



## The Legality of Unilateral Economic Sanctions in International Law: A Critical Analysis Beyond UN Security Council Authorization

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### ABSTRACT

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Unilateral economic sanctions, especially those that one imposes without the mandate of the United Nations Security Council, have become a characteristic of contemporary international relations. Their legality, however, is extremely controversial within the framework of the Charter of the UN and in customary international law. A critical approach of this paper is to understand whether such sanctions could be considered legal countermeasures or not, or whether they are banned types of coercive actions violating the principles of sovereignty, non-intervention, and human rights. The research analyses the major provisions of the Charter Articles 2(4), 41, and 103 and pertinent International Court of Justice (ICJ) cases and state practice using a doctrinal legal approach, which is complemented with comparative case analysis. It concludes that a majority of unilateral and extraterritorial sanctions exceed the legal limits of the countermeasures in the sense that they are not collectively authorized, proportional, and do not safeguard humanitarian interests. The paper concludes that in the case of institutional control over humanitarian damage, only multilateral sanctions in accordance with the UN Charter can be discussed as the legitimate and effective ones.



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## 1. Introduction

Economic sanctions are an ancient form of diplomacy and a coercive tool in international relationships that are aimed at changing the behavior of states without being armed. One can date their application to classical measures, like the Megarian Decree of ancient Greece and the Continental System of Napoleon, which aimed at achieving political objectives by isolating people economically, but not war (Drezner, 2011). During the modern day and especially since the formation of the United Nations (UN) in 1945, sanctions became embedded to the collective security system. Article 41 of the UN Charter directly grants the Security Council the power to take economical and diplomatic actions when the need be to uphold or preserve international peace and security (United Nations, 1945).

Nevertheless, since the second part of the 20th century, and more specifically, since the termination of the Cold War, the tendency of the great states and regional entities to utilize unilateral measures of economic sanctions, put in place without the involvement of the Security Council, has been on the rise (Brzoska, 2015). These sanctions are frequently explained as the reaction to the breach of international norms, e.g. human rights violation, terrorism, or nuclear arms proliferation. However, they also pose grave doubts on whether they can be compatible with international law and in particular, the principles of sovereign equality, non-intervention, and humanitarian protection.

On the legal grounds, the validity of unilateral sanctions is disputed as the UN Charter does not provide unilateral but collective responsibility of coercive actions. Critics claim that this type of sanction goes against Article 2(4) which forbids the application of force and coercion to international affairs and weakens the authority of the Security Council as the only institution that can grant enforcement measures (Haider, 1983; Douhan, 2022). In their turn, advocates argue that unilateral sanctions may be legitimate countermeasures temporary measures that an injured state may take with respect to the internationally wrongful action of another state, as specified in the Articles on State Responsibility of the International Law Commission (2001). The main discussion, though, is whether, unilateral economic sanctions correspond to the norms of the law of countermeasures, or they constitute the banned coercive measures that do not fall under the provisions of international law.

The secondary or extraterritorial sanctions have become increasingly popular since the past decades, which complicated the legal picture even more. The actions are not just limited to bilateral relations but they are also against third party states and other individuals who do business with the sanctioned countries. These types of practices have found extensive criticism as violations of sovereignty, disruption of international trade, and devastating humanitarian consequences, including the example of U.S. sanctions on Iran, Cuba, and Venezuela (Peksen, 2011; Weisbrot and Sachs, 2019).

Empirical research has shown that unilateral sanctions tend to have no political impact on the targeted state and that they cause disproportionate civilian casualties by affecting the economy, inflation, and, crucially, the availability of basic commodities (Hufbauer et al., 2007; Bapat and Morgan, 2009). The UN Special Rapporteur on Unilateral Coercive Measures (Douhan, 2022) has on multiple occasions pointed out that general, non-targeted sanctions can be a form of collective punishment, which is incompatible with the international human rights law.

Considering these strains, a highly strict legal analysis is needed to find out how unilateral sanctions could be made compatible with the UN Charter model and the changing principles of customary international law. The central question to be answered in this paper is as follows: Do unilateral economic sanctions comply with the UN Charter and the general international law or do they amount to unlawful coercive acts, which deny states their rights and freedoms?

Towards this end, the paper uses a doctrinal and comparative legal methodology, examining the major Charter provisions (Articles 2[4], 41 and 103), ICJ case law, and the practice of states. It claims that the vast majority of unilateral and extraterritorial sanctions are far beyond the legal framework of countermeasures as they have no collective authorization, proportionality, and humanitarian protection (Brzoska, 2015; Drezner, 2011; Douhan, 2022). According to the study, multilateral sanctions, as instituted under institutional control in line with the UN Charter, are the only ones that remain legally and ethically valid and cause limited humanitarian effects (Peksen, 2012; Weisbrot and Sachs, 2019).

