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"ECONOMIC SANCTIONS IN INTERNATIONAL LAW AND ITS IMPACT ON GLOBAL TRADE"

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CERTIFICATE

This is to certify that **Ms. PRATISHTHA NEGI** Reg. No. **LM0223018** has submitted her dissertation titled, **"ECONOMIC SANCTIONS IN INTERNATIONAL LAW AND ITS IMPACT ON GLOBAL TRADE"** in partial fulfilment of the requirement for the award of Degree of Master of Law in International Trade Law to the National University of Advanced Legal Studies, Kochi under my guidance and supervision. It is also affirmed that, the dissertation submitted by her is original, bona-fide and genuine.

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DECLARATION

I do hereby declare that the dissertation titled, **"ECONOMIC SANCTIONS IN INTERNATIONAL LAW AND ITS IMPACT ON GLOBAL TRADE"** researched and submitted by me to the National University of Advanced Legal Studies, Kochi in partial fulfillment of the requirement for the award of Degree of Master of Law in International Trade Law, under the guidance and supervision of **Dr. ANIL R. NAIR**, is an original, bonafide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

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ABBREVIATIONS

- AAWH Association for World Health
- ARISWA Articles on Responsibility of States for Internationally Wrongful Acts
- AU African Union
- CUC Cuban Convertible Pesos
- EGC European General Court
- EO Executive Order
- EU European Union
- FDI Foreign Direct Investment
- GATT General Agreement on Tariffs and Trade
- GDP Gross Domestic Product
- GPA Global Political Agreement
- IAEA International Atomic Energy Association
- IMF International Monetary Fund
- IPR Intellectual Property Rights
- JCPOA Joint Comprehensive Plan of Action
- JPA Joint Plan of Action
- M&A Mergers and Acquisition
- MFN Most Favoured Nation
- MNC Multi-national Corporation
- NPT Treaty on the Non-Proliferation of Nuclear Weapons
- NT National Treatment
- OAS Organization of American States
- OFAC Office of Foreign Assets Control
- OSCE Organization for Security and Cooperation in Europe
- REPO Russian Elites, Proxies, and Oligarchs
- SWIFT Society for Worldwide Interbank Financial Telecommunications
- TRIPS Trade Related Aspects of Intellectual Property Rights
- TSJ Supreme Tribunal of Justice
- UK United Kingdom
- UN United Nations

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- UN PoE United Nations Panel of Experts
- UNSCR United Nations Security Council Resolution
- US United States
- WMD Weapons of Mass Destruction
- WTO World Trade organization
- ZANU Zimbabwe African National Union
- ZAPU Zimbabwe African People's Union
- ZDERA Zimbabwe Democracy Economic Recovery Act
- ZNLWVA Zimbabwe National Liberation War Veterans Association

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CHAPTER 1

INTRODUCTION

Economic Sanctions in International Law and its Impact on Global Trade

I. INTRODUCTION

According to McGillivray & Stam (2004), economic sanctions are "*...an example of coercive [and cohesive] diplomacy designed to induce a target country to change some policy it would not otherwise...*"[1]

Economic sanctions are sanctions levied by international organizations or nations, unilaterally or multilaterally, against any one or multiple countries as a tool to coerce them to change their actions by employing economic pressure. International Law, both customarily and as per written charters of international entities, allows the nations and international organizations to impose sanctions against a State or a non-State actor who has breached any international commitments or has taken actions that threaten international peace and security. Sanctions are non-military measures that usually serve as a deterrent or substitute for engaging in war in a conflict. The present research paper aims to study and analyze customary and codified laws for economic sanctions in International Law.

Economic sanctions can come in various forms, such as trade barriers, asset freezes, travel bans, arms embargoes, and restrictions on financial transactions. However, the present research will effectively focus on trade-related sanctions, including but not limited to trade barriers, embargoes, and restrictions placed on financial transactions.

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[1] Mararike, M. Zimbabwe. "*Economic Sanctions and Post-Colonial Hangover: A Critique of Zimbabwe Democracy Economic Recovery Act (ZDERA)–2001 to 2018.*" 7 Int'l J. Soc. Sci. Stud. 201 (2018). https://doi.org/10.11114/ijsss.v7i1.3895. (last visited on 13.06.2024).

II. Statement of the Problem

As mentioned above, International Law allows nations, States, and organizations to impose sanctions against violations of settled international commitments, norms, or peace. The idea of sanctions arose in response to the prohibition of military force by the UN Charter in 1945, except in cases of self-defense. The Charter saves the use of military sanctions only as a last resort if no other sanctions are effective or adequate. Other than the UN, international entities like the EU and OSCE (the Organization for Security and Cooperation in Europe), employ this method. The sanctions can also be applied by the nations unilaterally or multilaterally to defend their strategic interests in their regional area or to protect their fundamental objectives against some common global threats.

Regarding their application, the aforementioned economic sanctions can be either target-based or nationwide. Target-based sanctions, often known as "smart sanctions," focus solely on specific persons or groups of individuals in order to send a deterrent message. On the other hand, country-wide economic sanctions are applied to the whole country and affect the whole population of the targeted nation. Since the latter would ultimately worsen the lives of already oppressed civilians and, in the case of a target nation with an authoritarian government, which may not be deterred by such sanctions, it has often been condemned for humanitarian reasons as well as for being ineffective.

Imposing economic sanctions aims to maintain peace and order in the international system. However, the imposing nations have frequently, if only sometimes, used this as a tool to further their political agenda. Therefore, some may be reluctant to place similar restrictions on economically developed nations. The concerns of what constitutes a threat to international peace and how far economic sanctions can be imposed while still being reasonable, equitable, and proportionate to the violation remains unanswered in International Law. This research seeks to be an in-depth study to analyze the present procedure available in International Law to test the legality of such economic sanctions imposed by nations or organizations.

Furthermore, in a globalized and highly interdependent world, the economic sanctions applied to one nation might have a wide-ranging effect on the world. Economic sanctions, especially trade sanctions against a nation or an entity, might backfire or adversely affect global trade if the targeted nation or entity is a dominant player in the said field or industry or holds a monopoly over specific trade. Thus, by examining previous instances of the imposition of such sanctions, the current study will analyze the effects of economic penalties on international trade.

III. Research Questions

Thus, this research will attempt to answer the following questions:

a) What is the present system of laws for economic sanctions in International Law?

b) What are the consequences of economic sanctions on non-targeted nations and the global economy?

c) Whether the presently applicable laws for economic sanctions are adequate for ensuring the legality of the sanctions and containing their adverse impact, if any?

d) Whether there is a need to modify laws on economic sanctions in International Law?

IV. Research Objectives

This research on economic sanctions in International Law aims:

a) To study and analyze the current body of laws for economic sanctions in International Law and to assess its adequacy for achieving its fundamental objectives.

b) To investigate the potential consequences of economic sanctions on global trade.

V. Hypothesis

The current laws for economic sanctions are inadequate in providing unambiguous grounds for imposing such sanctions and do not provide clear reasonability standards for imposing such sanctions.

VI. Literature Review

The current system of laws governing economic sanctions in International Law is primarily structured around the authority of the United Nations Security Council to impose sanctions for global peace and security (Meždunarodnoe pravo, 2023). While multilateral and regional organizations like the EU can also impose sanctions, unilateral sanctions by individual States are often criticized as violations of International Law, especially when they involve extraterritorial enforcement (Jana Ilieva *et al.*, 2018; Hans Kochler, 2019). Recent developments have shifted towards targeted or smart sanctions, focusing on specific entities or activities, with considerations for human rights and mechanisms for challenging listings (Matthew Happold, 2016). The use of economic sanctions, whether unilateral or multilateral, raises complex questions regarding State rights and duties under International Law, with some even questioning whether such measures could constitute crimes against humanity in certain circumstances (Dapo Akande *et al.,* 2021).

Global economic sanctions have a significant impact on various aspects of global trade. Research shows that sanctions can negatively affect foreign direct investment (FDI) inflows, particularly in cross-border mergers and acquisitions, while influencing corruption levels in sanctioned countries (L. Zhao, 2023; Ha Thanh Le, 2023). Furthermore, the imposition of sanctions can disrupt global value chains, leading to changes in trade relations and potential supply chain disruptions (Ekaterina S. Novikova, 2023; Le Thanh Ha *et* Doan Ngoc Thang, 2022). Specifically, economic sanctions have been found to have adverse effects on global banking flows, with the severity of these effects depending on the types of sanctions imposed and the financial market development and institutional quality of the target country (Daria Lagutina, 2022). For the energy and mining sector also, as per the study by Mario Larch *et al.* in 2022, sanctions have been seen to reduce bilateral

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mining trade by about 44% on average.[2] Overall, economic sanctions are crucial in shaping the global trade landscape by impacting investment flows, corruption levels, value chains, and banking activities.

In a similar study concerning the impact of international economic sanctions on trade, an empirical study was conducted by Raul Caruso in 2003, wherein estimation of the impact of economic negative sanctions on international trade is provided, through a gravity model approach for the United States, which has most frequently applied negative economic sanctions after World War II.[3]

Various authors have taken up a wide range of studies on economic sanctions from the point of view of different fields of economy, business, and investments. However, there needs to be more research to analyze the framework of international economic sanctions in the legal context, specifically in International Law, and the drawbacks it suffers from vis-a-vis its impact on global trade. This research further provides a comprehensive view of the multifaceted impact of international sanctions in the diverse but interconnected trade sectors in the present globalized world.

VII. Chapterization

I. Introduction

This chapter will lay down an overview of the whole research paper by introducing the topic and giving the framework of how the research has been conducted.

II. Laws Governing Economic Sanctions

Herein, the chapter will delve into the definition, types, and forms of economic sanction and determine how they earn their legality in International

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[2] Mario Larch, Serge Shikher, Constantinos Syropoulos, & Yoto V. Yotov. "*Quantifying the Impact of Economic Sanctions on International Trade in the Energy and Mining Sectors.*" (2022). https://doi.org/10.2139/ssrn.3784389. (last visited on 12.06.2024).

[3] Raul Caruso. "*The Impact of International Economic Sanctions on Trade: An Empirical Analysis.*" 9 Peace Econ., Peace Sci. & Pub. Pol'y 2. (2003). https://doi.org/10.2202/1554-8597.1061. (last visited on 12.06.2024).

Law, both in customary International Law and under charters of international institutions.

III. Case Studies on Reasons, Implementation, and Consequences of Economic Sanctions

This chapter comprehensively analyzes economic sanctions through various case studies, offering a holistic view of their motivations, implementations, and outcomes. Economic sanctions are a tool of coercive diplomacy used to influence the policies and behaviors of target nations without resorting to military force.[4] The case studies of Iran, North Korea, Zimbabwe, Venezuela, Cuba, and Myanmar illustrate such sanctions' diverse contexts and complex ramifications.

IV. Impact and consequences of Economic Sanction vis-a-vis Global Trade

Sanctions, while aimed at exerting political pressure, often lead to unintended economic consequences that ripple through both the targeted and global economies, and understanding the broader economic consequences of sanctions is essential to developing strategies to mitigate their adverse effects. In this chapter, the author has explored the intricate relationship between economic sanctions and their broader implications on global trade, investments, and other areas, such as Intellectual Property Rights.

V. Conclusions, Shortcomings, and Suggestions

The research will conclude by listing some suggestions with regard to the drawbacks of the current system, if any, and providing the overall big picture within which the economic sanctions were raised or intended to be raised as an effective tool to maintain international peace.

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[4] Moon, Y. "*The case of US secondary sanctions against North Korea (2001–2020).*" (2022). https://core.ac.uk/download/540986562.pdf (last visited on 13.06.2024).

