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Economic Sanctions as a Mechanism for Maintaining International Peace and Security

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Abstract:

Economic sanctions are essentially penalties that one country or a group of countries imposes on another. These can take many forms, including trade restrictions and limits on financial transactions. Interestingly, they aren't always a response to economic issues; often, they're used to address a range of political and social concerns, like pursuing national political interests.

Many governments leverage economic sanctions as a tool of foreign policy, usually targeting smaller, weaker nations for one of two main reasons: either as a response to a security threat or as a way to pressure these countries into meeting specific goals related to trade, democracy, or humanitarian issues.

In a sense, they serve as an alternative to military action to achieve desired outcomes. This has sparked ongoing debates about how effective economic sanctions really are and whether they can truly meet their intended goals. Research indicates that in many instances, they fall short and often face both domestic and international pushback.

Keywords: sanctions, mechanism, economic, penalty, restriction, embargo, …

I. Introduction:

International law experts haven't really pinned down a clear definition of "economic sanctions". This has led to some overlap with other similar non-military international punitive measures, like economic aggression, economic warfare, economic coercion, and embargoes.

That said, there's a general agreement that economic sanctions, in the broadest sense, refer to economic punitive actions—rather than military or diplomatic ones—aimed at showing disapproval of certain behaviors or goals, and encouraging changes in policies, practices, or even the structure of governments.

While many academics have contributed to this definition, they often refer to "states" as the main players in this punitive process. However, the scope of economic sanctions has broadened to encompass international and regional organizations, non-governmental groups, and even individuals(Fatiha, 2000, pp.18 ff).

While economic sanctions have been around for quite some time, the push to establish legal frameworks for implementing them really took off after World War I. This was a continuation of earlier attempts to create rules and concepts around sanctions. A key moment came with Article 16 of the 1919 Covenant of the League of Nations, which came into effect in 1920 and marked the beginning of using economic sanctions in a more structured way.

Following World War II, various international agreements started to include general restrictions on the use of coercive interventions and economic measures. Interestingly, the United Nations Charter doesn't lay out a clear legal foundation against a state's use of economic sanctions,(Chaouan, 2012, p.15) aside from Article 2, paragraph 4, which bans "the threat or use of force", a category that encompasses economic sanctions as well.

Despite this, neither the International Court of Justice nor the UN Secretary-General has backed this stance. Article 41 of the same Charter empowers the Security Council to determine what non-military measures are necessary to enforce its decisions, granting it significant authority to impose economic sanctions.(Khalaf, 2008, p.12)

This has led to a lot of debate about how effective these sanctions really are in achieving their stated goals, as well as the role of the UN Security Council in making them work. There's also been considerable discussion around the standards for upholding economic human rights and various legal and regulatory issues tied to sanctions aimed at meeting broader objectives and the main sanctions regimes.(Marzouk, 2011).

So, *what does the legal framework for economic sanctions actually look like*?

Other questions stem out from this problematic, the most important of which are:

- *Is it possible to envision sanctions of an economic nature that bear the characteristics of punishment in general criminal law?*
- *Are they an alternative option, preventative measures, or a show of force and enforcement of the law?*
- *What are the methods of their enforcement, and what are the limits of their respect for international humanitarian law and economic rights?*

1. Economic Sanctions: History and Concept

Punishment was known in ancient civilizations, and its types differed according to the different cultures of those civilizations and their groups values, thus the achievement of victory during those wars was not subject to military power but rather accompanied with economic weapons (embargo, siege ...) whose use is due to BC and developed in the modern era where it needs international approval. (Roderick, 2009, p.6 ff)

1.1 Historical Evolution

Economic sanctions were used for a long time in international relations, and according to ***Hofpower Jeffrey*** Shot and ***Kimberly Elliot***, there were at least 13 prominent cases of these sanctions before the First World War. (Gary & Jeffrey, 1990, pp.28-32)

a- In Ancient Times

Economic sanctions were used about 432 BC when ***Breikles*** issued the "***Megaran***" decree to limit the entry of Megara products towards the Athens market, and the subsequent rejection of

raising the Athenian province on the city of Magara moved the ***Billoponis*** war, (free encyclopedia, 2025) also archaeological studies have proven that ***Ramses II*** was triumphed over the King of the Hittites requesting the conclusion of a peace treaty in 1978 BC(Anna, 1999) that shed light on the idea of the International penalties in Pharaonic thought. (Bazigh, 2013)

Indian states have established international legal systems in peace and war, and in ancient India, there were blogs for the law related to the obligations towards other countries, such as the Manu Law (200 BC) as alliance systems were known between the Chinese Emirates, as well as the war of the penalty that launch to extract the right that peaceful means were unable to extract, or wage on those who violate his international obligations.

