

Version 02.15.2024

Submission Template with Sample Text For Targeted Human Rights & Anti-Corruption Sanctions Recommendations to the United States Government

Introductory explanation:

Human Rights First created this template as a guide for civil society organizations interested in submitting evidence-based sanctions recommendations to the U.S. Departments of State and Treasury pursuant to the Global Magnitsky Act of 2016 as implemented by Executive Order 13818, and to the Department of State pursuant to Section 7031(c) of the annual Department of State Appropriations Act.

For general questions regarding Global Magnitsky (GloMag)/EO 13818 sanctions and 7031(c) visa restrictions, please consult HRF's [resources page](#) or contact Amanda Strayer at StrayerA@humanrightsfirst.org.

The template is structured using a dossier framework that all NGOs are advised to follow. It includes advice regarding best practices (*in italics*) as well as sample language contained within the body of each section. The sample language is intended as a guide for tone and structure and is not applicable to all cases.

Submitting cases through the coalition:

Human Rights First provides this template as part of ongoing efforts to aid members of the human rights and anti-corruption sanctions coalition in effectively advocating with the U.S. government for sanctions against the world's worst human rights abusers and corrupt actors. To improve civil society products and outcomes, we also provide training, facilitate pro bono legal support, review casefiles, and aid in submitting recommendations to appropriate government offices once they are complete. In an effort to maximize the impact of this information, the coalition has recently begun to share its casefiles with additional agencies and governments. However, recognizing the sensitivity of certain cases, we ask that all NGOs submitting through the coalition process **opt in** to sharing their completed casefiles with each of the following:

- U.S. Departments of State and Treasury: standard and required for engaging in the Global Magnitsky and 7031(c) processes
- Relevant U.S. FBI and DHS offices: information collected for potential federal criminal investigations and immigration enforcement against violators
- Canadian and UK government sanctions offices: submissions to the government agencies in Canada and the UK that administer GloMag-like human rights and anti-corruption sanctions regimes (more governments will likely be added over time)

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**FORMAL RECOMMENDATION TO THE U.S. DEPARTMENT OF STATE
AND U.S. DEPARTMENT OF THE TREASURY RECOMMENDING
SANCTIONS AGAINST**

[NAME PERPETRATORS IF THREE OR LESS, DESCRIBE IF MORE]

**FOR INVOLVEMENT IN HUMAN RIGHTS ABUSES AND/OR
CORRUPTION**

THIS RECOMMENDATION IS MADE UNDER:

**THE GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT
AS IMPLEMENTED BY EXECUTIVE ORDER 13818**

[AND/OR]

§7031(C) OF THE ANNUAL DEPARTMENT OF STATE APPROPRIATIONS ACT

**RECOMMENDATION PREPARED BY
[NGO Name]**

**POINT OF CONTACT REGARDING RECOMMENDATION
[Name of NGO POC]
[Email of NGO POC]
[Phone Number of NGO POC]**

**DATE OF SUBMISSION
[MONTH XX, XXXX]**

INFORMATION ABOUT SUBMITTING ORGANIZATION

** Provide a brief description of your organization that includes an explanation of the relevant link between your organization and the information in the casefile.*

** It is helpful to include reference to markers of credibility and significant interactions that your organization has had with U.S. government offices, e.g., relationship with the U.S. embassy in country, previous briefings for the State Department, testimony given before Congress, any funding received from the U.S. government, etc.*

** Where applicable, include information regarding partner organizations that contributed to the casefile.*

SAMPLE TEXT

Human Rights for Generica (HRG) is a nonpartisan, 501(c)(3), international human rights organization established in 2000 and based in Metropolis and Cosmopolis. We document and report on abuses by police and other security forces in Generica (see our reporting here [hyperlink “here” with relevant link]). Representatives from HRG testified before the U.S. Congress on January 1, 2018 on the human rights crisis in Generica. We frequently brief officials from the Department of State and the United Nations (UN), and our work has been repeatedly cited by UN experts.

This submission was prepared in partnership with International NGO X.

** After completing your draft, do not forget to click on the Table of Contents and select “Update Table > Update page numbers only > OK” to refresh the page numbers shown below to accurately reflect changes to the document.*

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Section 1. Case Summary

** The “Case Summary” is a narrative synopsis of your submission that should fit on a single page. The Case Summary is an important advocacy tool that, with your permission, will be provided to officials in the U.S. government’s executive and legislative branches, as well as applicable foreign governments and non-state stakeholders.*

** The purpose of the Case Summary is to provide decision makers with a concise presentation of the facts contained in your submission, including information related to the context and facts of the alleged acts of corruption and/or serious human rights abuses. In one page, it should articulate the liability of the listed perpetrator(s) for the identified crimes and provide a brief justification for why the imposition of the recommended sanction is in the U.S. national interest.*

** As shown below, the names of the perpetrators being recommended for sanctioning should be written in **bold**. Throughout the document, you should continue to **bold** the names of these perpetrators to make them easy to distinguish from other persons mentioned in the document.*

****SAMPLE TEXT****

Country: Generica

Perpetrators (2): **Colonel John Smith** (a.k.a. Jonathan Smith, a.k.a. Johnny Smith), Director-General of Ministry of Security (July 2016 – Present); **Colonel Edward Doe**, Director of Criminal Interrogation (Jan. 2015 – Present).