## **2. Significance of the Study**

This paper has major scholarly and practical importance to the emerging debate on international law and global governance. Although reliance on unilateral economic sanctions as a tool of foreign policy has been growing, there is a tremendous lack of knowledge on their legality, legitimacy, and humanitarian effects beyond the context of the United Nations Charter. The critical analysis of unilateral sanctions with a doctrinal and comparative legal approach presented in this study helps to understand the limits between the use of lawful countermeasures and the use of coercive actions that are unlawful against international law. It also notes the humanitarian cost and geopolitical implications of such actions and therefore informs the discussion on human rights, sovereignty, and multilateralism. The outcomes of the present research could help policymakers, law professors, and international organizations create more precise norms and accountability tools to ensure economic coercion and encourage a rules-based international order relying on the principles of law and justice (Brzoska, 2015; Drezner, 2011; Douhan, 2022; Weisbrot and Sachs, 2019).

## **3. Problem Statement**

The growing practice, during which individual states and regional blocs make use of unilateral economic sanctions even without the consent of the United Nations Security Council, has posed a major legal and moral quandary in the scope of international law. Although such measures can often be completely justified as mechanisms to enforce compliance or facilitate human rights, their combination with the collective security framework of the UN Charter and the customary international law have not been resolved yet. The fact that the legal boundaries have not been made clear in defining legitimate countermeasures to coercive acts that are illegal has caused an uneven practice in state, humanitarian misery and difficulties in international governance. This paper will thus critically evaluate the legality and legitimacy of unilateral economic sanctions and its implication on sovereignty, non-intervention and protection of human rights (Brzoska, 2015; Drezner, 2011; Douhan, 2022).

## **4. Research Objectives**

The primary aim of this research is to critically examine the legality and legitimacy of unilateral economic sanctions under international law. In pursuing this goal, the study seeks to achieve the following specific objectives:

- i. To analyze the legal framework governing economic sanctions under the United Nations Charter, particularly the provisions of Articles 2(4), 41, and 103, and to assess their implications for unilateral coercive measures.
- ii. To evaluate whether unilateral economic sanctions can qualify as lawful countermeasures under the International Law Commission's Articles on State Responsibility, or whether they constitute prohibited acts of coercion inconsistent with international norms.

- iii. To examine the humanitarian, economic, and political impacts of unilateral and extraterritorial sanctions on targeted states, with reference to empirical evidence and international human rights standards.
- iv. To explore the role of international institutions, particularly the United Nations and regional organizations, in regulating, authorizing, or reviewing unilateral sanctions within the collective security framework.
- v. To propose recommendations for the development of clearer international legal norms and accountability mechanisms aimed at reconciling state practice with the principles of sovereignty, proportionality, and human rights protection.

## 5. Research Question

This study seeks to address the following key questions:

1. What is the legal framework governing the imposition of economic sanctions under the United Nations Charter, and how do its provisions particularly Articles 2(4), 41, and 103 apply to unilateral coercive measures adopted by individual states?
2. Can unilateral economic sanctions be justified as lawful countermeasures under the *International Law Commission's Articles on State Responsibility*, or do they constitute acts of coercion that contravene the principles of international law?
3. What are the humanitarian, economic, and political consequences of unilateral and extraterritorial sanctions for the targeted states and their populations, and how do these outcomes align with international human rights standards?
4. What role do international institutions, especially the United Nations and regional organizations, play in authorizing, regulating, or reviewing unilateral sanctions within the collective security framework?
5. What legal and policy reforms are necessary to establish clearer international norms and accountability mechanisms that reconcile state practice with the principles of sovereignty, proportionality, and human rights protection?

## 6. Research Methodology

The research is based on a doctrinal and comparative legal research strategy to evaluate the legality of the unilateral economic sanctions according to international law. It looks at major primary sources inclusive of the UN Charter, specifically Articles 2(4), 41 and 103, International Law Commission Articles on State Responsibility (2001), and decisions of ICJ and WTO, construed based on the Vienna Convention on the Law of Treaties (1969). The study also juxtaposes how the key factors such as the United States, European Union and the United Kingdom sanction with the reaction of the targeted states such as Iran, Venezuela and Syria. The secondary literature, UN documents, and Special Rapporteurs' reports are looked over in order to assess the legality justifications and the overall humanitarian and human rights impact of unilateral sanctions.

## 7. Literature Review

The issues of the legality, legitimacy and effectiveness of unilateral economic sanctions are debated in the spheres of international law, political science, and global governance. Where certain academics consider sanctions as valid diplomatic instruments that can facilitate the adherence to international standards, others believe that unilateral actions erode multilateralism, infringe on the sovereignty of states and cause humanitarian damage. This review presents the principal theoretical, empirical, and legal inputs and shows the current lack of a consistent international framework of dealing with unilateral coercive actions taken without UN sanction.

According to realist scholars, sanctions are instruments of state power that are used to manipulate opponents, and legality is not important at all as compared to its strategic usefulness (Baldwin, 1985). The liberal institutionalists hold a different perspective of the argument and they hold that sanctions are most effective when they are multilateralized in institutions like the UN Security Council (Drezner, 2011). A long-standing and well-supported empirical finding that supports the arguments by Drezner in his book *The Sanctions Paradox* (2011) reveals that unilateral sanction is not effective and can often damage the credibility of the sanctioning state.