The arbitration was possible as it was stated in the reconciliation treaty between ***Estrata and Ragos*** in 470 BC, and divine sanctions occupied an important position in the hearts of the Greeks, and the Greek states met ***Delphi***, which is held in the form of an international conference that signs sanctions of a literary and religious nature, the most important of which is justice, fairness and deterring a host of threatening actions,(David, 2022) whether it is an individual, group or state.

The Roman civilization knew the phenomenon of sanctions, most notably the Holy War (the war of penalty) and the religious penalties resulting from the fear of the gods and some moral penalties such as blame.

b- In the modern era

Traditional law arose and evolved from the 1648 ***Westphalia*** Treaty to the First World War, where the international community witnessed a development in the sanctions system, and with the increasing global economy in the twentieth century, economic sanctions have become a popular tool in the arts of government, especially in the United States in the nineties.

In 1919, ***Woodrow Wilson*** stated that "peaceful economic therapy and silent killing" of economic sanctions can be used by the League of Nations to monitor the international community and influence the behavior of other countries, so Nazi Germany was aggressive, especially in the agricultural economic dependency of the neighboring countries.

There was a renewed use of costly economic sanctions, especially with the end of the Cold War due to military intervention in places such as Bosnia and Somalia, to search for alternative policy tools to achieve its interests.

For example, in 1997, the head of the Foreign Policy and Defense Council, and on Russian policy he said that economic influence gives Russia power without the need for material control over another region. (The Financial Times, 1997)

c- In the international organization phase

It begins with the establishment of the League of Nations, and then the end of the end of World War I(Ahmed, 2011, pp.24 ff) until the end of the second Gulf War.

It should be noted that 165 cases of economic sanctions were imposed between 1914 and 1998, of which 115 the United States(Nicholas, 2022) participated in, and 68 of which were with initiatives from the latter, **i.e.** from one side, in addition, the Russian Federation used economic sanctions more than 35 times between 1992 and 1997 as a means of pressure to obtain political concessions from the countries that independently (new independence), also we find that the UN Security Council has imposed this type of sanctions only twice in the first years From its creation.

1.2 Jurisprudential concept of economic sanctions

Scientists have long tried to find a definition of economic sanctions in order to distinguish this concept from other forms of international non -military coercion, as well as to determine the features of this complex human endeavor, and therefore, have used various related terms that may govern the same phenomenon, (Davidsson, 2003, p.1) including: economic aggression, economic war, economic coercion and ban.

Regardless of whether the use of this term is always appropriate, it has been increasingly increasing since 1990 as a general designation of various mono -mono or multilateral measures - the deprivation imposed on domestic national economies.(Rebecca, 2023)

On the other hand, "economic sanctions" are distinguished from the limited forms of harmful negative measures such as counter -commercial measures permitted under the regulations

of the World Trade Organization, which thus symbolic penalties that may include a material component but do not weaken public economic life, as well as also distinguished from diplomatic sanctions and arms prohibition, (UN Commission on Human Rights, 2000) and some have reported their definition:

• ***Margaret Doxey*****:** They are threatening or imposed penalties as a result of declaring the targeted failure regarding international standards or international obligations. **(Margaret, 1996, p.9)**

• ***Barry E. Carter*****:** Economic sanctions are the forced economic measures taken against one or more country in an attempt to impose a change in policies, or at least to show the state's opinion on the subject of sanctions on the policies of other countries. (Barry, 1975, p.75)

These definitions assume that international sanctions constitute a declared result of the failure of the goal of observing international standards or obligations, or their purpose is to impose a change in the policies of the governments of countries targeted by punishment. (Salman, 2012, p.1)

Economic sanctions are not a causal impact or a result of the failure of respect and adherence to international standards, as it may represent a required estimated response through the targeted behavior.

