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بوعزيز حنان*

كلية الحقوق، جامعة قسنطينة / -الآخرة منتوري (الجزائر)

Abstract

Under the contemporary international legal order, the Security Council is the organ of collective security in the structure of the United Nations. Its primary competence is to consider any dispute or situation that may threaten international peace and security. The Council must be subject to any international dispute or position to determine whether there is a threat to peace International security, or a state of aggression. He therefore resorted to economic sanctions against States that had violated their international obligations under international humanitarian law, human rights and, in general, any State that had committed any of the acts provided for in Article 39 of the Charter. The imposition of economic sanctions by States is designed to induce them to respect the rules of international law for the maintenance of international peace and security.

But the practical reality shows the ineffectiveness of the economic sanctions program to stop increasingly widespread violations. Thus, the system of imposing such sanctions remains deficient in implementing the rules of international humanitarian law for the maintenance of international peace and security.

Keywords

Security Council;
Economic sanction;
International humanitarian law;
Violation;
International peace and security.

الكلمات المفتاحية

مجلس الأمن؛
العقوبات الاقتصادية؛
القانون الدولي الإنساني
الانتهاكات؛
السلم والأمن الدوليين

دور العقوبات الاقتصادية الصادرة عن مجلس الأمن في تنفيذ قواعد القانون الدولي الإنساني

ملخص

مجلس الأمن في ظل النظام القانوني الدولي المعاصر هو جهاز الأمن الجماعي في هيكل الأمم المتحدة، واختصاصه المبدئي هو النظر في أي نزاع أو موقف قد يهدد السلم والأمن الدوليين، إذ يقتضي الأمر أن يتعرض المجلس لأي نزاع أو موقف دولي لتحديد ما إذا كان يوجد تهديدا للسلم والأمن الدوليين، أو حالة من حالات العدوان. ولذلك لجأ إلى اتخاذ إجراء العقوبات الاقتصادية على الدول التي انتهكت التزاماتها الدولية المتعلقة بالقانون الدولي الإنساني وحقوق الإنسان وبصفة عامة على كل دولة ارتكبت أيا من الأفعال المنصوص عليها في المادة 39 من الميثاق. وتتولى تطبيق العقوبات الاقتصادية عليها الدول بقصد حملها على احترام قواعد القانون الدولي الخاصة بحفظ السلم والأمن الدوليين. إلا أن الواقع العملي يبين عدم فعالية برنامج العقوبات الاقتصادية في وقف الانتهاكات المنتشرة بصورة متزايدة. وعليه فإن نظام فرض مثل هذه العقوبات يبقى قاصر في تنفيذ قواعد القانون الدولي الإنساني من أجل حفظ السلم والأمن الدوليين.

* Corresponding author. E-mail: Bouaziz1982bou@gmail.com
Doi:

Introduction:

The United Nations Organization appeared after the failure of the League to maintain international peace and security and after the end of the World War, and the human, economic and social devastation it left behind. Its creators tended to move away from the defects that undermined the League and focused on giving priority to both sides, and the necessity of suppressing all types of aggression in accordance with the articles of the Charter (11, 12, 24, 39, 41, 42)¹. Maintaining international peace and security takes precedence over other considerations such as justice, equality, state sovereignty, and non-interference in internal affairs.

International life has been filled with many practices that reflect multiple forms of international sanctions, which varied in types and whose philosophy and goals varied from one stage to another in the life of nations. These sanctions took a more organized form with the development that occurred in international relations. Therefore, the United Nations Charter granted the Security Council the authority to take a series of gradual measures against a crisis threatening international peace and security recorded a net divergence between Chapter Six and Chapter Seven. Chapter Six devotes the peaceful resolution of international disputes and preventive diplomacy, in order to settle a situation that could lead to a threat to international peace and security (Article 34 of the Charter), otherwise, and Chapter Seven is applied to action that may constitute a threat to the peace, a breach of the peace, or the occurrence of aggression (entitled (As for the actions taken in cases of threats to the peace or breach of it and the occurrence of aggression), the Security Council may take all necessary measures to maintain international peace and security (Article 39 of the Charter).

The Security Council can decide what non-repressive measures should be taken, the first of which would be economic or diplomatic sanctions in accordance with Article 41 of the Charter. To confront countries violating their international obligations resulting from international humanitarian law, the Security Council resorted to imposing economic sanctions on some countries as a mechanism to implement the rules of international humanitarian law. Were economic sanctions an effective means of implementing the rules of international humanitarian law?

In order to answer this problem, the study must be divided into two sections. In the first section, we addressed defining international economic sanctions and their types, and in the second section, we addressed the Security Council's imposition of international economic sanctions to ensure the implementation of international humanitarian law.

1. The concept of economic sanctions:

The first obstacle that the researcher encounters when defining international economic sanctions is the multiplicity of terms used to refer to them. There are researchers, politicians, and writers... who call it economic boycott, others call it economic embargo, and a third group defines it as economic war! A fourth is called economic aggression, and a fifth is called economic sanctions. All of this is because of the overlapping political, economic, and legal contents in it. To avoid this difference, we will adopt the term (economic sanctions) because it indicates legitimacy and carries the meaning of legal punishment. In principle, it is defined as: (the legitimate legal result, which is decided and implemented. States, individually or collectively within the framework of global or regional international organizations, result in a state or group of states' aggression or violation of the principles of international law or the provisions of the United Nations Charter, and take the form of economic embargo measures.

1.1. What are economic sanctions ?

One of the most important reasons for the difference and multiplicity of terminology surrounding international economic embargo procedures is the mixing of political aspects with their legal aspects, in addition to the economic aspects.

The truth is that the impact of the political dimensions on the legal procedures in approving economic sanctions - within the framework of international organizations or outside them - is clear in contemporary international relations, and some international law jurists, such as Professor (Feralli), believe that this matter does not affect the legal nature of international economic sanctions, and according to some of them The other, Professor (Nashaat Othman Al-Hilali), this feature gives the aforementioned sanctions a broad character, resulting in a multiplicity of terms used to apply to them, and makes countries, especially the largest, use them as a weapon for economic pressure on other vulnerable countries.

Both the League of Nations Covenant and the United Nations Charter did not include the designation of economic measures: sanctions or economic sanctions, but in the two documents there were references to their forms and types, and during the discussion of these measures in the draft League of Nations Covenant, some of the interveners called them (economic sanctions) and others.²(Economic boycott) This suggests that the drafters of both charters were aiming from the beginning to politicize the articles of the two covenants.³More than giving it a legal character, because if it stipulates punishment or penalty, this means that if the provisions of the Charter or international legal principles are violated, the second step is to apply the penalties, but if it is not explicitly stipulated, then the issues remain pending, and the scope for resolving them is wide for whims and tendencies Political.

The writer Hani al-Hindi believes,⁴The imposition of economic sanctions is considered: "a political act aimed at influencing the practice of the aggressor state, and economic weapons are a force of pressure." It is clear from this definition that as long as there is an aggression, there must be a penalty or punishment that necessarily results from it, and

this punishment is in the form of economic measures, the application of which leads to To put financial pressure on the aggressor party in order to modify its aggressive policy, and this existing confusion between the political and economic aspects led to the extent of some international writers acknowledging that: (There is no expression in international law called boycott, but rather it is a political measure),⁵This opinion is contrary to the truth because international law defines economic and other sanctions... and it usually manifests itself in the procedures of economic sanctions imposed on the aggressor state, but the problem arises when the legal aspects are affected by the political aspects of such sanctions, which is what distinguishes international sanctions in general from international sanctions. However, it is necessary to distinguish in this area between measures of economic sanctions and measures of political or economic pressure, which are exercised by major countries against smaller countries outside international legitimacy, with the aim of influencing their foreign policy or forcing them to fulfill certain demands that may conflict with the provisions of international law and the principles of the Charter. The United Nations Organization. In order to truly constitute international economic sanctions, international economic measures must be legitimate within the framework of the principles of international law and the provisions of the Charter of the United Nations.

1.1.1. Definition of international economic sanctions:

There have been several definitions of economic sanctions, as several parties have tried to reach a comprehensive and comprehensive definition. There are jurists who have defined international economic sanctions as: (international legal measures, collective or individual, that are intended to deter the aggressor party, a state or group of states, to return it to the framework of the legal system). international standards through economic embargo measure. Therefore, economic sanctions are those economic measures that aim to influence the will of the state to exercise its rights to force it to respect its international obligations, so that its decisions become consistent with what international law imposes on it.⁶

In other words, economic sanctions are considered the legitimate legal result decided and implemented by states individually or collectively within the framework of global or regional international organizations. They result from an attack or violation by a state or group of states of the principles of international law or the provisions of the United Nations Charter, and take the form of economic embargo measures.⁷

Thus, economic sanctions are every measure taken by international organizations or a group of countries in the field of international economic relations against a country to prevent it from committing an act that violates the provisions of international law, or to force it to stop it if it has begun, in order to maintain international peace and security.⁸

It is noted that these penalties have two aspects, one of which is a temporary preventive one aimed at preventing the State committing the international violation from continuing to commit it, and the second is punitive aspect aimed at inflicting harm on the violating State in order to deter it.⁹

Economic sanctions would also set an example for other countries to prevent them from pursuing a policy similar to that pursued by the offending state.¹⁰

Economic sanctions aim to reform the state's established legal responsibility behavior on the one hand, and on the other hand, it seeks to protect the interests of other states by maintaining international peace and security that have been threatened or compromised by the state's punishable crimes¹¹.

What is noticeable in the mechanism of economic sanctions is the absence of a definition of them in international conventions, but the matter was limited to mentioning the means used to apply this type of sanctions, as they were mentioned, for example, but not limited to, due to the development of the international community and the development of the means used to pressure countries that violate the rules of international humanitarian law. International Jurisprudence¹²

The Security Council imposes economic sanctions on violating countries on the basis of Chapter VII of the Charter on Measures of Prevention and Repression, and the Council finds the basis of its authority to impose economic sanctions through the text of Article 41 of the Charter of the United Nations, which states: "The Security Council may decide what measures should be taken that do not require the use of armed forces to implement its resolutions, and may request the Members of the United Nations to apply such measures, including the suspension of economic links and communications. Rail, sea, air, postal, telegraph, wireless and other means of connectors partially or completely cease and sever diplomatic relations".¹³

The effectiveness of economic sanctions depends on the cooperation of other States in the implementation of the sanctions decision, as no State can refrain from implementing these measures on the pretext that economic or financial damage will be caused to them as a result of the obligation to implement them. "If the Security Council takes measures of prevention or repression against any State, every other State, whether a Member of the United Nations or not, facing special economic problems arising from the implementation of such measures, shall have the right to consult with the Security Council concerning the resolution of such problems."¹⁴

Through these definitions, it is clear that economic sanctions have a number of features:

1.1.1.1. International economic action:

that is, it is an international act carried out by international organizations or a group of countries in the field of international economic relations, as it affects the commercial and industrial interests of the state.

