

THE BASE OF THE ICEBERG: TARGETED FINANCIAL SANCTIONS AS A TOOL TO COMBAT STRUCTURAL VIOLENCE AGAINST WOMEN GLOBALLY

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Abstract

Violence against women is most often understood, and addressed, through the lens of direct, physical harm. This Note argues that such a framework is inadequate. Drawing on the theory of structural violence, first articulated by sociologist Johan Galtung and later refined by medical anthropologist Dr. Paul Farmer, this Note contends that women globally are disproportionately harmed not only by individual actors but by the economic, legal, and political systems that constrain their agency, limit their access to resources, and prevent them from attaining the highest standard of physical and mental health. These forms of indirect, institutional violence sit at the base of the iceberg—pervasive, normalized, and largely overlooked in both legal scholarship and U.S. foreign policy. This Note examines the current U.S. human rights sanctions regime, in particular the Global Magnitsky sanctions program, and identifies a significant gap: sanctions designations related to gender-based violence have been limited almost entirely to direct, conflict-related sexual violence, leaving structural forms of violence against women and girls largely unaddressed. It argues that the U.S. government must expand its practical interpretation of what constitutes a “serious human rights abuse” under the Global Magnitsky Human Rights Accountability Act and Executive Order 13818 to encompass gender-based structural violence, particularly where state actors, legal institutions, and government officials are identifiable conduits of harm. It further advocates for gender-sensitive implementation of any sanctions designations to mitigate the risk of disproportionate harm to the very populations such measures seek to protect. Lastly, the Note considers the viability of this proposed framework in light of the

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second Trump Administration's significant departure from prior U.S. gender and human rights policy.

INTRODUCTION

*As men [and women], we are all equal in the presence of death.*¹

The words of the Latin writer and philosopher Publius Syrus capture a sentiment shared by many in society across time and space: the thought of death as the great equalizer.² However, when a woman dies, she is more likely to have lived in poverty, more likely to have faced food insecurity, and more likely to have been a victim of interpersonal violence than her male counterparts.³ These disparities are further exacerbated by where a woman lives, her level of education, and her access to wealth.⁴

1 PUBLIUS SYRUS, THE MORAL SAYINGS OF PUBLIUS SYRUS, A ROMAN SLAVE 13 (D. Lyman trans., 1856).

2 See generally Mark Arsenault et al., *Is Death the Great Equalizer?*, BOS. GLOBE (Sep. 26, 2020), <https://apps.bostonglobe.com/metro/investigations/spotlight/2020/09/last-words/part1-dying-poor/> [<https://perma.cc/ET69-WR3N>]; Deborah Carr, *Is Death "The Great Equalizer"? The Social Stratification of Death Quality in the United States*, 663 ANNALS AM. ACAD. POL. & SOC. SCI. 331 (2016) (describing the concept of death as a "great equalizer" as a myth due largely to socioeconomic disparities and other conditions that influence the timing and quality of death).

3 See U.N. WOMEN & U.N. DEP'T OF ECON. & SOC. AFFS., PROGRESS ON THE SUSTAINABLE DEVELOPMENT GOALS: THE GENDER SNAPSHOT 2025 6 (2025), <https://www.unwomen.org/sites/default/files/2025-09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2025-en.pdf> [<https://perma.cc/D8KR-TGNV>] [hereinafter THE GENDER SNAPSHOT 2025] ("In 2025, an estimated 9.2 per cent of women and girls live in extreme poverty compared to 8.6 per cent of men and boys."); *id.* at 7 ("Globally, over one in eight women aged 15–49 has been subjected to physical and/or sexual violence by a current or former intimate partner in the previous 12 months (12.5 per cent)."); *id.* at 13 ("Food insecurity affects women more than men. In 2024, the gender gap in the global prevalence of moderate or severe food insecurity increased to 1.9 percentage points compared to 1.3 in 2023, with women experiencing higher rates (26.1 per cent) than men (24.2 per cent)."); see also WORLD HEALTH ORG., VIOLENCE AGAINST WOMEN PREVALENCE ESTIMATES, 2023, at 49 (2025), <https://www.who.int/publications/i/item/9789240116962> [<https://perma.cc/XPN3-HRZL>] ("In 2023, almost one in three women (840 million) have been subjected to physical or sexual violence, or both, by an intimate partner or sexual violence by a non-partner, at least once in their lives—a number that has remained largely unchanged for more than two decades."); Ginette Azcona & Antra Bhatt, *Poverty is Not Gender-Neutral*, SDG ACTION (Mar. 6, 2023), <https://sdg-action.org/poverty-is-not-gender-neutral/> [<https://perma.cc/B3BS-45JT>]; U.N. Report: *Global Hunger Numbers Rose to as Many as 828 Million in 2021*, WORLD HEALTH ORG. (July 6, 2022), <https://www.who.int/news/item/06-07-2022-un-report--global-hunger-numbers-rose-to-as-many-as-828-million-in-2021> [<https://perma.cc/KT6R-3PMN>]; *Violence Against Women*, WORLD HEALTH ORG. (Mar. 25, 2024), <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> [<https://perma.cc/5U4N-V9WP>].

4 See U.N. WOMEN & U.N. DEP'T OF ECON. & SOC. AFFS., PROGRESS ON THE SUSTAINABLE DEVELOPMENT GOALS: THE GENDER SNAPSHOT 2022, at 4 (2022), <https://unstats.un.org/sdgs/gender-snapshot/2022/>

The story of Dorothy N., a widow in Tanzania, illustrates this phenomenon.⁵ Despite enjoying a good standard of living, completing secondary school and obtaining a specialized diploma, and working as a secondary school teacher, Dorothy N. was left destitute under the Customary Laws of Inheritance of Tanzania after her husband passed.⁶ Her marital home was sold, her marital household's belongings were returned to her late husband's family, and her children were taken from her.⁷ In her own words, she was seriously ill, recovering from paralysis in her hand, and "left with nothing from [her] husband."⁸

In recent decades, scholars have increasingly emphasized this so-called *structural violence*—when structures and institutions harm people by preventing them from meeting their basic needs or rights—to explain stories like Dorothy N.'s and to inform the questions of who lives, who dies, at what time, and under what quality of life?⁹ The rights people enjoy, and their subsequent health outcomes, are not a coincidence.¹⁰ They are routinely, institutionally, and socially determined. American medical anthropologist, physician, and global health practitioner Dr. Paul Farmer wrote in his landmark memoir, *Pathologies of Power: Health, Human Rights, and the New War on the Poor*:

Human rights violations are not accidents; they are not random in distribution or effect. Rights violations are, rather, symptoms of deeper pathologies of power and are linked intimately to the social conditions that so often determine who will suffer abuse and who will be shielded

GenderSnapshot.pdf [<https://perma.cc/F3TY-QFML>] [hereinafter THE GENDER SNAPSHOT 2022].

5 See Dorothy N., *My Life as a Widow*, in WOMEN CHALLENGING VIOLENCE—EXPERIENCES FROM EASTERN AND SOUTHERN AFRICA 11, 11–13 (Frederich Ebert Stiftung ed., 1994).

6 *Id.* at 11.

7 *Id.* at 12.

8 *Id.*

9 See, e.g., Claire Herrick & Kirsten Bell, *Concepts, Disciplines and Politics: On 'Structural Violence' and the 'Social Determinants of Health'*, 32 CRITICAL PUB. HEALTH 295, 301–02 figs. 2 & 3 (2022) (providing statistics on the prevalence of academic scholarship on structural violence and the social determinants of health); see also Paula Braverman & Laura Gottlieb, *The Social Determinants of Health: It's Time to Consider the Causes of Causes*, 129 PUB. HEALTH REP. 19, 20 (2014) ("A large and compelling body of evidence has accumulated, particularly during the last two decades, that reveals a powerful role for social factors—apart from medical care—in shaping health across a wide range of health indicators, settings, and populations." (internal citations omitted)).

10 See generally Paula Braverman, *What Are Health Disparities and Health Equity? We Need to Be Clear*, 129 PUB. HEALTH REP. 5 (2014) (providing a discussion of health disparities and health equity).

from harm. If assaults on dignity are anything but random in distribution or course, whose interests are served by the suggestion that they are haphazard?¹¹

Global public health researchers, medical professionals, and the international development community have long recognized that individual harms are often caused by institutional and sociological forces.¹² The law and legal institutions are no different; “[l]aws are not science; they are normative ideology and are thus tightly tied to power.”¹³ Nevertheless, structural violence is a concept under-addressed in legal scholarship and under-applied in policy efforts by the United States, other states in the Global North,¹⁴ and international or regional organizations to remedy violence against women and girls, a long-standing, pervasive public health crisis.¹⁵

11 PAUL FARMER, *PATHOLOGIES OF POWER: HEALTH, HUMAN RIGHTS, AND THE NEW WAR ON THE POOR* 7 (2003) [hereinafter FARMER, *PATHOLOGIES OF POWER*].

12 See Gloria Macassa, *Does Structural Violence by Institutions Enable Revictimization and Lead to Poorer Health Outcomes?—A Public Health Viewpoint*, 89 *ANNALS GLOB. HEALTH* 58, at 1–7 (2023) (internal citations omitted) (discussing the state of research on structural violence among the public and health and health science communities).

13 FARMER, *PATHOLOGIES OF POWER* *supra* note 11, at 235 (citing OSCAR SCHACHTER, *INTERNATIONAL LAW IN THEORY AND PRACTICE* 6 (1991)).

14 References to “Global North” and “Global South” (also referenced herein) speak to the “framework for understanding and analyzing the relative prosperity and international power of countries around the world, which has become increasingly popular following criticism of other taxonomic systems, such as the three-world system and the developed and developing countries system.” Miles Kenny, *Global North and Global South*, *ENCYCLOPEDIA BRITANNICA* (Nov. 17, 2024), <https://www.britannica.com/topic/Global-North-and-Global-South> [<https://perma.cc/28WW-QR8V>]; see also Rory Horner & Pádraig Carmody, *Global North/South*, in *INTERNATIONAL ENCYCLOPEDIA OF HUMAN GEOGRAPHY* 181, 181 (2d ed. 2020) (“The (Global) ‘North–South’ divide is a popular current lexicon to refer to the gap between what have variously been termed developed and developing countries (and sometimes industrial and nonindustrial/industrializing), First and Third Worlds, and associations with rich and poor, haves and have-nots. It is a binary which underlies most framings of world development, which is characterized globally by combined and uneven development.”).

15 At the time of publication of this Note, the author has identified two pieces of traditional legal scholarship that explicitly utilize a structural violence framework in their analysis. See generally Matiangai Sirleaf, *Ebola Does Not Fall from the Sky: Structural Violence & International Responsibility*, 51 *VAND. J. TRANSNAT’L L.* 477, 482 (2021) (analyzing the Ebola epidemic to demonstrate how “international law and its various actors can facilitate structural violence”); Erin M. Carr, *The “History and Tradition” of the Sanctification of Structural Violence: A Review of the Cyclical Corrosion of Constitutional Protections*, 27 *J. GENDER, RACE & JUST.* 1 (2024) (utilizing a structural violence framework to explain how state actors, including the U.S. Supreme Court, perpetuate harm against communities of color, women, and the LGBTQ+ community). See also *Departmental Update: Gender Based Violence is a Public Health Issue: Using a Health Systems Approach*,

In recent years, the U.S. government has prioritized combatting gender-based violence at home and abroad.¹⁶ In 2012, the U.S. Congress first requested a “multi-year strategy to prevent and respond to violence against women and girls,”¹⁷ which led to the development of the landmark *U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally* (the “Global Gender-Based Violence Strategy” or the “Strategy”).¹⁸ The Global Gender-Based Violence Strategy, which was subsequently updated in 2016¹⁹ and 2022,²⁰ elevated the human rights of women and girls globally as a U.S. national security, diplomatic, and foreign assistance priority. However, action under the Strategy—particularly economic sanctions designations—has largely been limited to conflict-related sexual violence (“CRSV”) and other forms of direct, physical violence against women.²¹

WORLD HEALTH ORG. (Nov. 25, 2021), <https://www.who.int/news/item/25-11-2021-gender-based-violence-is-a-public-health-issue-using-a-health-systems-approach> [<https://perma.cc/V59Z-UBZF>]; Heidi Stöckl & Susan B. Sorenson, *Violence Against Women as a Global Public Health Issue*, 45 ANN. REV. PUB. HEALTH 277, 278 (2024); Isabel Goicolea, *What a Critical Public Health Perspective Can Add to the Analysis of Healthcare Responses to Gender-Based Violence that Focus on Asking*, 23 BMC PUB. HEALTH 1, 1 (2023); Claudia Garcia-Moreno & Charlotte Watts, *Violence Against Women: An Urgent Public Health Priority*, 89 BULL. WORLD HEALTH ORG. 2, 2 (2011); Ann Öhman et al., *The Public Health Turn on Violence Against Women’: Analysing Swedish Healthcare Law, Public Health and Gender-Equality Policies*, 20 BMC PUB. HEALTH 1, 1–2 (2020) (all speaking to the status of gender-based violence as a public health issue).

16 See, e.g., Jacqueline Howard, *White House Launches National Plan to End Gender-Based Violence*, CNN (May 25, 2023), <https://www.cnn.com/2023/05/25/health/gender-based-violence-white-house-plan> [<https://perma.cc/VY3L-J8MP>]; *Statement by President Joe Biden on the Occasion of International Day for the Elimination of Violence Against Women*, THE WHITE HOUSE (Nov. 25, 2024), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/11/25/statement-by-president-joe-biden-on-the-occasion-of-international-day-for-the-elimination-of-violence-against-women-4/> [<https://perma.cc/3CRN-235L>].

17 H.R. Rep. No. 112-331, § 7061 (2012) (Conf. Rep.); see also Exec. Order No. 13623, 3 C.F.R. 296 (2012) (responding to and expanding upon Congress’ request in § 7061 of House Conference Report 112-331).

18 U.S. DEP’T OF STATE & U.S. AGENCY FOR INT’L DEV., U.S. STRATEGY TO PREVENT AND RESPOND TO GENDER BASED VIOLENCE GLOBALLY (2012), <https://2009-2017.state.gov/documents/organization/196468.pdf> [<https://perma.cc/ZPP4-7PJ3>].

19 U.S. DEP’T OF STATE & U.S. AGENCY FOR INT’L DEV., U.S. STRATEGY TO PREVENT AND RESPOND TO GENDER BASED VIOLENCE GLOBALLY: 2016 UPDATE (2016), <https://www.state.gov/wp-content/uploads/2019/03/258703.pdf> [<https://perma.cc/7YBZ-2WEH>].

20 U.S. DEP’T OF STATE & U.S. AGENCY FOR INT’L DEV., U.S. STRATEGY TO PREVENT AND RESPOND TO GENDER BASED VIOLENCE GLOBALLY: 2022 UPDATE (2022), https://2021-2025.state.gov/wp-content/uploads/2022/12/GBV-Global-Strategy-Report_v6-Accessible-1292022.pdf [<https://perma.cc/N77D-F8W5>] [hereinafter 2022 GLOBAL GENDER-BASED VIOLENCE STRATEGY].

21 *Id.* at 33, 60.

While these forms of violence against women are issues of great import, women (like other marginalized groups) often face more harm as a result of the “pathologies of power” described by Dr. Farmer—the hallmark of structural violence.²² Hundreds of millions of women globally are routinely unable to meet their basic needs.²³ “Three in [ten] women worldwide—which translates to nearly [one] billion women globally—say they cannot afford the food or shelter they or their families need.”²⁴ Yet, we too often view violence against women in too narrow of a framework—one unduly focused on overt physical acts—and ignore structural inequities that cause harm. The persistent view of gender-based violence as only domestic, intimate partner, interpersonal, or conflict-related violence stifles effective policy making aimed at advancing the rights of women and girls globally, particularly their right to the highest attainable level of health.²⁵

This Note draws on the theory of structural violence to reveal the ways in which U.S. human rights sanctions policy fails to adequately conceptualize violence that is not physical or direct as a violation of the human rights of women and girls globally. Part I presents a brief overview of the theoretical framework of structural violence and its application to global public health and argues that structural violence uniquely affects women and girls. Lurking beneath the surface, these pervasive, indirect, and institutional forms of violence make up the base of the iceberg. Part II examines the U.S. government’s existing view of gender-based violence and identifies the gaps in the U.S. targeted human rights sanctions regime, the Global Magnitsky Sanctions Regulations.²⁶ Part III argues that U.S. human rights policy must evolve to meet an expanding, intersectional definition of “serious human rights abuse” that includes gender-based structural violence and advocates for utilizing such an expanded definition in the Global Magnitsky sanctions program. It evaluates which forms of structural violence are better suited to mitigation via targeted financial sanctions

22 See FARMER, *PATHOLOGIES OF POWER*, *supra* note 11, at 43–44 (describing the “Axis of Gender” and the interaction between gender and socioeconomic status in the violation of women’s rights); *see also id.* at 164–67 (discussing how gender inequality in conjunction with poverty puts individual women at greater risk of HIV infection and subsequent AIDS diagnosis).

23 HOLOGIC, *YEAR 4 GLOBAL REPORT: THE HOLOGIC GLOBAL WOMEN’S HEALTH INDEX 34* (2024), https://hologic.womenshealthindex.com/sites/default/files/2025-01/Hologic_Global_Womens_Health_Index_Year_4_Report.pdf [<https://perma.cc/BP5U-TZ82>].

24 *Id.*

25 See Rekha Pande & Sita Vanka, *Introduction*, in *GENDER AND STRUCTURAL VIOLENCE* 1, 5 (Rekha Pande & Sita Vanka eds., 2019).

26 The Global Magnitsky sanctions regulations are codified in the Code of Federal Regulations at 31 C.F.R. pt. 583.

and emphasizes the need for gender-sensitive implementation of any sanctions designations to mitigate the risk of disproportionate harm to the very populations such measures seek to protect. Lastly, Part IV briefly considers the viability of the proposed solutions in light of President Donald Trump's return to office.

