

# Unilateral Economic Sanctions, International Law, and Human Rights

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History suggests that coercion has probably always been one of the most common modes of interaction between political entities, from ancient cities to the modern state.<sup>1</sup> Over time, however, coercive practices used in the course of armed conflicts, such as sieges, naval blockades, and reprisals, have been subjected to certain important legal limitations and restrictions aimed at the protection of civilian populations.<sup>2</sup> These rules, such as the prohibition of starvation of civilian populations and the obligation to permit the free passage of all consignments of essential foodstuffs and medical supplies, are now codified in the Geneva Conventions and their Additional Protocols and as such are universally accepted (albeit sometimes disregarded in practice).<sup>3</sup> Nonetheless, the legal regulation of non-forcible (that is, economic) coercion outside the context of armed conflict has long remained embryonic and is still underdeveloped, even though these measures in some cases may rise to the level of forcible coercion.<sup>4</sup>

In recent years there has been a return to *de facto* comprehensive economic sanctions, such as those currently applied by the United States against Syria, Iran, and Cuba, including extraterritorial enforcement on third parties. In such cases, source states may go beyond embargoes and create *de facto* blockades (which are acts of war). The increasing use of economic warfare in the context of the erosion of multilateralism more generally seems to have overturned previous achievements in regulating unilateral sanctions. Further, whereas until recently sanctions were typically imposed by powerful Western countries on smaller developing countries,<sup>5</sup> sanctions

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are now in the process of mutating to become a means of pressure between countries of the South, as in the case of the coalition embargo by Saudi Arabia, the United Arab Emirates, Bahrain, and Egypt targeting Qatar. Sanctions are also becoming a form of economic warfare between advanced countries, as in the case of the U.S. and EU sanctions against Russia, and recently of the United States against China. This has been vaunted by the president of the United States on the questionable assertion that “trade wars are good, and easy to win.”<sup>6</sup> Venezuela is another case in point, where sanctions are being used in connection with veiled and even open threats of military intervention in violation of Article 2(4) of the UN Charter and attempts at regime change. There is mounting evidence that unilateral economic sanctions adopted by the United States and other countries (such as Australia and New Zealand) and groups of countries (such as the European Union) coupled with a multifaceted economic war waged against Venezuela (including, but not limited to, allegations of currency manipulation and media campaigns aimed at discouraging foreign investments and shutting down the country’s ability to access financial markets) have played a non-negligible role in crippling the country’s economy.<sup>7</sup>

In this essay I examine a particular type of economic sanctions, namely, unilateral economic sanctions, as a coercive tool. Unilateral sanctions are implemented not by the UN Security Council but by a single state or group of states targeting another state or persons within a targeted state. These may extend to “secondary sanctions,” in which the sanctioning state penalizes companies in third-party states that do business with the target. This form of coercion has become increasingly commonplace in international relations over the last decade, and is one with which I have become all too familiar as the United Nations Special Rapporteur on unilateral coercive measures. In the first section, I briefly look at the international legal issues surrounding unilateral sanctions, while in the second section I review some of the major ethical concerns. In the third section, I offer a number of proposals to alleviate some of these ethical concerns, particularly the problem of wrongful harm, though these proposals should be considered temporary stops along a path toward the full prohibition of unilateral sanctions. I conclude with a cautionary note about some recent worrying developments in the use of this coercive tool.

## THE LEGALITY DEBATE AND AN EMERGING CONSENSUS

The contemporary trend has generally been toward the centralization of the authority to use economic sanctions in international relations. Chapter V of the

UN Charter designates the UN Security Council as the main body responsible for the maintenance of international peace and security.<sup>8</sup> And Chapter VII gives the Security Council the exclusive power to adopt economic sanctions in situations that endanger such international peace and security. This leads to the dominant view of the international community, according to which economic sanctions taken outside this framework are “unilateral” and unlawful. Nonetheless, some thirty states, mainly advanced Western ones, challenge this position and advocate that unilateral sanctions are legitimate tools with which to pursue certain foreign policy objectives.