CHAPTER 2

LAWS GOVERNING ECONOMIC SANCTIONS

1. INTRODUCTION

Economic sanctions are financial or commercial restrictions that State(s) impose to coerce the targeted nation(s) into adopting or amending their domestic policies. States or nations have been using such sanctions as foreign policy tools to strengthen their diplomatic position or stand in the complex web of international relations with other sovereign nations. This increase in resorting to economic sanctions has resulted from increasing apprehension about exercising military powers to achieve national or international objectives. After witnessing the horrors of the two world wars, the international community has made endless efforts to deem the use of force, especially military force, as an unacceptable method for maintaining global peace. Economic sanctions, after that, arose as an alternative for achieving the ultimate objective of maintaining peace and order in the international community.

Hereinforth, to study the legal framework of economic sanctions, the aim and purpose of the economic sanctions will be considered to facilitate the implementation of international obligations under International Laws and treaties rather than the political agendas of a nation or group of nations. As of March 2024, there has yet to be a comprehensive body of law governing economic sanctions. Their legality and scope are usually derived from various instruments of laws and agreements like the UN (UN) Charter, UN General Assembly Resolutions, multilateral agreements, resolutions passed by the UN Security Council, and many other conventions and agreements reached by States. However, the essential requirement for an acceptable economic sanction remains compliance with the fundamental and universally acknowledged principles of International Laws.

In order to have a better understanding of the concept of economic sanctions, it will be helpful to have a brief outlook into the history and the development of economic sanctions and compare its history with the modern version. The said perspective will help identify issues that require attention to develop an efficient and comprehensive legal system for economic sanctions.

2. HISTORY OF ECONOMIC SANCTIONS

Economic sanctions include restrictions on trade, travel, and access to financial assets. The government of one nation imposes them on another government, an organization, or any individual(s). The primary aim is usually either to compel the other entity to do something or to prevent the target from acting on specific policies.[5]

Sanctions in the form of embargoes, i.e., official bans on trade with a particular government or organization, can date back to ancient times whereby States used to block the ports to interrupt trade with the target State, especially of food to force them into submission by starvation during war times or before resorting to warfare. The earliest record of a State using such a tactic is by Athens in 432 BCE when they banned the Megara traders from their market. Such actions were commonly seen in medieval times, too, where restrictions on trade were incidental to war or threat of war or for forcing submission from the enemy State.

Over time, such restrictions became more refined as they got intertwined with the foreign policies of every nation. Trade has long bridged nations irrespective of their distance or culture. However, when any nation becomes substantially dependent on one or more States for essential goods, it somewhat loses its internal sovereignty. It is bound to be influenced by external pressures from the trading countries. European nations routinely used boycotting and embargoes to intervene in other States' domestic governance during medieval and early modern times.

However, the use of economic sanctions, as they are presently known, reached its peak popularity in the 20th century as an after-effect of the First World War and later during the Cold War in the power struggle between the US of America (hereinafter referred to as "USA") and the Soviet Union.

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[5] Metych, M. "*Economic Sanctions.*" Encyclopedia Britannica. (December 22, 2023) https://www.britannica.com/topic/economic-sanctions. (last visited on 12.04.2024).

Economic sanctions became widespread after the formation of the League of Nations and the United Nations organization (hereinafter referred to as “UN”). The League of Nations imposed sanctions on Italy after it invaded Ethiopia in 1935, while the UN has imposed multiple sanctions on numerous countries since its founding in 1945.

In the 21st century, economic sanctions have become a tool of foreign policy often used by nations to coerce the targeted nation to act or make policies in a required way. Before the 1990s, which was a highly active period concerning economic sanctions, the UN imposed mandatory economic sanctions twice in the cases of Southern Rhodesia and South Africa. This era, however, also saw an increase in sanctions being used by countries like the USA unilaterally or by regional institutions like the European Union (hereinafter referred to as “EU”) and African Union (AU), which were outside the domain and scope of the UN Charter. We call such sanctions “autonomous” or “unilateral” today, which require legal justification from the imposing countries or organizations.

Another development that was seen later in the 21st century was with respect to the nature of the economic sanctions vis-a-vis its impact on the civilian population of the target country, wherein it was the people of the country who bore the consequences of the trade sanctions and the brunt of high prices and disruption of their livelihood caused by the same. This issue led to the evolution of targeted sanctions imposed on individuals or organizations that played essential roles in the government or economy against comprehensive sanctions imposed country-wide.

The next part will focus on the existing international instruments that will provide us with a specific outline or skeleton of the framework within which economic sanctions are governed.

3. THEORETICAL FRAMEWORK

Economic sanctions are a complex policy tool, and the decision to impose them involves various factors and theoretical perspectives. Here is an overview of some critical decision-making theories relevant to economic sanctions:

1. **Rational Choice Theory**

   This theory supposes that nations behave rationally to maximize gains and minimize losses. In sanctions, countries weigh the potential benefits of achieving their goals (e.g., pressuring a target country to change its behavior) against the potential costs (e.g., economic harm to the imposing country or its population).

2. **Bureaucratic Politics Model**

   This model emphasizes the role of different government agencies and their interests in shaping foreign policy decisions. Different agencies might have conflicting priorities regarding sanctions, with some prioritizing security concerns and others focusing on economic interests.

3. **Domestic Politics Model**

   This model highlights the influence of domestic political pressures on sanctions decisions. Politicians might be swayed by public opinion, lobbying from businesses affected by sanctions, or pressure from ethnic groups with ties to the target country.

4. **Game Theory**

   This theory explores the strategic interactions between countries when considering sanctions. It analyzes potential responses from the target country and third-party countries and the potential for cooperation or escalation.

5. **Hegemonic Stability Theory**

   This theory suggests that a dominant power (hegemon) plays a crucial role in maintaining international order. In the context of sanctions, the hegemon might use sanctions to promote its preferred norms and maintain its position of power.

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6. **Cosmopolitanism**

   This approach takes into consideration the global impact of sanctions, including the potential harm to civilians in the target country and spillover effects on neighboring countries. It advocates for targeted sanctions that minimize these negative consequences.

7. **Constructivism**

   This theory focuses on the role of shared norms and ideas in shaping international relations. It explores how the framing of sanctions and the perceived legitimacy of these norms influence their effectiveness.

8. **Realism**

   Herein the power dynamics and national interests play the central role in international relations. Realists might view sanctions primarily as a tool for coercion, with less focus on promoting norms or considering humanitarian concerns.

It is important to remember that these theories are not mutually exclusive. Countries often consider a combination of factors when deciding to impose sanctions. The specific weight given to each theory might vary depending on the imposing country's circumstances and goals.

Based on the different functions carried out by the sanctions and the decision-making process involved in its implementation, the policy of economic sanctions can be said to have two core principles: realism and liberalism with their derivatives, hegemonism (referred to as constructivism by various scholars), and cosmopolitanism, respectively.[6]

Where realism posits that States act in their self-interest to maximize power and wealth, often leading to conflicts and economic wars, liberalism advocates for free trade and cooperation between States, emphasizing that sanctions should be governed by International Law and norms. As per the realist approach, economic

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[6] Anton Filipenko & Olena Bazhenova & Roman Stakanov. "*Economic Sanctions: Theory, Policy, Mechanisms.*" 6(2) Baltic Journal of Economic Studies. 71. (2020).

sanctions are tools of foreign policy used to coerce other States, while liberals view sanctions as a means to uphold legal and moral standards in the international community.

In international relations, cosmopolitanism is a political-moral philosophy that posits people as world citizens rather than of a particular State. Within the framework of liberal economic theory, the theory argues for a global perspective when considering economic sanctions. Unlike the traditional view, in which sanctions are often seen as a tool for a single country or group of countries to pressure a target country to change its behavior, with national interests and security concerns being central factors, cosmopolitans advocate for considering the broader global impact of sanctions, including the well-being of the target country's population and potential negative consequences for other countries. It considers the humanitarian impact of the sanctions along with its long-term (both economic and social) and spillover effect (adverse impact on third-party nations). This theory has given rise to concepts like targeted sanctions, humanitarian exemptions and prioritizing international cooperation in designing and implementing sanctions to mitigate adverse spillover effects. These methods, however, can immensely weaken the effectiveness of the sanctions as they may require adequate and efficient administrative institutes or enforcement mechanisms, which might become costlier for the sanctioning nation.

On the contrary, constructivism highlights the social aspects and the influence of powerful countries in economic sanctions policy. It emphasizes the importance of shared international norms and how they influence the effectiveness of sanctions. Per this theory, sanctions are seen as a tool to communicate disapproval and pressure a target country to conform to these norms. Herein, the success of sanctions often depends on their perceived legitimacy in the international community, and the role of public opinion and justifications for the sanctions can influence their effectiveness.

The implementation of the sanctions is again based on two approaches:

- **Rule-based Approach**

  It refers to a strategy for imposing sanctions that relies on pre-defined criteria and established norms. It is based on a well-defined set of rules that govern when and how sanctions can be imposed. These rules might be outlined in international agreements, national legislation, or established practices. This approach provides consistency in decision-making and predictability for the countries imposing sanctions and the potential target countries.

- **Discretionary Approach**

  This approach allows for tailoring sanctions to the specific situation and the target country, potentially increasing their effectiveness by enabling swift actions against constant changes. It further allows space to factors beyond pre-defined rules, such as the potential humanitarian impact.

4. LEGAL FRAMEWORK FOR ECONOMIC SANCTIONS

International Law boasts of a voluminous body of law encompassing various disciplines from environment to intellectual property rights. Trade forms a significant portion of International Law, which regulates and governs trading across borders and facilitates global economic development. In addition to trade, international organizations have come together to accept and be bound to some universally acknowledged principles and laws to attain world peace and development.

4.1. Charter of the United Nations (1945)

The UN Charter of 1945 is one such agreement that tries to compile broad and fundamental principles, which are agreed on by almost all the world's nations, to achieve international cooperation for overcoming global or international problems of economic, social, cultural, or humanitarian nature. Some underlying principles present throughout the UN Charter are principles of sovereign equality, fulfillment of obligation assumed by the members in accordance with the Charter in good faith, and peaceful settlement of international disputes.

Article 2(4) of the Charter forbids any member State from threatening or using force against any other nation's sovereign authority, including that nation's political independence and territorial integrity. The nature of the term "force" in this provision has not been specifically associated with military force, at least in later years of the UN. Since its conception resulted from a world war, in its nascent stage, the term "force" was restricted to a nation's military force in as much as the possibility of interference by any other way was not developed till that time in their foreign policies. However, the increasing number of member nations becoming part of the rapid globalization phenomenon led to the complex web of international relations between them. Politics and diplomacy started taking the front seat in countries' foreign policies against military threats. Furthermore, the interweaving of domestic economies of nations to form a global economy revived the importance of trade as a foreign policy tool. Its importance can be evidenced by the increasing use of economic sanctions to deal with threats to international peace and security and to promote human rights in the UN Security Council.

The Security Council, under Chapter VII, Articles 39 and 41, has been given the authority to mandate member States of the UN to interrupt, entirely or partially, their economic relations with the target State to induce compliance with its decision. Sanctions, hereunder, can also be referred to as the mandatory economic sanctions.[7] Such directions by the Security Council are given priority over any other international agreements, including economic cooperation between member nations as per Article 103 of the Charter. In relation to WTO, where the nature of sanctions inherently contradicts its basic fundamental principles of National Treatment (NT) and Most Favorable Nation (MFN), the GATT under Article XXI(c) expressly provides for an exception allowing member nations to implement sanctions mandated by the Resolutions passed by the Security Council based on its power under Chapter VII of UN Charter.[8]

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[7] Ventouratou, Anna. "*The Law & Practice of International Courts and Tribunals.*" Litigating Economic Sanctions. (November 18, 2022).

[8] Mitchell, Andrew D. "*Sanctions and the World Trade Organization. In Research Handbook on UN Sanctions and International Law*." 271, 271. (Larissa van den Herik ed., 2017).

4.2. Declarations and Resolutions under the UN General Assembly

With the industrial boom and rapid development of economies, military might was no longer the only factor for having the status of being a "super power nation". States that earlier did not compare to the superpowers like the United States, United Kingdom, and Soviet Union (or present-day Russia) increased their influence on the world stage because of their rapidly developing economy like Germany, Japan, and China. Therefore, to consider the increasing importance of economic might in foreign affairs or international relations, the United Nations General Assembly shifted its focus by passing some of the following resolutions.

