

# Secondary sanctions & overcompliance: Navigating the Human Rights Cost

Report of the Special Rapporteur on the negative impact of unilateral coercive measures  
on the enjoyment of human rights

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## Developments and recent measures

- **Expanding Enforcement:** Sanctioning states impose secondary sanctions, bring civil and criminal charges for circumvention / alleged circumvention of sanctions regimes to the nationals of any country around the world to enforce primary sanctions. In a view of the legal uncertainty and high penalties, sanctions enforcement results in the growth of zero-risk policies and consequent over-compliance.
- **Due Diligence Dilemmas:** In accordance with international law, states are under due diligence obligation to make sure that their activity and activity under their jurisdiction or control does not violate international obligations and does not violate human rights. Sanctioning states, however, introduce a concept of due diligence as an obligation to enforce unilateral sanctions.
- **Legal Labyrinth:** Multiplicity of sanctions regimes, high risk of high penalties for circumvention/ alleged circumvention of primary sanctions, reputational risks, multiplicity of non-legal explanatory documents, unclear legal regulation and expanded interpretation affect negatively legal certainty and create a feeling of fear.
- **Inefficacy of humanitarian exemptions:** existing humanitarian exemptions are too narrow, encompass food and medicine only, and are not effective even as concerns purely humanitarian needs.

## Expanding effects

- **Affected actors:** Compounded impact of overcompliance by different actors, such as States, businesses, financial institutions, civil society organizations and humanitarian actors.
- **Secondary sanctions, overcompliance and access to food:** Access to and delivery of food are severely affected by secondary sanctions and overcompliance, despite the formal existence of humanitarian carve-outs regarding food in many sanctions regimes.
- **The right to health:** The growing impact of overcompliance on the right to health, although medicine and medical goods alongside food are formally exempted from unilateral sanctions regimes.
- **The right to education:** Indiscriminate impacts on students, academics, teachers and education professionals through the discontinuation of academic programmes, travel restrictions, access restrictions to training materials, textbooks and school supplies, online databases due to Internet protocol address blocks, hindering access to the possibility of publications, scientific and professional cooperation.
- **“Creeping” extraterritorial jurisdiction and overcompliance:** The grounds for extraterritorial application are overstretched, indirectly connected to the subject matter or a person and interpreted deliberately to expand the scope of primary sanctions and force overcompliance.

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## Conclusions

- **Legal and Humanitarian Concerns:** The majority of unilateral sanctions do not correspond to the criteria of sanctions' legality and therefore constitute UCMs condemned in multiple resolutions of the General Assembly and the Human Rights Council, affecting both the populations of sanctioned countries and those of sanctioning and third-party countries.
- **Overcompliance and its Consequences:** There's a growing tendency of businesses towards overcompliance with sanctions due to fear of secondary sanctions and criminal and civil penalties. This exacerbates legal uncertainties, impedes humanitarian operations, and is driven by a complex and ever-changing sanctions environment, further complicated by coordinated sanctions policies among major powers like the US, EU, and UK.
- **Illegality and International Law Violations:** The application of extraterritorial jurisdiction for circumvention of unilateral sanctions regimes, through secondary sanctions and civil and criminal penalties, contradicts international law.
- **Impact on Human Rights and Development:** Overcompliance with unilateral sanctions violates nearly all civil, economic, social and cultural rights, as well as the right to development.

## Recommendations

- States and Regional Organizations are advised to review and lift primary unilateral sanctions not in conformity with international law, avoid secondary sanctions, civil and criminal penalties for circumvention of sanctions' regimes, stop issuing non-binding interpretative documents, reject extradition requests for sanction circumvention, mitigate overcompliance, protect humanitarian actors, ensure access to justice for affected individuals.
- Goods and services necessary for maintenance of critical infrastructure including food, medicine, electricity, water, transportation and other critical services shall never be affected by any unilateral measures.
- Businesses should avoid zero-risk policies and overcompliance, ensuring their practices align with human rights obligations, particularly for essential goods and services.
- States under Sanctions are recommended to report challenges caused by sanctions and overcompliance to UN mechanisms, focusing on the impact on human rights.
- United Nations Agencies are called to assess and address the humanitarian impacts of sanctions, including the legality of secondary sanctions and the enforcement of civil and criminal penalties, to ensure alignment with international law and human rights standards.

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