On the one hand, this opposition of views is persistent and perennially appears in debates in the UN General Assembly on resolutions regarding the topic of human rights and unilateral coercive measures, as well as in other forums. On the other hand, the rejection of the U.S. embargo on Cuba—one of the most high-profile and long-lasting cases of unilateral sanctions—has become so widespread within the international community that it reached overwhelming consensus if not total unanimity in the General Assembly in 2018. The latest resolution condemning the embargo, adopted on November 1, 2018, had 189 states in favor and only two against, with no abstentions.<sup>9</sup>

These successive resolutions, while nominally concerned with the Cuban embargo, actually contain language that clearly applies to unilateral coercive measures beyond the Cuban context. The resolutions call on “all States” to “refrain” from using unilateral coercive measures. The measures condemned are the “laws and regulations” adopted by states, “the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation.”<sup>10</sup> The resolutions also make clear that by refraining from promulgating and applying such laws and measures or terminating existing measures in force, as the case may be, states would be acting “in conformity with their obligations under the Charter of the United Nations and international law, which, *inter alia*, reaffirm the freedom of trade and navigation.”<sup>11</sup> The 2018 resolution refers to a number of general principles, including “the sovereign equality of States, non-intervention and non-interference in their internal affairs and freedom of international trade and navigation, which are also enshrined in many other international legal instruments.” The 2018 resolution preamble also refers to “declarations and resolutions of different intergovernmental forums, bodies and Governments that express the rejection by the international community and public opinion of the promulgation

and application of measures of the kind referred to above.”<sup>12</sup> These positions strongly support the view that unilateral coercive measures with secondary or extraterritorial effects, “which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation,”<sup>13</sup> are almost universally seen by the international community as illegitimate. This suggests an emergent (if not already established) rule of customary international law.

## HUMAN RIGHTS CONSEQUENCES OF SANCTIONS

The stalemate between proponents and opponents of unilateral sanctions should not, however, overshadow their human rights consequences. After the UN-mandated comprehensive trade embargoes of the 1990s against Haiti, Iraq, and the former Yugoslavia were found to have caused massive adverse economic and humanitarian harm,<sup>14</sup> the UN system undertook numerous reforms to better address basic human rights and rule of law concerns when designing and implementing sanctions. The same concerns have led the UN to renounce comprehensive, wide-ranging embargoes and to turn instead to targeted, so-called “smart” sanctions against specific sectors of activity or designated individuals and entities held directly responsible for the very threat or malign behavior that the sanctions are expected to curb.

But even smart sanctions have proven to be blunt instruments, and they almost inevitably provoke collateral damage. Researchers have shown that targeted sanctions are easier to evade, and thus their costs can be more easily shifted onto others, directly or indirectly.<sup>15</sup> The claim that smart sanctions are effective is also “belied by the tendency of frustrated Western governments to escalate personally targeted sanctions into sector-wide measures that will inevitably have society-wide repercussions.”<sup>16</sup> Indeed, in many cases the superimposition of diverse smart sanctions on a target country ends up looking like comprehensive sanctions by another name. For example, fifty-two different packets of smart sanctions were applied against Syria, adding up to invasive misery imposed on an entire population. Ironically, when in May 2018 the EU decided to extend its sanctions for another year, it cited as a reason for this decision the violation of Syrians’ human rights by the government.<sup>17</sup> This was tantamount to announcing one’s attempt to extinguish a blaze with a flamethrower rather than a water hose.

Unilaterally imposed sanctions regimes continue to have the potential to negatively affect virtually all human rights,<sup>18</sup> including the right to life,<sup>19</sup> the right

to health;<sup>20</sup> the right to education;<sup>21</sup> and the right to an adequate standard of living, including food, clothing, housing, and medical care.<sup>22</sup> As referred to above, the Security Council, after tragic consequences of comprehensive sanctions in Haiti, Iraq, and the former Yugoslavia, now resorts to only targeted sanctions, using impact assessments and an appeals procedure in certain cases.

The right of people to self-determination, the realization of which “is an essential condition for the effective guarantee and observance of individual human rights,”<sup>23</sup> can also be affected by unilateral sanctions, especially comprehensive ones. This right is recognized in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which both state in their Article 1 that “by virtue of that right [the peoples] freely determine their political status and freely pursue their economic, social and cultural development.” The second paragraph of Article 1 of both covenants provides that “in no case may a people be deprived of its own means of subsistence.”<sup>24</sup> Scholars have noted that in that respect “it is plain that in a given case, universally imposed sanctions regimes, which are insufficiently tailored or targeted and which lack adequate humanitarian exemptions, could have the cumulative effect of depriving a population, or substantial sections of it, of their means of subsistence.”<sup>25</sup> It also seems reasonable to argue that “unilateral economic sanctions (as opposed to multilateral UN measures under Chapter VII of the Charter) imposed by one State or group of States on another, to compel the latter to change a particular political or economic policy, could amount to a prohibited intervention and a denial of self-determination.”<sup>26</sup>