- **Resolution 2131 (XX)** titled Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, 1965.

- **Resolution 2625 (XXV)** titled Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the UN, 1970.

- **Resolution 36/103,** titled Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, 1980.

- **Resolution 46/210,** titled Economic Measures as a Means of Political and Economic Coercion against Developing Countries, 1991.

- **Resolution 51/22,** titled Elimination of Coercive Economic Measures as a Means of Political and Economic Compulsion, 1996.

- **Resolution 52/181,** titled Unilateral Economic Measures as a Means of Political and Economic Coercion against Developing Countries, 1997.

- **Resolution 56/83,** titled Responsibility of States for Internationally Wrongful Acts, 2001.

The 1965 and 1970 Declaration expressly prohibited coercive measures of any type, including economic or political, on another sovereign State. This prohibition was in furtherance of Article 1, paragraph 2 of the UN Charter, stating the purpose of the UN as,

"*To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.*"[9]

The 1980 Resolution followed a similar line of thought. It reaffirmed that no State has the right to intervene directly or indirectly for any reason in any other State's internal or external affairs.

While the 1980 Resolution merely included sanctions of an economic nature in its prohibition and targeted mainly the armed intervention by States into territories of others, the 1991 Resolution came out specifically against the developed countries using unilateral economic coercive measures against developing countries to exert, directly or indirectly, coercion on the sovereign decisions of the countries. The General Assembly, while passing this Resolution, raised concerns about the economic coercive measures adversely affecting the economic growth of developing countries as well as international economic cooperation.

Resolution 51/22 of 1996 was recalled and reiterated in Resolution 57/05 in 2002, wherein they called for the repeal of unilateral extraterritorial laws that impose coercive economic measures contrary to International Law on corporations and nationals of other States and not to recognize or apply such unilateral extraterritorial coercive economic measures.

[9] Charter of UN (1945), Article 1, para 2. *See also* "*Il Nuovo Testamento Greco-Latino-Italiano – Conferenza Episcopale Italiana, Roma, 2020.*" MięDzy OryginałEm a PrzekłAdem. (2021).

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Resolution 52/181 of 1997 was recalled and reiterated in Resolution 58/198 in 2003, reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the UN and urging "*the international community to adopt urgent and effective measures to eliminate the use of unilateral coercive economic measures against developing countries that are not authorized by relevant organs of the UN or are inconsistent with the principles of International Law as set forth in the Charter of the UN and that contravene the basic principles of the multilateral trading system.*"[10]

The Resolutions mentioned above, and the *ad hoc* expert committees following them broadly laid down the fundamental legal principle of International Law prohibiting the "*imposition of coercive economic measures as instruments of intervention in matters that are essentially within domestic jurisdiction of any State.*"[11] The measures that were kept out of this principle's ambit were either mandated by the Security Council or in response to a threat or act of aggression recognized by the Security Council or where the Security Council recommends such economic sanctions. Moving further on the same line of reasoning, sanctions recommended by the General Assembly through the consent of the majority of the Member States are also outside the purview of the prohibition rule.

The exceptions are not explicitly listed anywhere in the resolution documents; neither is the basis or reasoning behind such exceptions mentioned anywhere; instead they stem from the rights of individual States provided by Article 2(4). In the light of the same underlying principle, economic sanctions imposed by regional organizations against their members are also kept out of the prohibition in as much as the States that are members of such regional organizations have consented to be bound by the acts of the same.

[10] UN Doc. A/RES/58/198 (2003). *See also,* Doraev, Mergen. "*The Memory Effect of Economic Sanctions Against Russia: Opposing Approaches to the Legality of Unilateral Sanctions Clash Again.*" *(*2015). https://core.ac.uk/download/151694899.pdf. (last visited on 14.06.2024).; "*Summaries of Resolutions Recently Adopted by the United Nations General Assembly and the Security Council Which May Be of Special Interest to Member Countries of CDCC.*" (2000). https://core.ac.uk/download/45628846.pdf. (last visited on 14.06.2024).

[11] UN Doc. A/52/459 (1997), Part IV, para. 53-94. *See also* Szasz, Paul. "*The Law of Economic Sanctions.*" (1998). https://core.ac.uk/download/236321157.pdf. (last visited on 14.06.2024).

The unilateral economic sanctions can include discontinuing assistance for development or financial benefits to the target nation. Though not liable for violating any trade regulation or international obligation in such a case, the imposing State would still need to justify its sanctions on the target nation to avoid international responsibility. The unilateral sanctions that involve non-performance of any international obligations can be justified under the draft Articles on Responsibility of States for Internationally Wrongful Acts (ARISWA), which establishes a framework for determining when a State is responsible for an internationally wrongful act and the consequences that flow from it.[12] The Draft Articles reflect the customary International Law on State responsibility.

Furthermore, when one or more States unilaterally impose sanctions against violation of universally accepted norms or treaty obligations, such as proportional countermeasures against damages or injury incurred by the other party State. The imposing nation can justify it as legal unless the act endangers the target nation's territorial integrity or political independence.

5. CONCLUSION

Though there is no comprehensive systematic compilation of laws governing economic sanctions in the international environment, it can be said to be bound by the universally accepted general principles of International Law, some of which are laid down in the Charter of the UN, 1945. Such principles provide a rough framework within which the legality of the economic sanctions can be questioned. Any unilateral sanctions imposed by States with the aim of territorial or political intervention based on their own political or economic interest as a basis are not considered legal as per the set international norms. However, every nation seeks to achieve its vested interest that benefits its people and economy. Therefore, behind every foreign policy any government brings into force, there can be one or more reasons that might not always be in the interest of the "international community." In the current globalized era of high interdependence between nations, political or economic pressure from various entities, like the governments of nations that are important trading partners or essential and influential international organizations

[12] Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, [2001] 2 Y.B. Int'l L. Comm'n 26, UN Doc. A/56/10, GAOR, 56th Sess., Supp. No. 10 (2001).

and agreements (like World Trade Organization, UN, Paris Agreement) without being part of which no country can see their holistic development, ends up influencing the policy-making process of almost every field in the domestic territory such as trade, commerce, investment, environment, competition laws, food and agriculture industry, etc. Such pressure from global society on any policy decision within the domestic territory of a country can also be said to be coercion and a violation of the integral sovereignty of a nation. However, yet again, this argument is countered by the idea of voluntary consent of the States to be part of and therefore bound by, various trade relations and international agreements. Such coercion is not seen as a threat to peace and security; instead, it is said to be a part of creating one global economy where every nation, without prejudice, is entitled to equal growth and development.

It can be hard to judge the justness of unilateral sanctions as long as the basis of its legality is examined by the intent behind its imposition.

Although no foreign policy can be said to be devoid of the personal vested interest of a nation, no State can impose economic sanctions or, in fact, any sanctions as coercive measures against the target nation(s) without providing proper justification regarding its legality to the international community. It is so since the State might be risking a backlash from others for such sanctions as it can be seen as an act of aggression or interference with the domestic independence of the targeted State. Furthermore, such illegal or unjust coercive measures by usually developed and economically powerful countries can trigger opposition from all the other sovereign States, usually developing nations and other developed nations, in as much as it raises the fear of their own economy or political position in the international community being potentially adversely affected.

Thus, the present openly woven framework, which governs the legality of economic sanctions through well-settled and well-recognized international principles and agreed declarations, needs to provide detailed definitions and exceptions. However, the absence of such explicit requirements has broadened the scope of sanctions, including economic sanctions, and has given more importance to the surrounding circumstances during which such sanction was imposed. It fulfills the primary

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requirement of providing for a basic threshold that States cannot cross by prohibiting any action that can be considered a threat to the right of any individual State, i.e., a threat to its sovereignty. However, one of the major setbacks of this rule's applicability in practice is its vague and ambiguous wording. Such vagueness lies in the rule that both the imposing and targeted countries justify their acts and concerns by quoting the same reason for a 'threat to peace and security.' The imposing nation justifies its sanction as a deterrent against the targeted nation violating the laid down international norms and therefore threatening global peace and security; the targeted nation defines the sanction as an act of aggression against the territorial and political independence of the nation and which again threatens the peace and security. A proper, organized, and binding system or mechanism to adjudicate such issues is another significant area for improvement in the present framework.

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CHAPTER 3

CASE STUDIES ON REASONS, IMPLEMENTATION AND CONSEQUENCES OF ECONOMIC SANCTIONS

1. INTRODUCTION

Like any other concept, to understand the concept of economic sanction in a holistic way, the most efficient method is analyzing the related case studies. It provides us with an all-round view of not only its related laws and framework but also its implications and repercussions. The impositions of such sanctions by nations further bring out the practical issues or points of criticism which cannot be envisaged in theory. Its wide ranging impact from human rights to the global economy is another phase that cannot be studied by staying in the realm of theoretical framework. Study of such practical cases can also facilitate the identification of building blocks for an adequate and effective mechanism that can be set up with respect to economic sanctions to overcome the current drawbacks and pitfalls in the existing system.

The Megarian Decree of 432 BC is the one of oldest documented historical incidents where economic sanction had been used by Athens banning all kinds of trade between Megara and the Athenian Empire. However, in ancient times such acts were not policy tools taken as an alternative of armed forces or warfare rather it was used as a military tactic before or during a war to weaken the economic and physical strength of the enemy State by cutting off all the trade links with the country. The success of these restrictions depended upon the various circumstances such as how much the enemy State depended on the State implementing restrictions vis-a-vis the number, nature, and volume of products traded and whether there exists probable alternatives for supply of such products from other sources than the State imposing restrictions. In the case of Athens and Megara, the ban on trade was a move which led to the war rather than prevent it as much as the Megaras after facing trading bans formed alliances with other States that were against Athens which further resulted in a war that ended the golden age of Greece. Examples like these provide proof of the existence of the far-fetching effects of international sanctions which have the ability to make or break an economy.

Through the examination of case studies across various geopolitical contexts, this chapter aims to provide a thorough analysis of the motivations behind, strategies used for implementation, and outcomes resulting from economic sanctions. This chapter seeks to clarify the complex nature of economic sanctions as a tool of coercive diplomacy by exploring the experiences of nations like North Korea, Zimbabwe, Iran, Cuba, Venezuela, Russia, Syria, and Myanmar.

2. CASE STUDY 1: IRAN

Iran has been at the receiving end of various economic sanctions imposed by countries as well as international and regional organizations because of non-compliance with its international obligations.

2.1. UN Sanctions

The set of economic sanctions imposed by the UN against Iran came into effect in 2006 pursuant to the adoption of UN Security Council Resolution 1737, as result of non-compliance with the UN Security Council Resolution 1696, passed in July of the same year, whereby Iran was asked to discontinue its uranium enrichment program which was seen as an effort on part of Iran to develop its nuclear weapon production capacity. In the next three to four years, an arms embargo was introduced along with expansion of existing sanctions which saw the freezing of Iranian assets. Furthermore, member States were directed to monitor the Iranian banks and individuals who formed part of or were involved in the nuclear program. The States were also asked to inspect all the ships and aircrafts of Iran which landed or docked in their territory.

Iran and the P5+1 (China, France, Russia, the United Kingdom, the US, and Germany) signed an interim agreement in 2013 called the Joint Plan of Action (JPA). Under this agreement, negotiations took place for 20 months and resulted in the finalization of the Iran nuclear deal in 2015, which confirmed the agreement on

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the Joint Comprehensive Plan of Action (JCPOA) to limit Iran's uranium enrichment program. The IAEA was granted access to all Iranian nuclear facilities in order to ensure compliance with the agreement by verifying and monitoring its observance. Iran was promised exemption from US, EU, and UN Security Council sanctions related to nuclear energy in return for compliance.[13]

2.2. US Sanctions

The first sanctions faced by Iran was in 1979 from the US which was a response to a diplomatic stand-off, Iran hostage crisis, wherein US diplomats and citizens were taken hostage by Iranian students. Herein, in addition to a trade embargo, Iranian assets amounting to about $8.1 billion were frozen which included bank deposits, gold and other properties.[14] These were lifted in 1981.