1.1.1.2. Coercive measure:

that is, it is a compulsorily applied measure that carries harm and harms the economic interests of the target country¹⁵.

1.1.1.3 A temporary preventive and punitive measure:

It is a temporary preventive measure because it aims to prevent the state committing the violation from continuing its action, and it is punitive because it aims to harm the state to prevent it from committing the international violation, and it would also make the targeted state an example to other countries for not doing what the violating state committed.¹⁶

1.1.2. Types of economic sanctions:

We find economic sanctions types, where Article 41 of the aforementioned Charter mentioned pictures of some of these measures.

In their economic dimension, international sanctions focus on commercial, financial, transportation, tourism embargoes ... That is, on the economic aspects, without other military or diplomatic aspects, although in some forms armed operations are applied, but this does not mean that they are acts of war, or military sanctions, but rather that they maintain their peaceful character, ranging from a simple ban on the import or export of a particular commodity, and the complete and comprehensive cessation of economic and commercial relations with the state that is to be punished and sponsored, and between totalitarian and partial economic sanctions take several negative and positive methods¹⁷. As we will show that below:

1.1.2.1. Negative measures:

Negative measures are applied directly to the aggressor party, to be punished, and deprive him of establishing normal economic relations with other countries and thus weaken him financially, and limit his military capacity and war capabilities, especially if the punishment is the result of military aggression. First, all these measures are embodied in:

1.1.2.1.1 Economic boycott:

The term economic boycott in Arabic is synonymous with the word, (Boycottage) in the French language, which is adapted from the word (Boycott) in the English language¹⁸. 'The economic boycott is defined as: (official procedures that lead to the severance of economic relations between an aggressor state, when there is no declared state of war between them) and is also intended to suspend all economic and commercial dealings with a country to get it to respect the rules of international law, and the boycott may be individual or collective, from several countries, and it may also come negatively to prevent dealing with the state against which the procedure is committed, or positive, as happened when preventing Arab countries in the early sixties from flowing funds and expertise on Israel, preventing foreign companies operating in its territory from using Israeli-made machines¹⁹. Such a boycott has known international relations for centuries, as the German federation known as (Hansa) applied it during the 14th and 15th centuries in its international relations, and its decision to do so was binding on all parties, and the boycott procedures were of a peaceful nature.²⁰

The economic boycott measures include the suspension of all economic, trade, financial, investment, and social relations that take place at the level of persons such as tourism, immigration, travel... This is perhaps the most important advantage that distinguishes it from the embargo, or economic prohibition, which is limited to stopping the movement of goods exchange between the signatory countries and the signatory state, and therefore it was used as international penal measures, which is the most important economic punishment imposed by a state or a group of countries against the state that is intended to be pressured, in addition to being the ideal model for economic sanctions.²¹ 'As an example of this boycott, China used this weapon nine times between 1908 and 1931 against Japan, and the Chinese government was organizing this boycott openly and openly.²² 'At least twice: 1925-1931 and the United States boycott of Czechoslovakia in 1950 because of the imprisonment of an American journalist on charges of espionage, as well as those committed against the State of South Africa as a result of the racist policy followed²³.

1.1.2.1.2. Economic blockade:

The naval blockade is the most important measure of economic sanctions imposed on a country that violates international legitimacy, and it is intended (preventing the entry and exit of ships to and from the ports and shores of a particular country in order to deprive them of communication with other countries by sea) This measure comes to destabilize its economy and is implemented by an adequate naval and air force, and the origin of the naval blockade is that it is a naval action²⁴. 'However, the development of opinions and theories in the law of modern international relations led to the emergence of a peaceful blockade called: (economic blockade), which is intended to prevent exports from reaching the country against which this measure was taken, and it may be imposed on all exports as it may be imposed on part of them, and it may also be applied to exports and imports as a retaliatory measure, organizations impose this type of economic sanctions to punish countries that have acted contrary to the provisions of international law, and prevent

them from carrying out illegal activities, Or to prevent them from using some goods, especially war materials, and in addition to military goods and materials, the ban may include goods and foodstuffs necessary for the life of the population, which makes this type of ban one of the most dangerous means of economic sanctions.²⁵ 'International jurists distinguished it from a military siege in the following points:

The first: The economic blockade is a peaceful measure that is implemented in peacetime, while the military blockade is a military measure that is implemented in time of war.

Second: The economic blockade applies only to the ships of the besieging country, while the military blockade includes foreign ships because in time of war the two conflicting parties are determined as determined by the neutral state, and therefore the blockade procedures extend to neutral ships, if they attempt to approach the place of the blockade or breach it.²⁶

Third: In the case of a peaceful economic blockade, the state has the right to seize these ships, then return them to their original state upon the end of the blockade. However, in the case of a military siege, the state has the right to seize and confiscate any ship that attempts to violate the blockade, whether it carries the flag of the besieged state or the flag of any other foreign state.²⁷

The peaceful economic blockade appeared for the first time when Britain, France, and Russia besieged the coasts of Greece, which were occupied by the Turkish armies, in the early nineteenth century, with the intention of cutting off supplies to the armies, and thus Turkey abandoning Greece and granting it independence. However, the blockade did not continue, as the fleets of the countries clashed. The three mentioned were with the Turkish fleet in the port of Navrin and were eliminated²⁸ 'Despite everything that happened, the countries participating in the siege announced that they were not in a state of war with Turkey and confirmed their apology for that to the Ottoman Sultan'.²⁹ It was also applied to Cuba one year 1962 by America, the economic embargo on China previously, and the partial or limited embargo imposed by Western countries on former communist countries, prohibiting the sale of some strategic goods to them. It was also applied as a result of the October 1973 war by embargoing Arab oil on the Western world.³⁰

The prevailing opinion among international jurists is that the economic blockade, from a legal standpoint, is a legitimate measure³¹ 'However, there are those who do not acknowledge its legitimacy at all, whether peaceful or military, for one reason, which is that it is a type of use of armed force, as it is known that the siege must be carried out through sufficient naval and air force, and it falls within Articles (2 and 3). From the resolution defining aggression issued by the United Nations General Assembly in 1974, it is considered the first guide to aggression³² 'In addition, it is considered one of the uses of force prohibited by Article (2 F 4) of the Charter, and the prevailing opinion is that the economic blockade is considered a legitimate act, as it was in accordance with the law in particular, as it was stipulated in Article (42) of the United Nations Charter. We also see that the blockade is not limited to Economic restrictions on naval measures must be supported by an air blockade, by preventing the aggressor countries' aircraft from landing, and by supporting the attacked country. Such an air blockade was approved by the United Nations Security Council against Libya.³³ 'Within Resolution No. 848 ratified on March 31, 1992, albeit at the behest of Western countries.

1.1.2.1.3. Customs procedures:

Customs procedures resulted from developments in international economic relations and the development of export and import control methods in particular.³⁴ 'Therefore, it represents one of the most important methods through which economic sanctions are implemented. We mention the most important types as follows:

First: Not allowing customs assistance, and depriving the punished aggressor country of customs privileges that it previously obtained, to push its economy forward.

Second: Using the protective customs duties system, which is a procedure that countries resort to to determine their trade and economic dealings with the country that is intended to be punished. This procedure usually takes the form of a continuous increase.³⁵ 'In tariffs and such measures, what the United States of America did regarding its imports from the European Common Market, especially agricultural ones, after Spain and Portugal joined the group and the United States of America lost its agricultural markets there.³⁶ 'It was also applied against Japan until the customs duties on some Japanese electronic products exported to the United States of America reached the level of 100%. This increase was justified as a measure of retaliation so that Japan would allow similar American products to enter its markets. These (economic sanctions) are the first measure taken by the United States of America against Japan. Since the end of World War II³⁷.

1.1.2.1.4. Suspension of personal relations:

Personal relations are suspended by preventing nationals of the sanctioned state and its companies from establishing any relations with companies and nationals of the countries subject to punishment, whether by preventing tourism, immigration, or even travel, and such measures follow a strict system in issuing passports, preventing entry visas to the sanctioned state, as well as preventing countries from establishing investments or obtaining certain privileges, and this type of procedure has psychological effects on the state In addition to the economic effects, it is difficult for a country to live nowadays isolated from the rest of the countries in the world, or to dispense with establishing economic, commercial and even personal relations with it. An example of the suspension of personal relations is the recommendation of the United Nations Security Council and the General Assembly of the United Nations in its resolutions against the white minority regime in Rhodesia, especially Resolution No. (232) adopted by the General Assembly in 1966, which

stipulated the cessation of all personal relations between nationals of the sanctioning state and nationals of the Rhodesian regime as punishment.³⁸

1.1.2.2. Positive measures:

Positive measures are complementary to (negative) measures, and their aim is to eliminate attempts to breach the embargo imposed on the country that committed the illegal act and to ensure that there is no indirect dealing with it, including monitoring multinational companies and preventing them from exporting their products or establishing branches, or Even buying its goods, whatever the cost, so as not to reach it, or taking the necessary measures to prevent the outflow of capital and technical expertise, the most important of which are:

1.1.2.2.1. Blacklist system:

The blacklist system means including the names of people or companies who have relations with the aggressor state in special lists known as blacklists. This results in these people or companies being considered under the rule of the aggressor state, and thus all boycott measures are applied to them.

This system appeared during World War I, in the English and French lists issued during September 1916³⁹ 'It was also applied during World War II, especially by the United States of America, Britain, and France, and the Arab countries also applied it throughout their boycott of Israel, to the companies that deal with it. The blacklist system aims to influence neutral countries by putting pressure on them economically, so that they do not establish economic relations with the state or Aggressor countries⁴⁰.

1.1.2.2.2. Transformative purchases:

Transformative purchases mean purchasing strategic materials from neutral countries and storing them to prevent their arrival to the aggressor countries or countries. This procedure focuses on depriving the penalized country of obtaining economic resources more than it focuses on commercial conditions, and in order for it to be effective, the conditions must be met. next:

First: The efficiency of the administration supervising its implementation and the speed of its procedures.

Second: The extent to which the countries implementing it are willing to sacrifice their economic interests for the sake of its successful implementation.

Third: The extent of its influence on neutral countries, and its temptation to obtain⁴¹On privileges in trade with it, and depriving aggressor countries of winning them. This procedure was applied in the Arab economic boycott measures against Israel, as the Arab countries were doing everything in their power to tempt international companies to obtain privileges with the intention of diverting their attention to dealing with Israel. These institutions were confused between dealing with them or with Israel⁴².