I. Violence Against Women Is More than Physical

Structural violence is a term that is rarely employed in legal scholarship but is well examined by scholars of international development, global public health, and human geography.²⁷ The term was first pioneered by Norwegian sociologist Johan Galtung in 1969 in an effort to reconceptualize academia's understanding of "peace" and "violence."²⁸ It was later developed further by liberation theologians in an effort to address poverty, oppression, and inequality in the second half of the twentieth century²⁹ and then refined in the context of medical anthropology.³⁰ Galtung argued that violence should not be seen solely as physical harm or health deprivation intentionally inflicted by an actor.³¹ Rather, violence can be indirect, is built into structures, and manifests as "unequal power and consequently as unequal life chances."³² Under Galtung's theory, economic, political, legal, religious, and cultural institutions can hinder individuals, groups, and societies "from reaching their

27 See Joia S. Mukherjee et al., *Structural Violence: A Barrier to Achieving the Millennium Development Goals for Women*, 20 J. WOMEN'S HEALTH 593, 593 (2002); see also *supra* note 15 (detailing the current state of the application of structural violence frameworks to legal scholarship).

28 Mukherjee et al., *supra* note 27, at 593; Johan Galtung, *Violence, Peace, and Peace Research*, 6 J. PEACE RSCH. 167, 167–71 (1969) [hereinafter Galtung, *Violence, Peace, and Peace Research*].

29 Liberation theology is a theological approach that predominantly arose in Latin America in 1960s, particularly in the context of the reform of Catholicism. It engages in socioeconomic analyses, with social concern for the poor and "political liberation for oppressed people," as well as addressing other forms of perceived inequality. See DICTIONARY OF HISTORICAL TERMS 203 (Chris Cook ed., 2d ed. 1998); João Chave, *Latin American Liberation Theology: The Creation, Development, Contemporary Situation of an On-Going Movement*, in HANDBOOK OF GLOBAL CONTEMPORARY CHRISTIANITY: THEMES AND DEVELOPMENTS IN CULTURE, POLITICS, AND SOCIETY 113, 114 (Stephen J. Hunt ed., 2015).

30 Barbara Rylko-Bauer & Paul Farmer, *Structural Violence, Poverty, and Social Suffering*, in THE OXFORD HANDBOOK ON THE SOCIAL SCIENCE OF POVERTY 47, 61–63 (David Brady & Linda M. Burton eds., 2017) (explaining the application of structural violence to medical anthropology); see also Paul E. Farmer et al., *Structural Violence and Clinical Medicine*, 3 PLOS MED. 1686, 1686 (2006) [hereinafter Farmer et al., *Structural Violence and Clinical Medicine*].

31 Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 168.

32 *Id.* at 171.

full potential.”³³ This violence manifests as disparities in access to influence, education, and healthcare, among other critical resources, culminating in preventable morbidity and mortality.³⁴ This Part explains the distinction between direct and structural violence and discusses applying a structural violence lens to discussions about global public health. It then provides a high-level overview of the ways in which women and girls can be subjected to structural violence and its resulting poor health outcomes.

A. A Theoretical Framework: Structural Violence

1. The Iceberg: Distinguishing Direct and Structural Violence

Though the term “violence” may naturally invoke a direct, physical image in its standard, colloquial use, Galtung defines violence as the “avoidable impairment of fundamental human needs” or the reduction of one’s capacity to meet those needs “below what would otherwise be possible.”³⁵ Structural violence expands the traditional view of violence as *direct* and is used to describe *indirect* violence that is not necessarily tied to a single identifiable individual actor.³⁶ Structural violence “complicates conventional

33 Farmer et al., *Structural Violence and Clinical Medicine*, *supra* note 30, at 1686 box 1 (internal citations omitted).

34 Farmer et al., *Structural Violence and Clinical Medicine*, *supra* note 30, at 1686 box 1 (citing Johan Galtung, *Kulturelle Gewalt*, 43 DER BURGER IM STAAT 106 (1993) [hereinafter Galtung, *Kulturelle Gewalt*]; Paul Farmer, *An Anthropology of Structural Violence*, 45 CURRENT ANTHROPOLOGY 305, 307 (2004)); *see also* Ryko-Bauer & Farmer, *supra* note 30, at 47 (“By structures we mean social relations and arrangements—economic, political, legal, religious, or cultural—that shape how individuals and groups interact within a social system. These include broad-scale cultural and political-economic structures such as caste, patriarchy, slavery, apartheid, colonialism, and neoliberalism, as well as poverty and discrimination by race, ethnicity, gender, sexual orientation, and migrant/refugee status. These structures are violent because they result in avoidable deaths, illness, and injury; and they reproduce violence by marginalizing people and communities, constraining their capabilities and agency, assaulting their dignity, and sustaining inequalities.”).

35 Kathleen Ho, *Structural Violence as a Human Rights Violation*, 4 ESSEX HUM. RTS. REV. 1, 4 (2007) (citing Galtung, *Kulturelle Gewalt*, *supra* note 34, at 106). To illustrate this distinction between the avoidable and unavoidable, Galtung raises the example of death due to tuberculosis during the eighteenth century compared to the time of publication of *Violence, Peace, and Peace Research*, saying: “[v]iolence is that which increases the distance between the potential and the actual, and that which impedes the decrease of this distance. Thus, if a person died from tuberculosis in the eighteenth century it would be hard to conceive of this as violence since it might have been quite unavoidable, but if he dies from it today, despite all the medical resources in the world, then violence is present according to our definition.” Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 168.

36 Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 170.

wisdom because it does not conceive of violence as spectacular, sensational, or hyper visible.”³⁷ Rather, it is “almost invisible”³⁸ not because it is rare, concealed, or unimportant but because its presence is accepted (whether rightfully or wrongfully) as a natural part of how we see the world.³⁹ Galtung helpfully draws a clear distinction between these two principal types of violence:

We shall refer to the type of violence where there is an actor that commits the violence as *personal* or *direct*, and to violence where there is no such actor as *structural* or *indirect*. In both cases individuals may be killed or mutilated, hit or hurt in both senses of these words, and manipulated by means of stick or carrot strategies. But whereas in the first case these consequences can be traced back to concrete persons as actors, in the second case this is no longer meaningful. There may not be any person who directly harms another in the structure. The violence is built into the structure and shows up as unequal power and consequently as unequal life chances.⁴⁰

Although they are distinct concepts, structural and direct violence interact, influence, and reinforce each other. Structural violence can manifest in an assortment of ways, ranging from individual, interpersonal violence like homicide and domestic violence, to state violence, genocide, and war.⁴¹

37 Sirleaf, *supra* note 15, at 483 (citing ROB NIXON, *SLOW VIOLENCE AND THE ENVIRONMENTALISM OF THE POOR* 13 (2011)).

38 Farmer et al., *Structural Violence and Clinical Medicine*, *supra* note 30, at 1686 box 1.

39 See Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 173 (“Structural violence is silent . . . [and] may be seen as about as natural as the air around us.”); Nancy Scheper-Hughes & Philippe Bourgois, *Introduction: Making Sense of Violence*, in *VIOLENCE IN WAR AND PEACE: AN ANTHOLOGY* 5 (Nancy Scheper-Hughes & Philippe Bourgois eds., 2004) (stating that structural violence is “not deviant behavior, not disapproved of, but to the contrary is defined as virtuous action in the service of generally applauded conventional social, economic, and political norm”).

40 Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 170–71 (emphasis in original) (internal citation omitted).

41 See JAMES GILLIGAN, *VIOLENCE: REFLECTIONS ON A NATIONAL EPIDEMIC* 196 (1997) (“Structural violence is . . . the main cause of behavioral violence on a socially and epidemiologically significant scale (from homicide and suicide to war and genocide). The question as to which of the two forms of violence—structural or behavioral—is more important, dangerous, or lethal is moot, for they are inextricably related to each other, as cause to effect.”).

Years after first raising structural violence as a concept, Galtung went on to present a causally-connected “triangle of violence” that introduces direct, structural, and cultural violence to the conversation surrounding peace and violence studies.⁴² Commentators have described the structure of the triangle as an iceberg.⁴³ Only a small part of an iceberg can be seen above the water, while the majority lies hidden beneath the surface.⁴⁴ The visible tip represents direct violence, often involving the “intentional use of physical force or power against other persons by an individual or a small group of individuals.”⁴⁵ The two invisible types of violence, structural and cultural, sit at the iceberg’s base.⁴⁶ Galtung defines “cultural violence” as “those aspects of culture, the symbolic sphere of our existence—exemplified by religion and ideology, language and art, empirical science and formal science (logic and mathematics)—that can be used to justify or legitimize violence in its direct or structural form.” He states that “cultural violence makes direct and structural violence look, even feel, right—at least not wrong.”⁴⁷ This Note does not address cultural violence beyond observing its existence and interaction with direct and structural violence.

With the iceberg analogy in mind, the underlying principle of structural violence is inequality, especially in the distribution of resources.⁴⁸ However, it is not merely about the unequal distribution itself but rather about who and what has the power to decide that distribution.⁴⁹ These distributional effects then influence direct violence and vice versa, particularly as it relates to gender-based violence.⁵⁰ In fact, studies have shown that

42 Johan Galtung, *Cultural Violence*, 27 J. PEACE RSCH. 291, 294 (1990) [hereinafter Galtung, *Cultural Violence*].

43 Macassa, *supra* note 12, at 2 (internal citations omitted); Julia Paulson & Leon Tikly, *Reconceptualizing Violence in International and Comparative Education: Revisiting Galtung’s Framework*, 67 COMPAR. EDUC. REV. 771, 773–75 (2023).

44 Macassa, *supra* note 12, at 2.

45 *Id.*

46 *Id.*

47 Galtung, *Cultural Violence*, *supra* note 42, at 294.

48 Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 171.

49 *Id.* at 170–71; *see also* Paulson & Tikly, *supra* note 43, at 774 (“Galtung defined structural violence as both the uneven distribution of resources and the uneven distribution of the power to decide the distribution of resources, including the uneven distribution of education and literacy, which he identified as forms of structural violence.”).

50 *See* Pande & Vanka, *supra* note 25, at 4–5.

structural violence is known to interact with and reinforce direct violence in the form of intimate partner violence (“IPV”) perpetrated against women.⁵¹ Galtung expressed this sentiment in *Violence, Peace, and Peace Research*, remarking, “[W]hen one husband beats his wife there is a clear case of personal violence, but when one million husbands keep one million wives in ignorance there is structural violence.”⁵²

2. Structural Violence as a Concept in Global Public Health

Galtung’s concept of structural violence, explained in detail *supra* Part I.A.1, did not gain mainstream traction in academia and the medical community until Dr. Paul Farmer applied the theory to the field of global public health and medical anthropology, in particular to his research and interventions combating the HIV/AIDS epidemic in the rural Central Plateau of Haiti.⁵³ Farmer clarified that “structural” refers to the way violence is embedded into the political and economic systems of society, while “violence” refers to the harm these systems cause to individuals.⁵⁴ Professor of Sociology Fernando De Maio

51 See, e.g., Catherine Flynn et al., *When Structural Violence Creates a Context That Facilitates Sexual Assault and Intimate Partner Violence Against Street Involved Young Women*, 68 WOMEN’S STUD. INT’L F. 94, 94–103 (2018) (finding that structural violence through exclusion and violence created a context that facilitated sexual violence revictimization and IPV); Tameka L. Gillum, *The Intersection of Intimate Partner Violence and Poverty in Black Communities*, 46 AGGRESSION & VIOLENT BEHAV. 37, 37–44 (2019) (finding that women in the United States who experienced both poverty and IPV had very poor physical and psychological health); Miguel Felipe Sánchez-Sauco et al., *Sociocultural Aspects of Drug Dependency During Early Pregnancy and Considerations for Screening: Case Studies of Social Networks and Structural Violence*, 78 MIDWIFERY 123, 127–28 (2019) (finding that structural violence and domestic violence interact to influence drug dependency and maternal health among expectant mothers in Spain); Shilo St. Cyr et al., *Intimate Partner Violence and Structural Violence in the Lives of Incarcerated Women: A Mixed-Method Study in Rural New Mexico*, 18 INT’L. J. ENV’T. RSCH. & PUB. HEALTH 1, 11–12 (finding that victimized and incarcerated women returning to their rural communities in New Mexico were at an even greater risk of mental health and ill health, substance abuse, and recidivism because of a compounding structural context, including criminalized interpersonal relationships and persistent racial and economic inequalities rooted in colonialism).

52 Galtung, *Violence, Peace, and Peace Research*, *supra* note 28, at 171.

53 See FARMER, PATHOLOGIES OF POWER, *supra* note 11, at 19–20, 30–31; see also Farmer et al., *Structural Violence and Clinical Medicine*, *supra* note 30, at 1686; Farmer, *An Anthropology of Structural Violence*, *supra* note 34, at 307; Paul Farmer, *On Suffering and Structural Violence: A View From Below*, 125 DAEDALUS 261, 271–72 (1996). Dr. Farmer spent several years in Haiti working with his international nonprofit public health organization “Partners in Health.” He called for a reduction in structural vulnerability and poverty as an approach to eradicating HIV/AIDS. See HMS Communications, *In Memoriam: Paul Farmer*, HARVARD MED. SCH. (Feb. 21, 2022), <https://hms.harvard.edu/news/memoriam-paul-farmer> [<https://perma.cc/YL3V-86SD>]; Ryko-Bauer & Farmer, *supra* note 30, at 48–49.

54 See Farmer et al., *Structural Violence and Clinical Medicine*, *supra* note 30, at 1686.

explains that “[f]or Farmer, structural violence is a wide-ranging tool describing ‘a host of offensives against human dignity,’ including poverty, racism and discrimination, [and] gender inequality, as well as ‘the more spectacular forms of violence that are uncontestably human rights abuses, some of them punishment for efforts to escape structural violence.’”⁵⁵ It is a concept for understanding the material harm, social injustices, and vulnerability to diseases, suffering, lack of access to care, and poor health outcomes caused by broader social, political, economic and legal forces.⁵⁶ Essentially, the theory seeks to explain the distribution of suffering across the world.

De Maio describes Farmer’s understanding of structural violence as “a multi-level idea, through which different ‘axes’ of oppression—based on economic inequality, patriarchy, racism, or other forms of discrimination—may intersect to generate preventable morbidity and premature mortality in marginalised populations.”⁵⁷ Farmer indicates that these structural inequities, whether in the labor market, the justice system, or in access to healthcare, quality housing, and healthy food—which often correlate with poverty, racism, and disenfranchisement—are “embodied and experienced as violence” by constraining individuals’ ability to make decisions and fulfill basic health needs.⁵⁸ Intervention by governments through law, regulation, and policy may in fact reinforce these structural inequities that perpetuate harm against women and other marginalized groups.

Altogether, Farmer emphasizes that structural violence constitutes a violation of human rights when power distributed through structures constrains individual human agency to the extent that meeting basic human needs becomes impossible. Human rights scholar Kathleen Ho applies this concept to racial inequality and the incidence of HIV/AIDS in the United States.⁵⁹ She notes that social structures, in particular racism, systemically disadvantage African-American men and women who then suffer from the “unequal life

55 Fernando De Maio, *Paul Farmer: Structural Violence and the Embodiment of Inequality*, in THE PALGRAVE HANDBOOK OF SOCIAL THEORY IN HEALTH, ILLNESS AND MEDICINE 675, 680 (Fran Collyer ed., 2015) (internal quotation marks omitted) (quoting FARMER, *PATHOLOGIES OF POWER*, *supra* note 11, at 8).

56 See Herrick & Bell, *supra* note 9, at 296–98.

57 De Maio, *supra* note 55, at 680.

58 PAUL FARMER, *PARTNER TO THE POOR* 293 (Haun Saussy ed., 2010); see also FARMER, *PATHOLOGIES OF POWER*, *supra* note 11, at 40 (“For many, including most of my patients and informants, choices both large and small are limited by racism, sexism, political violence, and grinding poverty.”).

59 Ho, *supra* note 35, at 4; see *supra* Part I.A.1.

chances” described by Galtung.⁶⁰ According to Ho, “[T]here is no [one] person that directly harms those HIV-infected African-American women, rather it is the structure of racial inequality, historically rooted in slavery, that perpetuates constraints in agency and unequal opportunities to receive an education, have access to medical care and justice and to secure a stable job.” She rightfully asks not, “Why [do] people suffer from HIV/AIDS?” but, “Why African-Americans as a group and women in particular suffer disproportionately?” and, “Why is it harder for them to access medical care and treatment once they are infected or to have access to food, shelter and safety . . . ?”⁶¹ These are the types of questions critical to understanding how structural violence operates, what steps can be taken to address it, and why it is that women, especially marginalized women, are more often affected—finding themselves at the intersection of multiple axes of oppression.

B. Structural Violence Against Women and the Role of Institutional Actors

Although Galtung’s theory of structural violence was circulated more than fifty years ago and then popularized by Dr. Farmer, it has not, until recently, been applied extensively to human rights issues or to understand the incidence of violence against women and girls. In recent years, efforts have been made to “redraw the conventional map of violence against women” and “challeng[e] the notion that ‘violence against women’ is synonymous with ‘domestic violence.’”⁶² Academic literature has begun to take up these questions and explore structural violence as a heterogenous phenomenon perpetrated against women. Several studies have reported empirical findings regarding structural violence and its effects on women’s health, a largely theoretical concept up until recently.⁶³ Notably, findings

60 Ho, *supra* note 35, at 4.

61 *Id.*

62 Pande & Vanka, *supra* note 25, at 5.

63 See *id.* at 5–10; Sirleaf, *supra* note 15, at 485 (observing that efforts to study structural violence may partially be the result of criticisms of structural violence as “too much of a black box”); see also Parul Sinha et al., *Structural Violence on Women: An Impediment to Women Empowerment*, 42 INDIAN J. COMM. MED. 134, 135 (2017) (“There is a need for crossnational studies on violence against women. The breadth of such a study should help to confirm the structural factors that impact violence against women all across the world, regardless of content.”); Luissa Vahedi et al., “*The Pandemic Only Gave Visibility to What Is Invisible*”: *A Qualitative Analysis of Structural Violence During COVID-19 and Impacts on Gender-Based Violence in Brazil*, 23 BMC PUB. HEALTH 1, 2–3 (2023); Stephanie Rose Montesanti, *The Role of Structural and Interpersonal Violence in the Lives of Women: A Conceptual Shift in Prevention of Gender-Based Violence*, 15 BMC WOMEN’S HEALTH 1, 1–2 (2015) (all academic scholarship attempting to explain the effects of structural violence on women and girls).

have illustrated that structural violence can serve as a significant barrier against women's development and their exercise of fundamental human rights.⁶⁴

Further, in certain scenarios, structural violence has been described as a root cause of poverty, hampering women's autonomy, well-being, and economic development; much of this violence is state-sanctioned through gender-blind, discriminatory, or neglectful law and policy making.⁶⁵ Global data indicates that the pace of reform on women's legal rights is too slow, and significant efforts are still needed to mitigate instances of structural violence. U.N. Women and the U.N. Department of Economic and Social Affairs jointly reported that, based on the latest available Sustainable Development Goals⁶⁶ ("SDGs") data, "reforming laws, closing gaps in legal protections, and removing gender-discriminatory laws could take up to 286 years at the current rate of change."⁶⁷ For instance, only four of fifty-two countries with SDG data for the years 2019 through 2021 "have legal frameworks, including customary laws, that guarantee women's equal rights to land ownership and/or control."⁶⁸ While the picture has improved since 2021, "data from 131 countries in 2024 reveal substantial challenges" in removing gender-discriminatory laws to establish gender equality frameworks.⁶⁹ Moreover, "[i]n 2024, only 26 [percent] of the 121 countries" with data have comprehensive systems in place to track gender-budget allocations across government to help mitigate the unequal distribution of resources, a figure unchanged since 2021.⁷⁰

Structural violence against women can manifest in two principal ways: "pre-mature death attributed to inequitable life opportunities [] and a reduced quality of life in which

64 See Sinha et al., *supra* note 63, at 136; Mukherjee et al., *supra* note 27, at 596.

65 See G. Nokukhanya Ndhlovu, *Structural Violence and the Perpetuation of Women's Poverty: Exploring the Issue of Child Maintenance in South Africa*, 11 DEV. STUD. RSCH. 1, 1–2 (2024) (internal citations omitted).