They are described as tools to achieve the goals of the foreign policy of the state instead of being a way to ensure respect for international standards, as governments prefer to emphasize the moral floors of their behavior on foreign policy(Menevis & Bryan, 2021) by saying imposing sanctions to defend legitimate and lost interests and public interests instead of serving their own interests. (Siyasa Website, 2011)

• ***The jurist Jörg Hofbauer*****:** A challenge of operational dimensions, deliberate economic sanctions are withdrawal from the incitement from the government, or the threat of withdrawal from customary trade and financial relations.

• ***Johan Gallon***: They are procedures by one or more international actors against another in order to punish them by depriving them of some values and/or make them comply with certain criteria that the punished party sees important.**(Un, 1996, p.379)** It is the same definition of McCaw Megawatt.

The Economist Newspaper: The penalties include imposing a restriction or a group of restrictions on international trade with the target country in order to persuade it to change its policy.

The overall definitions, Article 41 of the United Nations Charter touched on the legal basis on which international sanctions are based, which do not refer to these sanctions at all, but rather they are just an exclusive list of the operational aspects of these measures, including "the full or partial pieces of economic relations by land, sea, air" and "cutting all other means of communication" such as "diplomatic relations"(Djamel, 2009, pp.63 ff)

For the jurists, negative penalties are enforcement measures, which follow the violations of the law, they are penalties that indicate the limits of the permitted behavior and encourage compliance with the known rules, so they are "the punitive measures that a number of international actors begin, especially a global organization such as the League of Nations or the United Nations against one or more states for violating a global agreed chart International Law". (Daoudi & Dajani, 1983, p.8)

1.3 Types of Economic Sanctions

During the nineties, the Security Council imposed comprehensive or partial penalties more than 16 times. These unprecedented activities were born fundamental discussions in the academic policies and circles, dealing with the following issues:

- The effectiveness of the penalties and is intended for effectiveness.
- Variables affecting the degree of effectiveness.
- Evaluating the importance of unintended side effects.
- Effects.

a- The Negative Procedures

They are applied directly to the party to be punished and prohibited from establishing natural economic relations with the rest of the countries and thus weakening it financially and limiting its military energy, and it may lead to the overthrow of the existing government; these measures are embodied in the following means:

- Economic boycott:

Boycott is the official pressing measures leading to cutting economic relations from one country and an aggressor when there is no declared war, as it represents the optimal model, and China was among the countries organizing this province explicitly and publicly and the most important thing that distinguishes it from economic sanctions, as governments are the ones that exert and impose economic sanctions. As for the boycott, it can take place at the popular and governmental levels.(Turki, 2004, p.3)

- The Economic Embargo:

It is signed by the state that violates international legitimacy, and is implemented by sufficient naval and air force, and the basic principle is that it is a war action, and with the development of opinions and theories in the law of modern international relations, the peaceful siege (the economic blockade) appeared as a draft law stipulated by the Charter of Nations, (United Nations Charter, art.42) which can support the air blockade, which was approved by the Security Council in the case of Libya.(Resolution No.848, 1992)

- Customs measures:

As a result of the development of international economic relations such as export and import in particular, among the most important types: the lack of allowing customs aid, depriving the aggressor state with customs concessions, using the protective fees system, and this procedure often takes the form of the continuous increase.

- Cessation of Economic Relations:

By preventing the citizens of the state and its companies from establishing any relations with the companies and nationals of the countries on which they are in all strict forms, such as preventing investment or obtaining privileges to reach international isolation politically and economically.

These complement negative measures and aim to eliminate attempts to circumvent sanctions imposed on the state, and they must be implemented in accordance with international law and legitimacy.

b- The Positive Procedures

- Blacklisting System:

This means placing the names of individuals or companies with ties to the aggressor state on special lists, considering them as aggressors. Consequently, all boycott measures are applied to them, and it aims to influence neutral states by applying economic pressure on them to prevent them from establishing foreign economic relations.