1.1.2.2.3. Financial embargo:

The financial embargo focuses on the financial aspects of economic sanctions and consists of several measures, the most important of which are as follows:

:1Stopping aid, loans and bank credits, because the system of borrowing, financial aid and credits has become a recognized matter in the contemporary international economic system.

:2Freezing the financial assets of the sanctioned countries. This measure was implemented by France, England, and America against Egypt after its nationalization of the Suez Canal in 1956.

1.1.2.2.4. Export and import control:

Export and import control procedures are used to deprive the aggressor state of vital goods that help it in its aggression, such as weapons, ammunition, military materials, fuel, etc., in addition to foreign exchange, gold, and silver.⁴³To reduce imports and exports to and from it, which plunges them into an economic crisis and thus paralyzes their economic effectiveness and limits their potential for aggression.

Examples of this include the application of the United States of America and Britain against a range of countries, especially Spain, Portugal, Sweden and Turkey.

1.2. Legal Framework for the imposition of economic sanctions by the Security Council:

The legal framework for the imposition of economic sanctions by the Security Council means those legal limits that the Security Council must abide by when imposing economic sanctions, on the basis of which it judges the legality or illegality of its imposition of economic sanctions. This framework includes, on the one hand, the legal basis for the imposition of such sanctions, and, on the other, adherence to the limits imposed by international law in times of armed conflict.

1.2.1. Legal basis for the Security Council's authority to impose economic sanctions:

In theory, penalties are the effect of the elements of the crime combined.⁴⁴ Just as there is no crime without an international criminal rule, there is no punishment without a punitive international rule, but international economic sanctions in the Charter and application of the United Nations are peaceful measures that do not require the use of armed forces to implement them, and the intention of the drafters of the Charter of the United Nations from the beginning to make among its main organs a body that represents the role of (the executive authority) in the international community⁴⁵ 'They resorted to pledging the Security Council with the primary role in maintaining international peace and security and imposing economic and other sanctions. In accordance with Article 24 of the Charter and for the purpose of achieving and maintaining international peace and security promptly and effectively, (... The members of that body entrust the Security Council with the primary responsibility for the maintenance of international peace and security ...) In order for the Security Council to carry out this task in the best way, Article 25 of the Charter stipulates that: "The Members of the United Nations undertake to accept and implement the decisions of the Security Council in accordance with the present Charter", and it also follows from the text of Article 41 of the Charter.⁴⁶ For example, the economic embargo, which requires sufficient naval, air and land forces to implement it effectively, and such a blockade as the Security Council decided against Rhodesia to prevent oil from reaching it, and this was not considered a military measure.⁴⁷

Article 41 of the Charter mentions some forms of such economic sanctions, including: "... Partial or total cessation of economic links and rail, sea, postal, air, telegraph, wireless and other means of conductors..."), we conclude from the content of this article that the Security Council has full discretion in determining such sanctions and has several means from which to choose what is appropriate for the situation before it.⁴⁸ 'This is understood from the context of this article: (... may be among them(...⁴⁹ 'Therefore, it is possible to decide: ((Cultural and scientific boycott measures)), and it can also specify for each case presented to it what it deems appropriate for it, such as a partial cessation of economic relations or a cessation of the international supply of weapons and equipment, or a complete cessation, in addition to specifying by mentioning: Banning certain goods, such as petroleum or other vital goods⁵⁰.

In any case, the Security Council's decision in this context may be a binding decision for all members of the United Nations, and this is clear in the wording of the article itself (the Security Council may decide...) and it may not invoke trade agreements signed before implementing punitive measures because it is obligated to implement them as a basis. From the date of its joining the organization and its signing of the charter stipulating these sanctions⁵¹ 'Economic sanctions and their application are the legal outcome decided by the Security Council or, to a lesser extent, the General Assembly... after confirming the existence of a violation of international peace and security, or a threat to them, or the commission of an act of aggression, and it is not necessarily a violation of the provisions of the Charter.⁵² 'Or the necessity of taking into account international justice. The Charter expanded the reasons that lead to its application, as it was not limited to the element of declaring war, but rather went beyond it to simply threatening international peace and security.⁵³ 'In addition to violating them, or committing an act of aggression, it is sufficient to implement them. The violation does not wait until the Council intervenes, but rather it has the right to move and impose what it deems appropriate before the violation occurs, because its mission, in addition to being curative, is primarily preventive.⁵⁴ 'This is what is stated in Article (39), which states: (The Security Council shall decide whether a threat to the peace or a breach of it has occurred, or whether what has occurred was an act of aggression, and in that regard it shall make its recommendations or decide what measures must be taken or returned to it. quorum.)

However, we understand from this article that the drafters of the Charter did not intend to clarify what is meant by a breach of the international peace, its threat, or what is considered an act of aggression. This may be due to their intention, to maintain wide scope for the Security Council to decide in each case separately what it deems appropriate. Its ultimate goal remains to remove the threat to international peace and not to identify the wrong party⁵⁵ 'This is what made some jurists question the consideration of the Security Council's procedures in this regard: legal procedures, but rather political procedures, and among them is Professor Al-Ghunaimi.⁵⁶ 'Which, after giving a political character to all the provisions of the Charter, including the Security Council's procedures with regard to Chapter Seven, including economic sanctions, returns to consider these procedures as legal based on the idea that the Charter of the United Nations is considered a legal treaty with a legal nature, and the Security Council's resolutions are considered legal rules. The binding authority granted to him by the Charter, and therefore his violation requires the imposition of a penalty.

On the other hand, not defining the concept of breaching or threatening international peace, or considering an act of aggression is considered a loophole in the Charter, especially with regard to its sanctions system and the procedures to be taken in its regard. However, the General Assembly issued the resolution of December 14, 1974 defining aggression, which stipulated in its article The first is that aggression is the use of armed force by one state against the sovereignty, territorial integrity or independence of another state in any other way that is contrary to the principles of the Charter of the United Nations. The definition was not limited to this only, but it gave some examples of acts of aggression, in Article Three, such as invasion, armed attack, and bombing of another territory, the siege of ports and coasts, the use of armed gangs or mercenaries... or the use of armed forces present in the territory of another country, and the status of a state on its territory. At the disposal of another state to attack or commit aggression...etc. At the same time, the definition in Article (5/F2) considered aggressive war as embodying a crime against international security in addition to representing aggression. This is a contradiction, so how can a punishment implemented as a result of a threat to security be transformed into A crime in itself against international security.

This definition has facilitated the task of the Security Council in identifying and restricting specific examples that represent aggression or violation of international peace and security. However, the Council, according to Article (39) of

the Charter and Article (4) of the resolution defining aggression, remains full powers to define other types that are not mentioned in Definition, which constitutes an act of aggression or a threat to international peace and security, and this is subject only to the provisions of the Charter.

Here it is worth noting that if the primary goal of the collective security system specified in the Charter is to maintain international peace and security without mentioning internal peace and stability, this raises an important question about the basis for the Security Council to impose economic sanctions on the occasion of armed conflicts of a non-international character.⁵⁷ ‘The answer to this question lies in the secret of the Security Council’s interest in the issues of internal peace and stability, despite their not being mentioned in the Charter, is its appreciation that achieving peace and stability within a state is a major step in achieving international peace and security.’⁵⁸

Since the majority of armed conflicts that pose a threat to international peace and security are of a non-international nature, the Security Council has intervened in many of these cases by imposing economic sanctions in order to punish states that violate their international obligations arising from international law in general and international humanitarian law and human rights law in particular. Therefore, by studying these cases and reviewing the voting processes on the decisions to impose economic sanctions, we find that the vote on them was unanimous.⁵⁹ ‘While the vote on Security Council resolutions including the imposition of economic sanctions in the face of armed conflicts of an international nature was not unanimous, as some member states abstained from voting’⁶⁰.

1.2.2. Adherence to the limits imposed by international humanitarian law in the event of armed conflict:

The obligation of all states to respect international humanitarian law is one of the most important obligations imposed on states parties, as Common Article 1 of the Geneva Conventions and the first paragraph of Article 1 of Protocol I stipulate that “The High Contracting Parties undertake to respect this Convention and to ensure its respect in all ‘Conditions’”.

There is a general obligation on all states to take all necessary measures and procedures to ensure respect for the provisions of these agreements, as confirmed by the First Additional Protocol of 1977.

This is done by publishing the provisions of this law, as there is an essentially identical article in each of the four agreements (Articles 47, 48, 127 and 144) stipulating that the High Contracting Parties undertake “to publish the text of this Agreement as widely as possible in their countries, in time of peace.” As in time of war, it undertakes in particular to include its study in the programs of military and civilian education, if possible, so that the principles contained therein become known to the entire population, and in particular to the armed combat forces, and to members of the medical and religious services.” The first protocol addresses the same idea, paragraph 1 of Article 83⁶¹.

Therefore, it is necessary to look at the provisions of international humanitarian law and the non-derogable provisions of international humanitarian law when setting the legal limits for imposing economic sanctions in times of armed conflict. We find that international humanitarian law does not specifically refer to economic sanctions, nor does it address their effects on the civilian population. However, if economic sanctions are imposed on the occasion of an armed conflict of both international and non-international types, the general rules relating to the protection of civilians from the effects of military operations must be applied. Therefore, any decision to impose such measures must take into account international humanitarian law, especially the rules related to medical and food supplies to various categories of persons under protection. Whether these sanctions are imposed by a state or by the Security Council, the latter is obligated, like states, to take into account the special rules. To protect the civilian population and vulnerable groups within the civilian population from the effects of armed conflict⁶² ‘The prohibition of starvation of the civilian population, and the right to humanitarian assistance and relief supplies for occupied territories.

1.2.2.1. Prohibition of starvation of the civilian population:

It is not permissible to deprive civilians of obtaining the necessary supplies for their lives. Starvation of civilians as a method of war is prohibited and contravenes the four Geneva Conventions of 1949 and their Additional Protocols of 1977, especially Articles 54, 69 and 70 of Additional Protocol I.⁶³ ‘And Article 14 of Additional Protocol II⁶⁴. Thus, the imposition of encirclement or siege, that is, a system of economic sanctions by imposing starvation of the civilian population, is prohibited⁶⁵ ‘The prohibition on starvation of civilians as a means of combat or warfare during international and non-international armed conflicts is violated not only when food shortages or denial of access to food leads to death, but also when the population is starved as a result of deprivation of food sources and supplies

⁶⁶.