66 The 2030 Agenda for Sustainable Development, adopted by all United Nations member states in 2015, introduced the 17 Sustainable Development Goals ("SDGs"). The aim of the SDGs is "peace and prosperity for people and the planet" while tackling climate change and working to preserve oceans and forests. See *The 17 Sustainable Development Goals*, U.N. DEP'T OF ECON. & SOC. AFFS., <https://sdgs.un.org/goals> [<https://perma.cc/C85D-RD7B>].

67 See THE GENDER SNAPSHOT 2022, *supra* note 4, at 10.

68 *Id.* at 11.

69 See THE GENDER SNAPSHOT 2025, *supra* note 3, at 16.

70 *Id.* at 17.

human potential is diminished.”⁷¹ The resultant negative health outcomes include “physical health consequences” like “injury, unwanted pregnancy, miscarriage, HIV/AIDS, permanent disabilities, and low-performance rates” and “mental health consequences” including “depression, fear, anxiety, sexual dysfunction, neurosis, and obsessive behavior.”⁷² However, structural violence takes many forms across sociocultural, economic, political, and legal systems and leads to a wide range of negative health outcomes for women, their children, and the wider society.⁷³ Comprehensively evaluating the recommendations raised in this Note first requires an understanding of how each of these types of structural violence functions in practice.

1. Structural Violence in Sociocultural and Economic Systems

Structural violence against women in its sociocultural form is most often thought of as a manifestation of patriarchy and misogyny.⁷⁴ Certain systems and informal institutions heighten existing inequalities and “perpetuate an early devaluation of, and violence against [women and] girls.”⁷⁵ However, as is the case with many forms of structural violence, it is difficult to pinpoint specific actors responsible for “committing” this violence, as it is built into long-standing social, cultural, and even religious systems.⁷⁶ Economic institutions reinforce these systems by consistently underpaying women, ignoring their

71 Dyan Mazurana & Susan McKay, *Women, Girls, and Structural Violence: A Global Analysis*, in PEACE, CONFLICT, AND VIOLENCE: PEACE PSYCHOLOGY FOR THE 21ST CENTURY 130, 130 (Daniel J. Christie, Richard V. Wagner & Deborah Du Nann Winter eds., 2001) (citing BIRGIT BROCK-UTNE, FEMINIST PERSPECTIVES ON PEACE AND PEACE EDUCATION (1989)).

72 Sinha et al., *supra* note 63, at 136; *see also* Eva Neeley et al., “Ashamed, Silent and Stuck in a System”—Applying a Structural Violence Lens to Midwives’ Stories on Social Disadvantage in Pregnancy, 17 INT’L. J. ENV’T. RES. & PUB. HEALTH 9355, 9355–57 (2020); Mounia El Kotni, *Structural Violence: An Important Factor of Maternal Mortality Among Indigenous Women in Chiapas, Mexico*, in MATERNAL DEATH AND PREGNANCY-RELATED MORBIDITY AMONG INDIGENOUS WOMEN OF MEXICO AND CENTRAL AMERICA 147, 147 (David Schwartz ed., 2018); *How Structural Violence Impacts Maternal Mortality*, PARTNERS IN HEALTH, <https://www.pih.org/article/how-structural-violence-impacts-maternal-mortality> [<https://perma.cc/EVU6-MZ7A>] (all describing the various negative health consequences of structural violence against women).

73 *See* Pande & Vanka, *supra* note 25, at 5.

74 *See* Mazurana & McKay, *supra* note 71, at 130–31 (internal citations omitted).

75 *Id.* at 131.

76 *See* Akhil Gupta, *Introduction: Poverty as Biopolitics*, in RED TAPE: BUREAUCRACY, STRUCTURAL VIOLENCE, AND POVERTY IN INDIA 3, 20 (2012).

labor contributions, and discriminating against them across both formal and informal labor markets.⁷⁷

For example, certain populations in low- and middle-income countries exhibit a strong gender preference for sons over daughters, often resulting in higher rates of “form[s] of direct violence resulting from structural violence,” such as selective abortion and female infanticide.⁷⁸ This gender preference is strengthened by other social and economic institutions present throughout a woman’s life span, including dowry systems, wage disparities, and the “invisible” or “unseen” nature of much of the women’s labor market—all of which create the characteristic “unequal life chances” emphasized by Galtung and Farmer that cause female children to be viewed as more of an economic liability than their male counterparts.⁷⁹ Further research has shown that this type of gender preference can even lead to health disparities between sons and daughters in early childhood,⁸⁰ limiting women and girls from equally sharing in access to the highest attainable standard of physical and mental health as a right enshrined in several international legal instruments.⁸¹

Sociocultural structural violence may also manifest in the unequal distribution of food or healthcare services and in disparities in access to education.⁸² In most sub-Saharan

77 Mazurana & McKay, *supra* note 71, at 131, 133–34.

78 *Id.* at 131–32.

79 *See id.* at 132–34; *see also* Kien Le & My Nguyen, *Son Preference and Health Disparities in Developing Countries*, 17 SSM POP. HEALTH 1, 1 (2022) (citing Farah Deeba Chowdury, *Dowry, Women and Law in Bangladesh*, 24 INT’L. J.L., POL’Y & FAM. 198, 198–210 (2010)); Amit Kaplan, “Just Let it Pass by and It Will Fall on Some Woman”: *Invisible Work in the Labor Market*, 36 GENDER & SOC’Y 838, 840 (2022) (citing Arlene Kaplan Daniels, *Invisible Work*, 34 SOC. PROBS. 403, 403–15 (1987); Erin Hatton, *Mechanisms of Invisibility: Rethinking the Concept of Invisible Work*, 31 WORK, EMP. & SOC’Y 336, 336–51 (2017)) (“The concept of “invisible” [or “unseen”] work was coined in feminist literature to explain the various types of (mostly women’s) unpaid labor, which are therefore economically, socially, and culturally devalued.”); U.N. WOMEN & ASIAN DEV. BANK, GENDER EQUALITY AND THE SUSTAINABLE DEVELOPMENT GOALS IN ASIA AND THE PACIFIC 16 (2018) (“Women and girls spend as much as 11 times more of their day than men and boys on unpaid care and domestic work, including cooking, cleaning, and collecting water and fuel.”); Dil Rahut, Aichurek Kurmanbekova & Subhasis Bera, *Uncovering Women’s Burden of “Unseen Work,”* ADBI INST.: ASIA PATHWAYS (May 1, 2023), <https://www.asiapathways-adbi.org/2023/05/uncovering-womens-burden-of-unseen-work> [<https://perma.cc/C3QX-8QB7>] (citing JOSEPH E. STIGLITZ, AMARTYA SEN & JEAN PAUL FITOUSSI, REPORT BY THE COMMISSION ON THE MEASURE OF ECONOMIC PERFORMANCE AND SOCIAL PROGRESS (2009)).

80 *See* Le & Nguyen, *supra* note 79, at 6–7.

81 *See infra* Part III.A.2.

82 *See* Mazurana & McKay, *supra* note 71, at 130–31.

African countries, for example, research has shown that the gender division of labor ascribes to women the responsibilities of pregnancy, birth, and childcare, yet leaves them with insufficient resources and access to care to adequately meet that burden.⁸³ Researchers Moa Dahlberg and Suruchi Thapar-Björkert separately found that the social phenomenon of xenophobia in Gauteng, South Africa functions as structural violence by limiting refugee women's ability to access resources like food, secure housing, transportation, and healthcare.⁸⁴

2. Structural Violence in Legal and Political Systems

Compared to social, cultural, and economic forms of violence, structural violence in legal and political systems is more often governmentally or institutionally sponsored in some capacity. When the government or other legal systems fail to address the sociocultural and economic forms of structural violence discussed above, governmental support of structural violence manifests “through its inattention to ‘private’ matters,” as evidenced across the world.⁸⁵ Beyond passive inaction, governmental support also more directly includes laws and systems that permit certain types of violence toward women, strip women of their bodily autonomy, offer no support for childcare or parental leave, ignore unpaid child support, and leave women who work in domestic or agricultural settings without sufficient protections.⁸⁶ Researchers Dahlberg and Thapar-Björkert note that, despite the ostensible role of governments as “guarantors of the rights of citizens,” states actually “reproduce[] inequalities” and create conditions in which “the poor are merely allowed to die.”⁸⁷ For example, a study showed that during the COVID-19 pandemic in Brazil, the lack of government-implemented social protection policies exacerbated existing structural violence and increased the vulnerability of communities at the margins of Brazilian society: persons living in favelas, migrants, Black women, children, and trans

83 Simona Simona, *Structural Violence and Maternal Healthcare in Sub-Saharan Africa: A Theoretical Perspective*, 11 Soc. Scis. 194, 196 (2022).

84 See Moa Dahlberg & Suruchi Thapar-Björkert, *Conceptualizing Xenophobia as Structural Violence in the Lives of Refugee Women in Gauteng, South Africa*, 46 ETHNIC & RACIAL STUD. 2768, 2773–74 (2023).

85 Mazurana & McKay, *supra* note 71, at 136.

86 *Id.* (citing MARILYN WARING, *IF WOMEN COUNTED* (1988); Christina Murray & Catherine O'Regan, *Putting Women in the Constitution*, in *PUTTING WOMEN ON THE AGENDA* (Susan Bazilli ed., 1991)).

87 Dahlberg & Thapar-Björkert, *supra* note 84, at 2774 (internal quotation marks omitted) (citing Gupta, *supra* note 76, at 5).

persons.⁸⁸ The research found that government “policies of inaction and erasure” including “[h]armful ideologies, [i]nadequate provision of basic survival needs, [and] [s]tate neglect” amplified other adverse outcomes “including worsening child abuse and neglect, emerging forms of psychological GBV, direct and indirect state-sanctioned violence, and deepening poverty[,]” all of which contribute to morbidity and mortality.⁸⁹

Legal and governmental institutions may also take more deliberate actions that cause harm to women globally and may be targeted by the strategy proposed by this Note. Professor Rangita de Silva Alwis raised forced sterilization and other forms of obstetric violence—such as violations of rights to informed consent and bodily autonomy while women and birthing persons seeks reproductive healthcare—as examples.⁹⁰ She found that “[i]ndividual instances of obstetric abuse are part of a broader context of gender-based structural violence as they infringe upon women’s autonomy and their ability to make decisions freely about their bodies and sexuality.”⁹¹ When the government of Chile implemented a policy of forcible sterilization of HIV-positive women,⁹² more than forty percent of those women sterilized reported either being coerced or undergoing the procedure without their consent.⁹³ The forced sterilization—direct violence—exists within the context of lack of consent and coercion—structural violence.

This reflects how state-sanctioned policies can simultaneously embody both direct and structural violence, reinforcing and legitimizing one another. Rather than existing as isolated incidents, acts of direct violence against women, like forced sterilization, are embedded within and enabled by broader systems of structural inequality that erode women’s autonomy, limit their decision-making power, and normalize the subordination of their bodily rights to governmental authority. This intersection of direct and structural violence underscores the need for a comprehensive human rights sanctions policy that addresses not only individual instances of harm but also the institutional frameworks that permit, perpetuate, and at times actively orchestrate such harm on a global scale.

88 Vahedi et al., *supra* note 63, at 15.

89 *Id.* at 5, 14.

90 See Rangita de Silva de Alwis, *Obstetric Violence and Forced Sterilization: Conceptualizing Gender-Based Institutional Violence*, 9 U. PA. J.L. & PUB. AFFS. 95, 99 (2024).

91 *Id.* at 111.

92 *Id.* at 102–03.

93 *Id.* at 103.

As suggested by these examples, varying levels of government or institutional involvement will make certain forms of structural violence more easily targeted by financial sanctions as proposed by this Note.⁹⁴ However, under the executive branch's current interpretation of the Global Magnitsky Human Rights Accountability Act—the statutory basis for most human rights sanctions designations by the U.S. government—“violation[s] of internationally recognized human rights” and “serious human rights abuse[s]”⁹⁵ fail to capture the structural human rights violations described by Farmer and Ho.⁹⁶ Consequently, structural forms of violence against women across the Global South have largely been left unaddressed by U.S. human rights sanctions programs. This Note evaluates whether and how closing this gap may be practicable.

II. The United States' Approach: Current Legal and Policy Landscape

Beginning with embargoes and military blockades prior to the War of 1812, the U.S. government's use of economic sanctions spans several hundreds of years.⁹⁷ However, economic sanctions remained largely unused between the War of 1812 and the early twentieth century, when they evolved into their modern form in the wake of World War I with the rise of the League of Nations.⁹⁸ Economic sanctions surged after World War II, predominantly employed to “protect the U.S. financial system from abuse.” Though

94 See *infra* Part III.

95 Global Magnitsky Act, Pub. L. No. 114-328, tit. XII, subtit. F, 130 Stat. 2000 (2016) (codified as amended at 22 U.S.C. §§10101–03) [hereinafter Global Magnitsky Act].

96 See *infra* Part II.

97 See *About OFAC*, U.S. DEP'T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/about-ofac> [<https://perma.cc/2ZUY-XDFW>] [hereinafter *About OFAC*]; Benjamin Coates, *The United States and International Sanctions*, in OXFORD RESEARCH ENCYCLOPEDIA OF AMERICAN HISTORY 2 (John Butler ed., 2024) (“Sanctions exist at the intersection of choice and compulsion. This position reflects their dual ancestors: private boycott and military blockade.”).

98 See Coates, *supra* note 97, at 2 (“Modern sanctions emerged in the wake of World War I by combining these two lineages [the boycott and the blockade.]”); T. Clifton Morgan et al., *Economic Sanctions: Evolution, Consequences, and Challenges*, 37 J. ECON. PERSPS. 3, 6 (2023) (“In the aftermath of World War I, there was broad interest in the use of economic sanctions as an alternative to war.”); Benjamin Coates, *A Century of Sanctions*, OHIO ST. U.: ORIGINS, CURRENT EVENTS IN HIST. PERSP. (Dec. 2019), <https://origins.osu.edu/article/economic-sanctions-history-trump-global> [<https://perma.cc/4PVH-GFD2>]. See also generally NICHOLAS MULDER, *THE ECONOMIC WEAPON: THE RISE OF SANCTIONS AS A TOOL OF MODERN WAR* 69–81 (2022) (detailing the development of League of Nations sanctions in the wake of World War I).

early sanctions were typically “broader, [country-wide] comprehensive embargo[es],”⁹⁹ narrower economic sanctions, in combination with export controls and other trade measures, have become preferred in recent years. These serve as catch-all governmental tools to respond to foreign policy challenges, alter the behavior of states and individual actors, and reduce the incidence of violence and human rights abuses abroad.¹⁰⁰ The United States escalated its use of these tools following the September 11, 2001 attacks, with research indicating that the United States has “impos[ed] about two-thirds of the world’s sanctions since the 1990’s.”¹⁰¹ Moreover, the United States “uses sanctions most often and with greater economic consequences than any other country[.]” while also typically functioning as “the instigator and enforcer of the application of [multi-lateral] sanctions by other countries[.]”¹⁰²

Scholars, commentators, and policymakers have mixed views on the effectiveness of economic sanctions.¹⁰³ Nevertheless, recent U.S. presidential administrations have

99 RICHARD NEPHEW, COLUM. SCH. OF INT’L & PUB. AFFS., ISSUE BRIEF: THE FUTURE OF ECONOMIC SANCTIONS IN A GLOBAL ECONOMY 7, 8 (May 2015), https://gallery.mailchimp.com/20fec43d5e4f6bc717201530a/files/Issue_Brief_The_Future_of_Economic_Sanctions_in_a_Global_Economy_May_2015.pdf [<https://perma.cc/URH2-VRP7>].

100 U.S. DEP’T OF THE TREASURY, THE TREASURY 2021 SANCTIONS REVIEW 1 (2021) [hereinafter TREASURY SANCTIONS REVIEW]; see also Maksim Likho, *Economic Impact of the U.S. and U.N. Sanctions*, 52 ATL. ECON. J. 245, 245 (2024); Jonathan Masters, *What Are Economic Sanctions?*, COUNCIL ON FOREIGN RELS. (June 24, 2024), <https://www.cfr.org/background/what-are-economic-sanctions> [<https://perma.cc/6J92-M94W>].

101 Manu Karuka, *Hunger Politics: Sanctions as Siege Warfare*, in SANCTIONS AS WAR: ANTI-IMPERIALIST PERSPECTIVES ON AMERICAN GEO-ECONOMIC STRATEGY 51, 55 (Stuart Davis & Immanuel Ness eds., 2022) (citing Joy Gordon, *Economic Sanctions, Just War Doctrine, and the “Fearful Spectacle of the Civilian Dead”*, 49 CROSSCURRENTS 387, 387 (1999)).

102 Tim Beal, *Sanctions as Instrument of Coercion: Characteristics, Limitations, and Consequences*, in SANCTIONS AS WAR: ANTI-IMPERIALIST PERSPECTIVES ON AMERICAN GEO-ECONOMIC STRATEGY 27, 27 (Stuart Davis & Immanuel Ness eds., 2022).