Finally, the right to development, particularly as recognized in General Assembly Resolution 41/128, is especially vulnerable to economic sanctions. The Human Rights Council reaffirmed in 2017 that “unilateral coercive measures are major obstacles to the implementation of the Declaration on the Right to Development.”<sup>27</sup> It is clear that economic sanctions imposed on a country almost inevitably pose serious disincentives for foreign investors, as well as for foreign banks and international financial institutions, such as the World Bank Group. This harms the country’s economy, which in turn affects everyone’s human rights, especially the poorest and most vulnerable segments of the population.<sup>28</sup> In Iran, for example, recent U.S. economic sanctions have affected tens of millions of ordinary Iranians, disrupting their access to jobs, food, and often medicine. When the United States reimposed these economic sanctions in 2018, Secretary of State Mike Pompeo boasted that after a new wave of sanctions, Iran would “be battling to

keep its economy alive.”<sup>29</sup> This clearly shows that according to U.S. officials, an indiscriminate, massive impact on the economy and Iran’s population is actually the intended consequence of the sanctions regime.<sup>30</sup> And yet somehow the current U.S. administration makes the paradoxical claim that the sanctions are not intended to hurt ordinary civilians.<sup>31</sup>

## REMEDYING DENIAL OF JUSTICE AND PROMOTING MINIMAL PROTECTIONS

Too often, civilians affected by economic sanctions, embargoes, and blockades are left without any meaningful remedies or forums wherein they can seek to have individual sanctions lifted or can obtain compensation and redress for harms wrongly suffered. To remedy this, the existing legal protections against economic sanctions, such as judicial review before the courts of the European Union available to those affected by EU sanctions, should be replicated in other regions of the world. The international community, which almost entirely agrees on the inadmissibility of extraterritorial application of secondary sanctions, should be called on to affirm *at the very least* certain basic requirements for existing sanctions regimes, pending the elimination of their use. These requirements should include mandatory human rights impact assessments (HRIAs) of sanctions programs, the availability of judicial review, and the existence of effective humanitarian exemptions.

First, HRIAs of sanctions programs should be recognized as a nonderogable obligation (that is, a right that cannot be withheld or compromised) that is incumbent on states using sanctions. In my 2017 report to the UN Human Rights Council, I suggested that such an obligation be formulated, without prejudice to the legality or other such conditions of the sanctions, as follows:

The parties implementing unilateral sanctions are under an obligation to conduct a transparent human rights impact assessment of the measures envisaged, and to monitor on a regular basis the effects of implementation of the measures, including as regards their adverse effects on human rights.<sup>32</sup>

Such HRIAs should be conducted by the relevant state authorities, but could also be conducted by NGOs and international organizations, especially in cases where the responsible state fails to conduct such an assessment. The assessment should be conducted *ex ante*—before the measures are enacted—and aim to measure the potential future effects of such measures on human rights, thus allowing

the state to adjust or change the sanctions regime with a view to preventing human rights violations. The assessment should also be carried out *ex post*, with a view to measuring the actual impact of implemented sanctions through comparison between the current situation and the situation before the measures were adopted. Monitoring should remain in place as long as the sanctions program remains in force.<sup>33</sup>

Second, states should take measures to guarantee due process, judicial review, and redress to affected groups and individuals.<sup>34</sup> Often, meaningful forums or mechanisms to ensure remedies for victims of economic sanctions prove unavailable *de facto*, which amounts to a denial of justice. In this regard, the outcome of the pending contentious proceedings initiated before the International Court of Justice in the case of *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)* should be closely examined. This case relates to a land, air, and sea embargo (*not* a blockade, despite the lazy application of this term in news reports) that the United Arab Emirates, along with Bahrain, Saudi Arabia, and Egypt, imposed in June 2017 against Qatar—an embargo that still stands as of this writing. The court will consider whether the sanctions are compliant with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and under what conditions. If the court concludes they are not, this could in turn give new life to the possibility for individual victims, or entire states, to bring claims before the Committee on the Elimination of Racial Discrimination or for an affected state party to the ICERD to initiate contentious proceedings. In an order from July 23, 2018, the court considered that “at least some of the rights asserted by Qatar under Article 5 of CERD are plausible.”<sup>35</sup> It would be presumptuous at this stage, however, to draw conclusions as to whether this gives a clue as to what the court will decide on the substance of the case.