1.2.2.2. The right to humanitarian assistance:

The right of civilians to receive humanitarian assistance remains in place during international and non-international armed conflicts, through provisions that require states to allow the passage of relief materials under certain conditions, and provisions that allow humanitarian organizations to provide assistance on the condition of the parties’ approval. These provisions, which are covered by the four Geneva Conventions of 1949 and the Two Additional Protocols of 1977, differ according to whether the armed conflict is international or non-international.⁶⁷

1.2.2.3. Relief supplies for occupied territories:

The occupying power is obligated to accept and facilitate the relief operation, in addition to its duty to ensure that the civilian population has access to food and medical supplies.⁶⁸ 'If this population or part of it suffers from a shortage of supplies⁶⁹ 'States Parties must also allow the free passage of these shipments and ensure their protection⁷⁰ ' This means that relief shipments to the population of the occupied territories should be allowed to pass through the blockade, and this obligation is accompanied by another obligation, which is to ensure their protection. Accordingly, all concerned countries must respect the shipments and protect them when they are at risk due to military operations⁷¹

2. The role of economic sanctions in implementing the rules of international humanitarian law:

2.1. Field practices of the Security Council in imposing economic sanctions and the extent of their effectiveness in implementing international humanitarian law:

The aggravation of the phenomenon of armed conflicts, especially those that are not of an international character after the end of the Cold War, led to some countries violating the rules of international humanitarian law and international human rights law alike, which prompted the Council to International Security calls for taking the necessary measures to maintain international peace and security in cases of threat to the peace, breach of it, or aggression. It is clear from the texts of the Charter (Article 39) that the mission of the Security Council is preventive and punitive at the same time, as the Council enjoys complete freedom within the framework of the organization's objectives and principles in deciding situations that threaten peace.⁷²

In cases of international disputes that involve a threat to the peace, breach of it, or acts of aggression, the Council has exceptional powers consistent with the responsibilities entrusted to it as a guarantor of international peace and security vis-à-vis member states, and it has the responsibility to act as their representative.⁷³ 'With the consequences that this duty entails, which include working to restore peace to normal after breaching it.

Chapter Seven of the United Nations Charter sets out the executive measures that the Council can take in cases of a threat to the peace, a breach of it, or the occurrence of aggression. The Security Council must, before taking any executive action, decide whether a threat to the peace, a breach of it, or an act of aggression has actually occurred. Acts of aggression, and he takes this decision on behalf of the entire United Nations⁷⁴.

The authority of the Security Council in these cases includes the possibility of taking a set of measures of a coercive nature aimed at forcing the person to whom it is addressed to modify his behavior in a manner consistent with the decisions of the Security Council, as the text of Article (39) of the Charter stipulates that "the Security Council shall decide whether A threat to the peace or a breach thereof, or if an act of aggression has occurred, and it presents its recommendations in this regard or decides what measures must be taken".⁷⁵ 'In accordance with the provisions of Articles 41 and 42 to maintain or restore international peace and security((.

The Council may decide whether a threat to the peace, a breach of peace, or an act of aggression has occurred, and in that regard make its recommendations or decide what measures must be taken in accordance with Chapter Seven of the Charter. The Security Council has imposed economic sanctions on several countries, we mention only some of them as follows:

2.1.1. Imposing economic sanctions on Iraq, Libya, and Haiti.

2.1.1.1. Iraq: The background of the Gulf crisis goes back to before the Iraqi forces invaded and occupied Kuwait on August 2, 1990. Since its emergence as a state following independence, Iraq has had permanent demands for historical rights over Kuwait, starting in the year 1870.

In addition to the historical background, Iraq added economic reasons that made it decide to invade Kuwait, and it was adapted on the basis that it was an economic aggression that had become more important than the armed aggression, as follows:

Kuwait, along with the United Arab Emirates, exceeded its oil production quotas, set by OPEC, which led to flooding the market with strong supply and lowering prices to a degree that negatively affected the Iraqi economy.

Kuwait withdrew Iraqi oil from the Rumaila field, in addition to crossing the existing border between the two countries and establishing military sites, farms and facilities on Iraqi territory. Therefore, Iraq demanded that Kuwait pay an amount of 2.4 billion dollars and give up the debts owed to it amounting to 15 billion dollars, and establish a recovery project on Similar to the Marshall Plan as compensation for the losses incurred.

Kuwait compromised the value of the Iraqi dinar so that it became equal to one twenty-one of the value of the Kuwaiti dinar, which became equal to 21 Iraqi dinars.⁷⁶

- On the basis of the dense and rapid extrapolation of resolutions, since the Security Council has never acted so quickly and effectively to decide on such a number of resolutions in the same period, we can see the violations committed by Iraq in violation of international law and the Charter of the United Nations, as follows:
- -The military invasion of Kuwait, which constituted a breach of international peace and security⁷⁷ 'This measure was considered a usurpation of power by the legitimate government⁷⁸ 'In addition to Iraq's incorporation of Kuwait⁷⁹ 'And consider it District No. (19) of it⁸⁰.

- Threat to the safety of nationals of countries in Iraq and Kuwait as well as loss of life caused by the invasion⁸¹ 'Iraq's failure to fulfill their safety, in addition to taking them hostage, mistreating Kuwaitis and changing the human and population composition of Kuwait.⁸²
- Violation of the inviolability of embassies by Iraq's report and ordering the closure of diplomatic and consular missions in Kuwait, its violation of the immunity and privileges of such missions, the commission of acts of violence against their personnel in Kuwait and the abduction and detention of officials enjoying diplomatic immunity and foreign nationals who were present at such premises;⁸³
- Damage to the environment⁸⁴ 'Especially through the flow of huge quantities of Kuwaiti oil along the eastern Arab coasts of the Gulf, the burning of Kuwaiti oil wells, and the impact of dark fumes on the environment in the region.
- The possession and manufacture of weapons of mass destruction, which is the real objective that made Western countries, led by the United States of America, move very quickly and effectively within the framework of the United Nations and outside it, in particular the Security Council, and to adopt this significant number of resolutions following the Iraqi threat to use them (i.e., suffocating or poisonous gases, and bacteriological means of warfare) and have even used it⁸⁵ 'In addition to its attempt to obtain a nuclear weapons production program, all these reasons made Iraq bear its responsibility, according to Security Council resolutions, under international law, and economic sanctions apply to it.⁸⁶ Officially reported by the Security Council, four days of the Iraqi invasion of Kuwait, i.e. on August 6, 1990⁸⁷ 'It consisted of:
- Prevent all States from importing any goods and products originating in Iraq or Kuwait.
- Prevent any activities carried out by its nationals intended to promote export, shipment or transfer of funds to carry out such activities and transactions.
- (c) The prohibition of any supply of any goods and products, including weapons and military equipment, except those intended for medical purposes or foodstuffs within a humanitarian framework, in fact, as hundreds of thousands of Iraqi children have been negatively affected by the shortage of medicine and food because of these sanctions;
- (d) Refrain from providing any financial resources⁸⁸ 'Freezing Iraqi Assets and (Protecting) Kuwaiti Assets⁸⁹ 'Western countries: Italy, Belgium, France, West Germany, Brussels, Switzerland and Canada, as well as Moscow and Japan, decided to freeze Kuwaiti deposits in their banks at the request of the Kuwaiti charge d'affaires.⁹⁰ 'As for the Iraqi funds frozen in the United States of America until the beginning of February 1992, they amounted to about two billion dollars, and on this date some Arab countries, such as Tunisia and Morocco, have not yet released the frozen Iraqi assets despite the Security Council's permission to withdraw them in light of the difficult humanitarian conditions experienced by the Iraqi people.⁹¹

A special committee of the Security Council has also been formed to follow-up the implementation of the prescribed sanctions, including economic ones.⁹² 'Other important actions:

Consider the reports submitted by the Secretary-General of the United Nations on the progress made in the organization of Security Council resolutions.

(b) To request all countries to cooperate closely in providing further information on the measures taken to implement this resolution and to carry out their other tasks.

Not to recognize such annexation, but to refrain from any transactions that may be translated as implicit recognition of it⁹³.

One of the particularities of the Security Council, as we have seen previously, is to determine through the said Commission whether humanitarian conditions have arisen, to provide the civilian populations, particularly in Iraq and Kuwait, with food and medical supplies in the context of humanitarian conditions, to seek information from the relevant specialized agencies of the United Nations, humanitarian agencies and others on the availability of food in each of them, especially for children under the age of fifteen, pregnant women, mothers, the sick and the elderly, provided through the United Nations and in cooperation with The International Committee of the Red Cross and other humanitarian agencies are distributed under his supervision⁹⁴.

The aerial economic blockade has also been applied, and in addition to the above-mentioned economic sanctions measures, Iraqi ships that have entered the ports of any State have been detained and prevented from entering such ports except in cases recognized as necessary for human life and in:

(a) States shall not permit the take-off of any aircraft from their territory if it is carrying any cargo to or from Iraq or Kuwait other than those intended for humanitarian purposes or destined for the United Nations Iraq-Iran Military Observer Group.

(b) Such aircraft shall not pass through their territory except after inspection that they are not carrying any cargo to Iraq and may be detained for this purpose for any period as the case may be with the approval of the Special Committee for the Application of Sanctions, and the flight may be completed or with the approval of the United Nations.⁹⁵

The United States of America, England and France were not satisfied with the economic sanctions against Iraq, but rather divided it by establishing the southern protectorate, starting with preventing Iraqi aircraft from flying in the south of the country under the pretext of protecting the Shiites living in the region. The act represents an infringement on Iraqi sovereignty and a threat of aggression, in addition to the fact that it is intended to be carried out outside the country. The framework of the United Nations organization, and thus the intention to destroy Iraq appears to be a Western goal, far from the issue of Kuwait. The matter ended with the military occupation of Iraq led by the United States and Britain, outside of international legitimacy and the principles of the United Nations, and this occupation continues to this day. In violation of all international internal laws.

2.1.1.2. Libya: The American-Libyan conflict dates back several centuries. On December 21 1988, following the explosion of an American civilian plane belonging to the American company "Pan Am" over the Scottish town of Lockerbie, in which two hundred and seventy people were killed, the finger of blame was raised, as usual, in search of... An actor to whom the accusation is attributed. The Security Council took the initiative to condemn the incident and called on members of the international community to work diligently to help arrest the perpetrators of the incident.

On September 19, 1989, a civilian passenger plane belonging to the French company "OTA" exploded over the Niger desert, killing one hundred and seventy people. The common thread in the two incidents in the American and Western mentality is the same, and therefore accusations were leveled arbitrarily at several countries (Iran, Syria, Libya).) And organizations or groups they called terrorist, according to the linguistic usage they like to use.

On October 30, 1991, the French investigating judge, entrusted with investigating the French plane crash, issued international arrest warrants against four Libyan officials, accusing them of involvement in the French plane bombing incident. This was followed by the judicial authorities in both the United States of America and Scotland, on November 14, 1991, issuing arrest warrants for two Libyan officials.⁹⁶ They were accused of masterminding the American "Pan Am" accident and its fall over Lockerbie. In this climate, Libyan-Western relations witnessed severe tension, and events began to escalate successively.⁹⁷ On November 27, 1991, the United States, Britain, and France issued an ultimatum to Libya obligating it to hand over two of its nationals to be tried before American or British courts.