103 See generally Dursun Peksen, *When Do Imposed Economic Sanctions Work? A Critical Review of the Sanctions Effectiveness Literature*, 30 DEF. & PEACE ECON. 635 (2019); Maarten Smeets, *Can Economic Sanctions Be Effective?*, WORLD TRADE ORG., WORKING PAPER NO. ERSD-2018-03 (2018), https://www.wto.org/english/res_e/reser_e/ersd201803_e.pdf [<https://perma.cc/67Z8-9E74>]; Claas Mertens, *Carrots as Sticks: How Effective Are Foreign Aid Suspensions and Economic Sanctions?*, 68 INT’L STUD. Q. 1, 3 (2024); EDGAR MORGENROTH, THE INST. OF INT’L AFFS., A BRIEF REVIEW OF THE EFFECTIVENESS OF ECONOMIC SANCTIONS (2023); Daniel Drezner, *Are Economic Sanctions Effective Foreign Policy Tools?*, TUFTSNOW (July 8, 2024), <https://now.tufts.edu/2024/07/08/are-economic-sanctions-effective-foreign-policy-tools> [<https://perma.cc/Y8EV-EP53>]; Paddy Hirsch, *Why Sanctions Don’t Work—But Could if Done Right*, NPR (Apr. 11, 2023), <https://www.npr.org/sections/money/2023/04/11/1169072190/why-sanctions-dont-work-but-could-if-done->

continued to leverage sanctions to achieve foreign policy and national security objectives, harnessing the power of the U.S. dollar, the perception of sanctions as a peaceful alternative to military intervention, and the relatively low implementation cost.¹⁰⁴ Former Deputy Secretary of the Treasury, Wally Adeyemo, admitted in 2021 that sanctions “have become the [United States’] tool of first resort to address national security, foreign policy, and economic challenges.”¹⁰⁵

Gender-based sanctions efforts have included targeting actors responsible for direct violence against women globally, especially in conflict zones. However, they have yet to address structural forms of violence against women globally in any significant capacity. Part II of this Note provides a brief primer on the United States’ economic sanctions regime, then examines the U.S. government’s historical definition of gender-based violence. Against this background, Part II discusses how the United States has operationalized the U.S. Department of the Treasury’s (“Treasury” or “Treasury Department”) Office of Foreign Assets Control to target human rights violations in a sanctions program administered under the Global Magnitsky Sanctions Regulations.

right [<https://perma.cc/AJR6-BUA2>] (all providing detail on the debate surrounding the effectiveness of economic sanctions).

104 See TREASURY SANCTIONS REVIEW, *supra* note 100, at 2 (describing the 933% increase in OFAC sanctions designations between 2000 and 2021; according to Treasury’s 2021 Sanctions Review, at the end of 2000, the Specially Designated Nationals list included 912 individuals and entities, compared with 9,421 at the time of the report’s release); see also NEPHEW, *supra* note 99, at 4; Miriam Berger, *What Are Economic Sanctions, and How Did They Become Washington’s Foreign Policy Tool of Choice?*, WASH. POST (Feb. 22, 2022), <https://www.washingtonpost.com/world/2021/04/15/faq-united-states-economic-sanctions/> [<https://perma.cc/52RQ-WQZ5>]; Daniel Drezner, *The Rise of Economic Sanctions in U.S. Foreign Policy*, ECONOFACT (June 25, 2024), <https://econofact.org/the-rise-of-economic-sanctions-in-u-s-foreign-policy> [<https://perma.cc/JT8A-AH MV>]; PETER E. HARRELL, BROOKINGS, HAS THE U.S. REACHED “PEAK SANCTIONS”? (July 2024), https://www.brookings.edu/wp-content/uploads/2024/07/20240701_Harrell_Sanctions.pdf [<https://perma.cc/Y8F5-MG23>]; W. Michael Reisman & Douglas L. Stevick, *The Applicability of International Law Standards to United Nations Economic Sanctions Programmes*, 9 EUR. J. INT’L L. 86, 87, 89 (1998).

105 Press Release, U.S. Dep’t of the Treasury, READOUT: Deputy Secretary of the Treasury Wally Adeyemo’s Roundtable Discussion with Securities Industry and Financial Markets Association Board of Directors (Apr. 21, 2021), <https://home.treasury.gov/news/press-releases/jy0141> [<https://perma.cc/2US6-RZ NJ>]; see also *Treasury Deputy Chief Says Reviewing Costs, Benefits of U.S. Sanctions*, REUTERS (Apr. 21, 2021), <https://www.reuters.com/article/us-usa-treasury-sanctions/treasury-deputy-chief-says-reviewing-costs-benefits-of-us-sanctions-idUSKBN2C82W5/> [<https://perma.cc/65GY-4THR>]; Daniel W. Drezner, *Treasury’s Promising Start on Reforming Economic Statecraft*, WASH. POST (Oct. 20, 2021), <https://www.washingtonpost.com/outlook/2021/10/20/treasurys-promising-start-reforming-economic-statecraft/> [<https://perma.cc/UX6D-8C8V>].

A. A Primer on U.S. Human Rights Sanctions

1. U.S. Economic Sanctions: An Overview

Generally, economic sanctions serve as a tool for enforcement of international standards or norms, addressing both “acute crises and long-term [foreign policy] goals.”¹⁰⁶ They are “punitive measures . . . imposed by one country, [a] group of countries, or a multilateral body . . . on a target country, entity, or group of individuals” in response to the violation of said norms.¹⁰⁷ These measures include various trade prohibitions, financial service restrictions, import/export controls, and the suspension of foreign aid or diplomatic ties, among others.¹⁰⁸ By leveraging economic or political pressure to modify the behavior of a target entity, sanctions act as a mechanism for advancing strategic interests and objectives, including humanitarian improvements, regional stability, and non-proliferation efforts.¹⁰⁹

In the United States, the government’s ability to impose economic sanctions originates from Congress.¹¹⁰ The U.S. Constitution grants Congress the authority to regulate international commerce under Article I, Section 8.¹¹¹ Typically, U.S. economic sanctions programs and other restrictions begin with “statutes that assign to the President, or []other officer[s] in the executive branch, the authority to limit or prohibit international economic transactions, imports and exports, or entry into the United States.”¹¹² Most often, the authorizing statutes are the International Emergency Economic Powers Act (“IEEPA”)

106 Ian Allen, *Due Process Boundaries of U.S. Economic Sanctions*, 26 N.Y.U. J. LEGIS. & PUB. POL’Y 239, 244–45 (2024) (citing David S. Cohen & Zachary K. Goldman, *Like It or Not, Unilateral Sanctions Are Here to Stay*, 113 AM. J. INT’L L. UNBOUND 146, 146–47, 151 (2019)).

107 SARAH KRULIKOWSKI, U.S. INT’L TRADE COMM’N, ECONOMIC SANCTIONS: AN OVERVIEW 1 (Mar. 2024), https://www.usitc.gov/publications/332/executive_briefings/ebot_economic_sanctions_overview.pdf [<https://perma.cc/D6BM-XAUZ>].

108 EDWARD J. COLLINS-CHASE, CONG. RSCH. SERV., R47829, SANCTIONS PRIMER: HOW THE UNITED STATES USES RESTRICTIVE MECHANISMS TO ADVANCE FOREIGN POLICY OR NATIONAL SECURITY OBJECTIVES 4–8 (2023), <https://www.congress.gov/crs-product/R47829> [<https://perma.cc/TUG4-NDZE>].

109 KRULIKOWSKI, *supra* note 107, at 1.

110 COLLINS-CHASE, *supra* note 108, at 2–3, 13–14.

111 U.S. CONST. art. I, § 8, cl. 3 (“The Congress shall have Power . . . [t]o regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes[.]”).

112 COLLINS-CHASE, *supra* note 108, at 2.

and the National Emergencies Act (“NEA”).¹¹³ However, there are several other statutory authorities relevant to U.S. sanctions programs, including the Trading With the Enemy Act (“TWEA”) and the Export Control Reform Act of 2018 (“ECRA”).¹¹⁴

Under the relevant statutory authority, the President, via Executive Order, directs the pertinent executive agency to act. The agency then may issue implementing regulations.¹¹⁵ However, Congress remains relevant, not only through legislative authorization, but also by engaging in oversight over and appropriating funds to the executive agencies implementing and enforcing U.S. sanctions programs.¹¹⁶ The federal judiciary may also rule on constitutional considerations relating to the President’s sanctions authority, particularly when a sanctioned individual seeks delisting via injunctive relief from an Article III court.¹¹⁷

113 *Id.* at 2–3; *see also* Allen, *supra* note 106, at 246–48; JENNIFER K. ELSEA, CONG. RSCH. SERV., IF12063, ENFORCEMENT OF ECONOMIC SANCTIONS: AN OVERVIEW 1 (2024), <https://www.congress.gov/crs-product/IF12063> [<https://perma.cc/P9W3-XCRP>] (“Most economic sanctions are imposed using authority delegated to the President in the [IEEPA] and the [NEA].”); CHRISTOPHER A. CASEY ET AL., CONG. RSCH. SERV., R45618, THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT: ORIGINS, EVOLUTION, AND USE 18 (2025), <https://www.congress.gov/crs-product/R45618> [<https://perma.cc/2UQA-B5QM>] (“[T]he President and Congress together have often turned to IEEPA to impose economic sanctions in furtherance of U.S. foreign policy, national security, and economic objectives. While initially enacted to circumscribe presidential emergency authority, presidential emergency use of IEEPA has expanded in scale, scope, and frequency since the statute’s enactment.”); Andrew Boyle, *Checking the President’s Sanctions Powers*, BRENNAN CTR. FOR JUST. (June 10, 2021), <https://www.brennancenter.org/our-work/policy-solutions/checking-presidents-sanctions-powers> [<https://perma.cc/WSF7-TWXT>]; *see also* International Emergency Economic Powers Act, P.L. 95-223 (Dec. 28, 1977), 91 Stat. 1626 (codified as amended at 50 U.S.C. §§ 1701 et seq. (2018)); National Emergencies Act, P.L. 94-412 (Sept. 14, 1976), 90 Stat. 1255 (codified as amended at 50 U.S.C. § 1601 et seq. (2018)).

114 *See generally* Trading with the Enemy Act, Pub. L. No. 65-91, § 2, 40 Stat. 411 (1917) (codified as amended at 50 U.S.C. § 4301 et seq.); Export Control Reform Act, Pub. L. No. 115-232, tit. XVII, subtit. B, 132 Stat. 2208 (2018). For a non-exhaustive list of the statutory authorities to OFAC sanctions programs *see OFAC Legal Library: United States Statutes*, U.S. DEP’T OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/additional-ofac-resources/ofac-legal-library/united-states-statutes> [<https://perma.cc/PYM6-HAUY>].

115 *See* Allen, *supra* note 106, at 248; ELSEA, *supra* note 113, at 1.

116 *See* COLLINS-CHASE, *supra* note 108, at 13–15; Allen, *supra* note 106, at 249. For example, Section 1264 of the Global Magnitsky Human Rights Accountability Act requires the President to report to Congress on the implementation of those sanctions, including an annual summary of actions taken. Global Magnitsky Act, 22 U.S.C. § 10103.

117 Allen, *supra* note 106, at 251 (citing 5 U.S.C. § 706(2); *Al Haramain Islamic Found., Inc. v. U.S. Dep’t of the Treasury*, 686 F.3d 965, 976 (9th Cir. 2012)).

Predominantly, the U.S. departments of State (“State Department”), Commerce (“Commerce Department”), and the Treasury, in coordination with ancillary executive agencies, administer a range of sanctions regimes designed to advance specific geopolitical goals, bolster national security, and uphold international human rights standards.¹¹⁸ The State Department functions as the primary architect of diplomatic and defense-related constraints (e.g., restrictions on the issuance of visas and the award of foreign and military aid), while the Commerce Department directs and monitors the U.S. export control regime, restricting the export of sensitive dual-use goods and services and other critical and emerging technologies.¹¹⁹ The U.S. government also serves as an administrator for U.N. Security Council multilateral sanctions. These measures are designed to advance several global interests, including the prevention of unconstitutional shifts in power, the containment of terrorism, and the promotion of international human rights and non-proliferation.¹²⁰ However, the proposal raised in this Note is focused only on targeted financial sanctions administered by the Treasury Department’s Office of Foreign Assets Control (“OFAC”).¹²¹

2. OFAC’s Financial Sanctions

Within the Treasury Department, OFAC is the foremost enforcement authority for financial sanctions issued against both states and non-state actors (e.g., “terrorists, and narcotics traffickers.”)¹²² Specifically, OFAC regulates transactions between U.S. persons and sanctioned foreign persons, access to U.S.-based assets, and the use of the U.S. dollar and the U.S. banking system.¹²³ These sanctions programs can be country-specific or thematic (e.g., focused on human rights, corruption, narcotics, election interference,

118 KRULIKOWSKI, *supra* note 107, at 1–2.

119 COLLINS-CHASE, *supra* note 108, at 11–13.

120 See *Sanctions*, U.N. SEC. COUNCIL, <https://main.un.org/securitycouncil/en/sanctions/information> [<https://perma.cc/AN9E-H394>]; COLLINS-CHASE, *supra* note 108, at 3. See generally 2023 FACT SHEETS: SUBSIDIARY ORGANS OF THE UNITED NATIONS SECURITY COUNCIL, U.N. DEP’T OF POL. & PEACEBUILDING AFFS. (2023), https://main.un.org/securitycouncil/sites/default/files/subsidiary_organs_series_7sep23_.pdf [<https://perma.cc/U65C-9AB7>].

121 See *About OFAC*, *supra* note 97; COLLINS-CHASE, *supra* note 108, at 12.

122 *About OFAC*, *supra* note 97. Note that enforcement of criminal violations of financial sanctions and civil forfeitures, along with investigations of related conduct (e.g., money laundering, export control violations) are handled by the U.S. Department of Justice. See ELSEA, *supra* note 113, at 2.

123 COLLINS-CHASE, *supra* note 108, at 12. OFAC sanctions regulations are found at 31 C.F.R. pt. 500 et seq.

etc.).¹²⁴ OFAC administers more than three dozen country-specific and thematic sanctions programs including “Foreign Interference in a United States Election Sanctions,” “Counter Narcotics Trafficking Sanctions,” and “Cyber-Related Sanctions.”¹²⁵

OFAC-administered sanctions may be targeted interventions—selectively “barring only certain trade and financial transactions” with specific individuals—or comprehensive prohibitions that effectively sever all economic and commercial ties with the target nation.¹²⁶ Targeted or “smart” sanctions tend to be favored over comprehensive sanctions programs or embargoes because proponents believe they carry a lower risk of unintended humanitarian effects, corruption, and retaliation.¹²⁷ Broad, country-wide sanctions programs tend to inflict the most harm on civilian groups and non-culpable parties.¹²⁸ The Treasury Department recommends minimizing the use of comprehensive sanctions “in order to mitigate [these]

124 *Sanctions Programs and Country Information*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs-and-country-information> [<https://perma.cc/LD7A-4RAM>] [hereinafter *OFAC Sanctions Programs & Country Info*].

125 *Id.*

126 14 ROBERT L. HAIG, *BUS. & COM. LITIG. FED. CTS. § 157:15* (5th ed. 2024); COLLINS-CHASE, *supra* note 108, at 9; *see also* Uri Friedman, *Smart Sanctions: A Short History*, *FOREIGN POL’Y* (Apr. 23, 2012), <https://foreignpolicy.com/2012/04/23/smart-sanctions-a-short-history/> [<https://perma.cc/9SWG-N2AX>]; Morgan et al., *supra* note 98, at 6 (“Recent uses [of sanctions] emphasize, to a much greater extent, the necessity of designing sanctions to target key individuals, companies, or sectors (for example, ‘smart’ or ‘targeted’ sanctions including financial and travel sanctions) rather than using sanctions as a blunt instrument designed to harm the entire target nation (for example, trade sanctions).”).

127 *See* Elizabeth Clark Hersey, *No Universal Target: Distinguishing Between Terrorism and Human Rights Violations in Targeted Sanctions Regimes*, 38 *BROOK. J. INT’L L.* 1231, 1239–40 (2013) (detailing the two “major drawbacks” associated with “general” or comprehensive sanctions: questionable success rates and harm to innocent civilians); Daniel P. Ahn & Rodney D. Ludema, *The Sword and the Shield: The Economics of Targeted Sanctions*, 130 *EUR. ECON. REV.* 1, 3 (2020) (internal citations omitted) (“Supporters of targeted sanctions trumpet their value in concentrating economic harm on the key actors involved in a conflict while minimizing ‘collateral damage’ to innocent bystanders, often referring to them ‘smart’ sanctions.”); Masters, *supra* note 100. *See generally* Matthew Craven, *Humanitarianism and the Quest for Smarter Sanctions*, 13 *EUR. J. INT’L L.* 43 (2002) (discussing the shift from comprehensive sanctions programs to targeted sanctions with humanitarian exemptions).

128 *See, e.g.*, Aidan Cover, *Sanctions and Consequences: Third-State Impacts and the Development of International Law in the Shadow of Unilateral Sanctions on Russia*, 100 *U. DET. MERCY L. REV.* 441, 446–49 (2023) (discussing the unintended “spillover effects of sanctions” on civilian populations); *Questions and Answers: How Sanctions Affect the Humanitarian Response in Syria*, *HUM. RTS. WATCH* (June 22, 2023), <https://www.hrw.org/news/2023/06/22/questions-and-answers-how-sanctions-affect-humanitarian-response-syria> [<https://perma.cc/R586-BGBZ>] (describing how the U.S.’ comprehensive embargo and European sanctions against Syria affected humanitarian operations in the country).

unintended economic and political impacts on domestic workers and businesses, allies, and non-targeted populations abroad.”¹²⁹ Complete trade embargoes, with the exception of certain limited exemptions published in OFAC General Licenses,¹³⁰ are only in force against a very small number of countries or regions.¹³¹

OFAC also maintains a blacklist known as the Specially Designated Nationals and Blocked Persons (“SDN”) List.¹³² Designation to the SDN List is not country specific. Rather, individuals designated under any of OFAC’s active sanctions programs are SDNs.¹³³ Listing freezes affected parties’ U.S. assets and generally prohibits their dealings with U.S. persons. In practice, this also restricts the ability of SDNs to carry out transactions through U.S. banks, even as intermediary banks, or in U.S. dollars, regardless of where blocked persons are located.¹³⁴ Currently, more than 17,000 entities and individuals worldwide are listed on the SDN List.¹³⁵

129 TREASURY SANCTIONS REVIEW, *supra* note 100, at 5.

130 *Frequently Asked Questions: OFAC Licenses*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/faqs/topic/1506> [<https://perma.cc/ZAG6-ZVFT>]; COLLINS-CHASE, *supra* note 108, at 10–11 (discussing the purpose of OFAC general licenses).

