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Economic Sanctions in the United Nations and Its Modern Applications (1990–2002)

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Abstract

This paper aims to explain the purpose of international sanctions in general and economic sanctions, in particular. This research highlights the fact of the negative outcome of the imposition of comprehensive economic sanctions on human rights in countries that have been subject to them, such as Iraq since Iraq has faced more economic sanctions than any other country in the world in the 1990s. As an alternative, this research emphasizes smart sanctions because this approach has been applied as being more effective and less detrimental to human rights. This paper discusses the various factors behind the transition from comprehensive economic sanctions to smart sanctions. Smart sanctions do not arbitrarily impact all citizens of the sanctioned country, but only those responsible, through “targeted” sanctions which target particular individuals and entities without any serious harm in civilian life. However, it may not mean that smart sanctions avoid a humanitarian crisis, it still faces many challenges, and other alternatives may emerge.

Keywords: economic sanctions, humanitarian crisis, smart sanctions, Iraq, UN.

1. Introduction

Alongside the large number of human rights conventions, there are a vast number of violations, whether human rights, international norms or international legitimacy, with many sanctions. International sanctions, mostly comprehensive economic sanctions have been broadly enforced through history in order to achieve the overwhelming victory, which was not always achieved by military force alone. Economic sanctions throughout the ages were often considered as a method of lower cost compared to war (Abu-Mtayy, 2001). During 1990–2002, the United Nations imposed economic sanctions more than 12 times and Iraq was one of those countries which the United Nations imposed wide-ranging economic sanctions on it. United Nations resorted to this mechanism in the nineties of the last century on Iraq, Libya and Yugoslavia, there was a series of hard economic sanctions, and some have described as a planned genocide of these nations. It can be said that such decisions have led to the deterioration of human rights in countries where sanctions imposed in terms of civilian, political, financial, social and cultural, by limiting access to food, medicines, health care and clean water particularly in Iraq. Recently, there is a tendency by the United Nations to smart sanctions, which is aimed at maximizing the pressure to make a political change. The humanitarian effects of comprehensive economic sanctions on civilians have been a primary reason for researching the mechanism of international sanctions. Economic sanctions, both comprehensive and smart targeted sanctions tend to be more reprehensible than punitive reasoning. Sanctions mostly are reflecting the power and ambition of

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the government, or the representation of its strategic desires, rather than the wishes of the international community. The purpose of this study is to discuss the different motives behind the shift towards the imposition of smart sanctions, especially the humanitarian tendency that is associated with the existence of smart sanctions and relates to the fact that human rights violations should be considered (Adler-Karlsson, 1968).

2. Discussion and results

International economic sanction is the technical legal expression that many people use without precision to describe a variety of actions that sometimes interfere with the concept of economic blockade. Economic sanction can have many names there are researchers, politicians and writers who call it economic boycotts, it can be called economic embargo, some group defines it as economic warfare, economic oppression, economic aggression, and even defined as quarantine or economic isolation. This is because of overlapping political, economic and legal implications. In light of this difference, the term "Economic Sanctions" will be adopted because it indicates legality and carries the meaning of punishment by international law for Countries who breach international rules of behavior. The origin of the English word Sanctions, "Sanctions" is from the Latin word "Sanctio" dating back to the fourteenth century and derived from the verb (Prescire) "Sancire" which is usually plural.

Economic sanctions have been adopted as a mechanism or solution to solving conflicts as a chosen diplomatic option to resolve the various challenges to international peace and security. Economic sanctions remain the most common and a powerful deterrent to contemporary international affairs. At the same time, it is a silent and lethal method by less invasive means, because history has proven to be the economic equivalent to the so-called war of mass bombardment; sanctions are one of the methods used by both international organizations and States throughout the Cold War and more used with the Cold War's end. It was first imposed against southern Rhodesia in 1966 and South Africa in 1977 (Baer, 1985). Comprehensive economic sanctions used against Iraq as a recurrent strategy began in 1990, when the United Nations imposed it more than 12 times during the period 1990–2002. In addition, United Nations member states have imposed economic sanctions on different countries and regions.