The study of law also gives reason to concern. Zemanek (2011) and Haider (1983) argue that the imposition of sanctions which are not authorized by the UN goes against Articles 2(4) and 41 of the UN charter. Bypassing collective decision-making is a threat to the legitimacy of international law, as Brzoska (2015) advises. Articles on State Responsibility of the International Law Commission (2001) permit countermeasures against unlawful acts of the state only in cases that are proportionate, temporary, and reversible, which is hardly the case with unilateral sanctions. Caron (2014) and Bhala (2019) further state that this kind of measures more closely resembles legal countermeasures and illegal coercion, which is why it is necessary that future codification is made more explicit.

These worries are supported by empirical works. Peksen (2011) concludes that the sanctions are related to a reduction in human rights and political freedoms. The studies of Iraq, Iran, and Venezuela show that there was a great civilian casualty with minimal signs that the sanctions had their political objectives (Weiss, 1999; Weisbrot and Sachs, 2019). Hufbauer, Schott, Elliott and Oegg, (2007) approximate the overall success rate of sanctions at less than 30 percent and unilateral sanctions are found to have the lowest rate which disproves the claim of economic coercion as an effective instrument of international enforcement.

The extreme social impact of unilateral sanctions is recorded in humanitarian and ethical analyses. According to Douhan (2022) and the OHCHR (2021) report, this reduces access to food, health services, and development assistance, particularly, when financial actors exceedingly comply with restrictions. Galtung (1967) has developed the concept of structural violence to demonstrate how indirectly sanctions can be used to cause harm by withholding the necessary items, and Weiss (1999) explains that such consequences can be likened to collective punishment which is forbidden by Article 33 of the Fourth Geneva Convention (1949).

The unilateral sanctions are further legal weaknesses highlighted in judicial and institutional literature. The ICJ, in *Nicaragua v. The case of United States* (1986) and the 2018 case of the Treaty of Amity that observed that coercive measures of the economy that lack legal supports violate the customary international law. The Kadi decision (2008) by the ECJ underlined the importance of the fact that even the sanctions approved by the UN should be in accordance with the basic rights, which prompts to urge the judiciary to have a closer look at the measures taken unilaterally. The Zemanek (2011) and Portela (2016) institutional analyses reveal the fragmentation of the UN, WTO, and regional bodies and recurrent resolutions by the UN General Assembly (2017) condemning unilateral coercive measures with no enforcement authority, which demonstrates a continued regulatory gap.

Even though a wealth of literature is available on sanctions, the majority of the literature addresses political or economic consequences as opposed to the legality of unilateral policies. With only a few studies, the UN Charter, state practice, ICJ jurisprudence, and humanitarian law are combined into a systematic analysis. The research paper fulfills that omission by assessing whether unilateral sanctions are legal countermeasures or unacceptable coercion by adopting a doctrinal-comparative approach which is based on the authoritative legal sources. It is also a reason behind continuing arguments on the reform

of international institutions to ensure that sanctions do adhere to principles of human rights duties and collective security.

## **8. The Legal Framework of Unilateral Sanctions under International Law**

Unilateral economic sanctions have always been one of the most controversial instruments of international relations. Although the collective sanctions are explicitly authorized by the Charter of the UN in Chapter VII, the increased recourse by individual states to unilateral and extraterritorial actions makes it more difficult to delineate between legitimate countermeasures and the illegality of coercive measures (Brzoska, 2015; Drezner, 2011). The Charter, customary norms, the Articles of the ILC on the State Responsibility, and the jurisprudence of the ICJ all play a role in the legal analysis, as well as the fundamental principles of sovereignty, non-intervention, and proportionality.

### ***The United Nations Charter and Collective Security***

Article 24 of the Charter of the UN provides the Security Council with the primary role of the maintenance of peace and security (Art. 24). Article 41 permits non-military action like economic and diplomatic sanctions against the states that pose a threat to international peace (United Nations, 1945). This structure represents collective security because it vests the enforcement authority in the Council and minimizes chances of selective or otherwise politically inclined punitive actions (Haider, 1983).

#### ***Article 2(4): Prohibition of Force and Coercion***

Article 2(4) prohibits the application of force or coercion to the territorial integrity or political independence of a state. Even though economic sanctions are not a military means, they can also be the prohibited coercion in case they interfere with the decision-making of the state. In *Nicaragua v. United States* (1986) the ICJ stated that any economic pressure aimed at forcing a political change was contrary to the concept of non-intervention. The economic coercion is also denounced in the General Assembly Resolution 2625 to have no compatibility with sovereign equality (United Nations, 1970).

#### ***Article 41: Collective Sanctions and Limits on Unilateral Measures***

Article 41 sanctions require:

1. Security Council authorization;
2. A finding of a threat to peace;
3. Oversight to ensure proportionality and humanitarian compliance (Zemanek, 2011).

Unilateral sanctions do not take such precautions, and are frequently denounced as violating the exclusive Chapter VII powers of the Council (Douhan, 2022). Some states use the argument of self-defense or countermeasures, yet the fact that they are not authorized by multilateral means makes their legality questionable.