Economic sanctions were again imposed by the US in 1987 stating the reason for 'support for terrorism'.[15]

In the year 1967, Iran had acceded to the Non-proliferation Treaty (NPT) binding itself with the mandate of never becoming a nuclear-armed State.[16] However, during the 1970s the policies brought under the regime of Iran's last monarch, Shah Mohammad Reza Pahlavi, exhibited nuclear weapon ambitions as a result of which concerns were raised by the US This in turn led to Iran signing International Atomic Energy Association (IAEA) Safeguards Agreement, a supplement to the NPT, whereby Iran consented to inspection to verify that the nuclear material in the territory, jurisdiction or control of the State is not diverted to nuclear weapons or other nuclear explosive devices.[17] In the 1980s, during the Iran-Iraq war, concerns were again raised by the international community that Iran was pursuing a nuclear weapon program. This ended with imposition of sanctions by the US under Bill

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[13] https://en.wikipedia.org/wiki/Joint_Comprehensive_Plan_of_Action#cite_note-:0-11 (last updated on 05.05.2024).

[14] Executive Order 12170--Blocking Iranian Government property. US Federal Register. (November 17, 1979).

[15] Levs, Josh. "*A summary of sanctions against Iran.*" CNN. (23 January, 2012).

[16] Laub, Zachar. "*International Sanctions on Iran.*" Council on Foreign Relations. (15 July, 2015). https://www.cfr.org/backgrounder/international-sanctions-iran (last updated on 15.07.2015).

[17] Aparo, M. (2020). "*The IAEA for Building Future Safeguards Capabilities*." Springer Proceedings in Physics. https://doi.org/10.1007/978-3-030-42913-3_11. *See also,* https://www.iaea.org/topics/safeguards-agreements (last visited on 03.05.2024).

Clinton's administration on foreign firms which were allegedly involved in facilitating a nuclear-arms program in 1995.[18] These sanctions included US ban on investment in Iran's energy sector as well as an altogether ban on trade with and investment in Iran stating Iran's support to terrorist organizations like Hezbollah, Hamas, and Palestine Islamic Jihad as one of the reasons.[19]

Following its withdrawal from the Joint Comprehensive Plan of Action (JCPOA), 2015 also known as Iran nuclear deal, the US imposed new economic sanctions on Iran in November 2018. These sanctions were based on the "maximum pressure" strategy, which barred Iran from accessing the international financial system and applied to all nations and businesses doing business with it. As a result, the economic provisions of the framework for the nuclear deal were rendered void.[20]

2.3. Sanctions by Others

Besides the sanctions imposed by the UN Security Council and unilaterally imposed sanctions by the US, economic sanctions by EU as well as SWIFT electronic banking network were among the other non-UN mandated sanctions that Iran suffered from. The EU imposed the sanctions around the same time when the US did, however, it strengthened the same again in January 2012 restating its concern about the growth and nature of Iran's nuclear programme.[21] The global hub for electronic financial transactions, the SWIFT electronic banking network, subsequently severed ties with all Iranian banks that were found to be operating outside of the existing EU sanctions. This meant that other Iranian financial institutions were also cut off from the network.[22]

2.4. Effects

Two well-known Iranian economists, Drs. Mousa Ghaninejad of Tehran's Petroleum University of Technology and Mohammad Mehdi Behkish of Tehran's

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[18] Laub, Zachar. "*International Sanctions on Iran.*" Council on Foreign Relations. (15 July, 2015).
[19] Executive Order 12957 -Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources, US Federal Register, (March 15, 1995); Executive Order 12959 - Prohibiting Certain Transactions With Respect to Iran, US Federal Register, (May 6, 1995).
[20] "*Trump tightens the screws on Iran's oil.*" Brookings. (2015).
[21] "*Council conclusions on Iran.*" Council of the EU. (2012).
[22] "*Swift instructed to disconnect sanctioned Iranian banks following the EU Council decision.*" (2012). https://www.swift.com/insights/press-releases/swift-instructed-to-disconnect-sanctioned-iranian-banks-following-eu-council-decision. (last visited on 12.06.2024).

Allameh Tabatabaei University, launched a "civil movement" in 2013 in response to the effects of the sanctions on Iran's domestic politics, oil prices, and citizens. They characterized the sanctions as "unfair" and "illogical" tools, arguing that a freer economy would reduce political enmity and promote cordial relations between nations. They added that when a country is subject to sanctions, not only does its own population suffer but also that of its trading partners.[23]

Some of the global side effects in the form of non-UN mandated sanctions, that were seen across the world after the passing of UN sanctions, can be listed as follows:

- Insurance for goods as far away as Japanese shipments of Iranian liquefied petroleum gas to South Korea was discontinued by London-based international shipping insurers due to uncertainty over the scope of the new EU sanctions.[24]

- Canada imposed restrictions on Iranian nationals' property, imposed embargo on arms, oil-refining equipment, nuclear program items, Iranian financial institutions, oil and gas sector investments, and relationships with Iranian banks, while allowing the Foreign Minister to issue permits for prohibited activities.[25]

- India also followed the footsteps of the global community and banned export of all items, materials, equipment, goods, and technology that could contribute to Iran's nuclear program.[26] However, it refused to extend or expand its sanctions like the EU in 2012 by emphasizing the necessity of 12 percent of its oil imports from Iran.

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[23] "*Iran's Civil Society Movement Against Sanctions - Al-Monitor: the Pulse of the Middle East.*" Al-Monitor. (2013).
[24] "*EU Sanctions Bring Iran's LPG Exports to Near Halt.*" Haaretz.Com. https://www.haaretz.com/2012-10-31/ty-article/.premium/eu-sanctions-strangle-iran-lpg-exports/0000017f-eabb-d4a6-af7f-feff72b00000. (last visited on 12.06.2024).
[25] https://web.archive.org/web/20131216070407/http://www.international.gc.ca/sanctions/iran.aspx (last visited on 06.05.2024).
[26] "*India imposes more sanctions on Iran.*" The Hindu. (1 April 2011).

In response to the economic pressure by sanctions imposed against it as well as the decreasing oil exports, Iran tried to limit the capital outflows by replacing imports with domestically produced goods and banning imports of luxury imports including mobile phones and computers.[27] This policy came to be known as the "resistance economy".[28] As a consequence of Iran adopting such a policy, exports of Germany to Iran fell by 4% in 2018.[29] Furthermore, Iran has increased its industrial cooperation with Russia, importing Russian natural gas through Azerbaijan and expanding its pipeline to Pakistan and Oman. In July 2022, Iran signed a $40bn memorandum of understanding with Gazprom, and increased oil exports to China, circumventing sanctions.[30]

3. CASE STUDY 2: RUSSIA

Russia holds the record for the most economic sanctions imposed on a nation. These sanctions stem primarily from its annexation of Crimea in 2014, its invasion of Ukraine in 2022, its alleged meddling in foreign elections, its cyber attacks against Western institutions, and its violations of human rights.

3.1. Sanctions and its effects

As a result of the latest economic sanctions against Russia after its invasion of Ukraine leading to an all out war, almost half of its total external currency reserves amounting to $350 billion have been frozen along with 70% of the Russian bank assets and sanctions have been imposed on various wealthy businessmen who can be linked to Kremlin.[31]

Western nations have also banned

- exports of technology that might be used for making weapons,

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[27] "*Iran bans 'luxury' imports in bid to boost sanctions-hit economy*". Associated Press. 8 November (2012).
[28] Farideh Farhi. "*Sanctions and the shaping of Iran's 'Resistance Economy'*." (2012).
[29] https://en.radiofarda.com/a/german-banks-report-sharp-fall-in-iran-exports-amid-new-us-sanctions/29553210.html (last visited on 06.05.2024).
[30] "*Iran agrees to import 3.3 bcm/year of Russia gas through Azerbaijan*" enerdata.net.; also see "*Oil Gains 2% As Iran Deal Fades, Market Eyes Tight Supply.*" oilprice.com. (2022). (last visited on 06.05.2024).
[31] "*What are the sanctions on Russia and have they affected its economy?*." BBC. (2024). https://www.bbc.com/news/world-europe-60125659. (last visited on 06.05.2024).

- imports of Russian gold and diamonds, and
- Russian flights.[32]

Irrespective of the above mentioned targets, the sanctions have primarily targeted the Russian oil industry, with the US, UK, and EU prohibiting the import of crude oil by sea, and Russia's oil and natural gas being banned. To limit Russia's earnings from the sale of oil, the G-7 organization, which consists of seven of the most developed economies, had attempted to set a maximum price of $60 per barrel for Russian crude oil.[33]

In the face of pressure from the consumer market as well as their residence country policies, many of the major multinational corporations have backed out or withdrawn from the Russian domestic market such as McDonald's, Coca-Cola, Starbucks, and Heineken.[34]

3.2. Impact of the Sanctions

Although the International Monetary Fund reports that the Russian economy contracted by 2.1% in 2022, estimates for the following year's growth indicate that the economy expanded by 2.2%, and growth of 1.1% was projected for 2024.[35]

Furthermore, where on one hand, the sanction-imposing countries like US and UK, are supporting the sanctions claiming that they are damaging enough in as much as it has helped in cutting 5% of the economic growth of Russia from that which it might have had over the last two years.[36] The research and policy institutes are of the opinion that the Russian government slashing its spending in public welfare areas to fund the ongoing war is primarily affecting the rural areas and not the urban or major cities, where it may cause uprisings.[37]

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[32] *Id.*
[33] *Id.*
[34] Race, Michael & Hooker, Lucy. "*Which companies are pulling out of Russia?*." (2022). https://www.bbc.com/news/business-60571133. (last visited on 06.05.2024).
[35] https://www.imf.org/external/datamapper/profile/RUS. (last visited on 06.05.2024).
[36] "*Sanctions and Russia's War: Limiting Putin's Capabilities.*" US Department of the Treasury. (2023). https://home.treasury.gov/news/featured-stories/sanctions-and-russias-war-limiting-putins-capabilities (last visited on 06.05.2024).
[37] "*What are the sanctions on Russia and have they affected its economy?*." BBC. 2024. https://www.bbc.com/news/world-europe-60125659. (last visited on 06.05.2024).

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3.3. Evasion of Sanctions by Russia

In order to mitigate the adverse effects of sanctions on the Russian economy, Russia has been actively trying to carry on its international trade by diversifying its trade relations especially in Asia and Middle East (China and Iran), introducing domestic policies to encourage relevant industries to reduce import reliance, and diplomatic engagements with the Western nations to seek reliefs on sanctions.

The Atlantic Council, a nonpartisan policy and research organization, alleges that despite setting a price cap of $60 per oil barrel by G7, Russia has been able to sell its oil at a higher price through a shadow fleet of about 1000 tankers.[38] Researchers from King's College London also claim that demand for many of the Western goods in the Russian domestic markets is being met by 'shadow trade deals' i.e., imports through neighboring countries like Georgia, Belarus and Kazakhstan.[39]

Furthermore, among other things, China's advanced technological products have found an abundantly developed market in Russia after the ban of technology from Western States as a result of the economic sanctions.[40]

4. CASE STUDY 3: NORTH KOREA

North Korea is one of the rare countries whose economy is closed off to the global integrated trade network that is currently established across the world. However, this alone does not separate it from world politics or global trade as such. North Korea has been at the receiving end of various international sanctions since the 1950s, i.e., since the Korean War.

The US was the one that imposed the first round of economic sanctions on North Korea in 1950. The Trading with the Enemy Act of 1917 limited the trade between

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[38] Elisabeth Braw. "*Russia's growing dark fleet: Risks for the global maritime order.*" Atlantic Council, Issue Brief. 2024. https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/russias-growing-dark-fleet-risks-for-the-global-maritime-order/ (last visited on 06.05.2024)
[39] "*Russia evading sanctions thanks to 'shadow trade deals'.*" King's College London. 2023 https://www.kcl.ac.uk/news/russia-evading-sanctions-thanks-to-shadow-trade-deals#:~:text=New%20research%20has%20shed%20light,of%20producers%20in%20the%20West. (last visited on 06.05.2024).
[40] *Supra* Note 23.