131 See e.g., *Cuba Sanctions*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs-and-country-information/cuba-sanctions> [<https://perma.cc/4XAE-326Z>]; *Iran Sanctions*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs-and-country-information/iran-sanctions> [<https://perma.cc/36LA-6TPY>]; *North Korea Sanctions*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs-and-country-information/north-korea-sanctions> [<https://perma.cc/LFJ7-VCL8>]; *Ukraine-/Russia-Related Sanctions*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs-and-country-information/ukraine-russia-related-sanctions> [<https://perma.cc/JRR7-BWS4>]; see also Cuban Assets Control Regulations, 31 C.F.R. pt. 515; Iranian Transactions and Sanctions Regulations, 31 C.F.R. pt. 560; North Korea Sanctions Regulations, 31 C.F.R. pt. 510; Ukraine-/Russia-Related Sanctions Regulations, 31 C.F.R. pt. 589.

132 KRULIKOWSKI, *supra* note 107, at 2; ELSEA, *supra* note 113, at 1; 14 BUS. & COM. LITIG. FED. CTS. § 157:15. A searchable and downloadable form of the SDN List is available at *Sanctions List Search*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://sanctionssearch.ofac.treas.gov/> [<https://perma.cc/QZ7V-HUUS>] [hereinafter *SDN List*].

133 See KRULIKOWSKI, *supra* note 107, at 2; ELSEA, *supra* note 113, at 1.

134 KRULIKOWSKI, *supra* note 107, at 2; *Frequently Asked Questions: Basic Information on OFAC and Sanctions*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/faqs/topic/1501> [<https://perma.cc/9ZHR-JZTT>].

135 *Where is OFAC’s Country List? What Countries Do I Need to Worry About in Terms of U.S. Sanctions?*, U.S. DEP’T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/sanctions-programs->

Typically, OFAC sanctions for human rights purposes are targeted financial sanctions—also called “smart” sanctions—directed at individual actors, who are then added to the SDN List. The Global Magnitsky sanctions program, authorized by the Global Magnitsky Human Rights Accountability Act, is the predominant human rights sanctions program enforced by OFAC and relevant to the analysis in this Note.

3. The Origins of Magnitsky Sanctions

As discussed *supra* Part II.A.1, sanctions are commonly authorized via IEEPA.¹³⁶ However, there are several other supplemental statutory authorities that permit the President to issue Executive Orders and direct executive agencies to carry out financial sanctions designations. One such statutory authority is the Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012 (“Magnitsky Act”).¹³⁷ Congress passed the Magnitsky Act in 2012, and it was signed into law by former President Barack Obama the same year.¹³⁸ Initially, the predominant purpose of the legislation was to reestablish permanent normal trade relations with the Russian Federation and Moldova by repealing application of the Jackson-Vanik Amendment.¹³⁹

While the statute was fundamentally trade legislation, Congress also intended for the Magnitsky Act to denounce human rights abuses in Russia and to serve as a tool to promote these rights after the detention, torture, and subsequent death of Russian anticorruption and tax lawyer, Sergei Magnitsky.¹⁴⁰ Magnitsky was targeted after investigating corruption by

and-country-information/where-is-ofacs-country-list-what-countries-do-i-need-to-worry-about-in-terms-of-us-sanctions [https://perma.cc/J9QV-HPB9]; *see also* *SDN List*, *supra* note 132.

136 Allen, *supra* note 106, at 246–48.

137 Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012, Pub. L. No. 112–208 tit. IV, 126 Stat. 1496 [hereinafter Magnitsky Act].

138 *See* Office of the Press Secretary, The White House, *Statement by the Press Secretary on H.R. 6156* (Dec. 14, 2012), <https://obamawhitehouse.archives.gov/the-press-office/2012/12/14/statement-press-secretary-hr-6156> [https://perma.cc/V3H6-35YH]; Cecily Rose, *Magnitsky Sanctions, Corruption, and Asset Recovery*, in GRAND CORRUPTION 224, 225–26 (Robert I. Rotberg & Fen Osler Hampson eds., 2024).

139 The Jackson-Vanik Amendment to the Trade Act of 1974 was intended to affect U.S. trade relations with countries with non-market economies—originally, countries of the Soviet Bloc. *See* 19 U.S.C. § 2432(a).

140 Rose, *supra* note 138, at 225–26; Kim Van der Borgh, *From Jackson-Vanik to Magnitsky: Continuing a Tradition of Ineffective Human Rights Bolt Ons to Trade Bills*, 7 HUM. RTS. & INT’L LEGAL DISCOURSE 237, 252 (2013); *see also* Press Release, House Foreign Affs. Comm., Russia Human Rights Legislation Passes Foreign

the Russian government, which attempted to cover up Magnitsky's death while in prison.¹⁴¹ Like other sanctions-authorizing statutes, the Magnitsky Act enabled the U.S. President to determine that individual Russian citizens "who were involved in the acts of corruption . . . uncovered by Magnitsky" had violated international human rights norms and subsequently, through the Treasury Department, designate such individuals to the SDN List.¹⁴²

4. Going Global: The Global Magnitsky Human Rights Accountability Act

The Global Magnitsky Human Rights Accountability Act ("Global Magnitsky Act"), enacted within the National Defense Authorization Act for Fiscal Year 2017, "effectively globalizes" the authorities of the 2012 Magnitsky Act to individuals and covered activities outside of Russia and not necessarily related to the death of Sergei Magnitsky.¹⁴³ The Global Magnitsky Act authorizes the President to sanction any individual responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights, or any foreign government official responsible for acts of significant corruption.¹⁴⁴

In particular, the Global Magnitsky Act authorizes the President to deny entry into the United States, revoke already-issued visas, and block property under U.S. jurisdiction of, and prohibit U.S. persons from entering into transactions with, any foreign person (individual or entity)¹⁴⁵ that the President determines is "responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights," as defined at 22 U.S.C. §2304(d)(1), against those working (1) "to expose illegal activities of government officials" or (2) "to obtain, exercise, defend, or promote internationally recognized human rights and freedoms such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections."¹⁴⁶ The

Affairs Committee, <https://web.archive.org/web/20130110194137/http://archives.republicans.foreignaffairs.house.gov/news/story/?2401>.

141 Rose, *supra* note 138, at 225–26.

142 *Id.* at 226; *see also* Hersey, *supra* note 127, at 1231–32.

143 MICHAEL A. WEBER, CONG. RSCH. SERV., IF10576, HUMAN RIGHTS AND ANTI-CORRUPTION SANCTIONS: THE GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT 1 (2025), <https://www.congress.gov/crs-product/IF10576> [<https://perma.cc/K8UJ-ZATV>]; Rose, *supra* note 138, at 227.

144 Global Magnitsky Act, 22 U.S.C. § 10102(a).

145 *Id.* § 10102(b)(1)–(2); WEBER, *supra* note 143, at 1.

146 Global Magnitsky Act, 22 U.S.C. § 10102(a)(1)–(2).

Global Magnitsky Act also gives the President the power to sanction foreign government officials responsible for acts of significant corruption, senior associates of such officials, or facilitators of such acts, which include “the expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions.”¹⁴⁷

Since its initial enactment, the scope of the Global Magnitsky Act has been expanded to cover additional behavior. On December 20, 2017, President Donald Trump issued Executive Order 13818 “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” finding that “the prevalence and severity of human rights abuse and corruption . . . ha[d] reached such scope and gravity that they threaten[ed] the stability of international political and economic systems” and “constitute[d] an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States,” invoking the Global Magnitsky Act and emergency authorities stated in IEEPA and NEA, as well as authority under the Immigration and Nationality Act (“INA”).¹⁴⁸ Notably, E.O. 13818 expanded the pertinent standard of behavior warranting sanctions designation to those actors determined “to be responsible for or complicit in, or to have directly or indirectly engaged in, *serious human rights abuses*,” compared to “*gross violations of internationally recognized human rights*” as stated in the Global Magnitsky Act itself.¹⁴⁹ Further, the Executive Order refers not just to “acts of significant corruption” but merely “corruption,” dropping the requirement that such conduct be “significant.”¹⁵⁰ Likewise, the Executive Order extends coverage to secondary, not merely primary, participants in sanctionable conduct.¹⁵¹

147 *Id.* § 10102(a)(3)–(4).

148 Exec. Order No. 13818, 3 C.F.R. § 583.101 app. A (2017); Press Release, U.S. Dep’t of the Treasury, United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe (Dec. 21, 2017), <https://home.treasury.gov/news/press-releases/sm0243> [<https://perma.cc/HW5P-NKPE>].

149 Exec. Order No. 13818 § 1(a)(ii)(A) (emphasis added); Global Magnitsky Act, 22 U.S.C. § 10102(a)(1) (emphasis added).

150 Exec. Order No. 13818 § 1(a)(ii)(B); Global Magnitsky Act, 22 U.S.C. § 10102(a)(3).

151 Exec. Order No. 13818 § 1(a)(iii)(A); *see also* Rose, *supra* note 138, at 227.

Human rights advocates praised E.O. 13818 for using this more permissive language, essentially broadening the reach of U.S. human rights sanctions.¹⁵² Under this broader authority, in 2023 alone, the Treasury Department sanctioned seventy-eight foreign persons under the Global Magnitsky sanctions program, bringing the total to more than 650 foreign persons designated since 2017 in connection with serious human rights abuses, corruption, or both.¹⁵³ 2025 data indicates that recent public designations include 262 individuals, 330 entities, and 157 fishing vessels, spanning more than fifty countries globally.¹⁵⁴

B. Gender-Based Violence and U.S. Financial Sanctions

While some of these designations have aimed to address gender-based violence, such action has been relatively limited. When defining gender-based violence in legislation and policy objectives, the U.S. government typically utilizes a narrow definition. As a result, sanctions designations related to gender-based violence by OFAC under the Global Magnitsky sanctions program—which are already relatively uncommon—are further limited to only direct, physical violence against women. This gap is aggravated by an absence of disaggregated, gender-specific data on the effects of sanctions and a lack of engagement with women’s, LGBTQ+, and related civil society and non-governmental organizations in target countries, which are often optimally positioned to provide insights to the U.S. government as to local priorities and data surrounding the incidence of violence against women, both direct and structural, at a grassroots level.¹⁵⁵

1. Defining “Gender-Based Violence” in the Context of U.S. Government Action

In the United States, and particularly by the U.S. government, violence against women is most often viewed and studied through the lens of interpersonal or physical violence. For instance, the Violence Against Women Act (“VAWA”), enacted initially in 1994 and reauthorized by Congress four times since, most recently in 2022, addresses predominantly

152 See Rob Berschinski, *Trump Administration Notches a Serious Human Rights Win. No, Really*, JUST SEC. (Jan. 10, 2018), <https://www.justsecurity.org/50846/trump-administration-notches-human-rights-win-no-really/> [<https://perma.cc/53KN-MVAU>].

153 U.S. DEP’T. OF STATE, GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT ANNUAL REPORT, 89 Fed. Reg. 13795, 13795 (2024).

154 WEBER, *supra* note 143, at 1–2.

155 See KALLIE MITCHELL & MAX THOMPSON, NEW LINES INST., GENDERING ECONOMIC SANCTIONS: BEST PRACTICES FOR THE U.S. 17 (2023).

individual, behavioral acts of violence against women, such as domestic and dating violence, sexual assault, and stalking.¹⁵⁶ While it addresses non-physical forms of abuse including emotional, economic, and psychological abuse, it does not contemplate violence against women that is not perpetrated by individual actors.¹⁵⁷

Likewise, even the 2022 Global Gender-Based Violence Strategy, which deliberately aimed to address gender-based violence from a more intersectional perspective than was customary previously and explicitly recognized that “[g]ender-based violence is rooted in structural gender inequalities, patriarchy, and power imbalances,”¹⁵⁸ limited the definition of gender-based violence to “harmful threat[s] or act[s] directed at an individual or group based on actual or perceived sex, gender, gender identity or expression, sex characteristics, sexual orientation, and/or lack of adherence to varying socially constructed norms around masculinity and femininity.”¹⁵⁹ Again, this definition focuses not on institutions but individual perpetrators of direct violence or the threat of direct violence. Further, despite advocating for the use of a “Social-Ecological Approach to Violence” to prevent and mitigate gender-based violence at the domestic level during the Biden Administration,¹⁶⁰ the U.S. government has failed to sufficiently translate a more intersectional approach to violence prevention to its foreign policy and human rights promotion efforts, largely

156 See Violence Against Women Act, 34 U.S.C. § 12291; see also EMILY J. HANSON, CONG. RSCH. SERV., R47570, THE 2022 VIOLENCE AGAINST WOMEN ACT (VAWA) REAUTHORIZATION 1 (2023), <https://www.congress.gov/crs-product/R47570> [<https://perma.cc/U8Z5-3YYD>].

157 HANSON, *supra* note 156, at 2; see also *Domestic Violence*, U.S. DEP’T. OF JUST.: OFF. OF VIOLENCE AGAINST WOMEN, <https://www.justice.gov/ovw/domestic-violence> [<https://perma.cc/9XX7-WY6W>].

158 See 2022 GLOBAL GENDER-BASED VIOLENCE STRATEGY, *supra* note 20, at 7–8 (discussing the Biden Administration’s goal of advancing equity and inclusivity and its understanding of the root causes of gender-based violence).

159 *Id.* at 8.

160 THE WHITE HOUSE, U.S. NATIONAL PLAN TO END GENDER-BASED VIOLENCE: STRATEGIES FOR ACTION 26–27 (2023), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/05/National-Plan-to-End-GBV.pdf> [<https://perma.cc/45AU-UN24>] [hereinafter the Domestic Plan]. In the Domestic Plan, the U.S. Centers for Disease Control and Prevention (“CDC”) utilizes a four-level social-ecological model “to better understand violence and the effect of potential prevention strategies.” *Id.* at 27. In employing the Social-Ecological Approach the U.S. government recognizes that domestic violence and prevention strategies exist at four levels: individual, relational, communal, and societal. In particular, the U.S. government recognizes that “effective prevention requires recognizing and addressing risk factors that may contribute to the likelihood that a person will perpetrate or experience GBV, such as adverse childhood experiences (ACEs), harmful social and gender norms, and economic insecurity.” *Id.* at 26.

limiting its Global Magnitsky sanctions designations to perpetrators of traditional direct violence.

2. Are Sanctions Gendered? Global Magnitsky Sanctions Targeting Gender-Based Violence

In line with the U.S. government's relatively narrow understanding, the Biden Administration utilized its authority under the Global Magnitsky Act and E.O. 13818 to target certain instances of gender-based violence but did not contemplate forms of structural violence as targets for OFAC sanctions.¹⁶¹ Specifically, in 2022, in accordance with the Global Gender-Based Violence Strategy, former President Biden issued a historic *Presidential Memorandum on Promoting Accountability for Conflict-Related Sexual Violence* (the "Memorandum"), committing to fully exercising U.S. authorities—including sanctions, visa restrictions, and security assistance vetting—to impose consequences on perpetrators of CRSV.¹⁶² A relevant and previously unprecedented policy in the Memorandum was the following section regarding the imposition of economic sanctions:

It is the policy of the United States to fully exercise existing authorities to impose economic sanctions and implement visa restrictions in order to promote justice and accountability for acts of CRSV; devote the necessary resources to ensure regular coordination and reporting on CRSV incidents and to conduct training on CRSV issues more broadly, including to support the designation of sanctions targets; [and] strengthen the implementation of other existing tools and authorities to promote accountability for CRSV, including the provision of United States security assistance.¹⁶³

Notably, the Memorandum stressed that "an act of CRSV" may "constitute a 'serious human rights abuse' for purposes of designation" under the Global Magnitsky Act, opening the door for OFAC to work towards addressing violence against women.¹⁶⁴ It further clarified that the "criteria for targeting certain abuses or violations of human rights" in

161 See 2022 GLOBAL GENDER-BASED VIOLENCE STRATEGY, *supra* note 20, at 33, 60.

162 See Press Release, The White House, Memorandum of November 28, 2022, on Promoting Accountability for Conflict-Related Sexual Violence, 87 Fed. Reg. 74485, 74485 (Nov. 28, 2022).

163 *Id.* § 1.

164 *Id.* § 2.

country-specific sanctions programs “may include CRSV.”¹⁶⁵ Since then, OFAC has listed several perpetrators of gender-based violence in the Global South on the SDN List, thus subjecting them to an asset freeze and generally prohibiting them from transactions involving U.S. persons, in U.S. dollars, or through U.S. banks.¹⁶⁶

However, these designations do not address indirect, institutional forms of violence against women and girls. Further, compared to other executive agency action, OFAC sanctions are not sufficiently “gendered.”¹⁶⁷ Not only does OFAC largely not target misconduct directed predominantly at women in its sanctions programs, but sanctions are often implemented and monitored in a gender-blind manner that fails to adequately consider how measures disproportionately affect different groups.¹⁶⁸ A sanction that might look neutral on paper will impact men and women differently because of existing social, economic, and power imbalances.¹⁶⁹ While the use of OFAC General Licenses aims to mitigate some of these concerns by exempting humanitarian goods and services, more work still needs to be done. Given this gap, and the reality that “unilateral sanctions . . . are here to stay,” it is necessary to evaluate how U.S. sanctions policy could be reformed to reach perpetrators of structural violence and ways in which any newly designed targeted

165 *Id.*

166 *See, e.g.*, Press Release, U.S. Dep’t of the Treasury, Marking International Women’s Day, Treasury Sanctions Iranian Officials and Entities for Serious Human Rights Abuses (Mar. 8, 2023), <https://home.treasury.gov/news/press-releases/jy1327> [<https://perma.cc/TL4T-FTJU>]; Press Release, U.S. Dep’t of the Treasury, Treasury Sanctions Two South Sudanese Officials Responsible for Conflict-Related Sexual Violence (June 20, 2023), <https://home.treasury.gov/news/press-releases/jy1552> [<https://perma.cc/S8JA-5YPC>]; Press Release, U.S. Dep’t of the Treasury, Treasury Designates Perpetrators of Human Rights Abuse and Commemorates the 75th Anniversary of the Universal Declaration of Human Rights (Dec. 8, 2023), <https://home.treasury.gov/news/press-releases/jy1972> [<https://perma.cc/VP6E-3AGW>]; Press Release, U.S. Dep’t of the Treasury, Treasury Sanctions Former Haitian Politician and Gang Leader for Their Connections to Serious Human Rights Abuse (Sep. 25, 2024), <https://home.treasury.gov/news/press-releases/jy2612> [<https://perma.cc/VHY4-QDHN>]; Press Release, U.S. Dep’t. of the Treasury, Treasury Sanctions Sudanese Commander Involved in Human Rights Abuses in West Darfur (Nov. 12, 2024), <https://home.treasury.gov/news/press-releases/jy2710> [<https://perma.cc/7M29-Z6XG>] (all examples of Global Magnitsky designations issued by the Biden Treasury Department under the guidance set out in the Memorandum).