Summary:

Colonel John Smith and **Colonel Edward Doe** are senior officers within the Generic Security Service (GSS), a component of the Ministry of Security (MoS) of the People’s Republic of Generica. As senior officers of the GSS, **Colonel Smith** and **Colonel Doe** are responsible for the arbitrary detention and torture of political prisoners.

The GSS is the domestic intelligence agency of the Generican government and is responsible for the suppression of political and popular dissent in the country. According to reports by credible international human rights organizations, as well as interviews with multiple survivors of GSS abuse, the GSS operates a network of torture facilities throughout Generica. In these facilities, GSS officers and their subordinates subject individuals to various forms of torture, including severe beatings, sleep deprivation, starvation, prolonged detention in stress positions, exposure to extreme cold and heat, sexual violence, and electric shock. GSS detainees are most often tortured for the purpose of extracting coerced confessions that are used in sham judicial proceedings in which torture victims are convicted on trumped up charges such as “participating in protests,” “illegal assembly,” and “terrorist activity.”

Smith and **Doe** have served as senior officers within the GSS for several years and have commanded units that are directly involved in the operation of the GSS torture program. Due to their leadership positions within the GSS and the frequency and pervasiveness of torture at GSS facilities, **Smith** and **Doe** knew, or should have known, that units under their command were involved in the perpetration of gross violations of human rights. Additionally, credible evidence demonstrates that neither **Smith** nor **Doe** took steps to either halt the abuses or to investigate them in a genuine effort to impose punishment on those directly engaged in the torture of detainees. As leaders of units engaged in the commission of gross violations of human rights, **Smith** and **Doe** should be sanctioned by the United States government under the Global Magnitsky sanctions program and have their U.S. visas restricted pursuant to §7031(c).

The sanctioning of **Smith** and **Doe** will serve two key foreign policy priorities of the United States. First, the sanctions will reaffirm the U.S. government's commitment to promoting accountability among perpetrators of serious human rights abuse. It will send a clear message to the Generican government that egregious human rights violations in the name of national security will not be tolerated by the United States. Second, it will provide leverage to aid diplomats in incentivizing the Generican government to suspend a policy that is directly undermining U.S. regional counterterrorism efforts. Debriefs of Generican fighters returning from the Middle East show that roughly 80% of radicalized militants elected to take up arms due to a sense of personal and communal grievance driven by the Generican government's repressive policies. Sanctioning members of the GSS who are integral to its torture program would send a powerful signal that the U.S. government finds the Generican government's actions not only illegal, but also strategically counterproductive.

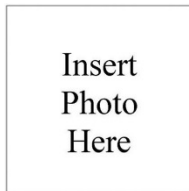
Section 2. Biographical Perpetrator Information

** Be consistent in names of entities and roles and use formal names to the extent possible, including all known aliases.*

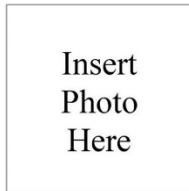
** When available, pro bono counsel should run the perpetrators through World-Check or a similar screening database to obtain any additional available identifying information.*

** Where the submission alleges responsibility due to an individual's status as a leader or official of an entity that perpetrated the alleged acts, the NGO should seek to include an organizational chart and as much other background information as is available to illustrate the manner in which officials within various entities or departments have authority over the ultimate perpetrators of the human rights abuses or corruption.*

SAMPLE TEXT



Full Legal Name of Perpetrator: Colonel John Smith (a.k.a. Jonathan Smith, a.k.a. Johnny Smith)
Country: Generica
Title or Position: Director-General of Ministry of Security (since July 2016); former Director of the Directorate of Criminal Interrogation (2015)
Date of Birth: 12/14/1971
Other Known Personal Identifiers (place of birth, passport number, address, etc): located in Metropolis, Central Province; Passport 66666666; Generica identification number 3333333
Past Travel to the United States: Yes, frequent visits for tourism, including at least November 2016, August 2017, and January 2018



Full Legal Name of Perpetrator: Colonel Edward Doe
Country: Generica
Title or Position: Director of the Directorate of Criminal Interrogation (since January 2015)
Date of Birth: 10/09/1980
Other Known Personal Identifiers (place of birth, passport number, address, etc): located in Metropolis, Central Province; Passport 9999999999; Generica identification number 22222222
Past Travel to the United States: Unknown