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the two nations as a result of North Korea's bombing of Korean Air Flight 858, an international passenger flight between Iraq and South Korea. But most of the later sanctions against North Korea were put in place after the country began testing nuclear weapons and withdrew from the Non-Proliferation Treaty in 2003.[41]

4.1. EU Sanctions

The sanctions introduced by the EU started in 2006 after North Korea commenced its projects, tests and trial of its nuclear projects. It included embargoes on arms and related materials, ban on trade of gold, precious metals, and diamonds, and ban of export of luxury goods and the cargoes which were being imported or exported with North Korea were set up to be monitored and inspected.[42] In addition to this, investment, financial activities, and financial support for trade were also restricted.[43] In 2017, the EU further introduced new sanctions banning oil exports to and investments in North Korea. However, the effect of these sanctions was minimal since the trade and investment relations between the two were close to none.[44]

4.2. Sanctions by UN

The UN Security Council passed Resolution 1718 in 2006 against North Korea demanding it to cease any further nuclear tests and abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner.[45] It also directed all the member States to prevent export or transfer of any arms or related materials, luxury goods, technical advice, services or assistance.[46] A subsidiary body, the UN Security Council Sanctions Committee on North Korea,

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41 https://en.wikipedia.org/wiki/International_sanctions_against_North_Korea#:~:text=banning%20the%20trade%20of%20gold,for%20trade%20with%20North%20Korea. (last updated on 01.05.2024).

42 Fifield, Anna. "*Punishing North Korea: A Rundown on Current Sanctions*." Washington Post. (2016).

43 *Id.*

44 Borger, Julian. "*Trump issues new sanctions on North Korea and claims China is following.*" The Guardian – via www.theguardian.com. 2017.

45 S.C.Res.1718 (2006). *See also,* FluxEnergie. "*Statement by IAEA Director General Yukiya Amano on Democratic People's Republic of Korea*." https://www.fluxenergie.nl/statement-by-iaea-director-general-yukiya-amano-on-democratic-peoples-republic-korea/ (last visited on 02.06.2024); "*North Korea nuclear test 'extremely regrettable': UN watchdog.*" The Daily Star. https://www.thedailystar.net/world/asia/north-korea-nuclear-test-extremely-regrettable-un-watchdog-iaea-1457320. (last visited on 02.06.2024).

46 *Id.*

was also established by the same resolution in 2006 which has been supported by a Panel of Experts since 2009.[47]

The arms embargo was extended in 2009 by Resolution 1874 when North Korea carried out its second nuclear test, whereby the member States were directed to strengthen the monitoring and inspection of ships for any material that can be used in relation to the nuclear weapon program and in case any cargo is suspected for the same, the States were allowed to destroy the same.[48]

The UN Security Council passed Resolutions 2087 and 2094 in January and March of 2013, respectively, in response to a satellite launch and North Korea's third nuclear test. These resolutions gave member States the authority to destroy any cargo suspected of traveling to or coming from North Korea for military research. Sanctions were also put in place with the intention of excluding North Korea from the global financial system.[49]

A fourth nuclear test was conducted by North Korea in 2016 in defiance of the sanctions, which led to an increase in their severity as well as a ban on the export of rare earth metals, titanium, gold, and vanadium. Moreover, exports of iron and coal were outlawed, with the exception of deals made solely for "livelihood purposes".[50] In the same year, a new Resolution 2321 under Article 41 of Chapter VII of the UN Charter was passed to cap North Korea's coal exports to deprive it of its cash following the nuclear test. In addition to this, the Resolution also prohibited Pyongyang from exporting statues, new vessels and helicopters, copper, nickel,

[47] Berger, Andrea. "*A Familiar Story: The New UN Report on North Korean Sanctions Implementation.*" 38 North, US-Korea Institute at Johns Hopkins University's Paul H. Nitze School of Advanced International Studies. USA. 2017.
[48] Fifield, Anna. "*Punishing North Korea: A Rundown on Current Sanctions.*" Washington Post. 2016. *Also see*, Davenport, Kelsey "*UN Security Council Resolutions on North Korea.*" Washington, D.C., USA: Arms Control Association. 2016.
[49] *Id.*
[50] S.C. Res. 2270 (2016).

silver, or zinc.[51] The next year saw a further ban on all exports of coal, iron, lead, and seafood, and restrictions on North Korea's Foreign Bank.[52]

The UN Security Council passed another Resolution 2397 in December, 2017 to condemn the launch of Hwasong-15 intercontinental ballistic missile by North Korea. A new set of sanctions were imposed which included:

- Ban on supply, sale or transfer of natural gas liquids to North Korea;[53]
- Ban on its textile exports;[54]
- Prohibition from providing work authorization to nationals of North Korea in the member States;[55]
- Directive to member States to prohibit the supply, sale, or transfer of refined petroleum products exceeding 500,000 barrels for three months and 2 million barrels per year for 12 months and annually thereafter;[56]
- Further directions to limit crude oil supply, sale, or transfer to North Korea to the amount supplied, sold, or transferred within the 12-month period prior to the resolution's adoption.[57]

4.3. Evasion of Sanctions

North Korea has been said to be the target of some of the harshest and stringent economic sanctions by the UN Security Council. Therefore, the evading tactics used by the country are usually illicit and illegal. The same has been supported by reports of experts as well as the authorities of various member States. The evading

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[51] S.C. Res. 2321 (2016); *also see,* UN Security Council. (March 30, 2016). Security Council Strengthens Sanctions on Democratic People's Republic of Korea, Unanimously Adopting Resolution 2321 (2016). [UN Meetings Coverage and Press Releases]. https://press.un.org/en/2016/sc12603.doc.htm. (last visited on 02.06.2024).
[52] Gladstone, Rick. (2017, August 5). "*UN Security Council imposes punishing new sanctions on North Korea.*" The New York Times.
[53] S.C.Res.2397 (2017); *also see,* UN Security Council. (September 11, 2017). Security Council Imposes Fresh Sanctions on Democratic People's Republic of Korea, Including Bans on Natural Gas Sales, Work Authorization for Its Nationals. [UN Meetings Coverage and Press Releases]. https://press.un.org/en/2017/sc12983.doc.htm. (last visited on 02.06.2024).
[54] *Id.*
[55] *Id.*
[56] *Id.*
[57] *Id.*

method mainly included exploiting loopholes and discrepancies, illicit activities for revenue generation, and finding alternative markets.

As per the UN Panel of Experts (PoE) of 2017, an increase in the number of vessels registered under the country's flag was seen in violation of the resolution 2270 and these vessels were suspected for carrying out trades of sanctioned goods via marine transportation by colluding with foreign companies.[58]

5. CASE STUDY 4: CUBA

In the case of Cuba, the US has been the unilateral force responsible for economic sanctions on the country for more than seventy years now. It has been described as "the oldest and most comprehensive US economic sanctions regime against any country in the world"[59].

5.1. Sanctions by the US

The first embargo by the US against Cuba came in the midst of an armed conflict between rebels and the government in 1958. This embargo was limited to only sale of arms because the US government had banned the sale of weapons to Latin American nations that had ratified the 1947 Rio Treaty, an Inter-American Treaty of Reciprocal Assistance, which provided that the weapons were not to be used for hostile purposes.[60]

The following year saw the establishment of a new, stable government, and relations between the two States began to improve. However, shortly after, in 1960, the US imposed another embargo on all exports, with the exception of food and medicine, in response to the confiscation of land owned by numerous American businesses and the unpaid nationalization of numerous American-owned oil refineries.

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[58] S/2017/742, UN Security Council Panel of Experts on DPRK (Sept. 5, 2017).
[59] LeoGrande, William M. (Winter 2015). "*A Policy Long Past Its Expiration Date: US Economic Sanctions Against Cuba.*" Social Research. 82 (4): 939–966. ISSN 0037-783X. JSTOR 44282148.
[60] Wiskari, Werner. "*US Embargo Set on Arms to Cuba; Shipment Halted.*" The New York Times. (April 3, 1958).

With the larger aim of promoting and securing democracy in the area as against the 'socialist' or 'communist influence of Soviet Union, an *"adroit and inconspicuous as possible"* policy was the driving force behind the 1960 US embargo, which sought to prevent *"money and supplies to Cuba, to decrease monetary and real wages, to bring about hunger, desperation and overthrow of government."*[61]

Cuba and the Soviet Union signed a trade agreement to supply 900,000 tons of oil after the US government began to restrict its exports of crude oil. In response, the US successfully put pressure on oil companies such as Esso, Texaco, and Shell to cease processing crude oil that it had purchased from the Soviet Union.[62] Cuba reacted by seizing and nationalizing the American-owned oil refineries and 36 sugar mills without any compensation being paid to the company owners, to which the US responded by ceasing to buy sugar from Cuba. This all led to the sanctions of 1960 by the US, in the midst of which the Soviet Union emerged as Cuba's alternate trading partner during the sanctions, particularly in relation to its imports of weapons and exports of sugar.

The following year of 1961, US severed all diplomatic relations with Cuba and the trade restrictions were continued under its Trading with the Enemy Act of 1917. In 1962, the trade restrictions were extended to cover all imports of goods containing Cuban commodities, regardless of whether the final goods were assembled or manufactured outside of Cuba and to further strengthen these restrictions, the Foreign Assistance Act was amended to forbid funding to any nation that helps Cuba.

In addition to consolidating the then existing restrictions, the Cuban assets were frozen by the US in 1963 with the issuance of Cuban Assets Control Regulations under the Trading with the Enemy Act as sanctions subsequent to the Cuban Missile Crisis of 1962.

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[61] US Dep't of State, Foreign Relations of the US. 1958-1960. Volume VI. Document 499. (1960); *See also,* Karlsson, Håkan. "*The Johnson Administration's Cuba policy.*" New York, NY: Routledge. ISBN 978-1-000-28215-3. (2021); Moret, M. "*Isle of Misfit Ploys: The Cuban Embargo.*" (2017). https://doi.org/10.5195/ppr.2015.55 (last visited on 12.06.2024).

[62] Cederlöf, Gustav. "*The Low-Carbon Contradiction: Energy Transition, Geopolitics, and the Infrastructural State in Cuba.*" University of California Press. ISBN 9780520393134. (2023).

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Next set of actions by the US were seen starting 1992, under which all economic sanctions against Cuba were reinforced by the following legislations :

- **Cuban Democracy Act, 1992**

  It restricted trade between US subsidiaries in other countries and Cuba and discouraged it. other countries from trading with Cuba. Humanitarian aid to the Cuban people was, however, left out as an exception.

- **Democracy Solidarity Act (Helms-Burton Act), 1996**

  This Act penalized foreign companies doing business in Cuba by barring them from US trade stating that these companies were trafficking in stolen US properties in Cuba.[63] Under this legislation, a non-US company that "*knowingly traffics in property in Cuba confiscated without compensation from a US person"* may face legal action, and the leadership of that company may not be allowed to enter the country. It also covered trade between non-US companies and Cuba in its ambit, which further extends to maritime shipping, in as much as the vessels that dock in Cuban ports are prohibited from docking in US ports for a period of six months.

A relaxation in the embargoes as seen in the year 2000 by the Trade Sanctions Reform and Export Enhancement Act, enforced in response to the pressure of farmers and agribusinesses, allowing sale of agricultural goods and medicines to Cuba for humanitarian purposes.

The relation between the two countries normalized during the Presidency of Barack Obama from 2009 to 2017, the period which is also known as 'Cuban thaw'. However, the sanctions were re-imposed and further new regulations with respect to business and travel were enacted starting 2017 till present.