#### ***Article 103: Primacy of Charter Obligations***

Article 103 confirms that obligations made in the Charter take precedence over opposing commitments under treaty provisions and supports the primacy of collective over unilateral obligation. Unilateral sanctions to inhibit activities authorized by the UN or going against the Charter principles like non-

intervention, are legally incompatible with the purposes of the Charter (United Nations, 1945; Zemanek, 2011).

### ***State Responsibility and Countermeasures***

Articles on State Responsibility of the ILC only allow countermeasures as proportional, temporary in response to an internationally wrongful act proven guilty, targeted towards the culpable state itself and aimed at causing compliance (ILC, 2001). Majority of unilateral sanctions do not meet these requirements: they frequently do not establish an act of wrong and apply to third parties, and are not subject to any procedural protections. They are therefore not subject to legal counter action and might be classified as coercive and illegal (Brownlie, 2008; Brzoska, 2015). The collective countermeasures have not been well-defined under the customary law (Drezner, 2011).

### ***Customary International Law and State Practice***

Personal law involves constant practice and opinion. Unilateral sanctions are missing in state practice: sanctioning states assert their legality, but most developing and non-aligned states have consistently maintained that unilateral sanctions are illegal and reiterated in GA resolutions 44/215 (1989) and 72/201 (2017), (Douhan, 2022). This deviation does not allow crystallizing a liberal customary rule, and the customary opinion is rather oriented to the ban on unilateral economic coercion (United Nations, 2017).

### ***ICJ Jurisprudence***

ICJ has not outlawed all the unilateral sanctions but has placed a strong focus on non-coercion as the key to sovereign equality. Economic pressure with political change goals was considered a breach of non-intervention in the case of Nicaragua (1986). In the case of Oil Platforms (2003) the Court stressed the necessity of clarity of legal authorization and proportionality of restrictive measures of trade. These judgments are backed up by scholarly commentary, which substantiates the lack of faith in unilateral coercive action (Brownlie, 2008; Brzoska, 2015).

### ***Synthesis: Legality and Limitations***

In general, unilateral sanctions take up a rather suspect role in the contemporary legal order. The Charter in preference gives collective action under the supervision of the Security Council; countermeasures only provide superficial justification, which is generally not fulfilled on the ground. The legal position of unilateral sanctions in the international human rights law is further undermined by the humanitarian and extraterritorial atrocities due to these sanctions (Peksen, 2011; Weisbrot & Sachs, 2019). The judicial system is therefore heavily biased towards an assumption of a presumption against unilateral coercive economic action and as such, strengthens the precedence of multilateral sanction, proportionality and compliance with humanitarian norms.

## **9. State Practice and Customary Perspectives on Unilateral Sanctions**

Despite the collective sanctions that the UN Charter puts in the forefront, the post-Cold War order has witnessed increased application of both unilateral and extraterritorial sanctions by the major powers. The actions typically have a basis in domestic law, and by doing so, they have raised concerns regarding their inconsistency with international legal principles (Brzoska, 2015; Drezner, 2011). Evaluating state practice will be the key to identifying how covert action is backed or limited by customary law.

### ***The United States: Policy, Practice, and Legal Justification***

Unilateral sanctions are still the most practiced by the United States. These actions are mandated by the domestic law, including the International Emergency Economic Powers Act (1977), the Trading with the Enemy Act (1917), the Helms Burton Act (1996), and CAATSA (2017). With such laws, there is a possibility of imposing broad economic and financial limitations with references to the national security (Hufbauer et al., 2007).

Washington presents sanctions as a tool to advance democracy, human rights and non-proliferation (Drezner, 2011). However, their extraterritoriality, specifically in the case of penalizing foreign companies in which sanctioned states engage, has faced extensive criticisms as contrary to the law of trade and the principle of non-intervention (Brzoska, 2015). The secondary sanctions on Cuba enforced by the Helms-Burton Act caused a furor of EU and WTO protests, and CAATSA-based sanctions on Iran put a major burden on international trade and the financial market (Peksen, 2011). In spite of the continuous international critique, the U.S. policy on sanctions is still based on unilateral national power and not in multilateral law.

### ***The European Union: Between Multilateralism and Strategic Autonomy***

The EU walks the fine line between the two: it is imposing sanctions stipulated by the UN frequently and is gradually exonerating its own restrictive actions, using the CFSP against Russia, Belarus, Syria, Iran, and others (Portela, 2016). These measures are institutionalized by the means of Council Decisions and Regulations and are commonly excused as a need to act in situations when the Security Council fails to act in time and ensure international action (Zemanek, 2011).

Even though EU sanctions are judicially reviewed by the CJEU and comply with procedural protection, their unilateral character raises the same issues as the circumvention of the Security Council (Brzoska, 2015). Europe is against secondary sanctions and believes that this policy is against international legal standards, which are highlighted by the Blocking Statute (Reg. 2271/96) of the EU that prohibits compliance with extraterritorial American sanctions (European Commission, 2018).