Section 3. Known Family, Facilitators, and Assets of Perpetrators

** The U.S. government prioritizes “network sanctions,” or cases where they can tie together multiple perpetrators and facilitators in a criminal enterprise to target holistically. Everything NGOs can do to flesh out the U.S. government’s understanding of the players in a network, including creating network maps or other graphics where applicable, will significantly strengthen the case.*

** Family members are oftentimes a part of these networks, and any available information regarding them should be included as well. This is particularly true for 7031(c) cases where “immediate family members” (i.e., spouse and children of the perpetrator) known to have benefitted from the proceeds of corrupt acts and/or human rights abuse may be sanctioned jointly.*

** A significant consideration for the U.S. government in determining the impact of an individual sanction action is understanding the extent of financial assets owned or controlled by the alleged perpetrator that can be frozen, blocked, or otherwise disrupted. Such assets can include (but are not limited to): bank accounts; real property; luxury goods (e.g., yachts, sports cars, collector’s items, etc.); and ownership, stock shares, or other valuable interest in businesses.*

SAMPLE TEXT

Colonel John Smith:

List of Known Family Members:

Name	Bio identifiers	Relationship	Known benefit
Jane Smith	Nationality: Generica, Russia DOB: 1/2/1980 POB: Moscow, Russia	Wife	Owns four properties purchased by perpetrator. ¹
Tom Smith	Nationality: Generica DOB: 4/5/2002 POB: Metropolis, Generica	Son	Attends college in U.S. and lives extravagant lifestyle. ²

List of Facilitators:

Name	Bio identifiers	Relationship	Known benefit
Joe Schmoe	Nationality: Generica DOB: 9/19/1975 POB: Village, Generica	Front man for three businesses beneficially owned by perpetrator. ³	N/A

¹ See Annex A, pg. 1-2

² See Annex A, pg. 3-5

³ See Annex B

Juan Garcia	Nationality: Spain DOB: 2/1/1970 POB: Madrid, Spain	Agent, buys properties and procures contracts on perpetrator's behalf. ⁴	\$3 million known from one transaction. ⁵
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List of Assets:

Description of Asset	Nexus to Perpetrator	Location of Asset	Value of Asset
Bank account at Generica National Bank (GNB)	Owned by perpetrator	GNB is incorporated in Central Province, Generica	Unknown
Residential property in Miami, Florida	Property owner listed as wife of perpetrator	1234 Miami Street Miami, FL 1234	Appraised in 2016 at \$35 million USD.
Luxury yacht	Reportedly owned by perpetrator ⁶	Unknown, previously docked in Barcelona	Reportedly purchased for \$60 million USD. ⁷

Colonel Edward Doe:**List of Family Members:**

No information is known regarding Edward Doe's family.

List of Facilitators:

Edward Doe has no known facilitators.

List of Assets:

Edward Doe has no known assets.

⁴ See Annex C

⁵ See Annex C, pg. 9-11

⁶ See News Report A

⁷ Id.

Section 4. Factual/Contextual Background

** A brief description that provides necessary contextual information to understand the nature of the crimes and the individual perpetrators' involvement in committing them. Often this will include a brief history of the current political regime and general background information on a long-standing pattern of abuses.*

** This section should NOT go into deep detail regarding the crimes themselves, as this will be explained later in the document. Instead, use this section to set the table upon which the case will be further elaborated in the following sections.*

** When ending this section, consider including a brief conclusion that summarizes the culpability of the listed perpetrators.*

SAMPLE TEXT

Generica is governed by President George Johnson, who came to power through a coup d'état in 1990. In 1995, following a disputed general election, Johnson established the Generic Security Service (GSS) as a tool of fear and oppression to consolidate his power and eliminate persons perceived as political threats and rivals. The GSS is organized under the Ministry of Security (MoS) of the People's Republic of Generica, as reflected in the attached MoS Organizational Chart.⁸ Human Rights for Generica (HRG) has compiled the details of individual cases of torture by the GSS, which are attached as **Annex E**.

As demonstrated through these individual cases, the GSS has engaged in a pattern and regular practice of human rights abuses in Generica dating back to 1995, including routinely throughout the past five years.⁹ The pattern shows that individuals are arrested and brought to the GSS, where they are tortured for several hours or days, exceeding multiple months in some cases. The torture inflicted by the GSS has regularly included severe beatings, sleep deprivation, threats to family members, withholding food and water, forced standing and other stress positions, exposure to dangerously cold temperatures, sexual abuse, and electric shock.¹⁰ HRG has confirmed that at least one of the tortured individuals died in GSS custody. Detainees are most often tortured for the purpose of coercing a confession (which most claim was false and only given to end the torture), which is used in the subsequent trial against them and results in their conviction. Charges generally relate to domestic offenses, including “participating in protests” and “illegal assembly,” as well as charges of “terrorist activity,” the validity of which has been called into question by credible UN experts and human rights organizations.¹¹ Some of the

⁸ See Annex D.