167 MITCHELL & THOMPSON, *supra* note 155, at 3.

168 *Id.* at 4–5, 7; *see also* Press Release, U.N. Hum. Rs., Off. of the High Comm’r, Unilateral Sanctions Hurt All, Especially Women, Children and Other Vulnerable Groups—U.N. Human Rights Expert (Dec. 8, 2021), <https://www.ohchr.org/en/press-releases/2021/12/unilateral-sanctions-hurt-all-especially-women-children-and-other-vulnerable?LangID=E&NewsID=27931> [<https://perma.cc/HXW3-J4KV>].

169 MITCHELL & THOMPSON, *supra* note 155, at 7.

sanctions measures may be adapted to account specifically for the risk of unintended harms to women and other already marginalized groups.¹⁷⁰

III. Applying U.S. Human Rights Sanctions to Tackle Structural Violence

As discussed *supra* Part II, the United States, other nations in the Global North, and institutions like the United Nations have already begun to employ targeted financial sanctions to tackle physical forms of violence against women and girls.¹⁷¹ Manifestations of structural violence perpetrated by government and legal institutions may serve as a functional equivalent to direct violence committed by individual actors for the purpose of sanctions designations as the culpable parties are more easily identifiable. Subsequently, Part III of this Note argues that utilizing Global Magnitsky sanctions to remedy structural violence against women in low- and middle-income countries will require the U.S. government to greatly expand its interpretation of what constitutes a “serious human rights abuse” and “violations of internationally recognized human rights” to a breadth that is atypical historically under the Global Magnitsky Act and related executive authorities. It highlights the human right to health as a relevant basis for this broader interpretation. Further, Part III asserts that certain forms of structural violence condoned or inadequately addressed by legal and governmental systems can be targeted by financial sanctions, while others practically cannot.

A. Framing Structural Violence as a “Serious Human Rights Abuse”

1. What Currently Warrants Designation Under the Global Magnitsky Act?

Under the Global Magnitsky Act, the President only has the power to designate entities and individuals for their direct or indirect role in “gross violations of internationally recognized human rights.”¹⁷² The Global Magnitsky Act defines “gross violation[] of internationally recognized human rights” according to its definition in the Foreign Assistance Act of 1961.¹⁷³ It includes “torture or cruel, inhuman, or degrading treatment

170 Cohen & Goldman, *supra* note 106, at 151.

171 See *supra* note 166; Sophie Huve, *The Use of U.N. Sanctions to Address Conflict-Related Sexual Violence*, GEO. INST. FOR WOMEN, PEACE, & SEC. (2018), <https://giwps.georgetown.edu/wp-content/uploads/2018/03/Use-of-UN-Sanctions-to-Address-Conflict-related-Sexual-Violence.pdf> [<https://perma.cc/6NPV-3DFQ>].

172 Global Magnitsky Act, 22 U.S.C. § 10102(a)(1).

173 *Id.* § 10101(2).

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.”¹⁷⁴

While President Trump, via Executive Order 13818, expanded the standard for sanctionable behavior to “serious human rights abuse” during his first term, sanctions designations under the Global Magnitsky Sanctions Regulations have largely been limited to killings, torture, and unlawful or arbitrary detentions, with only occasional application to gender-based violence, enforced disappearance, and certain acts of human trafficking.¹⁷⁵

Critically, even with the broadened scope, the Global Magnitsky sanctions regime still requires conduct to reach a certain level of gravity to be sanctionable. This is where the difficulty lies. Structural violence is a morally weighted term, and the United States in particular, whether it be the government or parts of its citizenry, often hesitates to view certain entitlements as human rights and certain behavior as violative of those rights despite relative global consensus.¹⁷⁶ This is particularly challenging given the Global Magnitsky Act requires the President consider “credible evidence” of the sanctionable conduct before directing the Treasury Department to make any sanctions designations.¹⁷⁷

2. Looking to International Human Rights Instruments

Nevertheless, “serious” and “gross” are not terms defined in either the Global Magnitsky Act or in E.O. 13818. And, since the enactment of the Foreign Assistance Act in 1961, the global understanding of human rights (legal and otherwise) has evolved significantly. The framework for human rights has become more expansive, to include not just basic civil and

174 22 U.S.C. § 2304(d)(1).

175 Exec. Order No. 13818 § 1(a); *Fact Sheet: U.S. Global Magnitsky Sanctions*, HUM. RTS. WATCH (June 30, 2023), <https://humanrightsfirst.org/library/u-s-global-magnitsky-sanctions/> [<https://perma.cc/Z6AM-KFU2>].

176 See, e.g., *Human Rights*, ACLU (2026), <https://www.aclu.org/issues/human-rights> [<https://perma.cc/JUR9-L34Q>] (“The United States has ratified or acceded to fewer key human rights treaties than all other countries in the G20 group.”); Kathryn Libal & Ken Neubeck, *The Rights of the Child to an Adequate Standard of Living: Applying International Standards to the U.S. Case*, in *THE STATE OF ECONOMIC AND SOCIAL HUMAN RIGHTS: A GLOBAL OVERVIEW* 175, 177 n.3 (Lanse Minkler ed., 2013) (“[T]he United States . . . still officially denies the existence of economic human rights.”).

177 22 U.S.C. § 10102(a); see also *id.* § 10102(c) (“In determining whether to impose sanctions under subsection (a), the President shall consider—(1) information provided jointly by the chairperson and ranking member of each of the appropriate congressional committees; and (2) credible information obtained by other countries and nongovernmental organizations that monitor violations of human rights.”).

political rights, but also economic, social, and cultural rights, with a growing emphasis on the rights of marginalized groups.¹⁷⁸ Conceiving of structural violence as a human rights violation is not unfounded in academic scholarship and human rights research.¹⁷⁹ This evolution is compatible with utilizing a structural violence framework, particularly as the international community increasingly stresses the importance of the fundamental human right to health as an inclusive right.¹⁸⁰ While structural violence against women may not shock the conscience in the same way CRSV and more direct acts of violence do, its effects on morbidity and mortality directly implicate the human right to health, enshrined in both binding and aspirational non-binding international human rights instruments.¹⁸¹ The U.S. government can look to this fundamental right in order to build out its understanding of “serious human rights abuse.”

178 See *The Evolution of Human Rights*, in COMPASS MANUAL OF HUMAN RIGHTS FOR YOUNG PEOPLE, COUNCIL OF EUR. (2002), <https://www.coe.int/en/web/compass/the-evolution-of-human-rights> [<https://perma.cc/3DJE-G6SR>]; Lanse Minkler, *Introduction: Why Economic and Social Human Rights?*, in THE STATE OF ECONOMIC AND SOCIAL HUMAN RIGHTS: A GLOBAL OVERVIEW 1, 2 (Lanse Minkler ed., 2013) (“[Economic and social] rights are becoming increasingly recognized in the law.”); Dinah L. Shelton, *An Introduction to the History of International Human Rights Law* 1 (Geo. Wash. Legal Studies Research Paper No. 346, 2007), https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2045&context=faculty_publications [<https://perma.cc/KT3Z-J2H6>].

179 See *supra* Part I.A.2 (discussing Farmer and Ho’s portrayal of structural violence as a violation of fundamental human rights).

180 Audrey R. Chapman & Salil D. Benegal, *Globalization and the Right to Health*, in THE STATE OF ECONOMIC AND SOCIAL HUMAN RIGHTS: A GLOBAL OVERVIEW 61, 61 (Lanse Minkler ed., 2013) (“According to the [United Nations Committee on Economic, Social and Cultural Rights], the right to health is an inclusive right that goes well beyond the [basic provisions in international instruments].”); UNHCR & WHO, FACT SHEET No. 31, THE RIGHT TO HEALTH 3 (2008), <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet31.pdf> [<https://perma.cc/PE4B-UZKW>] [hereinafter RIGHT TO HEALTH FACT SHEET]. As an inclusive right, the right to health extends to access to quality healthcare and the “underlying determinants of health” including: “[s]afe drinking water and adequate sanitation; [s]afe food; [a]dequate nutrition and housing; [h]ealthy working and environmental conditions; [h]ealth-related education and information; and [g]ender-equality.” *Id.* at 3; see also *Right to Health: An Inclusive Right for All*, WORLD MED. ASS’N (2026), <https://www.wma.net/what-we-do/human-rights/right-to-health/> [<https://perma.cc/UUC2-HZ4U>].

181 See *supra* Part I; see e.g., The International Convention on the Elimination of All Forms of Racial Discrimination art. 5(e)(iv), Dec. 21, 1965 [hereinafter ICERD]; The International Covenant on Economic, Social and Cultural Rights art. 12, Dec. 16, 1966 [hereinafter ICESCR]; The Convention on the Elimination of All Forms of Discrimination Against Women arts. 11(1)(f), 12, 14(2), Dec. 18, 1979 [hereinafter CEDAW]; The Convention on the Rights of the Child art. 24, Nov. 20, 1989 [hereinafter UNCRC]; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families arts. 28, 43(e), & 45(c), Dec. 18, 1990; The Convention on the Rights of Persons with Disabilities art. 25, Mar. 3, 2007 [hereinafter UNCRPD].

As the World Health Organization (“WHO”) makes clear, “*The right to the enjoyment of the highest attainable standard of physical and mental health*, to give it its full name, is not new.”¹⁸² The right was first defined with the signing and later enactment of the Constitution of the World Health Organization in 1946 and 1948, respectively.¹⁸³ It thus existed formally in some capacity prior to the enactment of the Foreign Assistance Act of 1961 and has continued to be substantiated since.¹⁸⁴

Specifically, the Preamble of the Constitution of the WHO defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” and asserts that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”¹⁸⁵ The right to health has since been recognized on several occasions “in most of the core international human rights treaties as well as other international and regional instruments and declarations.”¹⁸⁶ This includes in the 1948 Universal Declaration of Human Rights (“UDHR”) and the 1966 International Covenant on Economic, Social and Cultural Rights (“ICESCR”).¹⁸⁷

While the UDHR is not binding, and the United States has not ratified the ICESCR, both speak to the long-standing international consensus on human rights and thus can inform the common understanding of what constitutes a violation of the human right to health within an international law framework. Notably, in 2000, the ratification of General Comment No. 14 (“GC 14”) by the U.N. Committee on Economic, Social and Cultural Rights clarified the legal scope of the right to health globally. GC 14 transformed the discourse from a narrow interpretation of the ICESCR to a comprehensive framework, clarifying that the right is not a “right to be healthy,” but rather an entitlement to the underlying determinants of health—

182 RIGHT TO HEALTH FACT SHEET, *supra* note 180, at 1.

183 *Id.*

184 See Constitution of the World Health Organization (entered into force Apr. 7, 1948), <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1> [<https://perma.cc/F67Y-CCHS>]; see also Chapman & Benegal, *supra* note 180, at 61–64 (tracing the development of the right to health from 1948).

185 Constitution of the World Health Organization, *supra* note 184, at pmb1.

186 Alan S. Gutterman, *Right to Health Under International Law*, at 1 (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4316428 [<https://perma.cc/8LGT-ZA8G>].

187 G.A. RES. 217 (III) A, Universal Declaration of Human Rights art. 25 (Dec. 10, 1948) (mentioning health as part of the right to an adequate standard of living); ICESCR art. 12, Dec. 16, 1966 (“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health . . .”).

ranging from clinical care to sanitation and nutritional security.¹⁸⁸ The social determinants of health and structural violence go hand in hand.

Today, the right to health is relevant to all U.N. member states: “every State has ratified at least one international human rights treaty recognizing the right to health.”¹⁸⁹ This includes the United States, which has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), which explicitly recognizes “[t]he right to public health, medical care, social security and social services” in Article 5.¹⁹⁰ Further, the United States has signed, but not ratified, ICESCR, along with the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”), the Convention on the Rights of the Child (“UNCRC”), and the Convention on the Rights of Persons with Disabilities (“UNCRPD”), all of which enumerate the right to health.¹⁹¹ CEDAW is particularly informative, as it calls directly on states to “take all appropriate measures to eliminate discrimination against women in the field of healthcare in order to ensure, on a basis of equality of men and women, access to healthcare services, including those related to family planning.”¹⁹²

The discourse surrounding the right to health has gained significant momentum within the global human rights architecture in recent years. States continue to affirm their commitment to safeguarding the right to health through “international declarations, domestic legislation and policies, and . . . international conferences.”¹⁹³ Some of this

188 Chapman & Benegal, *supra* note 180, at 61–62 (citing U.N. Committee on Economic, Social and Cultural Rights: The Right to the Highest Attainable Standard of Health (Article 12): General Comment 14, U.N. Doc. E/C.12/2000/4 (2000)).

189 RIGHT TO HEALTH FACT SHEET, *supra* note 180, at 1.

190 ICERD art. 5(e)(iv), Dec. 21, 1965; *see also* Maya K. Watson, *The United States' Hollow Commitment to Eradicating Racial Discrimination*, ABA: HUM. RTS. MAG. (Jan. 6, 2020), <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/us-hollow-commitment-eradicating-global-racial-discrimination/> [<https://perma.cc/J5BY-TVBR>]. Note that despite signing and ratifying ICERD, the United States does not recognize competence under ICERD art. 14, Dec. 21, 1965, an individual complaint mechanism allowing the Committee on the Elimination of Racial Discrimination to consider complaints from individuals and groups who claim their rights have been violated. ICERD art. 14(2)–(5), Dec. 21, 1965.

191 *Ratification of International Human Right Treaties—USA*, UNIV. OF MINN.: HUM. RTS. LIBR. (Feb. 1, 2023), <http://hrlibrary.umn.edu/research/ratification-USA.html> [<https://perma.cc/D75R-J8VQ>]; *see also supra* note 181.

192 CEDAW art. 12(1), Dec. 18, 1979.

193 RIGHT TO HEALTH FACT SHEET, *supra* note 180, at 1.

action has directly addressed discrimination and violence against women that implicates structural violence and can inform the U.S. government's interpretation of human rights for the purpose of Global Magnitsky sanctions. For example, the 1995 Beijing Declaration and Platform for Action outlines priorities for the global empowerment of women and girls, including protection from gender-based violence and access to basic reproductive healthcare.¹⁹⁴ While the agreement is non-binding, advocates often use it to pressure governments into loosening restrictions on women's lives and argue that its principles function as international norms.¹⁹⁵ By framing structural violence as a phenomenon that produces mortality and morbidity and thus prevents women from exercising their *right to the enjoyment of the highest attainable standard of physical and mental health*, advocates can use the Global Magnitsky Act's sanctions to identify and redress structural violence.

B. What Forms of Structural Violence Should Be Targeted by Sanctions?

Even assuming a willingness by U.S. executive authorities to expand their practical definition of "serious human rights abuse" to cover structural violence and other state-imposed impediments to the right to health—a willingness undoubtedly dependent on the presidential administration in power and other extraneous factors—practical difficulties remain. Critically, targeted or "smart" financial sanctions require OFAC to identify an individual or entity to designate to the SDN List. Though structural violence is

194 See Beijing Declaration and Platform for Action, Fourth World Conference on Women, Sep. 15, 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995). The 1995 Beijing Declaration and Platform for Action arose out of then-First Lady Hillary Clinton's declaration that "human rights are women's rights and women's rights are human rights" at the 1995 U.N. Fourth World Conference on Women in Beijing China. See *The First Lady's International Rallying Cry From Beijing: "Women's Rights Are Human Rights!"*, WILLIAM J. CLINTON PRESIDENTIAL LIBR. & MUSEUM, <https://www.clintonlibrary.gov/museum/first-ladys-international-rallying-cry-beijing-womens-rights-are-human-rights> [<https://perma.cc/9QQJ-4MEP>].

195 See Mahinour ElBadrawi, *Charting the Path Beyond Beijing+30: Reflections on CSW69 and the Need for Transformative Change*, CTR. FOR ECON. & SOC. RTS. (Mar. 27, 2025), <https://www.cesr.org/charting-the-path-beyond-beijing30-reflections-on-csw69-and-the-need-for-transformative-change/> [<https://perma.cc/5U3T-XDDS>] ("When [the Beijing Declaration] was introduced, [it] served as a milestone for women's rights, identifying critical areas such as access to education, labor force participation, political representation, and strategies to combat violence. Although it galvanized momentum around the globe, its core commitments have always been political rather than legally binding, meaning that each government's implementation depends heavily on national priorities and available resources."). See also generally U.N. WOMEN, WOMEN'S RIGHTS IN REVIEW 30 YEARS AFTER BEIJING (2025), <https://www.unwomen.org/sites/default/files/2025-03/womens-rights-in-review-30-years-after-beijing-en.pdf> [<https://perma.cc/26K6-DZ8V>] (detailing progress on the implementation of the Beijing Declaration thirty years after its adoption).

often embedded in social and cultural norms and customs,¹⁹⁶ institutionally centered forms of structural violence against women may still be suitable targets for U.S. foreign policy action and sanctions designation. Governmental and legal institutions and representatives that enforce or reinforce practices, norms, or phenomena that harm women may be more easily identified than other more “invisible” and socially embedded forms of structural violence, like sexism and misogyny.

