

International Human Rights and Corruption (Magnitsky Sanctions) Bill 2021

Second Reading Speech

I am pleased today to rise to speak on the *International Human Rights and Corruption (Magnitsky Sanctions) Bill 2021*.

The world is at a tipping point in the struggle against creeping – or in some places marching – authoritarianism.

In Australia, we live with the benefits of a stable and prosperous democracy – its superiority over any other model of political and economic organisation may seem self-evident.

But this is actually not the case for many people in many parts of the world.

Democracy and personal liberty cannot be taken for granted, anywhere or at any time.

They must be defended, and if I may put it this way, they must be aggressively defended, in all of our countries.

The practical application of human freedom, through political participation and democracy, is a universal idea central to our humanity.

And so are human rights.

While these notions have their origins in Europe and North America, they are not ‘Western’ in essence; they are universal, and just as applicable in the developing world as they are in the developed.

As the United States’ *Declaration of Independence* expresses it:

“We hold these truths to be self-evident, that all men are created equal, and endowed by their Creator with certain inalienable rights. Among them are life, liberty and the pursuit of happiness...”

We must remind ourselves that these are quite radical ideals – throughout history, they have not been the norm.

For evidence of how fragile democracy is, we need only to look to certain parts of the world, where in recent years we have seen a slide back to authoritarian governments.

So in that context, the fault lines are there for all of us to see.

Many of the great democracies – the Free World, if you like – Australia, Canada, France, Germany, Great Britain, India, Japan, New Zealand and, of course, our Alliance partner the United States of America, respect human rights, the rule of law, the protection of private property rights and the right to speak out about political issues without fear of a knock on the door at midnight.

Now of course we don't always do this perfectly.

The Declaration of Independence, from which I quoted earlier, has not always guaranteed the United States is free from error, or the oppression and dispossession of its own citizens.

Yet its ideals have lit the way to freedom. One only has to look at the t-shirts of those marching for freedom recently in Cuba and Hong Kong – they were t-shirts adorned with the American flag, the Stars and Stripes.

However, no less a figure than Dr Martin Luther King Jr invoked that very phrase – *"We hold these truths to be self-evident, that all men are created equal"* – in the struggle for civil rights that led his nation to a more perfect Union.

Therein lays the genius of democracy – our willingness to accept imperfection, to own our mistakes, and then use them as an example of how to be better.

The Authoritarian World – and I won't name individual countries – does not respect anything other than the maintenance and projection of power. And it has ever been thus.

Without the protections and due processes of democracy, even the most prosperous businesspeople can lose everything overnight, the most innocent citizen jailed without cause.

The most seemingly powerful official can be sent straight to jail – after a show-trial – if she or he falls foul of their authoritarian ruler.

In the Authoritarian World, the average citizen lives looking over their shoulder, watched by facial recognition cameras, judged by a police state, randomly punished

in the most brutal prisons imaginable, all while these abuses are aided, abetted and covered up by a controlled media.

As Democratic Senator for New York, Daniel Patrick Moynihan once said:

“If the newspapers of a country are filled with good news, the jails of that country will be filled with good people.”

It is not wrong to say that one side – for all of our faults, which are many – is good; and to say equally that to deny basic human rights and due process to any person is evil.

Evil is a word that some are uncomfortable with, in our modern age.

But in a modern age of regimes that torture, jail and murder their own citizens, break their spirits, take away hope and humanity, it is a word without which we cannot do.

And I’m idealistic enough to believe that you support good and oppose evil.

Even if it costs you.

Even if it hurts.

History will judge us.

Future generations will judge us.

And whether it be *The Republic of Conscience* as imagined by Seamus Heaney which makes clear that we are self-aware beings capable of self-examination; whether we are guided by the Bible, or the Torah, or the Quran or the Vedas and the Bhagavad Gita; whether it is what we see in our daily dealings with other human beings, we learn to distinguish what is right and what is wrong, what is moral and immoral, and indeed, what is good and what is evil.

And if we don’t call out evil where it lurks, if we don’t fight back when given the opportunity to diminish and defeat evil, then who are we? Can we say that we are different from that which we fight to defeat?

And it is for that reason – the lack of respect of rights of their fellow human beings – that we observe the phenomenon of those who’ve gamed the authoritarian system by stealing or engaging in the most heinous human rights abuses and corruption, seeking the safety of the Free World’s jurisdictions.

They seek to protect themselves and their ill-gotten gains with the very protections they deny the victims of their regimes.

Buying property in London or Sydney or Paris or Vancouver is safe.

Our system of land title gives as close to absolute certainty that no-one can steal your property from you.

In the Authoritarian World there is no such safety.

If those with power want to take, he or she can just take.

And there might be the occasional fig-leaf of pretend process but the outcome is the same.

Which brings us to this bill:

The International Human Rights and Corruption (Magnitsky Sanctions) Bill 2021.

This bill is inspired by Sergei Magnitsky, an employee of hedge fund manager Bill Browder, who was murdered by Russian crooks connected to the highest levels of the current Russian regime, and died in a Russian prison, with reports of torture.

He was murdered because he had uncovered what were successful attempts to steal hundreds of millions of dollars from the Russian state.

Mr Browder, a prosperous man who could have continued a quiet comfortable life, was so outraged and saddened that he has dedicated his life to what are now called around the world "Magnitsky laws".

Local proposals to do the same were driven by many but no-one more notable than my friend Michael Danby, the former member for Melbourne Ports.

Backed by the then Leader of the Opposition, Bill Shorten, he obtained Caucus support for the bill, and introduced it into the House in December of 2018.

This bill lapsed at the dissolution of the 45th Parliament in 2019.

Since then, I've been pleased to see our Senate Leader, Senator Wong, and Liberals, notably Senator James Paterson and The Hon Kevin Andrews MP, support Magnitsky legislation.