⁹ Citation with link to online availability, if possible. Sample text: For a general overview of the GSS's pattern of torture and other forms of human rights abuses, see NGO Report A, NGO Report B, UN Report C, and UN Report D.

¹⁰ For details, see NGO Report B, p. 4.

¹¹ UN and NGO reporting here.

detainees subjected to these abuses have been as young as 15. Life imprisonment and death sentences are often imposed as a result of these confessions coerced through torture.¹²

The individuals recommended for sanction in this submission are both current and former high-ranking officers within the MoS or GSS. As is included as a criterion under Executive Order 13818, each of the individual perpetrators named in this submission is or has been a leader or official of a governmental entity that has engaged in, and whose members have engaged in, serious human rights abuse. Moreover, the evidence discussed in this submission confirms that there is a pattern and practice of human rights abuse by the GSS that could exist only if condoned by officials at all levels of authority. Due to the widespread and regular nature of these abuses, and the fact that these incidents of torture have been well-known, well-documented, and have occurred repeatedly for a period of many years, HRG submits that each of the individuals recommended for sanction were knowingly complicit in serious human rights abuse and knew, or should have known, that the government entities that they led were consistently engaged in the commission of serious violations of human rights. The listed perpetrators also failed to take steps to halt the abuses or to investigate them in a genuine effort to impose punishment on their subordinates who engaged in serious human rights abuses. As such, HRG recommends these individuals for inclusion on the Global Magnitsky/EO 13818 and 7031(c) sanctions lists.

¹² See NGO Report D, pp. 15-16.

Section 5. Summary of Evidence

** Under both GloMag and 7031(c), the USG looks for credible evidence of a singular act (GVHR/SHRA (e.g., one extrajudicial killing, one act of torture)) or corruption, though highlighting a pattern of abuse helps to support a case. You must make sure that, at a minimum, there is at least one act connected to the named perpetrator(s) that is well-documented by multiple credible, independent sources.*

** Provide a narrative of the facts surrounding the case you are recommending to the U.S. government, supplemented by footnoted hyperlinks to supporting documents and/or annexes for documents not in the public domain.*

** Include a summary description of the NGO's sources and methods of obtaining the factual information included in the submission (e.g., firsthand victim accounts, interviews with family members, documents reviewed, etc.).*

** Strong cases will include as many unique sources of credible, verifiable information corroborating your claim as possible. The U.S. government prefers when evidence can be obtained and corroborated from multiple sources (in other words, a single NGO's internal information concerning a human rights violation, combined with that NGO's formal, publicly available report on the same incident(s), is likely to be viewed as a single source, and thus represent a weaker case than if the NGO's reporting can be combined with, e.g., that of a UN investigative committee). Other credible sources include: reliable government reports, primary source investigations from credible news outlets, and firsthand documentary evidence.*

** Where multiple perpetrators are submitted, it is helpful to detail the role(s) of each alleged perpetrator with some specificity. If the submission relies on the perpetrator's role as an official of an entity which engaged in, or whose members engaged in, human rights abuses or corruption, if possible, include the perpetrator's job description and an organizational chart to establish the line of authority.*

** For human rights abuse cases, or cases in which you are recommending that a leader or official in a particular unit be designated on account of that unit's involvement in human rights abuses, your documentation should include:*

- *Details on the nature of the abuse(s) and victim(s), including why the actions in question qualify as "gross violations of human rights" (in the case of 7031(c) submissions) or "serious human rights abuse" (in the case of submissions only recommending GMA designation).*
 - *"Gross violations of internationally recognized human rights," is defined in the Foreign Assistance Act of 1961 (22 U.S.C. § 2304(d)(1)) to include "torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention*

without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.” New as of 2021, Section 7031(c) also defines “gross violations of human rights” to include “the wrongful detention of locally employed staff of a United States diplomatic mission or a United States citizen or national.”

As currently articulated by the U.S. government, EO 13818’s “serious human rights abuse” standard covers the same crimes as “gross violations,” but unlike the latter term, “abuse” also applies to non-state actors and to extraterritorial crimes. In other words, “serious human rights abuses” are the same crimes as “gross violations of human rights,” but they can occur anywhere in the world and can be committed by either state actors or non-state actors.