Third, effective humanitarian exemptions to any sanctions regime are a basic requirement of fundamental importance. I have repeatedly denounced the fact that in some cases payments and financial flows are affected by *de facto* bans on the use of SWIFT (Society for Worldwide Interbank Financial Telecommunication), the international wire transfer payment system, making humanitarian exemptions to sanctions ineffective. When humanitarian organizations inside the sanctioned country have no ability to pay for imports, they cannot buy food or medicine. This creates a situation that effectively amounts to an

unlawful blockade or may be comparable to collective reprisals, both of which are banned under humanitarian law.<sup>36</sup>

In my capacity as a UN Special Rapporteur, I have called on the United Nations and independent procurement agencies in third countries to remedy these situations and to ensure that humanitarian supplies reach target countries.<sup>37</sup> One positive development in this regard is the recent joint establishment of the Instrument in Support of Trade Exchanges (INSTEX) by France, Germany, and the United Kingdom, with the support of the EU. This is a special-purpose vehicle aimed at facilitating legitimate trade between European economic operators and Iran. It is an attempt to address the new wave of U.S. sanctions, which expressly claim to apply extraterritorially on a worldwide basis, thus threatening EU people and companies dealing with Iran. The sanctions threaten to cut off third-country businesses from access to the U.S. market if they continue to conduct even humanitarian-related business with firms in Iran, creating the risk of financial penalties and criminal liability in the United States for such countries. According to its sponsors, INSTEX “will support legitimate European trade with Iran, focusing initially on the sectors most essential to the Iranian population—such as pharmaceutical, medical devices and agri-food goods.”<sup>38</sup> At the time of this writing, some measure of uncertainty still surrounds this mechanism. According to certain sources, there might be a lack of political will on the EU side to ensure its effectiveness in shielding EU companies trading with Iran from U.S. sanctions, in the face of threats voiced by U.S. officials. This being said, it is worthy of note that INSTEX aims in the long term to be open to economic operators from third countries that wish to trade with Iran.

Another significant mitigation measure could flow from the broad-based recognition of the unlawfulness of secondary extraterritorial sanctions, already mentioned. There is arguably a duty under international law for states not to recognize such measures, grounded in customary international law. The UN General Assembly should solemnly affirm this principle by passing a resolution that states are expected to take appropriate measures (including under their domestic laws) to deny any effect or recognition or enforcement in any manner in their respective jurisdictions to extraterritorial secondary sanctions. In 1996 the EU adopted a regulation (“blocking order”) that prohibited EU persons from complying with U.S. sanctions against Cuba, Iran, and Libya; and in 2018 the EU passed a similar regulation that obliges EU companies not to comply with certain U.S. sanctions on Iran. Both regulations, in theory, allow EU



companies that run afoul of U.S. secondary sanctions and thus have to pay a fine to sue the U.S. administration in courts in EU member states to recover damages. However, these regulations, while perhaps symbolically important, are largely seen as toothless and have never been effectively used.

States and international organizations should work toward the recognition of the three aforementioned basic requirements—HRIAs, forums for legal remedies, and effective humanitarian exemptions—as the minimum legal obligations for state-applied sanction. However, this should not be the ultimate goal: they should then work toward the full renunciation and prohibition of unilateral sanctions as a coercive tool.

## CONCLUSION

I am of the view that the phenomenon of escalation and stockpiling of economic sanctions outside the ambit of the UN Security Council is a major step back for the rule of law with egregious, albeit often unintended, consequences on innocent populations, especially in the most vulnerable countries. Comprehensive economic sanctions have been adequately described as a tool to “destroy a country in order to save it,”<sup>39</sup> and that is an inhumane and unethical form of foreign policy.

