labour by private companies. ... [So] it’s important that Australia focuses on where forced labour and modern slavery are occurring, no matter where it is around the world.” As the AAS has reported, among the major exploiters of US prison labour are several of the armaments manufacturers that sponsor the Australian Strategic Policy Institute (ASPI) to produce the very “research” accusing China of the same crime<sup>5</sup> which, ironically, Patrick cited in Parliament to rally support for his bill.

### Darwin Port ‘split’

And now it seems enthusiasm is also flagging for the Morrison government’s plan to poke China in the eye by cancelling Landbridge’s lease on the Port of Darwin over phoney “national security” concerns. On 9 September, with Dutton and Payne about to set off on a whistle-stop tour of south and east Asia on their way to Washington, the *Australian Financial Review* reported that “Morrison government ministers are split” on the question, “amid expectations the US will press the issue” at the annual Australia-United States Ministerial (AUSMIN) consultations this week. “Sources say a Defence Department review of the 99-year lease between the port’s operator Landbridge and the Northern Territory is likely to find it should be axed”, *AFR* reported, “but there is some wariness that the move would inflame tensions with China and even expose Australia to a World Trade Organisation challenge ... on sovereign risk grounds”, given Landbridge’s conduct as a tenant has given Australia no legitimate reason to terminate the lease.

“A government source confirmed there were ‘mixed views’ on how to proceed, with good arguments mounted on either side”, *AFR* reported. But it seems the paper itself, and the corporate establishment it represents, have had enough. The purported security concerns over the port are “overdone”, it declared in its 10 September editorial. “Landbridge’s [2015] deal with the NT government is a lease on a commercial cargo wharf. Other government authorities control the access to Australian waters, not the port operator. ... The Department of Defence and the Australian Security Intelligence Organisation [ASIO] said there was no problem. In emergencies, governments take over whatever they need to anyway.” Recall that although *AFR* has itself been a frequent purveyor of anti-China propaganda, in May it published a series of essays by veteran investigative journalist Max Suich which revealed that Canberra had made a deliberate decision in 2017 to antagonise and alienate Beijing, at ASIO’s behest.<sup>6</sup> Should it continue in this vein and become a regular outlet for the relatively sane, anti-war factions of Australia’s establishment, it would fill a lamentable void in the mainstream political discourse.

4. “Why is Canberra boosting Islamist terrorist apologists?”, Citizens Party media release, 23 Apr. 2021; “Rex Patrick can’t back up his Uyghur slave labour claims”, AAS, 11 Aug. 2021.

5. “ASPI: forced labour hypocrites and academic fraudsters”, AAS, 14 Oct. 2020.

6. “Veteran journo confirms ASIO engineered Australia’s China hysteria”, AAS, 26 May 2021.