The League of Nations era and the Charter of the United Nations did not include an explicit description of international sanctions. Woodrow Wilson, the former president of the USA was one of the first to recommend economic sanctions as a strategy that is seen to be faster, less dirty and more efficient than normal warfare and said that "*The nation that has been boycotted is a nation looming in the face of surrender it will not be necessary to use force*". It's a horrible solution that doesn't cost a life outside the boycotted country; but it places pressure on the country (Bergeijk, 1995).

On the basis of the idea that economic sanctions are the preferable strategic method to deal with numerous challenges to international peace and security, economic sanctions may be an alternative to military intervention as well as an established strategy. The aim and purposes of the use of sanctions can be listed as it's; the aim is to punish the state that committed a breach of international law and not intended to reform this violation, In the basis of an example of sanctions imposed in Iraq between 1990 to 1993 which did not stop at the limit to force Iraqi forces to withdraw from Kuwaiti territory but Compensated Kuwait for losses resulting from the invasion and also; exceeded these goals and continued sanctions to achieve a certain goal to deter and punish Iraq to ensure the inability of Iraq to commit this act again (Borghi, 2008).

Another important aim of economic sanctions is repairing the negative effects and damages occurred from the violation of international regulations which this point can be considered as a fundamental objective of imposing economic sanctions. The State that affected by an aggressive action or abuse of law is primarily concerned with repairing the damage and obtaining appropriate compensation from the attacker part.

The legal basis for the international economic sanctions derived from Chapter VII of the United Nations Charter and the provisions of articles 41 and article 39 of declared in the Charter of United Nations in 1945 which is implemented by the Security Council and the General Assembly (Collins, 2018). The provisions of the Charter represent the legal basis for economic sanctions, but their formulation raises some problems, foremost of which is the wide authority given to the Security Council.

Chapter VII of United Nations provides a legal framework for the intervention of regional organisations in the preservation of international peace and security for which the Security Council is directly responsible. The UN Charter's ban on UN member states targeting other UN member states is fundamental to the aim for which the UN was established after the devastation of the Second World War.

Chapter VII of the Charter of the United Nations "action with respect to threats to the peace, breaches of the peace, and acts of aggression", consist of 12 articles which points out the powers of the UN Security Council to maintain security and peace. It enables the Council to determine the presence of any danger to stability, violation of peace or act of aggression and to take military or non-military actions to "restore international peace and security". Chapter VII also gives responsibility for the strategic planning of forces put at the discretion of the UN Security Council military staff commission which consists of the chiefs of staff of the five permanent members of the Council.

The expression in Article 39 of the Charter is too broad a term to contain gross breaches of human rights wherever they pose a threat to peace and that the justification of sanctions is to contain or avoid a potential actual conflict and to impose it in response to violations human rights". Under the Article 39 of the Charter, the task of economic sanctions, in addition to being remedial, is primarily preventive: Once a violation of international peace and security is confirmed or threatened or an act of aggression is committed, it is not expected until the UNSC intervenes. It deems fit before the violation occurs.

The Article 41 of the Charter, at first sight, is aware that this article mentions some forms of economic sanctions, but not limited to this, with the words "to stop economic, rail, sea, land, air, telegram, radio and other links of the means of transportation are partially or completely suspended". These measures, however, remain non-military, even if they are applied by the armed forces, such as the economic blockade, which requires the implementation of naval, air and land forces sufficient for its implementation.

The United Nations sanctions take the form of an integrated system, expressed in Chapter VII of the charter of the United Nations, which contains binding provisions for all members' states of the UN take military and nonmilitary action to "restore international peace and security. The result is the emergence of different types of economic sanctions, the most important of which are the following:

Prohibition: The prohibition of the old means used by States in the past as a means of foaming, It takes a form of punishment and thus affects the civilian population and deprives them of all the goods they need inside country and may be limited or partial. The traditional definition of a ban is limited to the concept of the area of prohibition of the right to sea. The term "prohibition" was meant to put the hand on the outer vessels to put pressure on the state, which has been flying this vehicle since the end of the 19th century. This definition was expanded until it became and the other is less broad. The broad meaning is to prevent the export of goods to one or several countries.