- *The relationship between the perpetrator and the documented human rights abuse(s).*
 - *Note that while EO 13818 eliminated the Global Magnitsky Act’s requirement that a leader/commander be tied directly to a particular human rights abuse through legal “command responsibility,” stronger cases will demonstrate through evidence these three criteria are met: 1) the forces who committed the abuses were under the individual’s effective command and control or authority and control, 2) the individual knew or should have known of the abuse, and 3) the individual failed to take the necessary and reasonable measures to prevent or repress the abuse, or to submit the matter for investigation and prosecution.*
- *Any evidence demonstrating that actions alleged to have been committed by the perpetrator were not unique to the specific case(s) documented but are indicative of a wider pattern of abuse.*
 - *The strongest cases against a particular perpetrator will include multiple, independent accounts of the alleged crimes (such as through witness or victim testimonies), coupled with credible reporting of a more general nature on abuses known to have occurred.*

** For corruption cases, or cases in which you are recommending that a leader or official in a particular entity be designated on account of that entity’s involvement in corruption, your documentation should include:*

- *Details on the nature of the corrupt acts, including whether they included the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation of the transfer of the proceeds of any of these acts.*
 - *The strongest cases against a particular perpetrator will include both direct and circumstantial evidence demonstrating knowledge and intent to commit a corrupt*

act. In addition to witness statements, documentation may include banking records or other evidence not in the public domain.

- *Information demonstrating that an alleged corrupt actor is a current or former government official, or a person acting on behalf of such an official, or a person who materially assisted, sponsored, or provided support to such an official.*

SAMPLE TEXT

The GSS has previously been identified by civil society groups as responsible for frequent instances of torture and ill treatment in Generica.¹³ HRG has documented individual cases in Annex E, with the most recent reported instance of torture taking place earlier this year. Many of the individuals were arrested without a warrant, with multiple individuals reporting that the arresting forces wore civilian clothing or were otherwise unidentifiable. These officers would then transport the individuals to the custody of the GSS for interrogations, during which they would subject the individuals to torture. The methods of torture most frequently employed are beatings, electric shock, sexual assault, threats of rape, forced standing, stress positions, forced nudity, and sleep deprivation.¹⁴

In addition to HRG’s documentation of individual cases, several other leading human rights organizations have identified the GSS as part of a pattern of human rights abuses. Human Rights International published a report in July 2016, detailing a number of human rights abuses in Generica, including torture by the GSS.¹⁵ HR International noted that “[m]any detainees and former detainees allege they were tortured while under interrogation by the GSS at their facility in Metropolis.”¹⁶ HR International’s report specifically corroborates some of HRG’s individual cases, including those of Jane Doe (¶2 in Annex E)¹⁷ and John Doe (¶3 in Annex E).¹⁸ Additionally, Human Rights Today published a report in 2018 which documented several cases of torture by the GSS in 2016 and 2017.¹⁹ Both the Human Rights International and Human Rights Today reports detail similar instances of torture, including beatings, electric shock, sexual assault, and threats of rape, accompanied by demands from the interrogators to confess to criminal acts. Other instances of individual acts of torture have been reported by the Center for Human Rights,²⁰ among others.²¹

The United Nations has also addressed cases of torture by the GSS, through various communications from the Human Rights Council Special Procedures Offices on individual complaints submitted to the Special Procedures Offices (“SPOs”). As early as 2012, the SPOs were sending communications to Generica concerning reports of torture by the GSS – that year,

¹³ See NGO Reports A, B, C, and D.

¹⁴ See Annex E pgs. 3-6, 9, 11-12, and 17.

¹⁵ Citation with link to online availability, if possible.

¹⁶ *Cite*

¹⁷ *Cite*

¹⁸ *Cite*

¹⁹ *Cite*

²⁰ *Cite*

²¹ See, e.g., Credible Local News Outlet Article, [hyperlink]

two Special Procedures mandate holders sent an Urgent Appeal concerning the torture of John Doe by the GSS.²² Following his torture, Mr. Doe was charged with “unlawful assembly,”²³ a blatant violation of the right of freedom of expression. In a communication to the Generic government earlier this year, the Special Procedures office noted reports of the torture and ill treatment of Jane Doe (¶2 in **Annex E**).²⁴ In another communication in 2017, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment detailed reports of abuse and torture committed by GSS officers in the case of James Smith (¶5 in **Annex E**).²⁵

Finally, investigative reporting undertaken by credible press outlets, including the *New York World* and German news weekly *Heute Zeitung* has independently corroborated instances of torture by the GSS, including in facilities known to have held Jane Doe and John Doe.²⁶

²² *Cite*

²³ *Cite*

²⁴ *Cite*

²⁵ *Cite*

²⁶ *Cite*

Section 6. Application of Legal Standards

i. Legal Basis for Sanctions

** Specify the type of case you are documenting. There are three options available: a Global Magnitsky/EO 13818 case only, a 7031(c) case only, or a case brought under both programs. The default should be to submit your recommendation under both authorities, as their legal frameworks are largely overlapping, and most cases will qualify for review under both laws. However, cases meeting certain specific criteria will only be eligible for sanctioning under one program or the other. The four meaningful differences are:*