For its part, France demanded the extradition of those accused of the explosion of the French plane over the Niger desert. This triple ultimatum included accusing Libya of practicing terrorism and supporting it, and imposed on it an obligation to hand over the Libyan defendants involved in the bombing to be tried before the American or British judiciary, and called for deterrent disciplinary measures to be taken by individuals. The international community is against Libya, such as the political and economic boycott and imposing an air blockade on it.

After Libya refused to hand over its nationals, the Security Council issued Resolution No. (848) dated March 31, 1992, based on Chapter Seven of the Charter of the United Nations, imposing multiple sanctions on Libya, according to which aircraft are prohibited from flying in Libyan airspace, and the international community is also prohibited. Selling weapons to Libya, in addition to reducing the number of diplomatic missions to Tripoli, the UN Security Council reviews these sanctions every four months (120 days), despite Libya's abandonment of the practice of "terrorism".⁹⁸ After dealing with the British government regarding the issue of the Irish Republican Army (I.R.A.), handing over the file of the Palestinian citizen to France, and demanding the formation of a UN committee to ensure that there are no training camps for terrorist elements, and its response to resolution (731/92)⁹⁹ By accepting to cooperate with the United Nations to implement it, the Security Council did not lift the sanctions it imposed on Libya, as it caused humanitarian damage, in the period between: 04/15 and 07/31/1992, represented by the death of 150 serious medical cases due to the air embargo, and one hundred children. An infant and twenty women giving birth, and economic losses affecting the agricultural and livestock production sectors and estimated at: 2157 million dollars, representing a decrease of: 40% of what was the case before the issuance of the decision.

It is clear from these Security Council resolutions, like the rest of the resolutions issued by it against Iraq, and before them the resolutions related to the Palestinian issue, about (49) resolutions, not a single one of which was implemented, the duplicity and bias in issuing and applying economic and other sanctions... (United Nations), at the time Western countries refuse to extradite their citizens, regardless of the seriousness of the crimes they committed¹⁰⁰ The Security Council insists under pressure from the United States of America, England and France on the implementation of the resolutions issued against Libya, and to give them an executive character, which characterizes (Western) discrimination more than the legitimate international character, and represents the legal standards in force within the international organization, in addition to that, the fact that the Libyan, American, British, and French conflict does not apply to the provisions of Chapter VII of the Charter of the United Nations, because it does not pose any kind of threat to international peace and security, and the economic sanctions imposed on Libya, due to an unproven charge after the mere suspicion of Libyan citizens against whom the charge has not been proven by a judicial ruling, all of this indicates the extent of the legal and moral crisis of the United Nations and its Security Council! These economic sanctions on Libya were lifted after it accepted to compensate the families of the victims of the Lockerbie and French plane accidents, and after voluntarily abandoning it on weapons of mass destruction programmes following the occupation of Iraq.

2.1.1.3. Haiti: The elections held in Haiti on September 16, 1990 resulted in the victory of Jean Bertrand ARISTIDE for the presidency and his official assumption of office on February 7, 1991, but on September 30, 1991, General Raoul Cedars removed President Aristide from power in a military coup, after which this general ruled the country until October 1994. During this period, the Haitian people, supporters of the legitimate President "Aristide" and opponents of military rule, were subjected to the most heinous forms of repression and tyranny, including extrajudicial executions, disappearances, torture and rape, thus being considered serious violations of human rights and international humanitarian law.¹⁰¹ The migration of Haitians to the United States of America also worsened, which in turn decided not to accept new refugees and to close their shelter camps.

Resigned President Aristide asked the United Nations to intervene to resolve the crisis, but it preferred to refer the issue to the Organization of American States, which recommended that its member states take economic boycott measures against Haiti.¹⁰² This measure caused a tremendous humanitarian crisis in which civilians were harmed, while the embargo imposed on Haiti did not affect the authority that imposed this embargo because of it, as it continued to flee to the country as needed.¹⁰³

Because of General Cedars' refusal to relinquish power, the Security Council decided, in accordance with Chapter VII of the Charter, to impose economic sanctions on Haiti by issuing Resolution 841 (1993), with the aim of forcing the coup military government in Haiti to return to the democratic path, by allowing the return of the ousted elected president. Aristide to his position¹⁰⁴. The economic sanctions imposed on Haiti include an embargo on petroleum, its derivatives, ammunition, vehicles, machinery and spare parts to Haiti. This resolution also established a committee affiliated with the Council to consider the implementation of these measures.¹⁰⁵ This embargo primarily targeted the Haitian people, which prompted them to launch a general strike and demonstrations in the country on November 15, 1993. Many civilians were victims of this, due to the clashes that took place between them and the forces of General Sedaris.¹⁰⁶

In light of the worsening situation in Haiti, the Security Council concluded that the unique and exceptional circumstances that Haiti is going through and their continuation constitute a threat to international peace and security in the region. As a result, the Security Council resorted to exercising its powers granted to it under Article 42 of the Charter, and issued Resolution No. 940, dated: July 13, 1994, which authorized member states to establish a multinational force under a unified command capable of taking all necessary means to facilitate the departure of military commanders from Haiti and to work to restore the president democratically to power.¹⁰⁷ Indeed, the United States of America made this intervention with the help of five Central American countries on October 15, 1994, after which the military rule in Haiti ended.¹⁰⁸ The return of the ousted President-elect "Aristide" to power on September 25, 1994, and as a result the Security Council decided to stop the economic sanctions imposed on Haiti, under Resolution No. 994 of 1994¹⁰⁹.

The remnants of the economic deterioration caused by the sanctions imposed on Haiti have worsened the humanitarian situation, prompting the resurgence of conflict in the region and the re-overthrow of the legitimate President Aristide in February 2004, demonstrating the ineffectiveness of the sanctions imposed on Haiti to end violations of human rights and international humanitarian law in the region.

2.1.2. Imposition of Economic Sanctions on North Korea, Iran, and Sudan :

2.1.2.1. North Korea: North Korea has been exerting pressure on the United States of America since the fifties, as it entered a civil war with its southern neighbor and America imposed sanctions on it, which continued until now and was based on the time of former US President Barack Obama on economic restrictions, and those sanctions were followed by North Korea's nuclear tests, which led to depriving the country of billions of dollars in revenues resulting from export, especially coal.

In 2006, the Security Council also prohibited arms sales and the import or export of technological equipment, extending to military equipment and financial transactions.

The United States tried to impose any embargo that would help develop the program by imposing systematic inspections of outgoing and incoming shipments and banning the export of coal and iron unless the proceeds were found to be food for North Koreans.

The Security Council unanimously passed early last month a new set of measures against North Korea to ban exports and impose restrictions on investment within it, and the United States succeeded in preventing China from importing coal from it.

Despite the blockade imposed by America and a number of European countries and entities against North Korea to stop its nuclear tests, it continues, as it launched in its last test a ballistic missile towards Japan, which caused an earthquake at the time and affected the economic situation in turn, because of which currency prices fluctuated and the dollar was affected, and it is not yet known if these restrictions will succeed in affecting North Korea and its president or not.

2.1.2.2. Iran: The United States imposed sanctions on Iran and the taking of a number of hostages during the 1979 revolution, along with a ban on Iranian assets and travel, in addition to freezing all Iranian assets.¹¹⁰

2.1.2.3. Sudan: Successive US administrations have imposed a series of economic sanctions on Sudan issued either by executive orders of the president or by legislation from the US Congress, and aimed at pressuring this country accused of sponsoring so-called terrorism.

The most important of these sanctions began on November 3, 1997, with an executive decision of former US President Bill Clinton imposing financial and trade sanctions on Sudan, under which Sudanese financial assets were frozen, and the export of American technology to it was prohibited, and American companies and citizens were obliged not to invest and cooperate economically with this country.¹¹¹

These sanctions continued until the White House announced on January 13, 2017, a partial lifting of some economic sanctions imposed on Khartoum as a result of what it described as the progress made by Sudan, but the US administration kept Sudan on the list of countries supporting terrorism.

2.2. The effectiveness of economic sanctions in implementing the rules of international humanitarian law:

Some argue that assessing the effectiveness of economic sanctions depends primarily on whether they achieve their objectives. However, given the consequences of the latter on human rights (first) as well as their conformity with the principles of international humanitarian law (second), it is what our study is limited to.

2.2.1. Impact of economic sanctions on human rights:

What is noticeable about the field practices of the Security Council in imposing the regime of economic sanctions is the failure of the Security Council to prevent and stop States from violating human rights and the provisions of international humanitarian law and the occurrence of a new violation of these rules as a result of the imposition of such sanctions, when it was supposed to be keen to apply and observe human rights when imposing these sanctions. These sanctions usually do not achieve the purpose for which they were imposed, but may have serious humanitarian implications in the sanctioned country.¹¹²

Indeed, sanctions such as the embargo imposed on Iraq by resolution 661 (1990) and extended by resolution 670 (1990), together with the embargo on the export of oil, which constitutes 95 per cent of Iraq's income and is the most important source of sustenance for Iraqis, have increased the suffering of the Iraqi people. Including the deterioration of the health conditions of the population, especially children and women¹¹³ 'Due to the cutting of necessary medical supplies by starvation¹¹⁴.

All of this shows the violation of the right to food and the right to health, which both are guaranteed by human rights law¹¹⁵ and international humanitarian law¹¹⁶.

The right to a healthy environment was also violated as a result of these sanctions. The destruction of oil centers in Iraq, as well as the use of chemical weapons, led to the pollution of Iraq's natural environment, including water, air, and land, despite the law stipulating the protection of this right.¹¹⁷

The coalition forces also targeted historical and cultural sites, spiritual centers, and works of art, as well as bombing targets of dual civilian and military use without warning, despite the protection provided to them by international conventions, most notably Chapter Three (Articles 52-56) of the First Additional Protocol of 1977.¹¹⁸

It is noted that the economic sanctions imposed on Iraq did not only target the civilian population and civilian objects, but also extended to countries neighboring the state covered by the sanctions, especially those that have economic relations with Iraq. For example, Jordan is a neighboring country to Iraq and a major dealer with Iraq, especially in the field of oil¹¹⁹ 'Especially after the implementation of the oil-for-food program¹²⁰ 'It also suffered from the migration of Iraqi refugees to it.