Economic embargo and embargo: States have considered the embargo – in the 17th century – a "prelude to war." This pressure is usually a general beginning of the blockade by suspending all economic and financial relations. The embargo and the siege at present are a form of "special justice": the existing state by claiming power to self-righteousness on the basis of only its appreciation of justice and consideration of its own interests.

The ban on economic closure differs from the one that the first is a compulsory external decision imposed on the state concerned, while the economic closure is only a voluntary self-decision taken by a national authority as envisioned by economic perceptions based on the essence of self-reliance and Internal natural resources and capacities with a view to establishing an economic model that will enable it to realize its development project in the future.

Banning and boycotting the economy: The boycott is the most important economic penalty imposed by a country or group of countries against a state to be pressured because it represents the ideal form of economic sanctions and because it tightens the screws on the aggressor party until the desired goal is achieved and it has been practiced for centuries in international relations. The economic boycott defines "official procedures that lead to the severing of economic relations between a state and another aggressor when there is no declared state of war between them" (Clark, 1992).

Evaluation of United Nations Economic Sanctions Imposed Against Iraq

In the second Gulf War in 1991, the role of the United Nations during the nineties of the twentieth century was mainly subject to the political will. After the end of the Cold War, the United Nations' role witnessed an expansion in political, economic, and social decisions, such as the Iraq issue during the second Gulf War. At that time, there was an increase in the number of decisions taken and their comprehensiveness of many issues that had not previously been on the agenda of the international organization. This coincided with the introduction of the term "the new world order", which at the time meant a greater role for the global security system, with the United Nations as the primary reference institution for its implementation.

Case study: The Second Gulf War 1991 and UN Resolutions

The role of the Security Council will be discussed after the Iraqi invasion of Kuwait in 1990. After the war, noting that the position has changed after the United States empowered the Security Council to use force against Iraq in favour of having a greater role in Iraq and for the major powers that have vital interests in the Arab Gulf region.

The importance of the Gulf War and the role of the United Nations are clear from the fact that it is the first war in which many international resolutions are taken in compliance with Chapter VII of the Charter, as it is the first crisis on which countries decide at the level of the international body. The West and the Arab consensus on condemning the aggression against Kuwait and aligning themselves with the US-led coalition managed to issue twelve resolutions by the Security Council during the crisis, beginning from Resolution 660 to Resolution 678, which approved the use of military force after the deadline set out by UNSC for the desert storm operation (Hill, 2007).

USA the leader of the international coalition against Iraq, unilaterally dealt with the crisis without referring to the Security Council, which led the Secretary-General Annulling the United Nations at the time, declaring that "this war taking place in the Gulf was not the United Nations war" as for the French Foreign Minister Roland Duma commented on the manner in which the Gulf War had taken place, saying, "The Security Council was placed between brackets during the war, events went in a way that could make the Council collapse" (Malone, 2005).

The longest resolution in the history of the Security Council was issued not only in terms of the number of sections, but also in terms of the content and the new nature of its provisions. Where the decision included the implementation of the following mechanisms:

1. Delineation of the borders between Iraq and Kuwait.
2. Establishing a demilitarized zone between the two countries.
3. Removing, dismantling and destroying Iraqi weapons of mass destruction
4. The return of Kuwaiti property, which was taken over by Iraq.
5. Repatriation of both Kuwaiti citizens and nationals of other countries.
6. Commit not to conduct or endorse actions of international terrorism.

Crisis in Iraq due to Economic Sanction

Economic sanctions are unconstitutional in wartime and are deemed to be in violation of the Geneva Convention. 1977 Additional Protocols to the 1949 Geneva Conventions forbid any policy of wartime which has the effect of depriving the civilian population of resources essential to their survival. Article 33 of the Fourth Geneva Convention (on the protection of civilians in wartime), prohibits "collective penalties." In the peace-time economic sanctions may be relevant, yet they result in a huge loss of life, with 500 000 children reported to have died in Iraq in the 1990s as a result of UN sanctions against Iraq (UNICEF, 1999).