1. *Global Magnitsky/EO 13818 sanctions must relate to acts that can be shown to have been committed within an unofficial 5-year statute of limitations. 7031(c) visa restrictions are not subject to this limitation.
 - a. *Note that, to the greatest degree possible, you should prioritize cases of SHRA and corruption that are ongoing. While evidence beyond 5 years cannot, on its own, support a case, when applicable you may (and should) reference acts beyond the 5-year horizon to establish an ongoing pattern of behavior.**
2. *Global Magnitsky/EO 13818 sanctions may be applied to non-state actors while 7031(c) visa restrictions may not.*
3. *Global Magnitsky/EO 13818 sanctions may be applied to extraterritorial crimes committed by state actors while 7031(c) visa restrictions may not.*
4. *Global Magnitsky/EO 13818 sanctions will not be imposed where the alleged perpetrator “has been prosecuted appropriately for the activity” in question; or the alleged perpetrator “has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage in [an act of serious human rights abuse or corruption] in the future;” whereas 7031(c) visa restrictions do not consider these factors.*

So, to know whether to request sanctions under Global Magnitsky/EO 13818, 7031(c), or both, answer these four questions:

1. *Does my case include sanctionable crimes that have been committed within the last 5 years (even if it also includes crimes from more than 5 years ago)?*
2. *Are any of my identified perpetrators state actors (i.e., government officials)?*
3. *Were the identified crimes committed within the sovereign territory of the targeted state actors (including embassies and consulates)?*
4. *Do the perpetrators continue to enjoy impunity for their crimes and is there little prospect of that changing?*

If you answer “Yes” to all four questions, then you should submit your recommendation under both programs.

If you answer “Yes” to Questions 1 and 4, and “No” to either Question 2 or 3, then only submit under Global Magnitsky.

If you answer, “No” to either Question 1 or 4, but “Yes” to Questions 2 and 3, then only submit under 7031(c).

If you answer, “No” to Question 1 and Question 2 and/or 3, then you do not currently have a case appropriate for submission under either program.

** Beyond identifying which sanctions authorities you are invoking for your recommendations, it is important to articulate the specific basis for the recommendation within each law. The Global Magnitsky program allows the U.S. government to sanction any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:*

- 1. To be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse, or to have attempted to engage in any of these actions.*
- 2. To be a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, or has attempted to engage in:

 - a. corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or*
 - b. the transfer or the facilitation of the transfer of the proceeds of corruption.**
- 3. To be or have been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse, corruption, or the transfer or the facilitation of the transfer of the proceeds of corruption relating to the leader’s or official’s tenure.*
- 4. To be or have been a leader or official of an entity whose property and interests in property are blocked pursuant to this order as a result of activities related to the leader’s or official’s tenure.*
- 5. To have materially assisted, or to have attempted to have materially assisted: serious human rights abuse, acts of corruption, or the transfer or facilitation of the transfer of the proceeds of corruption conducted by a foreign person; any person previously designated under the EO; or any entity, including a government entity, whose members have engaged in serious human rights abuse, acts of corruption, or the transfer or facilitation of the transfer of the proceeds of corruption. (Note, this basis for recommendation applies to **any** person, not just foreign persons.)*
- 6. To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person designated under the EO, including attempting to act.*

Section 7031(c) requires the U.S. government to sanction officials of foreign governments and their immediate family members about whom the Secretary of State has credible information have been:

1. *Involved, directly or indirectly, in significant corruption, including corruption related to the extraction of natural resources.*
2. *Involved, directly or indirectly, in a gross violation of human rights.*
3. *Involved, by theory of command responsibility, in a gross violation of human rights.*

SAMPLE TEXT

HRG submits that these perpetrators are subject to Global Magnitsky sanctions under Executive Order 13818, Section 1(a)(ii)(C)(1) as current or former “leaders or officials” of “an entity...that has engaged in, or whose members have engaged in” serious human rights abuse.

Furthermore, the detailed activities include credible allegations of abuse that has occurred within the last year, as well as repeated allegations from a diverse pool of credible sources over the last 25 years. As there have been no meaningful changes in government leadership in Generica or at the GSS specifically in the few months since the last reported abuse, the abuse is considered to be part of a continuous and systematic pattern of behavior that remains ongoing.