The representative of Iraq to the United Nations in this regard described the suffering suffered by the Iraqi people as "mass murder and a crime of genocide, and that children are victims of malnutrition and a lack of medicines and medical equipment due to the sanctions imposed on Iraq".¹²¹

The practical reality of other practices of the Security Council also shows that its punitive policy contradicts its objectives in protecting human rights. The blockade imposed on Bosnia and Herzegovina has led to¹²² 'To cause serious effects on the humanitarian side, as the most heinous international crimes were committed, including war crimes, against humanity and genocide. Despite the rapid emergence of the serious consequences of the arms embargo on the Bosnians, the embargo was not lifted until three years after it was imposed, which indicates that it was a deliberate policy aimed at eliminating this people. . The same applies to Haiti. The siege imposed on it kills more than a thousand children a month, which prompted Haitians, individually or in groups, to emigrate from their country as a result of the miserable conditions, to neighboring countries and demand political asylum.¹²³

2.2.1. The extent of application of economic sanctions and the principles of international humanitarian law:

Many believe that economic sanctions lead to the shaking of the state's economic system and deprive the people of the goods necessary for their lives, which may lead to a state of discontent with the government, which has the greatest impact in changing the state's policy.¹²⁴ However, practical experiences show the extent to which the people themselves suffer as a result of the implementation of economic sanctions, as the ruling authority, especially in dictatorial regimes, does not affect them as these sanctions do not affect them as a result of their monopolization of the food and humanitarian supplies available within the state, as they have a stronger and more violent impact on individual civilians.¹²⁵ In addition, the ruling authority may resort to using force to silence the people when they are dissatisfied with the government, which further deteriorates the situation.¹²⁶ The continuation of the blockade despite the end of the reasons for its imposition, as happened in Iraq, may cause serious humanitarian crises in the region.

Economic sanctions are a form of war and are indiscriminate in their effects. It primarily affects civilians, in addition to combatants. It also includes all fields, whether military or civilian, and leads to the disruption of social and human development processes and leaves a social and psychological impact on society at large.¹²⁷ It is also an indiscriminate weapon in its effects and has a retaliatory nature that primarily affects civilians. The International Court of Justice affirmed the principle of prohibiting the use of indiscriminate weapons in its advisory opinion on "the legality of the use of nuclear weapons or the threat of their use" issued on July 8, 1996, in which it equated the use of weapons Indiscriminate impact and deliberate attack on civilians¹²⁸.

Imposing economic sanctions leads to a violation of the most important principles of international humanitarian law, which are the principles of distinction, proportionality, and military necessity, which are among the basic principles that govern the law of war and are considered among the basic rules of international humanitarian law.¹²⁹ Which shows that the system of imposing economic sanctions is a blind and inhumane method, as it does not only differentiate between civilians and combatants, but more than that, it does not differentiate between all categories protected under the rules of international humanitarian law.

The imposition of economic sanctions fosters feelings of hatred and revenge and fuels aggressive conflicts and violence¹³⁰. In addition, using the starvation policy while imposing economic sanctions as a means of putting pressure on the ruling authority due to its violation of its international obligations is a measure that contradicts the rules of international humanitarian law.¹³¹

Economic sanctions are collective punishment in view of their wide-ranging effects that go beyond punishing parties responsible for violating the rules of international law to affect the civilian population, which is contrary to the principle of personal punishment.¹³² The prohibition of collective punishment was stipulated in the Fourth Geneva Convention of 1949 and the First Additional Protocol of 1977¹³³.

The continuation of the economic sanctions regime is a violation of the Convention on the Prevention, Suppression and Punishment of the Crime of Genocide, the provisions of which were considered customary rules.¹³⁴ As well as a violation of the Universal Declaration of Human Rights and the International Covenants on Human Rights on Civil and Political Rights and Social, Economic and Cultural Rights of 1966.¹³⁵ This is what was indicated in the resolution of the United Nations Commission on Human Rights issued on March 4, 1994 in its second article, which states that "economic measures are an unfair measure against human rights, especially the most vulnerable groups, such as children, women, and the elderly".¹³⁶

The imposition of the economic sanctions regime is also considered a violation of the text of Article (2-4) of the United Nations Charter, which prohibits the use of force in all its forms in international relations. Economic sanctions are considered a more lethal weapon than military weapons, even if on the surface they appear peaceful, which prompted the former American president to "Drew Wilson said that economic sanctions constitute a silent and deadly peaceful remedy"¹³⁷.

In addition, this measure contradicts a basic international principle, which is the right of peoples to self-determination, a right that is embodied in the rejection of tyranny and enslavement on the one hand, and the rejection of subordination and submission to external control and foreign exploitation on the other hand.¹³⁸

We point out that the Security Council has implemented the smart sanctions system¹³⁹ As an alternative to traditional economic sanctions¹⁴⁰. The attempt to impose these sanctions on specific fields and on specific people, and its awareness of the negatives of the sanctions policy it imposes, translates the Council's responsibility not to violate international law and the basic rights of the person that it must respect.¹⁴¹

However, the practical reality shows the ineffectiveness of the smart sanctions program, especially when applied to Iraq, despite the fact that they primarily target the ruling class, thus influencing their decisions and deterring them from violating international humanitarian law. However, in terms of their resulting effects, they did not succeed in stopping violations of this law, and therefore the system Imposing economic sanctions falls short of implementing the rules of international humanitarian law.

Conclusion:

The nature of the tasks entrusted to the Security Council, in the field of maintaining international peace and security, has made the legal acts it issues (resolutions - recommendations) have a profound impact on international life.

There is no doubt that the constitutional nature of the United Nations Charter grants it a kind of superiority and supremacy in relation to the legal acts issued by the organization's organs. This is also the case, as the Security Council, as one of these bodies, cannot issue any of these actions that contradict the provisions contained in the Charter, otherwise what it issues will be described as invalid. Economic sanctions as a means of maintaining international peace and security have had some success and are compatible with the legal rules regulating them, but for the most part they have not been compatible with the rules of international legitimacy due to the lack of provisions in their texts. Because of the flaw in its organizational structure and decision-making system, as well as the contradiction between the interests of the member states of the Security Council and the balance between them due to dealing with them contrary to its approved rules, it can therefore be said that the economic sanctions system cannot constitute a pressure card to force governments to respect and ensure respect for the rules of law. International humanitarian law, given that the effects of this system often target the people of this country, which contradicts the text of Article 55 of the United Nations Charter as well as the provisions of international humanitarian law.

Therefore, it is necessary to make a radical change in the United Nations system, especially the Security Council, and expand the number of its permanent members to include all five resolutions in order to adjust the balance that was disturbed, and to ensure the fair application of measures to maintain international peace and security by imposing economic and other sanctions...

Economic sanctions may be implemented under the unilateral application of states, and they may be either retaliation or reciprocity, within the framework of the right of legitimate defense stipulated in the Charter of the United Nations, and general principles of law, and they will be legitimate in this case as well... However, they may overcome¹⁴² This is confirmed because the application of international economic sanctions has become a weapon as dangerous as conventional

military war. Underdeveloped countries have become aware of this since the discussion of the provisions of the United Nations Charter, considering that the threat of using economic pressures, or actually using them, falls within the term “force,” the use of which is forbidden in the Charter. Therefore, it is forbidden to use economic pressure to threaten territorial security and integrity or political independence¹⁴³ ...This is what the United States of America, the major economic and military power, has begun to implement within the framework of the United Nations Security Council after it had signed it unilaterally against Cuba, Panama, Nicaragua, the countries of the former socialist bloc, Iraq, Libya, Syria, Iran and others. All of this has become foretelling. About the further intensification of the use of these procedures in international economic relations, which play an effective role in managing the international balance of power, more than the military side or traditional wars... which requires the creation of a new international economic legal system that embodies international legitimacy and the just provisions of international law, which are taken into account in its spirit is the international public good, not the narrow self-interest of powerful state.

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- 1 Dr.. Salah Ahmed Hamdi, *Aggression in the Light of International Law*, (1919-1977), Office of University Publications, Algeria, 1983, p. 108.
- 2 Dr.. Abdullah Hassan Al-Ashaal, *Non-military Sanctions in the United Nations*, a thesis on international organizations for a doctorate in political science, Faculty of Economics and Political Science, Cairo University, 1976, p. 66.
- 3 Dr.. Nashaat Othman Al-Halaili, *International Collective Security with an Applied Study within the Framework of Some Regional Organizations*, unpublished doctoral dissertation in law, Faculty of Law, Ain Shams University, Cairo/1985, p. 288.
- 4 Hani al-Hindi, *The Arab Boycott of Israel*, Research Center, Palestine Liberation Organization, Beirut, 1975, p. 32.
- 5 Dr.. Munther Anabtawi, in a symposium on the Arab boycott, moderated by Hani al-Hindi, with the participation of Dr. Youssef Al-Sayegh, Dr. Munther Anabtawi and others..., *Palestinian Affairs Magazine*, issue: July 46, Beirut/1975, p. 135.
- 6Dr.. Fatna Abdel-Al Ahmed, *International Economic Sanctions*, first edition, Dar Al-Nahda Al-Arabiya, Cairo, 2000, p. 24.
- 7Dr.. Khalaf Boubacar, *Economic Sanctions in Contemporary International Law*, Office of University Publications, Algeria, 2008, p. 31.
- 8Dr.. Awashriya Roqaiya, *Protection of Civilians and Civilian Objects in Non-International Armed Conflicts*, PhD thesis, Faculty of Law, Ain Shams University, Faculty of Law, Cairo, 2001, p. 382..
- 9Fatna Abdel-Al Ahmed, previous reference, pp. 30-31.
- 10Dr.. Awashriya Ruqayyah, previous reference, p. 382.
- 11Fatna Abdel-Al Ahmed, previous reference, p. 50.
- 12Qarduh Reda, *Smart Sanctions: The extent to which they are considered an alternative to traditional economic sanctions in their relations with human rights*, a memorandum for obtaining a master's degree in legal sciences, specializing in international humanitarian law, Hajj Lakhdar University, Batna, 2010/2011, pp. 11, 12.
- 13It is noted that the text of the article did not explicitly use the phrase “economic sanctions,” but only referred to their forms and types. This is due to political considerations since the conclusion of the Charter. If it explicitly referred to the term “punishment,” the result would be that if an international violation is committed, the next step would be to impose the penalty. However, it was not stipulated. The issues remain pending, and there is room for resolving them based on whims and political tendencies, which is why the phrase “economic sanctions” was inspired by international custom and jurisprudence. See: Khalaf Boubakar, previous reference, pp. 32-33.
- 14This is what we witnessed on the ground on the occasion of the international sanctions that were imposed on Iraq after its aggression against Kuwait in 1990. During the years 1990 and 1991, 11 countries submitted to the United Nations Sanctions Committee in order to demand compensation for the damages they suffered as a result of their commitment to implementing the international sanctions imposed on Iraq or As a result of the impact of that crisis on them, these countries based their claims on the text of Article 50.
- 15Fatna Abdel-Al Ahmed, previous reference, p. 18.
- 16Ruqayyah Awashriya, previous reference, p. 382.
- 17These measures, in both their forms, must have the quality of legitimacy in order for them to be considered economic sanctions, as we will analyze in the second section of this research.
- 18This term is derived from the name of the officer (Captain) (Charles Canningham Boycott), who was an agent of the property (The Earl of Erne) in Ireland, who refused in 1880 to take rents from employees, which exposed him to the threat

of his life and cut off the equipment of his house, and since then this word was known in Ireland, and was included in the Criminal Code in 1887 and then spread in other languages.