The economic and social effects of the sanctions can also be seen in the loss of more than two-thirds of the country's GDP, the rise of inflation, the fall of private wages, increasing unemployment, the large-scale reduction of personal properties, the massive drop-out rates of education as children were forced to beg or work to contribute to family income, and the dramatic rise in the number of qualified people and specialists fleeing the country as economic migrants in search of better economic circumstances. It is also important to note that the regime implemented some discriminatory policies and initiatives which had the effect of widening the income gap between different races, groups and regions.

The education system in Iraq was directly and seriously affected, resulting in a shortage of school transport and a lack of educational materials, such as pens, writing boards, tables, laboratory equipment and computer science, as a result of which the education sector converted

into a bad situation. Nearly 8,000 schools have declined, with UNESCO and UNICEF reporting that many schools are so poor condition that they do not have a 'healthy teaching and learning environment' causing thousands of teachers to leave the profession. According to UNICEF reports in 1998, the illiteracy rate among adults rose from 20 % in 1989 to 40 % in 1997: Hans von Sponeck described the education system under sanctions as "an intellectual blockade of Iraq and creates a non-educational status." Appropriate to train the new generation of Iraqis in responsible leadership. "Besides, Iraq has witnessed the phenomenon of brain drain at high levels; officially, it is estimated that more than 23,000 researchers, scientists, university professors, physicians, and a distinguished engineer left Iraq.

Resolution 986 as a humanitarian Assistance to Save Iraqis

UN Security Council Resolution 986, passed unanimously on 14 April 1995, confirming all reports on Iraq and acknowledging the bad humanitarian condition of the Iraqi civilians, developed by the security Council, functioning in compliance with Chapter VII of the Charter of the United Nations, a process by which Iraqi oil sales should fund humanitarian assistance to the region, which subsequently was recognized. As the Oil-for-Food Programme.

The Program (OIP) was developed by the United Nations in 1995 to permit Iraq to sell oil on the global market in return for food, medicines and other basic needs to average Iraqi civilians without enabling Iraq to improve its military power. The policy was launched by U.S. President Bill Clinton in 1995 in reaction to the concern that average Iraqi civilians were seriously impacted by the western economic sanctions implemented in the course of the first Gulf War aiming at demilitarizing Saddam Hussein's Iraq. Sanctions were lifted on 21 November 2003 after the US invasion of Iraq, and the humanitarian tasks were handed over to Transitional Authority of the Coalition.

Smart Sanctions as an Alternative of Comprehensive Sanctions

The adverse humanitarian influence of comprehensive sanctions has led the international community to refrain from enforcing them since the mid-1990s; it has driven smart sanctions to emerge be the most promising, selective and targeted method to increase diplomatic effectiveness and reduce humanitarian costs for the greatest political benefit and least civilian suffering. Trying to resolve the contradiction between diplomatic effectiveness and humanitarian considerations led to rethinking the mechanism of economic sanctions, that has been settled by presenting a positive image to international sanctions with the alternative approach 'smart sanctions' that appears theoretically attractive: however, in fact, there are also a number of legal and human rights challenges involved with the rights of the parties to be targeted. Monitoring the enforcement, while realizing that this approach is motivated by the need to maximize pressure on targets so that UN have more bargaining leverage in conflict resolution, gives the impression that this smart approach can resolve humanitarian concerns in terms of targeting.

Smart sanctions are more focused to target governments and governing elites than the general population. It is developed to put pressure to force or influence decision-makers, politicians, and other government actors. The purpose of this strategy is to reduce the influence of the sanctions on people and just to be effective on the regime, non-individuals or specific institutions while mitigating the negative effects of it. This form of regulation has taken place, after the humanitarian crisis that resulted from the implementation of comprehensive punitive sanctions such as Iraq in the 1990s (Cortright, Lopez, 2002). Another assumption is that smart sanctions can also be used by international institutions against non-state actors (rebel groups) to resolve the conflict and try to control violence in certain countries, thereby supporting state-building in failed states as in case of its kind in which sanctions were applied to non-governmental entities those related to the National Union for Total Independence (UNITA) for Angola through resolution No. 864 of 1993.