HRG also submits that these perpetrators are subject to 7031(c) sanctions under Section 7031(c) of the Annual Department of State Appropriations Act for being directly or indirectly involved in multiple gross violations of human rights, or involved by theory of command responsibility.

ii. Application of Legal Standards to the Facts of the Case

** The application of relevant legal standards to the particular facts included in the submission may be left to pro bono counsel to complete when working with pro bono counsel.*

** Be sure to include discussion of any references to external definitions or sources that may be used to interpret the terms in EO 13818 and 7031(c), and the application of those terms to any particular case.*

** If there have been prior similar designations under either sanctions program, those should be discussed here as well.*

** The roles of the individual perpetrators recommended for designation should be discussed in detail, along with specific references to their wrongdoing where available. If they are being recommended based on command responsibility, take care to describe with as much specificity as possible their role and the extent to which they have (or had) control over and/or involvement in the activities of those who directly participated in abuses.*

SAMPLE TEXT

1. Gross Violations of Human Rights under 7031(c)

Section 7031(c) utilizes the “gross violations of internationally recognized human rights” standard defined in the Foreign Assistance Act of 1961 to include “torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.”²⁷ It is clear that the continuous and systematic abuses perpetrated by the GSS meet this standard.

The actions taken by individuals within the GSS (including those individuals listed as perpetrators) have shown a pattern of abuse, torture, and ill treatment that has continued from at least 2010 until the present. These actions constitute torture under the U.S. definition, as they were carried out by government officials acting under the color of law, and they were intentionally inflicted to cause severe physical or mental pain or suffering upon the individuals in their custody.²⁸ However, due to the international nature of the crimes, the international definition of torture should also be considered, notably that found in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). These actions also meet the definition of torture under CAT, as they were intentionally inflicted by public officials for the purpose of obtaining confessions, intimidation, punishment, or for any reason based on discrimination.²⁹

Furthermore, the perpetrators of these crimes, as identified in this submission, are government officials engaging in activities within the sovereign territory of Generica. As such, the perpetrators of these crimes and their immediate family members qualify for visa restrictions under 7031(c).

2. Serious Human Rights Abuse under Global Magnitsky/EO 13818

Executive Order 13818 subjects current or former “leaders or officials” of foreign government entities to sanction where the entity at issue, or its members, have engaged in “serious human rights abuse.” While the EO does not define this term, it clearly contemplates “gross violations of human rights” by government officials. As described above, the current case clearly meets this threshold.

²⁷ 22 U.S.C. § 2340(d)(1).

²⁸ 18 U.S.C. § 2430(1) (2004), (“torture” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control”).

²⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. 39/46 (10 Dec. 1984), Art. 1 (“the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”).

Furthermore, with crimes in this case beginning in at least 2010 and extending into the present, including credible evidence dating from this year, the case meets Global Magnitsky’s recency requirement. As such, these cases meet the threshold of a “serious human rights abuse” and HRG hereby submits these individuals to be considered for sanctions under the Global Magnitsky Act for their membership in a government entity that has perpetrated these abuses.

3. Roles of the Individual Perpetrators

Executive Order 13818 provides for the sanction of individuals who are “leaders or officials” of government entities engaged in serious human rights abuse “relating to the leader’s or official’s tenure.” Section 7031(c) provides for the visa restriction of individuals who are involved in gross violations of human rights both “directly and indirectly,” or by operation of command responsibility. As explained previously, the GSS is organized under the Ministry of Security of Generica, as reflected in the attached Ministry of Security Organizational Chart. Each of the perpetrators named in this submission held an officer level or otherwise leadership position within the Ministry of Security or the GSS specifically during the period in which the severe human rights abuses detailed above and in the accompanying evidence were perpetrated. Moreover, the evidence discussed in this submission confirms that there is a pattern and practice of human rights abuse by the GSS that could exist only if condoned by officials at all levels of authority. Due to the widespread and regular nature of these abuses, and the fact that these incidents of torture have been well known and documented and have occurred repeatedly for a period of more than several years, HRG submits that each of the individuals recommended for sanction were knowingly complicit in, and knows or should know, that the government entities they have led, or their subordinates within those entities, have been engaged in ongoing human rights abuses. Furthermore, the named individuals failed to take necessary measures to halt the abuses or to investigate them in a genuine effort to impose punishment on the perpetrators.

Section 7. National Interest Argument & Explanation of Foreseeable Impact

** Given that use of the Global Magnitsky Act sanctions authority is discretionary, the U.S. government must be convinced that it is in the U.S. national interest to sanction a particular individual or entity.*

** Note that unlike Global Magnitsky, 7031(c) sanctions are mandatory if requisite criminal and evidentiary thresholds are reached, but even in 7031(c)-only cases, it is good practice to articulate to the U.S. government the benefits to be derived from sanctioning the illicit actors publicly and suggesting ways in which the sanctions could create useful leverage. Furthermore, to determine under 7031(c) whether corruption has been “significant,” the USG uses a holistic approach that includes consideration of U.S. interest and effects of the corruption on U.S. markets.*