### ***The United Kingdom: Post-Brexit Sanctions Policy***

In the United Kingdom, there is a regime of United Kingdom-generated sanctions after Brexit, under the Sanctions and Anti-Money Laundering Act (2018). The UK focuses on specific sanctions associated with human rights, corruption and violations of peace, also in keeping with the U.S. and EU penchant (Holland, 2020).

Although the UK claims that its actions are based on international standards, as the UN has not approved such practices, the same question of coercion unilaterally arises. The full consistency with American strategic priorities also indicates that these sanctions are used as instruments of foreign policy, but not a collective enforcement mechanism (Brzoska, 2015).

### ***Iran***

Iran has been against unilateral sanctions since long, as it claims that it contravenes Articles 2(4) and 41 of UN Charter. Even after the implementation of JCPOA, the U.S. and EU unilateral measures (in particular, in the banking and energy sector) continued despite the UN sanctions and the involvement of the nuclear program in the reference under Resolution 1737 (2006) to try to reduce the nuclear program

in the country (UN, 2015). The Certain Iranian Assets decision of the ICJ (2019) revealed some continuing conflict on the subject of sovereign immunity and the effects of sanctions, which exemplifies a long-standing conflict between unilateral action and judicial restraint (ICJ, 2019).

## **Venezuela**

There is great U.S and EU sanctions on financial and energy industries in Venezuela. Reporting by the UN Special Rapporteur reveals these measures have a very deleterious impact on access to food, medicine, and public services, which can be characterized as collective punishment, which is a crime under human rights law (Douhan, 2022). According to Caracas, such activities are against the principle of non-intervention that is expressed in UNGA Resolution 2625 (1970).

### ***Perspectives from Developing Countries and the Global South***

Such states which are not aligned and developing, are always against unilateral sanctions. Other organizations like the G-77 and NAM believe that coercive actions are a threat to sovereignty and development (United Nations, 2017). This sentiment has been shared by Pakistan in the debate of the UN, indicating that unilateralism weakens cooperation, and in doing so, the weak economies have disproportionate negative impacts (Government of Pakistan, 2020). Those repeated roles, through repeated resolutions of the General Assembly denouncing unilateral coercive acts, help create an emerging opinio juris about their illegality (Douhan, 2022).

### ***Institutional Perspectives: UN and Human Rights Mechanisms***

UN bodies are known to attack unilateral sanctions. The resolutions of the UNGA Resolution 72/201 (2017) and subsequent resolutions focus on the fact that these actions hamper humanitarian aid and undermine the rights to development (United Nations, 2017). The UN Special Rapporteur on Unilateral Coercive Measures and the OHCHR also issue warnings that extraterritorial sanctions violate the human rights commitments and need greater control to avoid civilian casualties (Douhan, 2022; OHCHR, 2021). These institutional lenses support the notion that unilateral sanctions are not legitimate in the context of human rights and humanitarian law.

### ***Synthesis: State Practice and Emerging Norms***

The practice of the global state is characterized by an acute contrast: Western states justify unilateral sanctions as the normative tool of the policy, and developing countries and UN institutions deny it as contradicting the Charter and injurious to the welfare of civilians. This contradiction ensures that a permissive customary rule will not be created. Rather, constant denunciation by the General Assembly, Human Rights Council, and regional forums is an indication of the developing restrictive norm that disapproves of unilateral sanctions that have not been put in place by the UN. Such actions are becoming seen by the international community as legally questionable and ethically troublesome, and it is the time to come up with more concrete international principles that regulate their legality and humanitarian consequences.

## **10. Humanitarian and Economic Impacts of Unilateral Sanctions**

Despite the endorsement of the unilateral sanctions as the means of promoting peace, democracy, and human rights, their practical outcomes tend to be the most detrimental ones, especially concerning the civilian population. Such effects cast doubt on proportionality, legality and moral legitimacy in the

international law. Nothing can be done to violate fundamental rights to life, health, and development, as economic and political coercion cannot be employed against the UN Charter and human rights treaties (United Nations, 1945; Douhan, 2022). This part assesses the humanitarian and economic impact of unilateral sanctions by conducting empirical studies, findings of UN, and state experiences.

### ***The Principle of Proportionality and Humanitarian Safeguards***

The countermeasures should be reasonable under the ILC Articles on State Responsibility, and they should serve only to cause compliance- not to cause general harm (ILC, 2001). Unilateral sanctions more often than not are in contravention of this requirement.

Total sanctions negatively affect civilian well-being disproportionately, as opposed to having any impact on political elites. Multilateral sanctions design reforms were the result of UN-authorized sanctions on Iraq in the 1990s that led to devastating humanitarian crises (Weiss, 1999). Subsequent unilateral sanctions, against Iran, Venezuela and Syria, caused the same trends of food shortages, medical shortages, and economic collapse, but without UN supervision and humanitarian protection (Peksen, 2011; Weisbrot and Sachs, 2019). This cycle of an unbalance between intent to act politically and humanitarian result describes how proportionality in unilateral regimes of sanctions fails.