Sanctions have been applied in the past to the entire nation; however, since mid-1990 they have been imposed on certain parties of the conflict rather than to the citizens of the state thus that "all UN and EU sanctions imposed since mid-1990, it has been selective and smart sanctions" (Cortright, Lopez, 2002). Meanwhile, since around 2007, there were ten sanctions programs imposed by the Security Council, eight of which were targeted at private individuals and entities; the freezing of assets and the ban on arms and vital resources owned by them.

Effective enforcement of smart sanctions requires an enormous amount of detailed knowledge of the country, citizens and target groups, and the identification of assets owned by certain entities, ministries and companies. Externally counted assets; in many cases, smart

sanctions may satisfy need for governments to "do something" and may lessen humanitarian concerns; they may help to consolidate alliances and weaken any authoritarian dictatorship state, but they are not a magic solution to achieve diplomatic goals (Cortright, Lopez, 2002).

Smart Sanctions Types

The shift towards smart sanctions has highlighted four categories of targeted sanctions (arms embargoes, financial sanctions, travel sanctions, commercial sanctions), which have been assessed based on data already established by the UN Office for the Coordination of Humanitarian Affairs.

Arms Embargo Sanctions: Disarmament advocates argue that arms control should deny regimes and criminalized groups access to weapons that encourage and escalate repression and violations of human rights; there is an urgent need to develop effective means to prevent arms shipments from reaching areas of continual political tension and on-going armed conflict. The arms embargo has come under this name, but the effects for the ending of wars and the prevention of conflicts are still questionable. In this context, many scientists believe that the ineffectiveness of the arms embargo does not stem from deficiencies in the instrument or instrument itself, but from the shortcomings of implementation and inadequate implementation (Cortright, Lopez, 2002).

The implementation of the targeted arms embargo is unlikely to have a direct negative impact on the humanitarian sphere, but rather supports to reduce humanitarian problems usually caused by other types of economic sanctions but its implementation may result in the reduction of some labour (soldiers or those).

Targeted Financial Sanctions: Targeted financial sanctions, which specifically and intelligently impact the personal and financial interests of the leadership responsible for unacceptable actions, are considered to be a more effective tool, since financial sanctions are easier to enforce than commercial sanctions in terms of their quick application and direct costs against the target. It is argued that targeted financial sanctions are more effective if the target country is poor and has no developed banking system or stable currency, often synonymous with corruption or wealth accumulation abroad, mainly where the target country can access alternate sources of income such as oil or other natural resources.

Financial sanctions, in general, have a less immediate impact on commercial movements and thus cause less suffering. It should be noted, however, that financial measures to suspend credit, loan restrictions and export financing can have a broader effect on public trade; they can lead to unintended humanitarian problems similar to those caused by more comprehensive trade sanctions. They harm financial markets and liquidity rates; high inflation and low trade; these effects would damage employment and, in particular, the price of goods.

Travel Sanctions: Travel and transportation sanctions are, in the view of some experts, are the weakest mechanism in a range of smart sanctions options for the Security Council. The travel ban seems primarily a symbolic measure. Travel sanctions targeting a select number of individuals are likely to have little impact on the general population unless such a ban or a boycott of trade creates an unfavourable environment for further investment or trade that would reduce employment and reduce imports of goods.

Aviation sanctions include both passenger and air cargo flights to and from the target country; air passengers are relatively easy to spot due to the industry's high level of regulation, its constant concern for passenger safety, and the need to control trade without sacrificing safety measures. For the no-fly zone which is more complicated than the travel ban in both targeting and possible structure, should be understood. Control of commercial aviation passengers is easier than other transport industries because the number of operating companies is smaller and many airlines are state-owned, despite recent trends towards privatization (Nelson, 2015). Ban on a flight or limited shipping can have negative humanitarian effects in situations where transport is used to provide medical goods/supplies or to provide access to medical care within or outside the target area. For example, aid organizations relying on the airline to reach remote areas of the country taking into account these considerations.