** Use this section to assess and describe the impact of a sanctions designation. Generally, attempt to put yourself in the shoes of a U.S. government official and assess how U.S. sanctions against the targeted perpetrator would advance a comprehensive U.S. strategy affecting the U.S. bilateral relationship with the country, the U.S. strategic position in the region, and the international perception of the U.S. more broadly.*

** While the rationale for a particular designation should include that the U.S. government should uphold its stated commitment to promoting human rights and fighting corruption (as noted in the preface to EO 13818), the most compelling arguments will also include why a particular designation will work to advance U.S. interests and international peace, security, and norms more broadly. Such arguments could include: the ways in which sanctioning a particular individual or entity could send a targeted message to a government, government faction, or military unit; isolate an individual spoiler; curb illicit finance; limit future human rights abuses within a particular unit; improve a security situation; and/or provide leverage in a diplomatic discussion. Any assets and/or facilitators listed in Section 2 that could be affected by placing the perpetrator on OFAC’s “Specially Designated Nationals” (SDN) list should also be addressed. As applicable, the summary of impact should also seek to explain how sanctioning the perpetrator(s) in question could deter similarly situated actors from engaging in human rights abuses and/or corruption.*

SAMPLE TEXT

It is in the U.S. government’s interest to ensure that torture and other prohibited forms of ill treatment will not go unnoticed or unpunished. The GSS’s abuses are well-known and well-documented. The designation of one or more high-ranking individuals within the GSS would demonstrate the commitment and leadership of the United States to promoting accountability among human rights violators and ensuring that criminal convictions against individuals are aligned with international standards of fair trial rights.

These designations are aligned with the aims set out in Executive Order 13818, in which the President articulated a finding that human rights abuses outside the United States “undermine the

values that form an essential foundation of stable, secure, and functioning societies” and “degrade the rule of law.” While torture for any purpose is a threat to “international political and economic systems,” torture for the purpose of coercing confessions is an even greater danger as it degrades confidence in the rule of law. Notwithstanding Generica’s cooperation with the United States on regional security initiatives, the GSS is clearly engaged in systemic and widespread human rights abuses, which are undoubtedly the type of activity the President intended to target in issuing Executive Order 13818. GSS designations would send a strong message that the United States does not employ sanctions as a method of impugning its adversaries but will hold even close allies to account.

Furthermore, as described in multiple analyses conducted by credible analysts, Generica’s domestic counterterrorism policies, including instances of torture perpetrated by members of the GSS, are having the effect of alienating, and in some cases radicalizing, members of Generica’s minority population.³⁰ Debriefs of Generican fighters returning from the Middle East have shown that roughly 80% of radicalized militants elected to take up arms due to a sense of personal and communal grievance driven by the Government of Generica’s repressive policies.³¹ Sanctioning members of the GSS shown to have engaged in or directed torture would send a powerful signal that the U.S. government finds the Government of Generica’s actions not only illegal, but also strategically counterproductive. Given Generica’s key role in the fight against regional violent extremism and security partnership with the United States, the U.S. government could consider combining sanctions designations with diplomatic outreach and security sector assistance aimed at strengthening elements of Generica’s security services known not to have engaged in torture.

³⁰ See, for example, Think Tank Report A.

³¹ See Think Tank Report B, pp 6-7.

Section 8. Discussion of Contrary Evidence/Arguments

** Do not omit any known contradictory, countervailing, or exculpatory evidence. Please note any such evidence and reasons why your case still meets the law’s “reason to believe based on credible information” standard.*

** Assume that any arguments and/or evidence that are public or available to the government of the designees’ country will be shared with the U.S. agencies charged with reviewing these designations. As such, it is advantageous to address such arguments directly in these submissions as it is unlikely that you will receive another opportunity for rebuttal.*

** In particular, discuss why any contrary statements by the Government regarding their human rights record or efforts to address human rights complaints domestically should not be credited and provide citations to evidence, where available.*

SAMPLE TEXT

HRG is not aware of any credible contradictory, countervailing, or exculpatory evidence concerning the alleged responsibility of Col John Smith and Col Edward Doe for acts of torture committed by GSS members under their command. While the Government of Generica has routinely denied that members of the GSS commit torture, HRG finds these claims lack credibility given the extensive documentation of such acts by credible bodies, as referenced throughout this submission.

HRG is aware that the Generica-based and government-organized NGO (GONGO) Generica for Genericans (GG) has released a report that attempts to refute claims of torture in Generican prisons and offers an alternative narrative suggesting exemplary conditions for inmates.³² Both the accuracy and the objectivity of this report have been questioned by multiple credible sources,³³ and GG has a well-known history of publishing misleading and false information in attempts to whitewash Generica’s human rights record.³⁴ In light of the abundance of evidence from multiple respected NGOs, the UN, and various credible news outlets, the sole countervailing narrative presented by GG does not hold up to scrutiny and should be disregarded.

³² Cite

³³ Cite

³⁴ Cite