### ***Economic Consequences of Unilateral Sanctions***

#### **Macroeconomic Disruptions**

Researchers have found that sanctions contribute to inflation, depreciation of currency, unemployment and deterioration in trade (Hufbauer et al., 2007; Neuenkirch and Neumeier, 2015). The oil and banking sanctions against Iran brought down the state revenues drastically and curtailed the accessibility to the fundamental imports (Peksen, 2011). Since 2017, sanctions have been used in Venezuela and have driven the economy to collapse at an accelerated pace, resulting in tens of thousands of avoidable deaths caused by food shortages and shortages of medical supplies (Weisbrot and Sachs, 2019).

#### **Trade and Financial Isolation**

Asset freezes and system exclusion due to financial limitations interfere with international supply chains, investment, and foreign currency access (Brzoska, 2015). Although these actions are meant to pressure the governments, they have the effect of putting the private businesses and households on their feet. These disruptions are globalized through secondary sanctions, in particular, by the United States, and these sanctions are imposed on third-party actors (Drezner, 2011). This type of extraterritorial action disrupts the stability of trade and is against the WTO concepts of non-discrimination (Portela, 2016).

#### **Right to Life and Health**

The unilateral sanctions often hamper the entry of medicine, equipment, and healthcare technology. It was reported by WHO and OHCHR that sanctions on Iran and Syria impeded medical imports, despite the existence of humanitarian exemptions, which were formally implemented (Douhan, 2022; OHCHR, 2021). Financial over-compliance, in case of avoiding all approved transactions by banks, only worsens shortages and turns economic pressure into a population health crisis, which violates the right to health provided by Article 12 of the ICESCR (United Nations, 1966).

## **Right to Development**

Sanctions limit the access to the investment and market, and to financial institutions, hindering the long-term development (Brzoska, 2015). The falling revenue of Venezuela undermined the programs of the country and increased poverty, and the limited oil exports of Iran reduced the investments in infrastructure and education (Weisbrot and Sachs, 2019). These effects are harmful to the UN Declaration of the right to development of 1986.

## **Collective Punishment and Civilian Suffering**

Many scholars argue that broad unilateral sanctions constitute collective punishment, prohibited under Article 33 of the Fourth Geneva Convention (Peksen, 2011). By affecting entire populations, they violate humanitarian principles and UN Charter objectives centered on human dignity and cooperation (United Nations, 2017).

### ***Political and Social Consequences***

Sanctions do not often bring about change in politics and mostly tend to strengthen authoritarianism. Studies indicate that sanctioned governments claw in internalizing power and make the pressure outside as an act of foreign aggression (Drezner, 2011; Bapat & Morgan, 2009). Sanctions have served to increase mistrust in the western states by the people in Iran and Venezuela and also cut off chances of negotiation, or reform. This paradox of sanctions shows that the measures of coercion often contradict their claimed political goals.

### ***Responses from International Institutions***

UN agencies have decried unilateral sanctions on several occasions for their humanitarian disasters. According to UNGA Resolution 72/201 (2017), the measures are against the rights of development and hamper humanitarian aid. In 2021, the Human Rights Council report revealed that the global health cooperation required a reduction in the sanctions in response to the COVID-19 pandemic (OHCHR, 2021). The UN Special Rapporteur has emphasized that sanctions that do not have humanitarian protections are contrary to the norms in the Charter and the international human rights laws (Douhan, 2022).

### ***Synthesis: Linking Legal Legitimacy with Humanitarian Impact***

The legal analysis presented above is supported by the humanitarian and economic evidence: the concept of unilateral sanctions without collective authorization and proportionality is incompatible with the international law and the need to respect human rights. Their extensive effects on civilians are against the mission of the UN to promote peace, security, and the good. Unilateral sanctions can never pass the legal and ethical tests of legitimacy by promoting poverty, hindering development, and destabilizing the global markets. These results suggest that there is a necessity of multilateral control and humanitarian measurement systems before imposing coercive economic actions.

## **11. Jurisprudence, Institutional Challenges, and Pathways to Reform**

The growing application of unilateral sanctions has demonstrated loopholes in the system of collective security as postulated by the United Nations Charter. In spite of constant criticism of UN bodies, no single

legal framework exists in order to regulate or adjudicate the legitimacy of unilateral coercive actions. This section will discuss applicable jurisprudence, institutional constraints and new reform initiatives.

## **Jurisprudential Developments in International Law**

### **International Court of Justice (ICJ)**

Among the topics that the ICJ has dealt with are the questions of sovereignty, non-intervention and the issue of economic coercion. In *Nicaragua v. The Court in United States* (1986) once again reiterated that use of coercive economic or political influence with a view to alter the behavior of another state is against the principle of non-intervention. Later cases have proceeded to deal with such tensions. The issues of sovereign immunity and treaty obligations were discussed by the Court in *Certain Iranian Assets* (2019). It issued provisional measures in *Alleged Violations of the 1955 Treaty of Amity* (2018) to make sure that U.S. sanctions did not hinder humanitarian trade. These cases indicate an increasing judicial awareness that unilateral sanctions might go against treaty law and customary norms.