- Transformation Purchases:

This means purchasing strategic materials from neutral states and storing them(Hamdan, 2005, p.9) to prevent them from reaching the aggressor states or state. This procedure focuses on depriving the sanctioned state of access to economic resources more than it focuses on commercial terms. To be effective, the administration overseeing its implementation must, first and foremost, be efficient and its procedures swift.

2. The Legal Foundation for Economic Sanctions

It is important to examine the legal framework within which economic sanctions can be imposed, given the increasing international community's resort to them and their humanitarian consequences. It is also important to examine the legal limits to their enforcement and the political reasons for setting limits on the Security Council's exercise of its authority.

2.1 Chapter VII of the United Nations Charter

The Security Council may call for collective economic sanctions under Article 41 of the United Nations Charter if it has first determined(United Nations Charter, Art.39) that there is a threat to the peace, breach of the peace, or act of aggression, and if the purpose of imposing the sanctions is to maintain or restore international peace and security.

The legal and political considerations that determine the Security Council's authority to impose economic sanctions require an understanding of the Council's authority to impose sanctions

within its legal and political framework. The objectives for which the United Nations was established are set forth in Article 1 of the Charter.

Undoubtedly, the primary objective is the maintenance of international peace and security, which Article 1, paragraph 1, stipulates should be achieved through the measures provided for in Chapter VI for the pacific settlement of disputes or the coercive measures provided for in Chapter VII. (Segal, 1999, p.85)

If the Security Council determines the existence of a threat to the peace, breach of the peace, or act of aggression, it will issue recommendations or decide on measures to maintain or restore international peace and security. (United Nations Charter, Art.39) These measures may not include the use of force or the measures referred to in Article 42.

Although the Charter of the United Nations, the founding instrument of this organization has gradually been assumed to be the "essential constitution of the international community", (Dupuy, 1997, p 2) and thus a supreme legal body as well as an inspiring tool for systems. (Tomuschat, 1995, p.12)

Despite the continued construction of horizontal international relations, the Charter includes a distinction in the separation of duties and the distribution of powers to several bodies(UN Charter, Art.7) responsible for concrete matters related to the programmatic intentions of the aforementioned organization, embodied in a set of purposes and principles. (UN Charter, Art.1 & 2)

If the principles (Article 2) represent the pillars that support the international system, the purposes of the United Nations (Article 1) truly constitute an instrument. Therefore, relations between states themselves, as well as between the United Nations and its members, must be contained in three patterns:

• Equality of rights and self-determination.(UN Charter, Art.1, par.2, 3)
• International cooperation in solving problems of an economic, social, cultural or humanitarian nature and in promoting and encouraging respect for human rights, and
• The maintenance of international peace and security. .(UN Charter, Art.1, par.1)

The organization has become a concrete mandate granted to the Security Council under Article 24, which establishes not only that this responsibility is fundamental to it, but also that in doing so, it must act in accordance with other principles and purposes, and, on the other hand, be limited to the special powers granted to the organization in Chapters 6, 7, 8, and 12, following the constitutional logic of the Charter.

Chapter VII defines practical actions related to the maintenance of international peace and security. Article 39 establishes two practical steps: first, it "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression", and second, it "shall make recommendations or decide what measures shall be taken." These measures are of interest. Article 41 indicates the various types of military intervention measures that may be taken in the event of a situation relevant to the Council's mandate, in the form of a non-exhaustive list, but rather an illustrative example of coercive sanctions.(Geiss, 2005, p.172)

This type of measure is called "sanctions" and reflects a common pattern that harms the common interest. (Faouzi, 1994, p.195) Similarly, the United Nations General Assembly stated that "the purpose of sanctions is to modify the behavior of a party that threatens international peace and security and not to punish, retaliate or take revenge".(Resolution A/Res/51/242, 1997)

2.2 International agreements as applicable law to enforce obligations:

International agreements related to the protection of civilian populations, which could serve as a source of obligations for such a body (the Council), must be carefully considered. Although international organizations in general, and the United Nations in particular, have legal personality, they are not parties to human rights or international humanitarian law instruments. This means that a body such as the Security Council is not bound by obligations as a matter of treaty law other than those that can be derived from the UN Charter.