It would be impractical and misguided for the U.S. government to direct sanctions or other interventions at individual parents or family members in jurisdictions that demonstrate a strong preference for sons and act on that preference, for example.¹⁹⁷ Similar logic applies to practices like honor killings and female genital mutilation or cutting, both of which are deeply embedded societal tools for controlling women’s bodies, sexuality, and spaces.¹⁹⁸ Not only would identifying culpable individuals or groups be difficult, but also the consequences of sanctions for a small number of people—essentially eliminating their ability to engage with the U.S. economic system—would do little to functionally motivate change, particularly as some residents of the Global South may never engage directly with U.S. companies or transact in U.S. dollars.¹⁹⁹ Furthermore, it is important to

196 See *supra* Part I.

197 See *supra* Part I.B.1.

198 See Stephanie Rose Montesanti & Wilfreda E. Thurston, *Mapping the Role of Structural Violence and Interpersonal Violence in the Lives of Women: Implication for Public Health Interventions and Policy*, 15 BMC WOMEN’S HEALTH 1, 8 (2015) (“Structural and symbolic violence is represented through cultural norms and practices that discriminate against girls, such as female genital mutilation, forced marriage, dowry, and honor killing, and pose a violation of human rights in some countries.”); see also Eda Asli Seran, *The Honour Killings in Turkish Jurisprudence*, in GENDER AND STRUCTURAL VIOLENCE 11, 11–13 (Rekha Pande & Sita Vanka eds., 2019); Abha Chauhan, *Women’s Sexuality and the Phenomenon of ‘Honour Killings’ in India*, in GENDER AND STRUCTURAL VIOLENCE 20, 21–24 (Rekha Pande & Sita Vanka eds., 2019); Emanuela Fink, *Genital Mutilation as an Expression of Power Structures: Ending FGM through Education, Empowerment of Women and Removal of Taboos*, 10 AFR. J. REPROD. HEALTH 13, 14 (2006).

199 Despite the dollar’s predominant position as the world’s reserve currency and the role of international economic institutions like the International Monetary Fund and World Bank in supporting through financial assistance and policy guidance, ordinary, individual residents of the Global South may never interact with the U.S. financial system or transact in U.S. dollars. While many ordinary residents may receive remittances from family members living abroad and certain jurisdictions have functionally adopted the U.S. dollar as domestic currency, for the rural poor specifically, much of the population is “unbanked” and economic life operates largely outside any formal financial system—U.S. or otherwise. See WORLD BANK, *THE GLOBAL FINDEX 2025: CONNECTIVITY AND FINANCIAL INCLUSION IN THE DIGITAL ECONOMY* 105 (2025), <https://openknowledge.worldbank.org/bitstreams/9288bdc5-7a9b-42de-a47c-3746fd68f22a/download> [<https://perma.cc/6GKN-BBN5>] (“1.3 billion adults worldwide still lack financial accounts and are thus unable to benefit directly from the formal financial system.”).

strike a careful balance between addressing genuine instances of structural violence against women and imposing burdensome restrictions on non-target populations due to cultural practices, particularly given the potential externalities already associated with existing sanctions programs.²⁰⁰

By comparison, U.S. government intervention and sanctions designations are better directed at governmental entities, legal bodies, and natural persons in positions of authority that either explicitly condone these practices, preferences, and disparities or allow them to persist by failing to adequately address them through law or other policy decisions. Discriminatory laws also fall into this category of more easily targetable, structural violence. For example, restrictive inheritance laws like those affecting Dorothy N., even those that are customary in nature, are carried out by judges, courts, and other national and local legal authorities.²⁰¹ Similarly, anti-LGBTQ+ laws and laws restricting women's access to reproductive healthcare serve as suitable targets.²⁰²

Scenarios in which sanctions would be appropriate share a common theme: the implementation, or lack thereof, of policies eliminating gender inequities and the enforcement of discriminatory laws are all political decisions. As such, there are individuals, government agencies, and other actors with real power that may be influenced by designation to the Treasury Department's SDN List and the inability to transact in U.S. dollars, through U.S. banks, or with U.S. persons, particularly as parts of the Global South are heavily reliant on U.S. humanitarian aid and American non-profits and deal regularly with the U.S. dollar as the world's "reserve currency."²⁰³ Moreover, there is more likely to be "credible evidence"

200 See *infra* Part III.C.

201 See Monica E. Mhoja & Helen Kijo-Bisimba, *Tanzanian Customary Laws of Inheritance—A Case of Cultural Violence Against Women*, in *WOMEN CHALLENGING VIOLENCE—EXPERIENCES FROM EASTERN AND SOUTHERN AFRICA* 2, 3–4 (Frederich Ebert Stiftung ed., 1994); Lucy J. Kimaro, *Gender Violence and Widowhood, A Challenge to Religious Leaders in Sub-Saharan Africa*, in *GENDER AND STRUCTURAL VIOLENCE* 74, 79–81 (Rekha Pande & Sita Vanka eds., 2019); see also Tamar Ezer, *Inheritance Law in Tanzania: The Impoverishment of Widows and Daughters*, 7 *GEO. J. GENDER & L.* 599, 606–14 (2006) (all discussing the role of the judicial system and discriminatory court decisions in carrying out inheritance law to the disadvantage of widows).

202 See MITCHELL & THOMPSON, *supra* note 155, at 15–16 (discussing calls by Ugandan civil society organizations for the U.S. government to sanction Ugandan government officials for passing one of the world's harshest anti-LGBTQ+ laws, making "aggravated homosexuality" a capital offense).

203 See OECD, *PRELIMINARY OFFICIAL DEVELOPMENT ASSISTANCE LEVELS IN 2024*, at 3 (2025), [https://one.oecd.org/document/DCD\(2025\)6/en/pdf?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news](https://one.oecd.org/document/DCD(2025)6/en/pdf?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news) [<https://perma.cc/6XVY-865U>] (noting that in 2024, the United States contributed the

to justify the designation as required by the Global Magnitsky Act because “[s]tructural violence under a purported rule of law requires justification, and so its maintenance leaves both normative code and a paper trail.”²⁰⁴ Saliiently, there are actors that can be considered blameworthy, and thus there is an opportunity for behavior to be changed with sanctions designations if the U.S. government shifts away from its typical approach and adopts a wider interpretation of what qualifies for designation under the Global Magnitsky Sanctions Regulations. Broadening the Global Magnitsky Act’s application to “secondary participants” also provides room for the designation of individuals and entities that may be a step removed from any direct harm—imperative given that structural violence, by definition, is indirect.

C. Minimizing the Risk of Disproportionate Harm to Women and Other Marginalized Groups

Although these recommended measures have the potential to alter the behavior of bad actors beyond U.S. borders, any sanctions designations or changes more broadly to OFAC policies should prioritize limiting unintended effects on women and other vulnerable populations. While targeted financial sanctions are designed to isolate specific individuals or entities, scholarship suggests that despite an emphasis on precision, they may still disproportionately impact women through indirect socioeconomic channels.²⁰⁵ Research indicates that even targeted measures, particularly when applied to key state-owned industries or financial sectors, can trigger significant fiscal contractions, leading governments to implement austerity measures that prioritize regime survival over social

greatest percentage of official development assistance (30%). *See also generally* Evan Cooper & Alessandro Perro, *Scenarios for U.S. Foreign Aid in 2035*, STIMSON (Sep. 19, 2025), <https://www.stimson.org/2025/scenarios-for-us-foreign-aid-in-2035/> [<https://perma.cc/7WYV-EMWE>]; George Ingram, *Global South Perspectives on U.S. Development Assistance Changes and Future Directions*, BROOKINGS (Feb. 23, 2025), <https://www.brookings.edu/articles/global-south-perspectives-on-us-development-assistance-changes-and-future-directions/> [<https://perma.cc/9UPF-YXLW>] (discussing the humanitarian implications of the Trump administration’s recent cuts to the U.S. Agency for International Development (“USAID”)); *The Dollar: The World’s Reserve Currency*, COUNCIL ON FOREIGN RELS. (July 19, 2023), <https://www.cfr.org/backgrounders/dollar-worlds-reserve-currency> [<https://perma.cc/QM8R-ZVS3>]; Upamanyu Lahiri & Erin Eckman, *What’s Behind the U.S. Dollar’s Dominance and Why it Matters*, BIPARTISAN POL’Y CTR. (Sep. 2, 2025), <https://bipartisanpolicy.org/explainer/whats-behind-the-u-s-dollars-dominance-and-why-it-matters/> [<https://perma.cc/PS95-FWNH>] (discussing the role of the U.S. dollar as the global reserve currency and the use of the U.S. dollar by governments and institutions in low- and middle-income countries).

204 FARMER, PARTNER TO THE POOR, *supra* note 58, at 295.

205 *See* Kate Perry, *Better for Whom? Sanction Type and the Gendered Consequences for Women*, 36 INT’L RELS. 151, 151 (2022); MITCHELL & THOMPSON, *supra* note 155, at 9.

well-being.²⁰⁶ “The targeting of regimes and political leaders negatively affects the economy of states, as elites can be placed in competition with civilians for resources.”²⁰⁷ Moreover, because women are statistically more reliant on “government social spending”—such as education, healthcare, and social welfare programs—the resulting budgetary cuts to these sectors diminish their access to essential resources and increase their unpaid labor burden.²⁰⁸

To mitigate these risks, sanctions designations under the strategy proposed in this Note, and U.S. sanctions policy more generally, should transition from gender-blind to gender-sensitive implementation. Scholarly recommendations emphasize the necessity of conducting ex-ante impact assessments of humanitarian impacts of sanctions regimes “as part of their implementing and monitoring.”²⁰⁹ With gender in mind, these assessments could also identify specific gender-sensitive vulnerabilities in a target state, a region’s labor market, or a social infrastructure before sanctions are finalized. Implementing agencies, like OFAC, should also establish broader permanent humanitarian carve-outs that go beyond the exemptions for basic food and medicine included in OFAC General Licenses. Additionally, to combat overcompliance or de-risking behavior by private financial institutions,²¹⁰ regulators should issue clear, gender-sensitive compliance guidance, consistent with broader efforts under the global Women, Peace, and Security agenda.²¹¹

206 Perry, *supra* note 205, at 155.

207 MITCHELL & THOMPSON, *supra* note 155, at 9.

208 See Perry, *supra* note 205, at 154–55, 157–61; see also Cooper Drury & Dursun Peksen, *Women and Economic Statecraft: The Negative Impact International Economic Sanctions Visit on Women*, 20 EURO. J. INT’L RELS. 463, 483 (2012).

209 Erica S. Moret, *Humanitarian Impacts of Economic Sanctions of Iran and Syria*, 24 EURO. SEC. 120, 133 (2015).

210 See Guidance Note on Overcompliance with Unilateral Sanctions and its Harmful Effects on Human Rights, U.N. HUM. RTS., OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/en/special-procedures/sr-unilateral-coercive-measures/resources-unilateral-coercive-measures/guidance-note-overcompliance-unilateral-sanctions-and-its-harmful-effects-human-rights> [<https://perma.cc/NNQ2-46VF>] (“As governments increasingly use unilateral sanctions to pursue foreign policy objectives, it has become common for banks and other financial service providers to over-comply with them to reduce legal, regulatory or business risks associated with inadvertent violations. Yet over-compliance with such sanctions has harmful effects on the entire range of human rights.”).

211 The Women, Peace, and Security (WPS) agenda is a global policy framework, anchored by UN Security Council Resolution 1325, that recognizes women as essential actors—not just victims—in conflict prevention, peacebuilding, and post-conflict reconstruction, and calls for their meaningful participation in peace processes and security decision-making. See S.C. Res. 1325 (Oct. 31, 2000). The United States codified the agenda into law through the Women, Peace, and Security Act of 2017, the first such legislation passed by any country, and

These measures, taken together, offer the opportunity for a more coherent, gendered sanctions policy and may help ensure that human rights sanctions targeting the indirect forms of violence that sit at the base of the iceberg do not themselves function as structural violence. However, even with these possible safeguards, there are considerable practical barriers to the successful adoption and implementation of the policy proposed by this Note.

IV. Looking Forward: The Implications of the Second Trump Presidency

While President Trump, like his predecessors, did not hesitate in his first term to utilize OFAC sanctions, big questions remain given the actions Trump has taken early in his second term, his role as a so-called disruptor, and his significant departure from the Biden Administration's policies.²¹² Part IV briefly considers the implications of President Trump's return to the White House on the viability of the strategy proposed *supra* Part III, given the Trump Administration's stark shift from former President Biden on issues related to gender, human rights, health, and humanitarian aid.

A. The Trump Administration and OFAC

The first Trump Administration used OFAC heavily.²¹³ This includes 686 human rights sanctions designations and 565 corruption sanctions designations under the Global

embedded WPS commitments across its diplomatic, defense, and development agencies. However, the second Trump Administration has since walked back its implementation despite the WPS Act remaining law. *See generally* KAYLA MCGILL & RACHEL WEIN, NEW LINES INST., POLICY REPORT: THE ELIMINATION OF THE U.S. WOMEN, PEACE AND SECURITY CAPACITY AT THE DEPARTMENT OF STATE (2026), https://newlinesinstitute.org/wp-content/uploads/FINAL-01082025_WPS-Elimination_McGill-Wein-nlisap-1.pdf [<https://perma.cc/AE5U-JE32>].

²¹² *See generally* *Tracking Regulatory Changes in the Second Trump Administration*, BROOKINGS (Jan. 22, 2026), <https://www.brookings.edu/articles/tracking-regulatory-changes-in-the-second-trump-administration/> [<https://perma.cc/7ZKN-3G8L>] (tracking a “curated selection of new, delayed, and repealed rules, notable guidance and policy revocations, executive actions, and important court battles across key policy areas”).

²¹³ President Trump imposed more than 5,000 sanctions on firms, individuals, and countries during his first Presidential term between 2017 and 2021. *See* Jeff Stein & Federica Coco, *How Four Presidents Unleashed Economic Warfare Across the Globe*, WASH. POST (July 25, 2024), <https://www.washingtonpost.com/business/interactive/2024/us-sanction-countries-work/>. [<https://perma.cc/9AVB-648B>]. Further, in 2019, former Secretary of the Treasury Steven Mnuchin commented that he “spen[t] half of his time working on sanctions matters.” Alan Rappeport, *Trump Overrules Own Experts on Sanctions, in Favor to North Korea*, N.Y. TIMES (Mar. 22, 2019), <https://www.nytimes.com/2019/03/22/world/asia/north-korea-sanctions.html> [<https://perma.cc/YS3F-DAAN>].

Magnitsky Act, more than double the equivalent designations under former President Obama.²¹⁴ Despite plans by former President Biden to reconsider and potentially scale back the use of economic sanctions, they are still viewed by many as a more palatable tool than other forms of humanitarian intervention, given that they are lower-cost and often lower-risk.²¹⁵ It is expected that the second Trump Administration will continue to leverage OFAC sanctions in an attempt to achieve certain foreign policy goals, especially related to Russia, China, Venezuela, and Iran.²¹⁶ However, it is likely that over the remainder of his second term, President Trump's use of OFAC sanctions authorities will vary not just from his first term but also from the Biden Administration.²¹⁷

In his first few weeks in office, the President rescinded a Biden-era Executive Order authorizing OFAC sanctions on persons undermining peace, security, and stability in the West Bank and reinstated targeted financial sanctions against the International Criminal Court ("ICC"), in particular listing as an SDN Karim Ahmad Khan, the Prosecutor of the ICC responsible for issuing arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Israeli Defense Minister Yoav Gallant.²¹⁸ Many of these actions are

214 See MITCHELL & THOMPSON, *supra* note 155, at 6.

215 Masters, *supra* note 100; see also THE TREASURY 2021 SANCTIONS REVIEW, *supra* note 100, at 1.

216 Christopher Sabatini, *The Trump Administration's Sanctions Policy Could Matter More than Its Use of Tariffs*, CHATHAM HOUSE (Jan. 28, 2025), <https://www.chathamhouse.org/2025/01/trump-administrations-sanctions-policy-could-matter-more-its-use-tariffs> [<https://perma.cc/7XVU-GJ3Q>]; *Sanctions Will Be Central to Trump's Regional Policy*, THE SOUFAN CTR. (Jan. 27, 2025), <https://thesoufancenter.org/intelbrief-2025-january-27/> [<https://perma.cc/J8WY-G2ZW>].

217 See *id.*; Daniel Tannebaum, *Sanctions Expectations in a Second Trump Administration*, ATL. COUNCIL (Nov. 22, 2024), <https://www.atlanticcouncil.org/blogs/econographics/sanctions-expectations-in-a-second-trump-administration/> [<https://perma.cc/NRL4-6HSK>].

218 See Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025); Exec. Order No. 14203, 90 Fed. Reg. 9369 (Feb. 6, 2025); Press Release, U.S. Dep't of the Treasury, Office of Foreign Assets Control, Termination of Emergency With Respect to the Situation in the West Bank; West Bank-related Designation Removals (Jan. 24, 2025), <https://ofac.treasury.gov/recent-actions/20250124> [<https://perma.cc/RA7Q-N7EC>]; Press Release, U.S. Dep't of the Treasury, Off. of Foreign Assets Control, Issuance of Executive Order Imposing Sanctions on the International Criminal Court; International Criminal Court-Related Designation (Feb. 13, 2025), <https://ofac.treasury.gov/recent-actions/20250213> [<https://perma.cc/SYC8-W3NS>]; see also Erik Woodhouse & Edwin Goetz, *President Trump's Executive Orders & Actions—Sanctions*, CROWELL & MORING LLP (Jan. 23, 2025), <https://www.cmtradelaw.com/2025/01/president-trumps-executive-orders-actions-sanctions/> [<https://perma.cc/2AS7-7EXT>].

considered controversial by critics in the human rights space and depart significantly from the actions of former President Biden.²¹⁹

Further, since Trump's return to office, OFAC's utilization of the Global Magnitsky sanctions program has been relatively limited and has not included any designations addressing violence against women in any form, indicating that its priorities may—at least for the time being—lie elsewhere.²²⁰ The focus, by comparison, has largely been on counter-narcotics and counter-terrorism designations related to drug trafficking in the Caribbean, the war in Gaza, tensions with Iran, and sanctions evasion by Venezuela.²²¹

219 See generally Kenneth Roth, *Trump's Sanctions Against the ICC are Disgraceful*, GUARDIAN (Feb. 9, 2025), <https://www.theguardian.com/commentisfree/2025/feb/09/trump-icc-sanctions> [<https://perma.cc/CAE9-NJS8>]; *What Do the Trump Administration's Sanctions on the ICC Mean for Justice and Human Rights?*, AMNESTY INT'L (Mar. 25, 2025), <https://www.amnesty.org/en/latest/campaigns/2025/03/what-do-the-trump-administrations-sanctions-on-the-icc-mean-for-justice-and-human-rights/> [<https://perma.cc/H53F-EPTQ>]; *Revocation of Sanctions Against Violent Israeli Settlers Will Encourage Terrorist Attacks Against Palestinians, Fuel Instability*, DAWN (Jan. 27, 2025), <https://dawnmena.org/revocation-of-sanctions-against-violent-israeli-settlers-will-encourage-terrorist-attacks-against-palestinians-fuel-instability/> [<https://perma.cc/7FG8-ZHNL>] (all criticizing President Trump's early OFAC actions after returning to the White House in January 2025).