In addition to the measures suggested above, I have also suggested that the UN secretary-general consider appointing one or more special representatives on unilateral coercive measures, each in charge of one or more country-specific sanctions regimes. That would be a very strong signal of the United Nations system’s engagement with the ongoing efforts to limit and ultimately abolish the use of unilateral sanctions. The mandate of a special representative on unilateral sanctions could encompass advocacy for the respect of international law in matters related to unilateral coercive measures, the negotiation of relief measures, the alleviation of the most indiscriminate measures, and the ultimate consensus on a case-by-case basis for the removal of unilateral sanctions.<sup>40</sup>

Beyond this, I also favor a quiet-diplomacy approach that consists of engaging constructively with a source or a target country with the goal of promoting consensus, as was the case for the lifting of sanctions against the Sudan. In that case, a joint engagement with the parties through quiet diplomacy by the independent expert on the Sudan and myself achieved the desired objective—namely, the U.S. decision to lift sanctions, which had the effect of improving the living

conditions of the most vulnerable groups in the Sudan.<sup>41</sup> It bears mention here that the sanctions against the Sudan had fostered a “rally-round-the-flag” reaction that consolidated the regime of Omar al-Bashir. It was actually the lifting of the U.S. sanctions that had been applied for over two decades that emboldened the Sudanese population to remove Bashir, and to do so without the activists being accused of pandering to an outside power.

Nevertheless, the restrictive character of these unilateral measures is increasing over time. Embargoes that restrict trade between source and target countries are gradually mutating into blockades by which source countries compel third countries to stop any business relations with a target state. This is a denial of the rights of entire nations, whose people wind up hostage to these inhumane practices. The fact that these blockades are so inhumane leaves little space for providing a dignified outcome for the targeted state, which often leads to the eruption of violence in response. Hence, measures of economic pressure intended to be a peaceful alternative to conflict could have the opposite effect and become instigators of war.

#### NOTES

<sup>1</sup> For a collection of essays on selected contemporary aspects of transnational coercion, see Kelly M. Greenhill and Peter Krause, eds., *Coercion: The Power to Hurt in International Politics* (Oxford: Oxford University Press, 2018).

<sup>2</sup> See Lance E. Davis and Stanley L. Engerman, *Naval Blockades in Peace and War: An Economic History since 1750* (Cambridge, U.K.: Cambridge University Press, 2006); and Christopher Greenwood, “Historical Development and Legal Basis,” in Dieter Fleck, ed., *The Handbook of International Humanitarian Law*, 2nd ed. (Oxford: Oxford University Press, 2008), p. 26.

<sup>3</sup> On the prohibition of starvation of the civilian population, see Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Article 54, “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977,” July 12, 1978, [ihl-databases.icrc.org/ihl/INTRO/470](http://ihl-databases.icrc.org/ihl/INTRO/470); and Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Article 14, “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II),” July 12, 1978, [ihl-databases.icrc.org/ihl/INTRO/475?OpenDocument](http://ihl-databases.icrc.org/ihl/INTRO/475?OpenDocument). On the obligation to permit free passage of consignments of essential foodstuffs and medical supplies, see Article 23, “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Convention),” 1st para, [www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33\\_GC-IV-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf).

<sup>4</sup> Such is the case, for example, when an embargo effectively becomes a blockade. An embargo can be defined as a regime of restriction, or prohibition, of trade with a given country, including through bans on imports and/or exports. A blockade, by contrast, is a belligerent operation undertaken to prevent vessels or aircraft of all nations, enemy and neutral, from entering or exiting specified ports, airports, or coastal areas of an enemy nation.

<sup>5</sup> A study by Lance Davis and Stanley Engerman found that “the country or countries imposing sanctions have almost always been both larger and more economically and militarily powerful than the target country . . . . In the 115 cases of economic sanctions deployed since 1914 that were investigated by [Gary Clyde] Hufbauer, [Jeffrey] Schott, and [Kimberly Ann] Elliott [in their work *Economic Sanctions Reconsidered: History and Current Policy*] (1990, p. 63) the GNP of the sender (or principal initiator) of sanctions was nearly always over ten times that of the target and in the majority of cases more than 50 times greater. Where ‘modest policy changes’ were at stake, the sender’s economy was on average more than 200 times larger than the target’s economy, and where ‘destabilization’ of the