5.2. Organization of American States

In 1962, Cuba was suspended by the Organization of American States (OAS), with Mexico and Ecuador abstaining from the voting arguing that the OAS Charter

[63] "*The politics behind Clinton's Cuba policy.*" Baltimore Sun. (August 30, 1994).

didn't authorize expulsion. Multilateral sanctions were also imposed by the organization in 1964 which ended in 1975. The suspension of membership was also lifted in 2009.[64]

5.3. Impact and Criticism of US Sanctions

Cuba, on the receiving end of these long term economic sanctions from the most developed and economically strongest country of the world, has suffered not only economically but also politically and in humanitarian aspects as well.

On humanitarian grounds, the sanctions have affected the access to food, clean water and medicine by the Cuban population.[65] The embargo has also been connected by non-Cuban medical experts to shortages of soap and medical supplies, which has resulted in an increase in infectious diseases and medical emergencies.[66] Additionally they have also led to epidemics of neurological conditions and blindness brought on by malnutrition.[67] The embargo was ascribed to starvation, limited access to water, and lack of access to medications by the American Association for World Health (AAWH).

In economic terms, Cuba has stated in its 2020 report to UN that its total cost incurred from US sanctions, since they were first implemented, is \$114 billion while the 2015 report of Al Jazeera, after taking into account the inflation, estimates the cost borne by the Cuban economy at \$1.1 trillion since 1958.[68]

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[64] Cerna, Christina M. *"Recent OAS Documents on Cuba and Honduras: Democracy and the Inter-American Democratic Charter.*" International Legal Materials. (6): 1242–1253. (December 2009).
[65] American Association for World Health. "*Denial of Food and Medicine: The Impact Of The US Embargo On The Health And Nutrition In Cuba.*" March 1997. *See also,* Davis, Stuart. "*Sanctions as War: Anti-Imperialist Perspectives on American Geo-Economic Strategy.*" Haymarket Books. p. 144. (2023).
[66] Barry, Michèle. "*Effect of the US Embargo and Economic Decline on Health in Cuba.*" Annals of Internal Medicine. 132 (2): 151–4..(January 18, 2000). *See also,* Garfield, R.; Santana, S. "*The impact of the economic crisis and the US embargo on health in Cuba.*" American Journal of Public Health. 87 (1): 15–20. (January 1997).
[67] *Id.* See also, Kirkpatrick, Anthony F. "*Role of the USA in shortage of food and medicine in Cuba.*" The Lancet. pp. 1489–1491. (November 30, 1996).
[68] David, Stuart. *Supra* Note 57. *See Also,* Kennedy, Robert. "*Unblocking long-suffering Cuba."* www.aljazeera.com. (June 17, 2015).

Due to the fall of the Soviet Union, Cuba faced a severe economic crisis in 1989 that resulted in a 34% decline in GDP and a 56% decline in trade.[69] It saw a 72% decrease in imports and a 61% decline in exports during this time, which has been referred to as the 'Special Period'.[70] Cuba's policy on macroeconomic adjustment and liberalization pioneered its economic recovery.[71]

These unilateral sanctions against Cuba have been widely criticized by various nations, individually and collectively under the UN. The UN General Assembly has been passing a non-binding resolution every year denouncing the embargo's continued effects, stating that it violates both International Law and the UN Charter.

The EU along with the Canadian government has also criticized the Helm-Burton Act of 1996 due to its extraterritorial application as it aims to penalize non-US corporations and investors having economic interests in Cuba.

5.4. Effectiveness

Even with several legal penalties in place, the country's domestic market does not reflect the severity of the laws as intended because American brands like Coca-Cola are available in many of the island's tourist attractions. Airports use Ford tankers to refuel aircraft, and Microsoft software is installed on some PCs.[72] Such goods are sometimes financed through unclear means. Even though the product being sold originally had US shareholders or investors, the goods frequently originate from third parties with headquarters in other nations. One example of this is the 10% US-owned Nestlé products that are available for purchase in Cuba using Cuban convertible pesos (CUCs), which can be traded in foreign exchange against the US dollar, the Euro, and other currencies.

[69] Caraway, Rose. "*Post-embargo Cuba: Economic Implications and the Future of Socialism.*" Teresa Lozano Long Institute of Latin American Studies: 30. (2004).
[70] Spadoni, Paolo. "*Failed sanctions: why the US embargo against Cuba could never work.*" University Press of Florida. pp. xvi. (2010).
[71] Zimbalist, Andrew."*Cuba in the International System: Normalization and integration.*" St. Martin's Press. (1995).
[72] The Economist. "*Patchy blockade.*" (August 14, 2008).

6. CASE STUDY 5: VENEZUELA

Economic sanctions on Venezuela have been implemented primarily by the US, the EU, Canada, and various other countries. These sanctions have targeted the Venezuelan government, its officials, and key sectors of the Venezuelan economy, especially the oil industry. The sanctions were imposed in response to concerns over human rights violations, corruption, and the undermining of democratic processes by the Venezuelan government, particularly under the leadership of President Nicolás Maduro.

The targeted nation is currently experiencing a severe socio-economic and political crisis characterized by hyperinflation and large-scale migration as a result of rising rates of famine, illness, crime, and mortality since 2010. The widespread protest that followed this crises in 2014 due to high level of urban violence, inflation and chronic shortages of basic necessities and in 2017 due to the arrest of multiple opposition rulers along with the initial sanctions. The repressive measures taken in response to the protest and during the Constituent Assembly election and presidential election of 2017 and 2018 respectively involved human rights abuses, corruption, degradation in the rule of law and repression of democracy against which sanctions were imposed on various private individuals like politicians, government officials, military and judiciary members.

6.1. US Sanctions

The US has imposed sanctions on over 150 companies, vessels, and individuals, revoking visas of 718 associated with Maduro, in response to repression during the 2014 and 2017 Venezuelan protests and activities during the 2017 Constituent Assembly and 2018 presidential elections. Sanctions were placed on government officials, military and security forces, and private individuals involved in human rights abuses and corruption.

Prior to 2010s Venezuela crisis,

- The US had employed sanctions to address the problems of Venezuelan terrorism and drug trafficking since 2005. The US Department of the Treasury had also used the Foreign Narcotics Kingpin Designation Act (Kingpin Act) to impose sanctions on at least 22 Venezuelans, including a number of current and former government officials to reduce terrorist funding in Venezuela through the executive order in 2008.[73]

- Starting in 2010, the US sanctioned Venezuelan officials linked to helping the Colombian rebel group FARC with drug trafficking. This involved freezing their assets and banning US businesses from dealing with them.

In 2014, the US imposed sanctions on Venezuelan individuals under Venezuela Defense of Human Rights and Civil Society Act, 2014 accusing them of human rights abuses during protests. The sanctions included asset freezes, travel bans, or visa restrictions for them and their families. The enactment was extended till 2019 in 2016. Venezuela was declared a "threat to national security" by the US in 2015.[74] These sanctions targeted specific individuals within the Maduro regime and not the entire country. The US aimed to pressure the government by targeting its leadership and key institutions. The sanctions responded to actions perceived as undermining democracy, human rights, and free elections. The sanctions also restricted trade in petroleum, Cuban oil shipments, petrocaribe, gold mining and banking and finance.

The US sanctions escalated against Venezuela in 2017 that targeted key figures in the Maduro government. Thirteen officials involved in the 2017 Venezuelan Constituent Assembly election were sanctioned for anti-democratic actions.[75] The US condemns and refuses to recognize the Constituent Assembly election.[76] The sanctions were further tightened in 2018 around the high ranking officials and businesses which were allegedly linked to corruption. These actions intensified as the 2018 Venezuelan presidential election approached.

In furtherance of these restrictions, series of Executive Orders (EO) were released:

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[73] Congressional Research Service. "*Venezuela: Overview of US sanctions.*" Federation of American Scientists. (8 March 2019).
[74] "*US declares Venezuela a national security threat, sanctions top officials.*" (10 March 2015).
[75] Lane, Sylvan; Rafael Bernal. The Hill. "*Treasury sanctions target Venezuela president's allies.*" (26 July 2017).
[76] US Department of State. "*Defending democracy in Venezuela.*" (30 July 2017).

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- Restricting Venezuelan government access to US financial markets (debt & equity) including State oil company PDVSA with the exceptions allowed to minimize impact on Venezuelan people and US economic interests.[77] **[EO 13808 (July 2017)]**

- Prohibiting the use of Venezuelan digital currency.[78] **[EO 13827 (2018)]**

- Prohibiting the purchase of Venezuelan debt.[79] **[EO 13835 (May 2018)]**

- Freezing assets of individuals involved in corruption within the Venezuelan gold sector and granting future authority to the Secretary of Treasury to designate additional sectors of the Venezuelan economy for sanctions.[80] **[EO 13850 (November 2018)]**

Throughout 2019, sanctions targeted various entities and individuals including Security and intelligence officials accused of human rights abuses are sanctioned, along with the head of the State oil company PDVSA. Sanctions targeted not just Venezuelan officials but also a Russian company supporting Maduro's oil sector by targeting the president of Rosneft, a Russian oil company, for supporting Maduro's regime through oil deals.[81]

The US sanctions on Venezuela had a major impact on the Caribbean nations because of the Petrocaribe agreement. As per this agreement, Venezuela and the Caribbean States entered into a regional oil procurement agreement whereby Venezuela provided the member States with oil supplies under a financial concession. Haiti and Jamaica, among other Caribbean nations, were able to finance forty percent of their purchases of Venezuelan crude oil over a 25-year period at 1% interest through Petrocaribe; in return for medical services, Cuba received free oil. A number of Caribbean leaders who backed Maduro denounced the US

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[77] Congressional Research Service. "*Venezuela: Overview of US sanctions*." Federation of American Scientists. (8 March 2019).
[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] Pamuk, Humeyra; Psaledakis, Daphne. "*US slaps sanctions on Russian oil firm in swipe at Venezuela's Maduro*." (18 February 2020).

sanctions, arguing that their allegiance to Maduro was based on values rather than oil and that the sanctions were having an impact on their nations' ability to pay their debts and maintain regional stability.[82]

Gold was Venezuela's third-largest export, controlled by the military and mined in dangerous conditions and it was due to the concerns surrounding the management and potential misuse of Venezuela's gold reserves, that US sanctioned the gold sector in an attempt to pressure the regime.

In 2023, a relief from the sanctions was provided based on the Partial Agreement on the Promotion of Political Rights and Electoral Guarantees for All, also known as the Barbados Agreement, wherein five political prisoners were released in exchange for the US partially removing sanctions on the oil, gas and gold industries.[83] However, due to the agreement not being fully upheld, the US declared restoration of sanctions on the oil industry in April, 2024.[84]

6.2. Canada Sanctions

Canada also responded to the 2017 protest repression and election activities in Venezuela by imposing 40 Venezuelan officials, including President Maduro, stating the reason for human rights abuses during the press which killed at least 125 and Venezuela descended into dictatorship.[85] The sanctions prohibited transactions with the listed individuals and froze their assets in Canada, through the regulations of Special Economic Measures Act, with the aim to pressure the regime to restore constitutional order and respect democratic rights.