220 See e.g., Press Release, U.S. Dep't of the Treasury, Off. of Foreign Assets Control, Global Magnitsky Designation (July 30, 2025), <https://ofac.treasury.gov/recent-actions/20250730> [<https://perma.cc/H28M-V3R8>]; Press Release, U.S. Dep't of the Treasury, Treasury Sanctions Alexandre de Moraes (July 30, 2025), <https://home.treasury.gov/news/press-releases/sb0211> [<https://perma.cc/43S9-ZQUL>] (designating a Brazilian Supreme Federal Court justice for his alleged use of “his position to authorize arbitrary pre-trial detentions and suppress freedom of expression”); Press Release, U.S. Dep't of the Treasury, Off. of Foreign Assets Control, Transnational Criminal Organizations Designations; Burma-related Designations; Global Magnitsky Designations; Cyber-related Designations (Sep. 8, 2025), <https://ofac.treasury.gov/recent-actions/20250908> [<https://perma.cc/9HRZ-927F>]; Press Release, U.S. Dep't of the Treasury, Off. of Foreign Assets Control, Global Magnitsky Designations (Sep. 22, 2025), <https://ofac.treasury.gov/recent-actions/20250922> [<https://perma.cc/D55R-B4PH>]; Press Release, U.S. Dep't of the Treasury, Treasury Sanctions Support Network of Brazilian Supreme Court Justice (Sep. 22, 2025), <https://home.treasury.gov/news/press-releases/sb0257> [<https://perma.cc/2332-6Q42>] (designating an entity and individual for their alleged support of the aforementioned Brazilian Supreme Federal Court justice); see also generally *Recent Actions*, U.S. DEP'T. OF THE TREASURY: OFF. OF FOREIGN ASSETS CONTROL, <https://ofac.treasury.gov/recent-actions> [<https://perma.cc/28AC-XZV5>] (providing access to Treasury Department notices of all recent, public OFAC designations).

221 Press Release, U.S. Dep't of the Treasury, Treasury Sanctions One of the Caribbean's Largest Narcotics Traffickers and His Network (Jan. 22, 2026), <https://home.treasury.gov/news/press-releases/sb0369> [<https://perma.cc/79YF-NQAC>]; Press Release, U.S. Dep't of the Treasury, Treasury Exposes and Disrupts Hamas's Covert Support Network (Jan. 21, 2026), <https://home.treasury.gov/news/press-releases/sb0368> [<https://perma.cc/5TRW-C8RQ>]; Press Release, U.S. Dep't of the Treasury, Treasury Increases Pressure on Houthi Smuggling and Illicit Revenue Generation Networks (Jan. 16, 2026), <https://home.treasury.gov/news/press-releases/sb0367> [<https://perma.cc/AH2G-L5BD>]; Press Release, U.S. Dep't of the Treasury, Secretary Bessent Announces Sanctions Against Architects of Iran's Brutal Crackdown on Peaceful Protests (Jan. 15,

Despite this action, it remains possible that funding allocated to OFAC and its key functions will decrease in the coming months, given the general aversion of President Trump's political base to assisting Ukraine and the President's attempts to negotiate with the Russian Federation regarding the ongoing war in Ukraine. Moreover, the Trump Administration seems to have placed greater emphasis on the use of tariffs, compared to targeted (or comprehensive) financial sanctions.²²² Even so, the efficacy of such sanctions—which relies on a certain level of harmonization with allies like the United Kingdom and European Union²²³—could be reduced by the President's efforts, whether intentional or otherwise, to distance the United States from its allies across the Atlantic.²²⁴

B. Changing Policies: What Is Next?

The largest remaining question regards the status of the 2022 Global Gender-Based Violence Strategy, which served as the guiding document for President Biden's decision to apply Global Magnitsky sanctions to perpetrators of CRSV but is no longer accessible directly via the State Department website.²²⁵ The first Trump Administration did not revoke

2026), <https://home.treasury.gov/news/press-releases/sb0364> [<https://perma.cc/H5C4-YX5T>]; Press Release, U.S. Dep't of the Treasury, Treasury Targets Oil Traders Engaged in Sanctions Evasion for Maduro Regime (Dec. 31, 2025), <https://home.treasury.gov/news/press-releases/sb0348> [<https://perma.cc/DW2B-E7HR>].

222 See Shiloh Grayson, Trump's Tariffs are Replacing Sanctions, ROYAL U.S. INSTIT. FOR DEF. & SEC. STUD. (Apr. 29, 2025), <https://www.rusi.org/explore-our-research/publications/commentary/trumps-tariffs-are-replacing-sanctions> [<https://perma.cc/VS9U-67MR>].

223 See Press Release, U.S. Dep't of the Treasury, Strengthening Global Sanctions: Two Years of Enhanced Partnership (Nov. 19, 2024), <https://home.treasury.gov/news/featured-stories/strengthening-global-sanctions-two-years-of-enhanced-partnership> [<https://perma.cc/CG4C-SGZ2>] (highlighting OFAC's partnership with the UK's Office of Financial Sanctions Implementation and noting the "financial sanctions work best when implemented multilaterally").

224 See generally Oriol Junqueras i Vies, *Against Those Who Sow Fear: Europe and the End of American Dependability*, CTR. FOR INT'L POL'Y (Apr. 16, 2026), <https://internationalpolicy.org/publications/europe-for-democracy/> [<https://perma.cc/F5RJ-M3RV>] (discussing the deterioration of U.S.-Europe relations throughout the second Trump Administration).

225 Attempting to access the 2022 Global Gender-Based Violence Strategy directly through the Trump State Department's website results in an error message. See <https://www.state.gov/reports/united-states-strategy-to-prevent-and-respond-to-gender-based-violence-globally-2022/> [<https://perma.cc/ZE75-VX33>]. The Strategy is still accessible through the Biden Administration State Department's archived site (available at <https://www.state.gov/u-s-department-of-state-archive-websites> [<https://perma.cc/CG27-74MV>]). Further, the *Presidential Memorandum on Promoting Accountability for Conflict-Related Sexual Violence* issued by President Biden is no longer accessible via the White House's website, indicating the Trump Administration has likely rescinded the Memorandum.

the 2016 iteration of the Global Gender-Based Violence Strategy and even published several factsheets regarding its implementation.²²⁶ Nevertheless, U.S. officials during President Trump's first term quietly attempted to roll back support for efforts to protect and develop the rights, health, and safety of women and girls worldwide.²²⁷ Since President Trump's second inauguration on January 20, 2025, these efforts have been amplified at home and abroad.²²⁸ Notably, the Trump Administration has in the last year completely eliminated the Women, Peace, and Security Program at the State Department; announced in January 2026 its decision to withdraw the United States from sixty-six international organizations, conventions, and treaties, including the U.N. Entity for Gender Equality and the Empowerment of Women and the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict; and "formally exited" from the WHO.²²⁹

Bearing this in mind, it is doubtful that the second Trump Administration gives credence to the 2022 iteration of the Global Gender-Based Violence Strategy, which not only includes a focus on cross-sectional marginalized populations—including transgender people, whom

226 See e.g., USAID, FACT SHEET: STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY, https://2017-2020.usaid.gov/sites/default/files/documents/2155/GBV_Factsheet.pdf [<https://perma.cc/X7J2-UDPU>].

227 See Amy Steimer-King, *The Trump Administration Wants to Reverse the U.N.'s Work for Women*, MS. MAGAZINE (Mar. 22, 2019), <https://msmagazine.com/2019/03/22/the-trump-administration-wants-to-reverse-the-uns-work-for-women%EF%BB%BF/> [<https://perma.cc/QE4L-82BZ>]; see also *Trump Administration Civil and Human Rights Rollbacks*, THE LEADERSHIP CONF. ON CIVIL & HUM. RTS. (2026), <https://civilrights.org/trump-rollbacks/> [<https://perma.cc/EQR8-NJSG>].

228 See e.g., Floriane Borel, Samira Damavandi, & Irum Taqi, Policy Analysis: Six Months In: How the Trump Administration Is Undermining Sexual and Reproductive Health and Rights Globally, GUTTMACHER INST. (Aug. 1, 2025), <https://www.guttmacher.org/2025/08/six-months-how-trump-administration-undermining-sexual-and-reproductive-health-and-rights> [<https://perma.cc/8P7V-VBBY>].

229 Noel James, *Women This Week: Hegseth Announces End to Women, Peace and Security Program*, COUNCIL ON FOREIGN RELS. (May 2, 2025), <https://www.cfr.org/blog/women-week-hegseth-announces-end-women-peace-and-security-program> [<https://perma.cc/W87T-M2B9>]; Press Release, The White House, *Withdrawing the United States from International Organizations, Conventions, and Treaties that Are Contrary to the Interests of the United States* (Jan. 7, 2026), <https://www.whitehouse.gov/presidential-actions/2026/01/withdrawing-the-united-states-from-international-organizations-conventions-and-treaties-that-are-contrary-to-the-interests-of-the-united-states/> [<https://perma.cc/79YF-NQAC>]; Shelly Inglis, *U.S. Turns its Back on Global Efforts for Women and Children Terrorized by Violence and Conflict*, CONVERSATION (Jan. 22, 2026), <https://theconversation.com/us-turns-its-back-on-global-efforts-for-women-and-children-terrorized-by-violence-and-conflict-273177> [<https://perma.cc/HL4V-XJZB>]; Press Release, U.S. Dep't. of Health & Hum. Servs., *Fact Sheet: U.S. Withdrawal from the World Health Organization* (Jan. 22, 2026), <https://www.hhs.gov/press-room/fact-sheet-us-withdrawal-from-the-world-health-organization.html> [<https://perma.cc/HZ2D-TAY3>].

the second Trump Administration does not legally recognize²³⁰—and diversity, equity, and inclusion, but also offers specific policy objectives related to the U.S. Agency for International Development (“USAID”), which the President has attempted to eliminate.²³¹ It is expected that any action by the Trump Administration under the Strategy, or more likely a new strategy as is required by congressional mandate, will focus less heavily on efforts to advance equity and inclusivity and instead fall back on a more customary understanding of gender-based violence, making sanctions designations targeting structural violence against women unlikely.

Further, the atypical and largely controversial actions surrounding the President’s decision to gut USAID and other humanitarian aid programs could extend to human rights sanctions policy in ways that constrain the United States’ capacity and willingness to use the Global Magnitsky Act to target structural violence. Beyond the wider implications on global health,²³² the Global Magnitsky Sanctions regime has historically relied on a whole-of-government evidentiary and analytical infrastructure, drawing on reporting from USAID-funded civil society organizations, field-based human rights monitors, and implementing

230 On January 20, 2025, President Trump signed Executive Order 14168, titled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” which declares it the official policy of the United States to recognize only two sexes, male and female, as biological and immutable, and directs also federal agencies to reflect this policy in official documents and communications. Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

231 See 2022 GLOBAL GENDER-BASED VIOLENCE STRATEGY, *supra* note 20, at 7–9, 50, 56–57; see also Melissa Quinn, *Trump and Elon Musk Are Upending USAID. Here’s What to Know About Its Work*, CBS NEWS (Feb. 4, 2025), <https://www.cbsnews.com/news/trump-and-elon-musk-are-upending-usaid-heres-what-to-know-about-its-work/> [<https://perma.cc/ME2B-WF37>]. Despite ongoing litigation, since July 1, 2025, USAID’s operations have ceased and U.S. foreign assistance programs are now being administered by the State Department. See Mary Kekatos & Chris Boccia, *USAID Programs now being run by State Department as agency ends operations*, ABC (Jul. 1, 2025), <https://abcnews.com/Health/usaid-programs-now-run-state-department-agency-ends/story?id=123373289> [<https://perma.cc/KR7D-N9EP>]. However, the legality of the decision to freeze foreign aid and dissolve USAID is still actively being challenged in federal court. For a comprehensive chronological account of the Trump Administration’s actions to freeze foreign aid and dissolve USAID beginning January 20, 2025, see Jennifer Kates, Anna Rouw & Stephanie Oum, *U.S. Foreign Aid Freeze & Dissolution of USAID: Timeline of Events*, KAISER FAM. FOUND. (Oct. 24, 2025), <https://www.kff.org/global-health-policy/u-s-foreign-aid-freeze-dissolution-of-usaid-timeline-of-events/> [<https://perma.cc/KJY2-55JW>].

232 See generally Auwal Rabi Auwal, *The Global Implications of U.S. Withdrawal from WHO and the USAID Shutdown: Challenges and Strategic Policy Considerations*, 13 FRONTIERS PUB. HEALTH 1 (Jun 2, 2025); *What USAID Did, and the Effects of Trump’s Cuts on Lifesaving Aid*, OXFAM AM. (Jan. 27, 2026), <https://www.oxfamamerica.org/explore/issues/making-foreign-aid-work/what-do-trumps-proposed-foreign-aid-cuts-mean/> [<https://perma.cc/U694-DFYM>].

partners to identify perpetrators of violence and document abuses with specificity to support sanctions designations.²³³ The dismantling of USAID has not only severed many of those information pipelines but has also signaled to foreign governments and non-state actors that the United States is withdrawing from the broader international community.²³⁴ Whether by design or as a consequence of broader ideological and budgetary priorities, the second Trump Administration appears to be dismantling the very infrastructure upon which an effective gender-based sanctions policy depends.

Despite the President's apparent fondness for economic sanctions as a foreign policy tool, the combination of these factors makes it unlikely that the Trump Administration's Treasury Department will be particularly amenable to expanding the use of Global Magnitsky sanctions to target structural violence against women. It is unclear whether the Treasury Department, in its current form, will use existing sanctions authority to address even *direct* violence against women. Moreover, actions by the Trump Administration at home restricting reproductive rights, immigration, and speech increasingly cast doubt on the position of the United States as a monitor and promoter of human rights,²³⁵ so one might fairly question whether the policy recommendations proposed by this Note are suited to the political moment. But evaluation of these issues remains critical, particularly if a more progressive-leaning presidential administration were to return to the White House in January 2029.

233 See HUM. RIGHTS FIRST, FACT SHEET: U.S. GLOBAL MAGNITSKY SANCTIONS (2026), https://humanrightsfirst.org/wp-content/uploads/2026/03/Magnitsky_2026_Factsheet16.pdf [<https://perma.cc/JUH3-4ZCF>] (“Unusually, the President is required by law to consider ‘credible information obtained by . . . nongovernmental organizations that monitor violations of human rights’ in implementing this program. The Treasury and State Departments accept and consider recommendation files from NGOs and historically have consulted with NGOs that submit such information. Since 2017, roughly one-third of the USG’s sanctions under this program have had a basis in recommendations submitted by the civil society network that [Human Rights First] coordinates.”).

234 See generally Jeremy Konydyk, *What We Lost When We Lost U.S.A.I.D.*, N.Y. TIMES (Feb. 8, 2026), <https://www.nytimes.com/2026/02/08/opinion/usa-id-humanitarian-aid-america.html> [<https://perma.cc/YH7Y-FANT>]; Matteo Caravani, *The Demise of USAID: A ‘Revolution’ Against the Wretched of the Earth*, 33 J. POVERTY & SOC. JUST. 347 (2025).

235 See *US: Trump Administration’s Pervasive Attacks*, HUM. RTS. WATCH (Feb. 4, 2026), <https://www.hrw.org/news/2026/02/04/us-trump-administrations-pervasive-attacks-on-rights> [<https://perma.cc/W6DU-WUFE>]; Graham Smith, *The State Department Is Changing Its Mind About What It Calls Human Rights*, NPR (Apr. 18, 2025), <https://www.npr.org/2025/04/18/nx-s1-5357511/state-department-human-rights-report-cuts> [<https://perma.cc/ZS8X-N55K>]; *The Trump Administration’s First Actions in 2025 Targeting Patients, Providers, and Reproductive Health Care Access*, NAT’L WOMEN’S L. CTR. (Feb. 25, 2025), <https://nwlc.org/resource/the-trump-administrations-first-actions-in-2025-targeting-patients-providers-and-reproductive-health-care-access/> [<https://perma.cc/RP65-CKRZ>].

CONCLUSION

Structural violence is an under-studied and under-addressed phenomenon in the sanctions context. Of course, President Trump's return to the White House limits the potential viability of a more adequately "gendered" human rights sanctions policy in the near-term. However, the space for addressing structural violence against women does exist if the U.S. government makes a conscious effort both to expand its understanding of gender-based violence and to employ a wider interpretation of what constitutes a "serious human rights abuse" under the Global Magnitsky Act and E.O. 13818. Each day that action is not taken, more women, like Dorothy N., experience suffering and fall victim to premature morbidity and mortality, in part because the legal and governmental institutions meant to protect their right to health instead infringe upon it. Nonetheless, it is important to recognize that more research is needed on the exact functional parameters required to operationalize the strategy proposed by this Note. It is critical to understand that any financial sanctions, even "smart" sanctions, can have unintended effects on the populations of targeted countries and communities, especially among women and girls.²³⁶ Poorly designed and implemented sanctions programs may fail to protect these already marginalized groups. Any efforts by the U.S. Treasury to expand its Global Magnitsky sanctions program to address structural violence must be matched by engagement with local civil society groups and supported by quality, comprehensive data in order to mitigate these risks.

236 See MITCHELL & THOMPSON, *supra* note 155, at 16–18; Press Release, U.N. Hum. Rts., Off. of the High Comm'r, Unilateral Sanctions Hurt All, Especially Women, Children and Other Vulnerable Groups—U.N. Human Rights Expert (Dec. 8, 2021), <https://www.ohchr.org/en/press-releases/2021/12/unilateral-sanctions-hurt-all-especially-women-children-and-other-vulnerable?LangID=E&NewsID=27931> [<https://perma.cc/MG6W-L26Y>].