- government was the goal, the average ratio exceeded 400” (p. 191). Lance Davis and Stanley Engerman, “History Lessons: Sanctions: Neither War Nor Peace,” *Journal of Economic Perspectives* 17, no. 2 (Spring 2003), pp. 187–97.
- <sup>6</sup> Donald J. Trump, Twitter post, March 2, 2018, 5:50 a.m., <https://twitter.com/realdonaldtrump/status/969525362580484098?lang=en>.
- <sup>7</sup> See United Nations General Assembly, “Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order on His Mission to the Bolivarian Republic of Venezuela and Ecuador,” A/HRC/39/47/Add.1, September 10–28, 2018, [undocs.org/A/HRC/39/47/ADD.1](https://undocs.org/A/HRC/39/47/ADD.1).
- <sup>8</sup> Article 24, Charter of the United Nations, June 26, 1945, [www.un.org/en/sections/un-charter/chapter-v/index.html](http://www.un.org/en/sections/un-charter/chapter-v/index.html).
- <sup>9</sup> Resolution 73/8 was adopted by a vote of 189 states in favor and 2 against (United States and Israel). The resolution is the latest of a long series of UN General Assembly resolutions adopted annually since 1992 condemning the U.S. embargo on Cuba. United Nations General Assembly, Resolution 73/8, “Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba,” November 1, 2018, [undocs.org/en/A/RES/73/8](https://undocs.org/en/A/RES/73/8).
- <sup>10</sup> *Ibid.*, preamble.
- <sup>11</sup> *Ibid.*, operative para. 2.
- <sup>12</sup> United Nations General Assembly, Resolution 73/8, “Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba,” November 1, 2018, p.1, [undocs.org/A/RES/69/5](https://undocs.org/A/RES/69/5).
- <sup>13</sup> *Ibid.*
- <sup>14</sup> See, for example, Marc Bossuyt, “The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights” (working paper E/CN.4/Sub.2/2000/33, Commission on Human Rights, June 21, 2000).
- <sup>15</sup> Lee Jones, *Societies under Siege: Exploring How International Economic Sanctions (Do Not) Work* (Oxford: Oxford University Press, 2015), p. 184.
- <sup>16</sup> Ali Fathollah-Nejad, quoted in *ibid.*, p. 185.
- <sup>17</sup> See Council of the European Union, “Syria: EU Extends Sanctions against the Regime by One Year,” May 28, 2018, [www.consilium.europa.eu/en/press/press-releases/2018/05/28/syria-eu-extends-sanctions-against-the-regime-by-one-year/](http://www.consilium.europa.eu/en/press/press-releases/2018/05/28/syria-eu-extends-sanctions-against-the-regime-by-one-year/).
- <sup>18</sup> See United Nations General Assembly, “Research-Based Progress Report of the Human Rights Council Advisory Committee Containing Recommendations on Mechanisms to Assess the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights and to Promote Accountability,” A/HRC/28/74, February 10, 2015, [undocs.org/A/HRC/28/74](https://undocs.org/A/HRC/28/74).
- <sup>19</sup> See United Nations General Assembly, “Human Rights and Unilateral Coercive Measures,” A/70/345, August 28, 2015, paras. 18–23, [undocs.org/A/70/345](https://undocs.org/A/70/345).
- <sup>20</sup> See *ibid.*, paras. 38–44.
- <sup>21</sup> *Ibid.*, paras. 45–46.
- <sup>22</sup> *Ibid.*, paras. 34–37.
- <sup>23</sup> UN Human Rights Committee, *CCPR General Comment No. 12: Article 1 (Right to Self-Determination), The Right to Self-Determination of Peoples*, March 13, 1984, para. 1.
- <sup>24</sup> United Nations, Article 1, “International Covenant on Civil and Political Rights,” March 29, 1967; and United Nations, Article 1, “International Covenant on Economic, Social and Cultural Rights,” December 16, 1966.
- <sup>25</sup> Ben Saul, David Kinley, and Jacqueline Mowbray, *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* (Oxford: Oxford University Press, 2014), p. 118. See also United Nations General Assembly, “Human Rights and Unilateral Coercive Measures,” A/70/345, paras. 25–30.
- <sup>26</sup> Saul, Kinley, and Mowbray, *International Covenant on Economic, Social and Cultural Rights*, p. 107.
- <sup>27</sup> United Nations General Assembly, Resolution 34/13, “Human Rights and Unilateral Coercive Measures,” A/HRC/RES/34/13, March 24, 2017, p. 2, [undocs.org/A/HRC/RES/34/13](https://undocs.org/A/HRC/RES/34/13). See also Rahmat Mohamad, “Unilateral Sanctions in International Law: A Quest for Legality,” in Ali Z. Marossi and Marisa R. Bassett, eds., *Economic Sanctions under International Law: Unilateralism, Multilateralism, Legitimacy, and Consequences* (Hague: T. M. C. Asser, 2015), pp. 71–81.
- <sup>28</sup> See United Nations General Assembly, “Human Rights and Unilateral Coercive Measures,” A/70/345, paras. 31–33.
- <sup>29</sup> Mike Pompeo, “After the Deal: A New Iran Strategy” (remarks, Heritage Foundation, Washington, D.C., May 21, 2018), [www.state.gov/secretary/remarks/2018/05/282301.htm](http://www.state.gov/secretary/remarks/2018/05/282301.htm).
- <sup>30</sup> See “Background Briefing on President Trump’s Decision to Withdraw from the JCPOA” (special briefing, Washington, D.C., May 8, 2018), [www.state.gov/r/pa/prs/ps/2018/05/281959.htm](http://www.state.gov/r/pa/prs/ps/2018/05/281959.htm).