In the next two years, there were additions to the list of sanctioned individuals by amendment of Canada's Special Economic Measures (Venezuela) Regulations,

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[82] Haitian Times. "*US sanctions on Venezuela are affecting Caribbean nations' ability to pay for oil.*" (21 March 2019).
[83] Armas, Mayela; Sequera, Vivian. "*Five prisoners released in Venezuela after opposition deal, US demands.*" (19 October 2023).
[84] "*Venezuela Sanctions Relief: Expiration of General License 44.*" (Press release). US Department of State. (17 April 2024).
[85] Zilio, Michelle. "*Canada sanctions 40 Venezuelans with links to political, economic crisis.*" The Globe and Mail. (22 September 2017). *See also,* CBC Canada. "*Canada imposes sanctions on key Venezuelan officials.*" (22 September 2017).

including Maduro's wife and members of National Assembly Constituyente (ANC) and the Supreme Tribunal of Justice (TSJ) and other high ranking officials for:

- Deepening economic, political, and humanitarian crisis[86],
- Anti-democratic actions,
- Repressing the interim government,
- Censorship,
- Excessive force against civilians,
- Undermining the judiciary and democratic institutions.[87]

6.3. EU Sanctions

An arms embargo was put against Venezuela by the EU in 2017 restricting European companies from selling arms or materials that could be used for repression.[88] The sanctions were renewed in 2018, including travel bans within the EU and freezing the assets of select Venezuelan officials, against human rights violations, undermining democracy, and the rule of law under Maduro.[89]

The sanctions were challenged by the Venezuelan government by appeal to the European General Court (EGC) in 2018, however, the same was dismissed on 20 September, 2019.[90]

After the 2018 presidential elections in Venezuela, another set of sanctions were brought into force by the EU targeting various government officials. The further strengthening of sanctions were, however, met with internal discord on the topic as Spain was still receiving Venezuelan oil in repayment for debt and many Spanish companies still operated in Venezuela.[91] Even with the internal debates, the Union

[86] "*Regulations amending the Special Economic Measures (Venezuela) Regulations: SOR/2018-114.*" Canada Gazette, Part II. 152 (12). 30 May 2018.
[87] Government of Canada. "*Canada imposes additional sanctions on the Maduro regime in Venezuela.*" (Press release). 15 April 2019.
[88] Emmott, Robin. "*EU readies sanctions on Venezuela, approves arms embargo.*" (13 November 2017).
[89] Associated Press. "*EU imposes sanctions on 7 senior Venezuelan officials.*" 22 January 2018.
[90] "*Bolivarian Republic of Venezuela v. Council of the European Union.*" Case T-65/21, ECLI:EU:T:2023:564 (Sept. 13, 2023).
[91] Arostegui, Martin. "*US, EU at odds over Venezuela sanctions.*" VOA News. (10 April 2019).

had continued to extend the list of sanctioned individuals steadily till and through 2023.

6.4. Sanctions by Others

Where many countries like Switzerland, Mexico and United Kingdom followed the example of US, Canada and EU by sanctioning the Venezuelan officials, other countries of Lima Group, which is made up of The Lima Group (made up of Argentina (until 24 March 2021), Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Guyana, Honduras, Mexico, Panama, Paraguay, Peru and Saint Lucia), except Mexico, declared to ban the entry of people who are linked to the Maduro's regime.

6.5. Evasion and Impact of Sanctions

In retaliation to the US sanctions in 2018, the Minister of Industries and National Production of Venezuela switched its foreign exchange auctions to euros, yuan, and other currencies to avoid US dollar restrictions and aimed to create alternative pathways for financial transactions.

In 2021, after five-year investigation five out of thirty Swiss banks were admonished for laundering money related to PDVSA, which is a Venezuelan State-owned oil and natural gas company, and thereby allowing the government officials to evade the multiple economic sanctions.[92]

Furthermore, with respect to oil, during the sanctions, various ships were involved in trading Venezuelan oil by switching off tracking devices to avoid detection and delivering oil to Russia, China, and India. The oil trade was also seen to be carried out between the two sanctioned countries Iran and Venezuela, whereby five oil tankers were sent by Iran to Venezuela. When Mexico allowed fuel shipments to Venezuela disregarding the US Sanctions, a network involving Mexican companies and individuals (Zepeda, Esparza, Leal Jimenez) were targeted by sanctions from the US, for receiving Venezuelan crude oil.

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[92] Keaten, Jamey. "*Swiss banks faulted over money laundering tied to Venezuela.*" Associated Press News. (18 November 2021).

Where the Venezuelan government blames sanctions for the entire economic collapse, estimating the financial losses to US$ 30 billion,[93] others argued that the sanctions primarily targeted the Maduro regime and its finances, with limited impact on ordinary Venezuelans. However, if seen from an objective point of view, it can be said that Venezuela's economic crisis stems from a combination of factors, including pre-existing problems and the impact of sanctions.

7. CASE STUDY 6: MYANMAR (BURMA)

Several nations and international organizations have placed economic sanctions on Myanmar (also known as Burma) in response to a number of issues, such as the country's violations of human rights, its military takeover in February 2021, and its treatment of ethnic minorities like the Rohingya. The US, the EU, Canada, and the United Kingdom are the main nations and organizations enforcing sanctions.

Since its independence from the United Kingdom in 1948, Myanmar has been constantly under the struggle of internal conflict wherein various ethnic groups fought for political power often leading to violent conflict. In 1988, the turmoil ended with a military coup whereby Myanmar's military junta gained control of the country's administration and governance. This military regime has been at the receiving end of various accusations relating to human rights violations and oppression of political opposition.

Sanctions on Myanmar have evolved over time, responding to different political and human rights crises:

- Human Rights Violations

  Sanctions were initially imposed due to the long-standing issues of human rights abuses, including the treatment of the Rohingya Muslim minority, which has been described as ethnic cleansing and genocide by various international bodies.

[93] Voice of America. "*Maduro: FM held 'secret talks' with US Envoy to Venezuela.*" (14 February, 2019).

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- Military Coup

The military coup on February 1, 2021, which ousted the democratically elected government led by Aung San Suu Kyi,[94] led to a new wave of sanctions targeting the military and its enterprises.

7.1. US Sanctions

The first set of sanctions by US against Burma were imposed in 2003 via Executive Order (EO) 13310 whereby following was ordered:

- Imports from Myanmar were banned,
- Financial services exports were banned,
- Assets were frozen of Burmese financial institutions, and
- Various Burmese officials were put under travel bans.

In 2007, additional sanctions were imposed, authorizing asset freezes on twenty-five additional senior officials and anyone found accountable for violations of human rights in Myanmar.[95]

The US government through Executive Order 14014, addressed the situation in Burma, also known as Myanmar. It specifically targets the military coup that overthrew the democratically elected government in February 2021. The order identifies this coup as a threat to national security and foreign policy and implements sanctions in response. These sanctions primarily focus on freezing the assets of individuals and entities involved in the coup or supporting the military regime.

The order:

- Authorized blocking property and interests in property of designated individuals and entities, thereby, freezing their assets under US jurisdiction.

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[94] Epardafas Correspondent. "*Myanmar Military Junta Extends State of Emergency for Six Months.*" epardafas.com. (1 February 2024). https://english.pardafas.com/myanmar-military-junta-extends-state-of-emergency-for-six-months/ (last visited on 09.06.2024).

[95] Comply Advantage. "*Myanmar Sanctions: What You Need to Know.*" https://complyadvantage.com/insights/myanmar-sanctions/ (last visited on 03.06.2024).

■ Gave authority to the Secretary of the Treasury in consultation with the Secretary of State, to sanction the individuals, businesses or government entities, which are involved in the coup or supporting the military regime.

■ It also allowed for additional sectors of the Burmese economy to be targeted with sanctions. For instance, the jet fuel sector was identified for sanctions in August 2023.

In its latest press statement, the US designated four individuals and two entities linked to Burma's military regime and has imposed sanctions on them to target the regime's sources of revenue which support military activities against civilians and those who provide material and support for the production of arms in Burma.[96] [97]

7.2. EU Sanctions

Since 2008, the EU has imposed economic sanctions on Myanmar in response to the government's persistent persecution of groups advocating for democracy and its violations of human rights. Since then, the EU has tightened and expanded its sanctions against Myanmar, imposing travel restrictions, asset freezes against Burmese government officials and businesses, import and export prohibitions, and prohibitions on the provision of specific services.

Following the military coup and the subsequent violent suppression of pro-democracy protests, the EU and the US imposed fresh sanctions on Myanmar in 2021. The EU's 2021 sanctions against Myanmar broadened the scope of the previous ones, imposing asset freezes and investment bans on four State-owned (or military-controlled) entities and eight Burmese individuals.

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[96] US Department of State. *"Imposing Sanctions on Burma's Military Regime Three Years After the Military Coup*" (Press Statement). (31 January, 2024). *See also,*
Asian Lite. *"India Calls for Democratic Transition in Myanmar.*" Asian News from UK. (01 February 2024).
https://asianlite.com/2024/top-news/india-calls-for-democratic-transition-in-myanmar/ (last visited on 03.06.2024).

7.3. Australian Sanctions

The unilateral sanctions of Australia against Myanmar started in 1990 in response to the efforts of Burmese government to tamper the results of a democratic election.[98] After the Burmese government implemented democratic reforms in 2012, Australia loosened some of its sanctions against the country. However, in 2018, new sanctions were imposed after a UN report exposed human rights violations carried out by the Burmese military.

The Australian-led sanctions regime for Myanmar included:

- An arms embargo,
- restrictions on the provision of financial services,
- asset freezes for specific Burmese individuals and entities,
- trade restrictions, and
- travel bans.

7.4. Other countries

Up until 2021, United Kingdom, previously an EU member State, complied with the European Parliament's Myanmar sanctions, after which the economic and finance ministry of U.K. government, i.e. HM Treasury, imposed unilateral sanctions on Myanmar vide Myanmar (Sanctions) Regulations 2021 intending to promote peace, stability, and democracy in Myanmar, and ensure respect for international human rights law.[99] In addition to prohibiting the export and transfer of financial services, military hardware, and communications technology to Myanmar, the 2021 regulations imposed limitations on "financial, trade, and immigration."

Canada also, like the US, first placed restrictions on Myanmar in 2007 with the Special Economic Measures (Burma) Regulations, according to which, ban was imposed on the export of financial services which were linked to military operations in Myanmar.

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[98] Comply Advantage. "*Myanmar Sanctions: What You Need to Know.*" https://complyadvantage.com/insights/myanmar-sanctions/ (last visited on 03.06.2024).
[99] *Id.*

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In response to the military coup d'état of 2021 and continuing violations of human rights, Canada strengthened its sanctions regime against Myanmar in 2021 in coordination with the US, UK, and EU.[100] Furthermore, additional asset freezes for 16 individuals and 10 entities in Myanmar were added as part of the 2021 sanctions.

7.5. Criticism and Evasion of Sanctions

Sanctions on Myanmar have been criticized for potentially exacerbating the humanitarian crisis by contributing to economic instability and affecting ordinary citizens more than the targeted officials. The military's control over key economic sectors means that broad economic sanctions can have far-reaching impacts on the population.

The Myanmar military has sought to mitigate the impact of sanctions by:

- Seeking alternative markets and engaging with countries that do not impose sanctions, such as China, Russia, India and Thailand.

- Adopting internal economic measures by strengthening domestic economic policies and finding new revenue sources.

- Using Cryptocurrencies in as much as there have been reports of using cryptocurrencies to circumvent financial sanctions.

8. CASE STUDY 7: SYRIA

Syria is said to be the world's third most sanctioned country of the world.[101] The main justification for sanctions against Syria is the persecution of civilians during the country's civil war. The US, Canada, Australia, Switzerland, and the EU are some of the major economies that initiated the said restrictive measures. These sanctions aim to pressure the Syrian government, led by President Bashar al-Assad, to cease violence against civilians and engage in political negotiations.

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[100] Comply Advantage. "*Myanmar Sanctions: What You Need to Know.*" https://complyadvantage.com/insights/myanmar-sanctions/ (last visited on 03.06.2024).
[101] Zandt, Florian. "*The World's Most-Sanctioned Countries*". Statista. (9 March 2022).

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8.1. United Nation Sanctions

The UN has enforced a restricted set of sanctions that are aimed at Islamic State organizations such as IS and Al-Qaeda, rather than the nation or its government.[102] One of them being the 2015 U.N. Security Council Resolution (UNSCR) 2199, that aimed to protect Syrian antiquity and preserve its cultural heritage by prohibiting trade in such antiques which had been removed from Syria since 15 March, 2011.[103]

In the same year, another resolution was passed by the Security Council imposing sanctions on IS and Al-Qaeda,[104] both as an organization and on their individual members. It further prohibited trade and commerce with the sanctioned organization and listed individuals. In the UNSCR 2199 it called the member States to further ensure that there is no engagement in oil trade with them.