Indeed, international agreements are not only the sole and most comprehensive source of international law; customary international law must also be considered in order to derive provisions relevant to the organization as a subject of international law, regardless of whether it has expressed

its commitment. However, international agreements on human rights and international humanitarian law always seem inappropriate for compelling the Security Council, which is not a party to these treaties. The alternative is to look to general principles or customary law as a suitable source for setting concrete limits and obligations in the case of imposing economic sanctions.

2.3 International humanitarian conventions as applicable law to impose obligations:

a- International Human Rights Law :

The power of human rights is embodied in their application, whether in times of peace or armed conflict, despite the specificities of the latter relating to the suspension of certain entitlements.

However, the customary nature of the rights contained in this branch of international law is unclear, particularly in the case of the harmful effects of sanctions, such as the right to health and respect for basic standards of living. Furthermore, the general rules for the protection of civilians contained in international humanitarian law are highly relevant in humanitarian emergencies as a negative consequence of the imposition of economic sanctions.

b- International Humanitarian Law:

The International Court of Justice noted that this branch has a clear set of rules that are considered customary law, including those appropriate for humanitarian situations. In this sense, the Court endorsed "the Geneva Conventions in some respects, and in other respects considered them merely an expression of the basic general principles of international law".(ICJ Reports 1986, para.218)

The Court also expanded on the evidence of the customary nature of international humanitarian law, the widespread codification of humanitarian law, and the extent of accession to the resulting treaties, strengthening the international community. Thus, the treaties have effectively become customary and reflect universally recognized humanitarian principles.(ICJ Reports 1996, par.82)

Customary rules applicable in humanitarian situations, such as economic sanctions, are derived from the general rules relating to the protection of the civilian population, as we find:

Article 53: "The use of starvation of the civilian population as a method of warfare is prohibited". (Art.54(1) of Additional Protocol I & Art.14 of Additional Protocol II)

Article 54: "Attacking, destroying, removing, or rendering useless objects indispensable to the survival of the civilian population is prohibited".

Article 55: "The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, without any adverse distinction, subject to the right of supervision".(Fourth Geneva Convention, Art.23)

Article 56: "The parties to the conflict must ensure the freedom of movement of authorized humanitarian relief personnel in the exercise of their duties. Only in case of imperative military necessity may their movements be temporarily restricted".(Art.71 of Additional Protocol I) International humanitarian law applies only to situations of armed conflict, and in any case, measures imposed by the Security Council are not specifically considered within its scope, "regulating economic sanctions only when directed against a party involved in an armed conflict".(Sassoli, 2001, p.241)

2.4 Restrictions on Imposing Economic Sanctions:

As for the restrictions on sanctions in international law, although there is no explicit text requiring the Council to respect international law, the United Nations is the subject of this legal system, so its bodies, such as the Security Council, have rights and duties, and thus ensuring the precise criteria for placing restrictions on the imposition of economic sanctions requires the Assembly to exercise specific sources of international law.(Whittle, 2015, pp.1-28)

a- Restrictions on Economic Sanctions Imposed by the Security Council Under International Law:

It should be noted that the Security Council has a broad margin of discretion in framing economic sanctions under Chapter VII of the UN Charter, which has led to negative side effects on

the rights of civilians. Therefore, an acceptable balance must be struck between the effectiveness of the sanctions regime and these effects.

Imposing restrictions or obligations on an entity such as the Security Council depends on the legal status within the system in which it performs its functions. On the one hand, it is a political body established by an international agreement of a constitutional nature (the Charter). On the other hand, it is part of an organization that defends rights and obligations under international law. Therefore, each of these perspectives has different implications.

Regarding the first issue, the International Court of Justice has firmly stated that "the political character of a body cannot permit it to derogate from the provisions of a treaty established by the Charter when they constitute limitations on its powers or the standards of its governance".(Advisory Opinion: ICJ, Reports 1948, para.64)

Thus, the Security Council is not bound by law, so concrete obligations must be found under international law.

Referring to case law, we find that the International Court of Justice has repeatedly declared its support for the United Nations' autonomy. Thus, in its Advisory Opinion on Reparations and Compensation, it affirmed, stating, "It is subject to public international law because it shares a personality within that legal system".