### **World Trade Organization (WTO) Jurisprudence**

WTO has been used as a platform to contest unilateral trade related sanctions. A panel that heard the case in United States in 1986 in a case known as *United States - Trade Measures Affecting Nicaragua* decided that discriminatory unilateral actions contravened the principles of GATT. Adding national security exceptions as provided in Article XXI is dangerous because it can be abused through broad interpretation because it will threaten the non-discrimination principle on the WTO system. The sanctions due to unilateral sanctions under the justifications of national security undermine the multilateral trading order.

### **European Court of Justice (ECJ)**

The ECJ, in *Kadi and Al Barakaat* (2008), considered that the restrictions of the EU statutes applied on the basis of the decisions made by the UN Security Council should not contradict the basic norms of the rights provided in the EU legal system. This upheld the value of judicial review and due process as a part of regimes of sanctions. The reasoning of the case, though based on sanctions by the UN, is applicable to unilateral actions which are neither based on human rights protection nor judicial control.

## **12. Institutional Challenges in Regulating Unilateral Sanctions**

### **Absence of a Global Oversight Mechanism**

The UN system has no mechanism independent of reviewing the legality, proportionality, and humanitarian effectiveness of unilateral sanctions. Although this is the one and only power of the Security Council under Article 41, the unilateral actions are not subjected to similar scrutiny and states may legitimize their actions of coercion based on loose national security or promotion of human rights.

### **Politicization within the UN Security Council**

The veto system of the Security Council tends to make the sanctions unanimous, and some states use the unilateral approach. This balancing weakens the validity of the UN system and creates incoherent implementation of international law.

## **Weakness of Human Rights Enforcement**

The Human Rights Council and the OHCHR lack the power to implement compliance with their recommendations. The key powers do not often pay attention to the findings that attack their sanctions practices. Lack of accountability structures continue to be the bane of civilian sufferings and degradation of human rights.

## **13. Emerging Normative and Policy Reforms**

### **Strengthening UN Oversight**

An independent evaluation of the legality and humanitarian impact of all sanctions, even unilateral ones, would be offered through a proposed UN Sanctions Review Mechanism. The given mechanism would advance transparency and accountability.

### **Codifying International Norms on Economic Coercion**

To make clear what counter measures may be applied, limit the unlawful coercion and demand humanitarian impact assessment be undertaken prior to imposing sanctions, formation of a special international convention on economic coercion as an entity within the International Law Commission would make permissible coercion quite clear.

### **Integrating Human Rights Due Diligence**

The human rights due diligence obligations could be enshrined in the national sanctions legislation, which demands that states to analyze the humanitarian risks, provide the access to the necessary goods, and retain the definite exemption of food, medicine, and humanitarian aid.

### **Enhancing Judicial Review**

The control of sanctions measures should be extended to domestic and regional courts. The Kadi ruling by the ECJ shows how judicial review is able to safeguard the core principles when it continues to pursue security goals. Increased cross-jurisdiction scrutiny would decrease ad hoc or politic-based penalties.

## **12. The Role of Multilateralism and Global Governance**

The multilateral cooperation should be enhanced to bring the international sanctions regime back to coherence. States must put priority to collective decision making in the UN and trust WTO and regional organizations in place of single measures. Others like the G-77 and the Non-Aligned Movement are still recommending fair play and shared solutions. Multilateral mechanisms assist in providing legal security, humanitarian protection, and accountability across the world.

## **13. Findings, Conclusion, and Recommendations**

The given section summarizes the doctrinal, comparative and jurisprudential analysis carried out during the research. It introduces the central results, offers general conclusions about the justice and validity of independent economic sanctions and suggests the avenues of legal and policy change.

## Key Findings

The paper concludes with the finding that unilateral sanctions in accordance with UN Charter have limited legality. Article 41 which explicitly vests the power to impose binding sanctions exclusively upon the Security Council, and the primacy of collective enforcement over individual action, is clearly spelt out in the Charter. Unauthorized sanctions thus are not subject to the regulatory legal framework of the Charter and may infringe upon the legal requirement of Article 2(4) of causing coercive action to political independence or territorial integrity of a state (United Nations, 1945; Zemanek, 2011). Article 7 of the Articles on State Responsibility by the International Law Commission also limits countermeasures to the situation involving an internationally wrongful act to be proportionate, reversible, and channeled to the state, which perpetrated the act, and most unilateral sanctions do not comply with these criteria (ILC, 2001). Courts of law cases, especially *Nicaragua v. United States* (1986) and *Alleged Violations of the 1955 Treaty of Amity* (2018) confirm that the principle of non-intervention of the customary law is violated by the fact of economic coercion imposed without a legal reason (ICJ, 1986; ICJ, 2018).