1 -Aziz Abdul Mahdi Al-Radam, previous reference, p. 17.

19Fatina Abdel Aal Ahmed, previous reference, p. 40.

20Aziz Abdul Mahdi Al-Raddam, previous reference, p. 33.

21See: Charles Rousseau, le boycottage dans les rapports internationales R.G.D.I.P, Janvier-mars :1958, P :06.

22Aziz Abdul Mahdi Al-Raddam, previous reference, p. 33.

23Fatina Abdel Aal Ahmed, previous reference, p. 41.

24Dr. Ali Sadiq Abu Heif, Public International Law, 9th Edition, Knowledge Foundation in Alexandria, Alexandria, 1971, p. 772.

25Ruqayya Awashriya, previous reference, p. 382.

26Gerhard van Glan, Law Among Nations, (Introduction to Public International Law), Arabized by Abbas Omar, Part One, 2nd edition, New Horizons House, Beirut, 1970, p. 259.

In this context, the blockade imposed on Iraq during the Gulf crisis can be classified as a naval or air-war blockade, as in mid-September 1990 the US naval forces inspected cargo ships coming to the port of Aqaba, Iraq's only sea port during its war with Iran, and packed with goods destined for the Jordanian market.

-Algerian newspaper El Shaab on Thursday, September 20, 1990, No. 8362, p. 5.

27Dr. Ali Sadiq Abu Heif, previous reference, p. 273.

28Gerhard van Glan, op. cit., p. 258.

29Gerhard van Glan, op. cit., p. 258.

30Al-Sayed Abu Attia, International Sanctions between Theory and Practice, University Culture Foundation, Alexandria, Printing House, 2001, p. 114.

31Dr. Ali Sadiq Abu Haif, previous reference, p. 272.

32Dr. Salah Al-Din Ahmed Hamdi, Aggression in the Light of International Law, previous reference, pp. 97-98.

33We do not mean here that this measure is fair, only to demonstrate the air blockade and the extent of the conceptuality.

34See Gunnar Meyer..... It is a famous Swedish economist that the international economic disintegration resulted from a series of modern international economic crises, especially after the First and Second World Wars, by following each country separately to protect its economy, from the complications of those crises that if they are completed, the protective measures remain to increase the disintegration of unity or international economic harmony, see the details of:

Dr. Muhammad Mughrabi, Permanent Sovereignty over Oil Resources, A Study in the Oil Concessions of the Middle East and Legal Change, 1st Edition, Dar Al-Tali'a for Printing and Publishing, Beirut, 1973, p. 14.

35Dr. Muhammad Abdul Aziz Ajamieh, Economic Development in Europe and the Arab World, Dar Al-Nahda Al-Arabiya, Beirut, 1983, p. 262.

36Fathi Hassan Atwa, Trade Disputes between Washington and its Allies (Risks and Expectations), Journal of International Politics, No. 85, June 1986, p. 220 and beyond.

37See: El Moudjahid Algérienne, N°: 6793 du dimanche. 19-04-1987.

38Joseph Moghaizel, On the Arab Boycott and International Law, Palestine Liberation Organization, Beirut, 1968, pp. 18-19.

39Dr. Abdul Hussein Al-Qutaifi, The Economic Boycott in International Relations, Journal of International Politics, Cairo, 1967, pp. 60-61.

40Aziz Abdul Mahdi Al-Raddam, previous reference, pp. 45-46.

41Fouad Hamdi Bseiso, The Impact of the Arab Economic Boycott on the Israeli Economy, 1st Edition, Publications of the Department of Research and Studies, Central Bank of Jordan, Amman, 1971, pp. 15-16.

42This was true before 1978, but after the Camp David Accords between Egypt and Israel, there is no longer any point or even the existence of this boycott, especially after the restoration of diplomatic relations between countries and Israel with Egypt, which still maintains these agreements and is still committed to respecting them.

43Military Encyclopedia, Part One, Arab Institute for Studies and Publishing, Beirut, p. 529.

44Dr. Hassanein Ibrahim believes that the elements of internal punishment are: personal legitimacy, judicial justice, while international punishment is characterized by legitimacy, and not exempted from its imposition, such as if the crime was committed abroad or carried out by a prominent figure, the head of state, this does not exempt the state from punishment and statute of limitations, as the statute of limitations for international crime is not considered.

See: Dr. Hassanein Ibrahim Saleh Obaid, *Crime (Applied Analytical Study)*, 1st Edition, Dar Al-Nahda Al-Arabiya, Cairo, 1979, p. 135.

45Dr. Sergeant Muhammad Jassim Al-Hamawi, *The Development of the Functions of the United Nations and its Impact on the Sovereignty of States, A Legal Study*, Faculty of Law, University of Mosul, New University Publishing House, 2013, Alexandria, p. 63.

46Solaf Slim, *International Non-Military Sanctions*, a dissertation for obtaining a master's degree, specializing in international criminal law, Saad Dahlab University, Blida, 2006, pp. 66, 67.

47Dr.. Abdullah Hassan Al-Ash'al, previous reference, p. 220.

48Aziz Abdul Mahdi Al-Radam, previous reference, p. 56.

49To expand further on the procedural alternatives that the Security Council can decide.

50Nabil Muhammad Nour al-Din Bishr, *The Relevance of the Security Council's Powers to the Contemporary Development of the International Community*, a dissertation for the degree of Doctor of Laws, presented at the Faculty of Law, Cairo University, in 1977, p. 43.

51Charters of international organizations are international agreements concluded between a group of countries to regulate the legal relations between them and to determine the legal rules to which these relations are subject.

52Dr.. Muhammad Talaat Al-Ghunaimi, *Al-Ghunaimi in International Organization*, Al-Ma'arif facility in Alexandria, 1974, p. 936.

53See :Louis Cavare *le Droit International Public Positif*, Tome 1.3, edition, Apedone, 1973, P771.

54Dr.. Muhammad Al-Saeed Daqqaq, *Non-Recognition of Illegal Regional Situations, (A Study of the Theory of Penalty in International Law)*, University Press House, Alexandria, 1984, p. 113.

55Dr.. Abdullah Hassan Al-Ash'al, previous reference, p. 208.

56Dr.. Muhammad Talaat Al-Ghunaimi, previous reference, p. 937.

57Awashriya Ruqaya, *Protection of Civilians and Civilian Objects*, op. cit., p. 384.

58Abdel-Al Ahmed Fatna, previous reference, pp. 194-195.

59This is due to a number of reasons, including:

-1States understanding the idea of the seriousness of internal conflict, and the impact it could have on the stability of international relations and the peace of the countries surrounding the country in question.

-2The United Nations' awareness of the necessity of playing an effective and major role in the field of protecting human rights and freedoms.

-3The United Nations confirmed the effectiveness of economic sanctions as a means of putting pressure on governments and urging them to change their internal policies.

See: Abdel-Al Ahmed Fatna, previous reference, pp. 195-196.

60This is due to a number of reasons, including:

-1The interests of several Security Council member states are linked to this conflict, whether directly or indirectly.

-2Lack of confidence in the effectiveness of economic sanctions as a means of resolving international conflicts.

See: Ibid., p. 196.

61See the text of Article 83, paragraph 1, of the First Additional Protocol of 1977.

62Sigal Anna, "Economic Sanctions, Legal and Political Restrictions," *International Review of the Red Cross*, Selections from 1999 Issues, pp. 195-196.

63See the text of Articles 54, 69, and 70 of Additional Protocol I of 1977.

64Sigal Anna, op. cit., p. 196.

65For further details see, *The 1994 San Remo Manual, on international law applicable to armed conflicts at sea*, published in the *International Review of the Red Cross*, No. 309, November-December 1995, pp. 595, p. 637.

66PETIC Jelena, « Le Droit à l'alimentation en période de conflit armée le cadre juridique », *R.I.C.R N°844*, pp1097-1110, in: <http://www.icrc.org>.

67For armed conflicts, see the articles:

- 1- -1Article 23 of the Fourth Geneva Convention of 1949, Article 70 of the First Additional Protocol of 1977 (paragraphs 1, 2 and 4, respectively), Article 9 common to the First, Second and Third Geneva Conventions, respectively, and Article 10 of the Fourth Convention of 1949.
- 2- For non-international armed conflicts, see the articles:
- 3- -2Article 3 common to the four Geneva Conventions of 1949 and Article 18/2 of the Second Additional Protocol of 1977.

4- For more details about these provisions, see:

5- -3Abdel Ghani Abdel Hamid Mahmoud, Protection of Victims of Armed Conflicts in International Humanitarian Law and Islamic Sharia, third edition, National Book House, Cairo, 2006, pp. 52-53-85.

68See Articles (55- of the Fourth Geneva Convention of 1949 and 69/1 of the First Additional Protocol of 1977.(

69See Article 59/1 of the Fourth Geneva Convention of 1949.

70See Article 59/3 of the Fourth Geneva Convention of 1949 and Article 70/2 of Additional Protocol I of 1977..

71Sigal Anna, op. cit., p. 199.

72Dr.. Samouhi Extraordinary, Public International Law, first edition, Al-Irshad Press, Damascus, 1960, p. 676.

73Article 24 of the Charter states (1) Desiring that the work undertaken by the United Nations be prompt and effective. And they agree that this Council shall act as their representative.(.....

74Dr.. Saleh Jawad Kazem, A Study in International Organizations, Al-Irshad Press, Baghdad, 1975, p. 233.

75Our professor, Dr. Amer Abdel Fattah Al-Jomard, believes that it would be preferable if the drafters of the Charter distinguished between the places where this word was used, because there is a disagreement between them. There are cases in which the Security Council takes action that it deems appropriate according to the circumstances and changes with its change, using the word "measures" and then corresponding measures in Arabic. Because the word measures refers to the unlimited actions taken to regulate the consequences of things. When there are known and specific acts and are practiced in accordance with a text or texts to achieve specific legal results, they are called procedures, which corresponds to them in English (procedures). For example, Article 39 of the Charter states: "... Measures to be taken in accordance with the provisions of Article 41 (42) for the maintenance of peace...) We believe that the most correct is (.... Taking measures in accordance with the provisions of the two articles) This is an inaccurate usage. The same situation was mentioned at the beginning of Article 40 of the Charter, which stated in the same text of Article 40: "To invite the disputants to adopt such provisional measures as he deems necessary or desirable" (..... To comply with such provisional measures..... This is a correct use of the word measures".