I also note strong support amongst my crossbench colleagues.

Magnitsky laws have taken on an encouraging, but what I consider, slow, new life in the 46th Parliament.

On 3 December 2019, the Minister for Foreign Affairs and Minister for Women, Senator the Hon Marise Payne, asked the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into the use of targeted sanctions to address human rights abuses.

As I had been discussing Magnitsky laws with Michael Danby since I had seen Bill Browder being interviewed on 7.30 in February 2018, I was encouraged to give notice on the following day to introduce:

A Bill for an Act to enable Australia to impose sanctions to promote compliance with international human rights law and respect for human rights or to deter significant corruption, and for related purposes. International Human Rights and Corruption (Magnitsky Sanctions) Bill 2020.

What better way to acknowledge Michael Danby's role in originally bringing Magnitsky legislation to the Australian Parliament than by placing an updated version of his bill back on the notice paper in a display to the Government that combatting the obscenity of human rights abuses globally is a desire of every single representative in this place.

In a process that took just over a year, the Joint Standing Committee, on 7 December 2020, tabled its report, titled:

Criminality, corruption and impunity: Should Australia join the Global Magnitsky movement?

Throughout this time, we were fortunate to hear, and receive input from, a number of local and international experts, including the founder of the Global Magnitsky Movement Bill Browder, prominent international lawyers Geoffrey Robertson QC and Amal Clooney, and former Canadian Attorney-General, Professor Irwin Cotler.

I'd like to put on record my thanks and appreciation to the committee members and secretariat staff for their hard work in producing such an important document.

The unanimous report's first recommendation reads:

"The Sub-committee recommends that the Australian Government enact stand-alone targeted sanctions legislation to address human rights violations and corruption, similar to the United States' Magnitsky Act 2012."

So in the spirit of this recommendation, by introducing this bill here today I hope to start a process that leads to creating an Australian Magnitsky law.

This bill has three main objectives.

Firstly, it prevents prescribed foreign persons who are deemed to have engaged in gross violations of human rights and corruption from visiting Australia, as well as investing and spending money here through the imposition of financial and trade sanctions.

On the advice of the Minister, the Governor-General can target individuals with immigration, trade and financial sanctions.

Secondly, the imposition of sanctions on these corrupt individuals and human rights abusers puts their names into the public domain for all to see.

This means they become pariahs amongst the international community whose validation they so desperately seek.

Thirdly, the widespread publicity of their crimes will act as a deterrent to other individuals living under authoritarian regimes who are encouraged or aspire to engage in similar behaviour.

Without this legislation, not only are we an outlier amongst similar democracies, but we may also become a honey pot for channelling ill-gotten gains as more and more countries implement their own sanctioning legislation.

In a world of growing authoritarianism, this becomes a weapon for democratic pushback.

A strong and clear message will be sent to lower ranking officials and criminal thugs that their crimes – whether on behalf of, or protected by their superiors, will not be immune from international consequences.

This says to them:

“Your stolen money is no good here. No matter how you steal from your people, there will be no shopping trips to Paris, no harbour-front mansions in Sydney, no skiing in Aspen, no nest-egg in a Western bank. And like King Midas, they’ll have lots of gold but no way to enjoy it.”

It says to them:

“You can’t travel here. Go find a resort in the country you’ve ruined and polluted and corrupted and tyrannised. There’s no escape on offer here.”

It says to them:

“You are so beneath contempt, you are so loathsome that we have judged you and we will say so in public and encourage other free countries to do the same so that door after door is shut in your face.”

This says that Australia will not be a fence for stolen goods, nor a hollow log for stolen money.

While Australia does have broad sanctioning powers under the Autonomous Sanctions Act 2011, these lack the ability to specifically target the assets of human rights violators, or their families, living in Australia.

These sanctioning powers will apply to countries which are ruled by authoritarian regimes; in countries with a rule of law there are justice systems which would deal with human rights abuses and corruption.

Magnitsky laws have passed in the United States, the United Kingdom, Canada, the European Union and various other European jurisdictions.

I am also in regular contact with Japanese and New Zealand legislators who hope to enact their own version of Magnitsky.

By introducing this Bill today, I hope it becomes a catalyst for all Parties to come together with us to introduce these important laws in a multi-partisan way.

The recommendations in the Joint Standing Committee’s report are very good and strong and many could be incorporated in this Bill, not to mention a draft bill provided by Geoffrey Robertson QC that has many useful sections.

In moving a motion at Labor’s Special Platform Conference earlier this year I said that:

“...condemning the abuses is not enough. So long as governments fail to take meaningful action to hold those responsible to account then these atrocities will continue, and we only need to look to history to see where this ends. When human rights are destroyed in one part of the world, they invariably affect the rights of people in other parts of the world.”

This legislation is a real and tangible way we can take action – not just rhetoric, not just political posturing.

So, in closing, what will be the effect of this?

Will it encourage better behaviour in the authoritarian world?

We cannot be certain.

But we do know they don't like it.

They really, really don't like it.

Because they complain and complain and complain about it.

It was central to one country's list of grievances presented to the United States.

And it sends a message to all those who yearn to be free but are so afraid of what will happen to them if they speak out.

It says to them so very clearly:

“You do not walk alone. The world is watching. We want for you the freedom we enjoy. And we will no longer turn a blind eye to those who profit from your misery.”

And I know another effect.

We'll be able to look at ourselves in the mirror and be proud that we stood up for the values we hold dear.

Turning good words into good deeds cannot always happen in this building. I hope the Government, whose members have been very supportive of this kind of proposal, and the cross-bench who have been equally supportive, can join with Labor to stand with the oppressed and not the oppressors, to oppose the perpetrators, not perpetuate the oppression.

Thank you.