- <sup>31</sup> See, for example, Ed Pilkington, “Mike Pompeo Insists US Sanctions Will Not Hurt Iranian People,” *Guardian*, November 4, 2018, [www.theguardian.com/world/2018/nov/04/pompeo-trump-us-sanctions-oil-iran-iranian-people](http://www.theguardian.com/world/2018/nov/04/pompeo-trump-us-sanctions-oil-iran-iranian-people).
- <sup>32</sup> United Nations General Assembly, Idriss Jazairy, “Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights,” A/HRC/36/44, September 11–29, 2017, app. 2, para. 13(a), [undocs.org/en/A/HRC/36/44](http://undocs.org/en/A/HRC/36/44).
- <sup>33</sup> See United Nations General Assembly, Idriss Jazairy, “Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights,” A/HRC/39/54, September 10–28, 2018, [documents-dds-ny.un.org/doc/UNDOC/GEN/G18/264/85/PDF/G1826485.pdf?OpenElement](http://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/264/85/PDF/G1826485.pdf?OpenElement).
- <sup>34</sup> See *ibid.*, paras. 20–23.
- <sup>35</sup> International Court of Justice, “Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates); Request for the Indication of Provisional Measures Order” (General List No. 172), July 23, 2018, p. 20.
- <sup>36</sup> See United Nations General Assembly, Idriss Jazairy, “Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Idriss Jazairy,” A/HRC/30/45, August 10, 2015, para. 42, [undocs.org/A/HRC/30/45](http://undocs.org/A/HRC/30/45).
- <sup>37</sup> See United Nations General Assembly, Idriss Jazairy, “Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights,” A/73/175, July 17, 2018, para. 36, [undocs.org/A/73/175](http://undocs.org/A/73/175).
- <sup>38</sup> “Joint Statement on the Creation of INSTEX, the Special Purpose Vehicle Aimed at Facilitating Legitimate Trade with Iran in the Framework of the Efforts to Preserve the Joint Comprehensive Plan of Action (JCPOA) (31 January 2019)” (statement issued by Jean-Yves Le Drian, Heiko Maas, and Jeremy Hunt), France Diplomatie, [www.diplomatie.gouv.fr/en/country-files/iran/events/article/joint-statement-on-the-creation-of-instex-the-special-purpose-vehicle-aimed-at](http://www.diplomatie.gouv.fr/en/country-files/iran/events/article/joint-statement-on-the-creation-of-instex-the-special-purpose-vehicle-aimed-at).
- <sup>39</sup> Charles A. Rarick, “Destroying a Country In Order to Save It: The Folly of Economic Sanctions against Myanmar,” *Economic Affairs* 26, no. 2 (June 2006), pp. 60–63.
- <sup>40</sup> See United Nations General Assembly, “Report of the Special Rapporteur,” A/HRC/39/54, para. 50.
- <sup>41</sup> *Ibid.*, para. 48.

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Abstract: As part of the roundtable “Economic Sanctions and Their Consequences,” this essay examines unilateral coercive measures. These types of sanctions are applied outside the scope of Chapter VII of the United Nations Charter, and were developed and refined in the West in the context of the Cold War. Yet the eventual collapse of the Berlin Wall did not herald the demise of unilateral sanctions; much to the contrary. While there are no incontrovertible data on the extent of these measures, one can safely say that they target in some way a full quarter of humanity. In addition to being a major attack on the principle of self-determination, unilateral measures not only adversely affect the rights to international trade and to navigation but also the basic human rights of innocent civilians. The current deterioration of the situation, with the mutation of embargoes into blockades and impositions on third parties, is a threat to peace that needs to be upgraded in strategic concern.

Keywords: unilateral coercive measures, sanctions, secondary sanctions, embargoes, blockades, human rights, international law