76Dr.. Ahmed Abdullah Abu Al-Ela, The development of the role of the Security Council in maintaining international peace and security. The Security Council in a Changing World, New University, 2008, p. 259.

77Security Council Resolution No. (660) dated August 3, 1990.

78Security Council Resolution No. (661) dated August 6, 1990.

79Dr.. Ahmed Abdullah Abu Al-Ala, previous reference, pp. 264-265.

80Security Council Resolution No. (662) dated August 9, 1990.

81Security Council Resolution 665 of August 25, 1990.

82Security Council Resolution 677/F/1 of 28 November 1990.

83Security Council Resolution 667 of 16 September 1990.

84Security Council Resolution 687 of 3 April 1991.

85Former Security Council Resolution No. 687 of 3 April 1991.

86Security Council Resolution 665/F2 of 25 August 1990.

87ALETH Manin, « L'ONU : Activités et fonctionnements » in : Documents d'études du droit international public, N°3.03, 1992, p11.

88The aforementioned Security Council Resolution No. (661/F/3) of August 6, 1990.

89Security Council Resolution 670/F/8.9 of September 25, 1990.

90Dr. Khalaf Boubacar, Economic Sanctions in Contemporary International Law, previous reference, p. 86.

91Algerian newspaper El Chaab, 12 February 1992, No. 8786, pp. 1 and 9.

92This committee meets every two months once to discuss the economic sanctions imposed on Iraq since August 1990.

See: Algerian newspaper El Chaab of May 16, 1992, issue: 8873, p. 1.

93Security Council Resolution No.: (664/F/3) dated August 18, 1990.

94Security Council Resolution No. (666) dated September 13, 1990.

95The aforementioned Security Council Resolution No. (670) dated September 25, 1990

96Dr.. Ahmed Abdullah Abu Al-Ala, previous reference, p. 277.

97Since the outbreak of the Al-Fateh Revolution in September 1969, Libyan-Western relations, especially the United States of America, have not witnessed any improvement. The positions taken by the Libyan revolution (beginning with the demand for the withdrawal of American forces from military bases stationed in Libya - which actually took place in June 1970 - and the nationalization of American oil companies) And the British, and the continuous harassment between the American and Libyan forces, especially what was raised regarding the Gulf of Sirte, the economic sanctions imposed

by the American government on Libya, the severing of American diplomatic relations with Libya in 1977, etc.) led to relations between them and the West going from bad to worse.

See the details of the plane crash in: John Cooley, *America's Long War in the Middle East*, Beirut, Publications Distribution and Publishing Company, 1992, pp. 219 et seq.. And about the American-Libyan relations and their history, see: Rita Hamdan: "The Lockerbie Crisis" and future developments and possibilities in light of the dimensions. *The Historical History of the Libyan-American Conflict*, Journal of Arab Strategic Thought, Issue (41), July 1992, pp. 135 et seq.

98Muhammad Al-Sammak, *Terrorism and Political Violence*, International Book House, Beirut, undated, pp. 83 et seq.

99The decision obligating Libya to hand over two of its nationals after they were accused by the United States of America of blowing up the plane over Lockerbie in 1988.

100Dr.. Khalaf Boubacar, previous reference, p. 92.

101Musa Atika, *The Role of the United Nations in Developing International Humanitarian Law*, a dissertation for obtaining a master's degree in law, International Human Rights Law Branch, Faculty of Law, Mouloud Mammeri University, Tizi Ouzou, 2004, p. 130.

102Al-Dahhak Qusay, *The Security Council and its Role in Maintaining International Peace and Security among Application Texts*, a memorandum for obtaining a master's degree in international law and international relations, Faculty of Law, University of Algiers, 2001, p. 152.

103Bashir Nabil, *Responsibility in a Changing World*, Abeer Press, 1994, p. 487.

104Laharsh Abdel Rahman, *International Economic Sanctions*, Algerian Journal of Legal, Economic and Political Sciences, Part 39, Issue 02, 2001, p. 79.

105See Resolution No. 841 issued on June 16, 1993.

106Bashir Nabil, op. cit., 488.

107Al-Mousa Muhammad Khalil, *The Use of Force in Contemporary International Law*, Dar Wael for Publishing and Distribution, Cairo, 2004, pp. 61-62.

108Musa Atika, op. cit., p. 131.

109Lahrash Abd al-Rahman, op. cit., pp. 79-80.

110www.youm7.com

111www.aljazeera.net

112Lahrash 'Abd al-Rahman, p. 83.

113UNICEF statistics indicate that 5,000 children under the age of five die a month.

See: Awashriya Ruqayya, *Protection of Civilians and Civilian Objects...*, op. cit., p. 385.

114In a 1994 UNICEF report, they stated that 305 million Iraqi civilians were feared to die due to malnutrition resulting from sanctions imposed on their country. Agricultural and industrial production also declined due to the closure of many factories and widespread unemployment, reaching 70% in 1993.

Look at that:

GAGGIOLI Gloria, *Le Rôle du droit international humanitaire et des droits de l'homme dans l'exercice des pouvoirs de maintien de la paix de conseil de sécurité: Rôle catalyseur ou Rôle de frein?*, mémoire de diplôme (sous direction de Robert KOLB), Centre Universitaire de Droit International Humanitaire, Genève, 2005, p.53

115Article 25 of the Universal Declaration of Human Rights states: "Everyone has the right to a standard of living adequate to ensure the health and well-being of himself and his family, especially with respect to food, clothing, population and medical care"...

116See Article (23/1) of the Fourth Geneva Convention of 1949 and Article (54/1/2) of Additional Protocol I of 1977.

117See Article 55 of Additional Protocol I of 1977.

118See Articles (52-53-54-55-56) of Additional Protocol I of 1977.

119Harsh Abdel Rahman, previous reference, p. 85.

120See Resolution No.: 986 issued on April 14, 1995.

121Khalfan Karim, *Maintaining Peace for Humanitarian Reasons*, research for a master's degree in law, International Human Rights Law Branch, Faculty of Law, Mouloud Mammeri University, Tizi Ouzou, 1998, p. 35.

122See Resolution No. (757) of 1992, which includes comprehensive economic sanctions on the Federal Republic of Yugoslavia, and Resolution No. (870) issued on October 1, 1993, which tightened the sanctions regime.

123Harsh Abdel Rahman, previous reference, pp. 83-84.

124Abdel-Al Ahmed Fatna, previous reference, p. 36. 103

125Ibid., p. 232.

126Such as what happened in Haiti following the military coup against the legitimate government of Aristide.

127Professor Awashriya Ruqayyah pointed out that the economic blockade imposed on Iraq has led to an increase in the number of dropouts from primary schools from 95,692 in 1990 to 131,658 dropouts in 1999. It is clear that this has an impact on the social situation, as it may lead to the spread of social ills.

See: Awashriya Ruqayya, Protection of Civilians and Civilian Objects..., previous reference, p. 385.

128For more details, see: Louise Dossois de Bécq, "International Humanitarian Law and the Advisory Opinion of the International Court of Justice on the Legality of the Threat and Use of Nuclear Weapons," IDF, Tenth Year, Special Issue, No. 53, January/February 1997, p. 36. .

129On these principles, see: Al-Zamali Amer, Introduction to International Humanitarian Law, second edition, publications of the Arab Institute for Human Rights, International Committee of the Red Cross, Tunisia, 1997, pp. 78 et seq.

Al-Shalalda Muhammad Fahhad, International Humanitarian Law, Mansha'at al-Ma'arif, Alexandria, 2005, pp. 73 et seq.

130The report of the International Federation of the Red Cross and the Red Cross Societies on world disasters for the year 1988 affirmed that: "Economic sanctions are no less deadly than missiles, as experience has proven that economic sanctions are not surgical strikes, but rather extraordinarily dirty weapons."...See Concerning this: Musa Ateeqa, previous reference, p. 137

131Article 54/1 of Additional Protocol I of 1977 states: "Starvation of civilians as a method of war is prohibited".

Article 14 of the Second Additional Protocol of 1977 stipulates: "Starvation of civilians as a method of warfare is prohibited".

It is not permissible to impose collective sanctions of any kind on the entire population as they are in solidarity or jointly responsible for the hostile act committed by one or some of the individuals.

See: Abu Haif Ali Sadiq, Public International Law, third edition, Mansha'at Al-Ma'arif, Alexandria, 1995, p. 725.

133Article 33 of the Fourth Geneva Convention of 1949 stipulates that "...collective punishments are prohibited"...

Article (75/2/[d]) of the First Additional Protocol of 1977 states: "The following acts are prohibited at all times and in any place, whether committed by civilian or military officials:...d/ Collective punishments.

The International Court of Justice, relying on the definition of genocide in accordance with the Convention on the Prevention and Punishment of Human Genocide, considered "the use of starvation against civilians with the intention of eliminating the entire group a crime of genocide."

_ C.I.J, avis consultatif sur « La licéité de la menace ou de l'emploi d'armes nucléaires ».

Recueil des arrêts, Avis consultatif et ordonnances, C.I.J, La Haye, 1996, Par73, p.14.

135The International Covenants on Civil, Political, Economic, Social and Cultural Rights of 1966, to which Algeria acceded by Presidential Decree No. 89/67 of May 16, 1989, Official Gazette of the People's Democratic Republic of Algeria, No. 20, issued on May 17, 1989.

136Abdel-Al Ahmed Fatna, previous reference, p. 235.

137Awashriya Ruqaya, Protection of Civilians and Civilian Objects..., previous reference, p. 386.

138Ibid., p. 387.

139See Resolution No. (1390) issued on January 12, 2002 regarding the transfer ban imposed on Osama bin Laden and terrorist operational networks.

140As an alternative to the traditional economic sanctions imposed by the Security Council, in April 2000 the latter commissioned a "Task Force on General Questions of Sanctions" which prepared a final memorandum for the decade and proposed smarter, more targeted sanctions such as freezing the financial transactions of politicians or combating the illicit trade in diamonds.

-See this:

DECAUX Emmanuel, Droit international public, 3ème édition, Editions DALLOZ, Paris, 2002, p.263

141THOME Nathalie, Les pouvoirs du conseil de sécurité au regard de la pratique récente du chapitre VII de la charte des Nation Unies, Presses universitaires d'Aix- Marseille, France, 2005, p.201

142Nashat Othman Al-Hilali, International Collective Security, op. cit., p. 124.

143Dr.. Muhammad Al-Saeed Al-Daqqaq, The United Nations and Regional Organizations, Al-Ma'arif Institute, Alexandria, 1977, p. 46.

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