Therefore, "the rights and duties of an entity such as the United Nations must depend on its objectives and functions as defined or implied in its constituent documents and developed in practice".(Advisory Opinion: ICJ, Reports 1949, para.179)

Similarly, the judicial apparatus of the world organization must be subject to any obligations imposed on it by the general rules of international law, by its constitutions, or by international agreements to which it is a party. (Advisory Opinion: ICJ, Reports 1980, para.37)

b- The UN Charter as a source of control over the imposition of economic sanctions by the Security Council

The provisions of the Charter should not be viewed as separate mandates, but as complementary and equally relevant. Similarly, the maintenance of international peace and security is essential to the peaceful and orderly relations between states. The primary purpose of setting limits on the Council's actions is to protect civilians. Three different provisions of the Charter contain relevant arrangements that can be viewed as limitations when imposing Economic Sanctions:

- The Preamble mentions as a common aspiration of the United Nations "faith in fundamental human rights, in the dignity and worth of the human person" and the intention "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained".
- Article 1(3), as one of the purposes of the United Nations, and accordingly, there is a strong ambition "to solve international problems of an economic, social, cultural, or humanitarian character and to promote and encourage respect for human rights".
- Article 55 is closely related to the previous purpose, both highlighting the promotion of "high standards of living" as well as "universal respect for, and observance of, human rights and fundamental freedoms for all".

Thus, although the language used in these legal provisions does not explicitly require the organization to monitor human rights or impose specific obligations, it may be inconsistent that one of its principal organs would act in such a way as to undermine one of its objectives for the benefit of another party. That is, the performance of political functions such as the maintenance of international peace and security does not have absolute discretion as a political organ.(UN Juridical Yearbook, 1994)

IV. Conclusion:

The UN sanctions regime and the challenges posed by foreign interference and human rights pose a test for this body as a global organization. The continued expansion and diversification of international law has revealed new challenges to sanctions, particularly those related to the Security Council, particularly its structure, which often reflects only political realities.

Due to the reluctance of the Council's permanent members to undertake any reform, this has created a growing controversy over the role of this legitimate body, which is responsible not only for maintaining international peace and security but also for playing a supranational role in areas such as combating terrorism, which has led to dire consequences due to its blatant practices.

Today, economic sanctions have become the preferred policy tool for foreign policymakers. With the end of the Cold War, multilateral sanctions regimes in particular have proliferated, particularly at the level of the United Nations, represented by the Security Council, which has acted under Chapter VII in this area nine times since the fall of the Berlin Wall to establish mandatory economic sanctions programs. The use of economic sanctions as an instrument of international policy has various objectives, both unilaterally and multilaterally.

However, the effectiveness of economic sanctions has long been a subject of debate among policymakers and legal experts, particularly regarding human rights, ethical issues, and the harmful effects of any form of economic sanctions. This has led to an analysis of the international legal standards that should govern decisions regarding their use.

With the recent rise in concerns about the consequences of the mandatory punitive application of UN sanctions, the issue has become the focus of attention and study by many international legal scholars and policymakers, with in-depth analysis and scrutiny of the issue of the mandatory international application of sanctions and the legal standards that must be taken into account in the design and implementation of their programs to avoid any shortcomings in UN practices.

Results:

- ✓ The imposition of economic sanctions is controversial, even if authorized by the UN Charter as an important tool for protecting the international community.
- ✓ There are no standards of proportionality and discrimination in defining and implementing economic sanctions regimes.
- ✓ There is no effective multilateral mechanism in place at the international level to address how sanctions are applied between countries.
- ✓ The United Nations, as currently structured, does not appear capable of fulfilling the role of global sanctions enforcer.

Recommendations:

- ✓ Sanctions must be consistent with ethical and legal principles.
- ✓ Resorting to alternatives and possible solutions to exclude economic sanctions in cases of violations of international public order, as sanctions are merely a “tool in the toolbox”.
- ✓ Limits must be placed on the unlimited powers of the Security Council.
- ✓ Establishing a new mechanism and systematic structure for implementing sanctions, monitoring and enforcement, and compensating victims for the harm caused.
- ✓ Strengthening international relations to avoid the triggers for economic sanctions.

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