Another significant discovery of this research is the humanitarian and economic effects of unilateral sanctions. It has been demonstrated that such actions are disproportionately detrimental to civil population as they cause food, medicine, and other necessary services shortages. The OHCHR and UN Special Rapporteurs reports show that unilateral sanctions hinder humanitarian aid and the right to life, health, and development in general (Douhan, 2022; OHCHR, 2021). Sanctions are also likely to cause inflation, job losses, currency devaluation, and isolation of trade, which is especially harmful in economies of the developing world like Iran, Syria, and Venezuela (Peksen, 2011; Weisbrot and Sachs, 2019). The inability to ensure proportionality transforms most of the unilateral sanctions into some types of collective punishment which are against the principles of humanitarian and also the international law (Weiss, 1999).

This is also indicated in the state practice showing a clear distinction between the dominant powers of sanctioning and the rest of the international community. Unilateral sanctions are justified by the United States, European Union, and United Kingdom as the means of promoting human rights and national security, but their justification is often not based on a good foundation on the UN Charter or the customary international law (Brzoska, 2015; Portela, 2016). Contrary to that, developing countries, especially those in the Non-Aligned Movement and in the Group of 77, regularly oppose unilateral sanctions as a form of violation of sovereignty, development rights, and multilateral principles (United Nations, 2017). This variance in state practice and opinion jurisdiction makes it impossible to develop a customary rule that justifies unilateral sanctions and rather creates a rising normative position that opposes their legality (Douhan, 2022).

Besides, the research also finds significant institutional and governance gaps, which worsen the problem of unilateral sanctions. An international test of the legality or humanitarian consequences of unilateral actions does not exist, which is a significant flaw in the modern international system. The absence of political consensus in the UN Security Council is a common problem that hinders collective action and in such a way, encourages states to undertake unilateral actions that circumvent the multilateral decision making process. Though critical, the human rights bodies including the HRC and OHCHR have no binding power to hold anyone responsible when it comes to the humanitarian effects of sanctions (Douhan, 2022; OHCHR, 2021).

Lastly, a new jurisprudence is putting emphasis on a growing judicial demand to have due process as well as human rights protections in the imposition of restrictive measures. The decisions of the ICJ and ECJ point to the fact that sanctions should not violate the basic rights and should be subject to judicial scrutiny (ICJ, 2019; ECJ, 2008). The historic Kadi case declared that even sanctions associated with the UN

Security Council resolutions had to pass the basic rights safeguards, indicating the larger principle that sanctions were not allowed to dodge judicial assessment. These two judicial developments combined lead to the finding that the use of unilateral sanctions without the approval of the collective and the protection of human rights is not in line with international rule of law.

#### **14. Conclusion**

The paper reveals the fact that unilateral economic sanctions though convenient politically to the powerful states are legally weak and ethically doubtful. They weaken the collective security regime, which was formed based on the UN Charter, and they go against fundamental tenets of sovereign equality and non-intervention.

The premise that coercive interventions in national affairs are promoted through unilateral sanctions cannot be raised to the level of taking away the basic prohibition against coercive interference in domestic affairs. Such selective, politically motivated application is also a source of the disintegration of international law and undermining of confidence on the global order which is ruled by law.

Humanitarianly, unilateral sanctions are usually very devastating to civilian populations by limiting their food, medicine, energy, and financial systems. These effects are contrary to the requirements of the International Covenant of Economic, Social and Cultural Rights (1966) and might be considered collective punishment according to Geneva Conventions (1949).

On the whole, the study confirms that sanctions by the UN Security Council are the only ones that should be viewed as legitimate and lawful in the context of the modern international law because they are coordinated and strict in terms of proportions and are protected by the humanitarian limits.

#### **15. Recommendations**

The study suggests the development of Sanctions Review Mechanism in the Human Rights Council or the General Assembly mandated by the UN in order to assess the legality, proportionality, and humanitarian effects of all sanctions. This would make the process more transparent, provide the affected states a means of redress, and would contribute to the minimization of arbitrariness that usually comes along with the unilateral coercive action. It further suggests that the International Law Commission come up with a Convention on Economic Coercive Measures to endorsing the boundaries of lawful countermeasures, ban coercive unilateral sanctions and demand that states evaluate the humanitarian impact before implementing them. It is also necessary to incorporate human rights due-diligence models into national policies on sanctions to ensure that restrictive policies have no adverse effects on access to food, medicine, and other necessities and that humanitarian exemptions are effective and fully implemented.

Along with that, the paper highlights the necessity of greater judicial and legislative oversight, urging domestic courts and legislatures to apply jurisprudential oversight to sanctions far stricter than those in real cases, and avoid disproportionate or politically driven actions. Lastly, it requires a new effort in multilateralism to reinforce collaboration by using the United Nations, the WTO, and regional institutions. These communal strategies contribute to the legitimacy of the law, the manner in which the international norms are applied in a selective manner, and the consistency and validity of the world rules-based order.

## **16. Concluding Remarks**

Unregulated expansion of the unilateral sanctions endangers the stability of the international legal order and the ethics of human rights principles. To shift towards an equitable, legal, and human regime of sanctions, it is urgent to reinvest in shared decision making, an enhanced international monitoring and legalized standards. It is only by such reforms that the international community is assured of coercive economic measures that genuinely help to promote global peace, justice, and human welfare.

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