Commercial Sanctions: through different forms of sanctions, targeted sanctions for goods and services are most likely to have an impact on the humanitarian situation. They are closer to general sanctions; in other words, they hit the economy as a whole and therefore depend on them. The large economic burdens to the general public are likely to be reduced if the targeted products and services are managed. Not especially necessary even whether sanctions are enforced with some

sort of discipline. Clearly, there is nothing inherent in the targeting of particular products or services that would prevent major humanitarian costs.

Commercial movements in the oil industry, if halted, funds for any daily life institutions may stop and subsequent consequences will also impact a much wider population and those who lose their jobs in the sector. It also has an indirect effect on the overall business environment of the country; industrial services may become unavailable and transport costs for other industries can rise; inflation may rise. If that occurs, purchasing power and the availability of jobs around the country are expected to decrease, leading to the further worsening of living conditions for many people. This form of general economic recession and stagnation has been witnessed in several countries under trade sanctions, including the Democratic People's Republic of Korea, Myanmar, Haiti and Libya.

3. Conclusion

The determination of the international community to avoid the use of military force has led to a preference for sanctions, two of which have been common, first is a comprehensive approach which is inconsistent with the general aim to “maintain international peace and security without violating human rights”. The second method, known as smart sanctions, is reducing humanitarian negativity that arose from the comprehensive approach, during the decade of sanctions. Comprehensive sanctions shouldn't vanish with emergence smart sanctions; the second to be added to the first, as happened in Iraq; more than that, so far some claim that comprehensive sanctions might be more fitting to deal with some difficult cases.

The reason behind adopting smart sanctions is the desire to avoid the negative humanitarian effects that multilateral UN sanctions, US sanctions, and EU sanctions have had over the targets in recent decades. Comprehensive sanctions have been questioned by this study due to the economic and social (negative) implications of the sanction. All sanctions applied by the United Nations and the European Union since the mid-1990s, have been restricted to innocent and vulnerable classes of the population (Hufbauer, 2012). Some scholars also argue that smart sanctions are desirable based on certain arguments; for example, the extreme humanitarian problems that have been apparent, especially in the case of Iraq and whose results have been less severe in Haiti and Yugoslavia, indicate that, in all of the targeted smart sanctions, ordinary people have not been exposed to the effects of sanction. For example, in Libya, the government has claimed that UN travel ban sanctions have caused significant problems, but there is no credible evidence or investigation to validate these allegations of the negative social effects of these steps (Cortright, Lopez, 1995).

It should also be stressed that, from an ethical and realistic perspective, it's important to differentiate between comprehensive and smart economic sanctions. Human misery arises as an unintended consequence of smart sanctions rather than as a way of achieving political ends. Smart sanctions are intended to respond to human rights concerns, but these smart targeted sanctions, by nature, also affect the rights of people; targeted sanctions may affect many forms of human rights, for example, travel bans primarily affect freedom of movement, while targeted financial restrictions have an effect on the property rights of targeted persons and can affect the privacy of people and affect the reputation and family rights of the individual if these punishments are wrongly enforced on such people without allowing them the chance to appeal the actions taken against them.

As a result, the transition from traditional comprehensive economic sanctions to smart sanctions has been made to reduce the effects of human rights. Economic sanctions can continue to be one of the instruments to implement the rules of international law and pressure States to accept international legitimacy. Economic sanctions, both comprehensive and intelligent (smart targeted sanctions) tend to be more reprehensible than punitive reasoning. UN sanctions against Iraq have been implemented at a more US-oriented than the international level, even though UN sanctions, generally imposed by organizations, but they are perceived to be distinct international sanctions. Sanctions mostly are reflecting the power and ambition of the government, or the representation of its strategic desires, rather than the wishes of the international community.

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