Following Syria's use of chemical weapons on its soil, there was a failed UN sanctions attempt on the country in 2017, whereby, a draft resolution for the UN Security Council was created for imposing sanctions on the country by freezing of the financial assets of certain Syrian government military officials and the outlawing of the trade in helicopter parts.[105] However, two members of the permanent-five (P5), China and Russia, vetoed the same.

8.2. US Sanctions

US imposed sanctions through series of executive orders and Caesar Syria Civilian Protection Act, 2019, where the executive orders targeted Syrian officials, government entities, and businesses linked to Assad regime, while the Act allowed for sanctions on individuals and entities that supported the Assad regime, including those in the military, construction, and energy sectors.

Sanctions against Syria by US has been in force since 1970s, the majority of which are implemented in two phases:[106]

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[102]The Carter Center. "*US and European Sanctions on Syria.*" (September 2020). pg. 3, 6.
[103] https://www.un.org/press/en/2015/sc11775.doc.htm, paragraph 17. (last visited on 10.06.2024).
[104] U.N. Security Council Resolution (UNSCR) 2253. 2015.
[105] York, Reuters in New. "*Russia and China veto UN resolution to impose sanctions on Syria.*" The Guardian. (1 March 2017).
[106] *Id.* Pg. 3.

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- **First Phase**

It started in the 2000s against the Syrian government activities, which among others included supporting terrorist activities in Lebanon. Syria was added to the list of 'State Sponsors of Terrorism' by the US in 1979 after Syrian military occupation of Lebanon and its support of the Lebanese Shia Islamist Militant Group, Hezbollah and other terrorist groups in their activities in Lebanon.[107]

The Syrian occupation Lebanon last till April 2005 and it was during the previous year of 2004,[108] when US declared new sanctions:

- Condemning Syria's possession of Weapons of Mass Destruction (WMD),
- Criticizing the occupation of Lebanon, and
- Its support for terrorist organizations like Hamas and Hezbollah.[109]

The EO 13338 brought into force the Syria Accountability Act (SAA) and, except for food and medicines, restricted export of most goods to Syria.[110] It also banned the entry of air carriers from Syria and extended the list of individuals for targeted sanctions. These sanctions, however, did not cover business activities, oil imports, or investments and banking transactions between the two States.

- **Second Phase**

This phase marks the time period from 2011 to present wherein sanctions were imposed in response to the Syrian civil war.[111] In 2011, the US significantly increased its sanctions against Syria, halting the majority of the country's remaining trade with Syria and placing penalties on the government of that country, a number of its government-owned companies, and well-known Syrian businessmen and their companies. A few straightforward trade figures show how this expansion has affected the economy in addition to the effects of the Syrian civil war: While trade

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[107] "*State Sponsor: Syria.*" Council on Foreign Relations.
[108] CNN.com. "*US to hit Syria with sanctions.*" (10 Mar 2004).
[109] Executive Order 13338. "*Blocking Property of Certain Persons and Prohibiting the Export of Certain Goods to Syria.*" 17 May 2004. *See also,* Whitaker, Brian. "*Suspicious sanctions.*" The Guardian. 17 May 2004.
[110] The Carter Center. *"US and European Sanctions on Syria.*" (September 2020). pg. 7.
[111] The Carter Center. *"US and European Sanctions on Syria.*" (September 2020). pg. 3.

between the US and Syria was over $900 million in 2010, it has been less than $60 million annually since 2012.

During this period, the US implemented both primary and secondary sanctions on Syria. Where primary sanctions included following:

- Trade Embargo - Whereby nearly all trade between the US and Syria is prohibited including export of services like shipping, and IT services, with exceptions for humanitarian aid.

- Financial Restrictions - Unlike sanctions of 2004, this phase included financial restrictions as per which US banks are barred from processing transactions involving Syria, making it difficult for foreign companies that are doing business with Syria to use US banks or US dollars.

- Assets Freeze - Furthermore, Syrian government assets in the US are frozen, and US persons and entities are prohibited from entering into transactions with sanctioned Syrian entities, which includes, Syrian Central Bank, Syrian military and intelligence ministries; Syrian State-owned oil companies; Syrian port operators; and other State-owned and Sate-linked companies and entities.[112]

- Import Bans - US sanctions expressly forbid US businesses from trading, transporting, or conducting any other activities involving petroleum or petroleum products of Syrian origin, as well as from bringing petroleum and petroleum products into the US.

- Targeted Sanctions and Travel Bans - The sanctions targeted various Syrian government officials, military commanders, businesses, pro-government businessmen, political figures, military leaders, and other President Bashar Assad supporters and further prohibited entry of Syrian airlines in US territory.

[112] The Carter Center. *"US and European Sanctions on Syria."* (September 2020). pg.8.

Secondary sanctions, on the other hand, were those which penalized non-US entities or third party transactions and sectoral sanctions by targeting specific industries like oil and gas production, construction, and engineering services, etc. In furtherance of the same, US came up with Caesar Syria Civilian Protection Act of 2019 which restricted non-US entities engaging in specific business activities with Syria with the aim to deter foreign involvement in activities that strengthen the Syrian government or its military actions.

8.3. Sanctions by EU

Only after the start of the civil war, or since 2011, did the EU impose trade restrictions and other measures, which primarily included a ban on the sale of goods that could be used to repress the civilian populace. It further extended its sanctions by putting an embargo on the Syrian oil sector.[113] Unlike, US, the measures taken by the EU were not encompassing all the products and services, except food and medicines, rather it restricted trade only in specific categories of goods and services.

In 2012, the sanctions were updated vide Council Regulation (EU) No 36/2012 to include energy sector, financial sector, arms supply, and mining sector and strengthen them in telecommunication control sector and law enforcement.[114] The list of individuals under asset freeze and travel ban reached to almost 120 government officials and institutions with the ban extending to trade of certain commercial and luxury goods with Syria.[115]

The sanctions were also declared to be kept in place until a political transition is seen in Syria and for the same reason extended through 2022 and 2023.[116] However, with the Syrian government showing open support for Russia's invasion of Ukraine in 2022 and recognizing eastern regions of Ukraine as Independent States, there has been no sign of sanctions being lifted anytime soon.[117] Although an ease of sanction

[113]UK P&I Club. "*EU extends sanctions to prohibit import of Syrian oil.*" UK P&I Publications. (5 September 2011).
[114] UK P&I Club. "*Update and Overview of Syria Sanctions.*" UK P&I Publications. (2 February 2012.)
[115] Gov.uk. *"UK sanctions relating to Syria.*" Brexit. Foreign, Commonwealth & Development Office. 8 April 2019. (last updated 31 December 2020).
[116] North Press (Kurdish agency). "*EU Extends Restrictive Measures Against Syrian Government.*" (June 2022).
[117] Al Arabiya. "*Ukraine's Zelenskyy cuts ties with Syria after it recognized separatist republics*." 30

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from the EU was observed in the aftermath of the Turkey-Syria earthquake in 2023 for about six months.[118]

8.4. Impact of Sanctions

The US sanctions, especially those under the Caesar Act, have stringent criteria for their lifting or waiver as the US executive branch requires congressional approval or certification that Syria has met specific conditions. The EU, however, has more flexibility, with sanctions requiring annual renewal and broad discretion for lifting with consensus among member States. Other than EU and US, Australia and the Arab League also joined to pressurize Syria into amending its internal social and political scenario in accordance with the internationally recognised human rights standards and democratic working of the government.

Australia in 2011, in reaction to the violence committed by the Assad government against civilians, announced a series of sanctions against Syria prohibiting transactions with companies that operate in Syria in any capacity pertaining to banking partnerships, precious metals, petrochemicals, weapons, oil and natural gas, or hazardous materials. Additionally, they forbid doing business with individuals, groups, or individuals connected to the regime who are known to be militants and who commit crimes against humanity and war crimes.[119] The Arab League followed by Turkey also declared freezing Syrian government's assets, in addition to, ceasing movement of airlines between the countries and financial transactions with the Central Bank of Syria.[120]

The sanctions even after exemptions, with humanitarian aid in view, have led to shortages in medical supplies, by making it difficult to import due to complex

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June 2022. *See also,* Radio Free Europe Radio Liberty (RFE/RL). "*Ukraine Cuts Diplomatic Ties With Syria After It Recognizes Eastern Regions As Independent.*" *(*30 June 2022). https://web.archive.org/web/20220701050748/https://www.rferl.org/a/ukraine-syria-diplomatic-ties-russia-assad/31922447.html. (last visited on 10.06.2024).

118 Al- Monitor. "*EU eases Syria sanctions to speed up quake aid.*" 23 Feburary, 2023. https://www.al-monitor.com/originals/2023/02/eu-eases-syria-sanctions-speed-quake-aid#ixzz7uVLO7d3J. (last visited on 10.06.2024).

119 Australian Government. "*Syria sanctions regime.*" Department of Foreign Affairs and Trade. 14 March 2022.

120 DW. "*Arab League imposes sanctions on Syria.*" 27 November 2011. https://www.dw.com/en/arab-league-imposes-sanctions-on-syria/a-15560110. *See also,* Black, Ian. "*Turkey imposes sanctions on Syria.*" The Guardian. (30 November 2011).

bureaucracy and fear of sanctions. They further limit charity work by blocking bank accounts and money transfers. The sanctions also affect the daily life of the civilian population with limited access to technology, Western platforms like Google, etc.

Overall, the international economic sanctions reflect the global community's response to severe human rights abuses but also pose significant challenges in balancing political objectives with humanitarian needs. Several exceptions for authorized humanitarian aid have been incorporated into the sanctions framework to provide aid to Syrian civilians;[121] however, the aid has been directly and indirectly obstructed by the sanction in force.[122] The situation reflects the irony of enforcing sanctions to promote and preserve protecting human rights which in turn amplifies the human rights violations either by obstructing humanitarian aid or by adverse social, economic, and political position of the population of the targeted nation.

9. CASE STUDY 8: ZIMBABWE

Economic sanctions on Zimbabwe have primarily been imposed due to concerns over human rights abuses, lack of democratic governance, and land reform policies that led to economic instability and violence. The main actors imposing these sanctions include the US, the EU, and to a lesser extent, other Western nations.

Zimbabwe gained independence from Britain in 1980. The pre-independence colonial Rhodesian government, in 1979, entered into Lancaster House Agreement and ending the Zimbabwean War of Liberation, fought between the white-minority government of Rhodesia (led by Ian Smith) and nationalist groups such as the Zimbabwe African National Union (ZANU) and the Zimbabwe African People's Union (ZAPU). The Agreement called for immediate ceasefire between the two groups and established a framework for transition of power to democratically elected government. It included land reform provisions which overlooked land redistribution.

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[121] Mathews, Sean. "*Syria earthquake: 'Inflection point' for normalisation with Bashar al-Assad.*" Middle East Eye. (16 February 2023). "Humanitarian aid is technically exempt from Western sanctions and 91 percent of UN aid going to government-held Syria comes from the world's top four sanctioning entities: the EU, US, UK, and Canada."

[122] Nehme, Dahlia. "*Syria sanctions indirectly hit children's cancer treatment.*" (15 March 2017).

One of the key aspects of the land reform policy designed to address the deeply rooted land ownership disparities in Zimbabwe was "willing buyer, willing seller" provision, according to which, land redistribution would occur on a voluntary basis, meaning that landowners (predominantly white farmers) would sell their land to the government if they were willing, and the government would buy this land at market prices. For an effective implementation of the same, the British government, along with other international donors, was expected to provide financial support to the Zimbabwean government to facilitate these purchases. This financial aid was intended to ensure that the Zimbabwean government could afford to buy the land needed for redistribution. The agreement included a clause that protected land ownership from compulsory acquisition for the first ten years of independence, effectively until 1990. The Zimbabwean government adhered to the "willing buyer, willing seller" principle to redistribute land to black Zimbabweans after independence. However, financial constraints and lack of international support hindered the process and only a small percentage of white-owned land was successfully redistributed, leading to frustration and unmet expectations among the black majority.

In 1992, the Zimbabwe government came up with the Land Acquisition Act which gave itself power to acquire land for resettlement, with compensation. The same was initially funded by the British government. However, implementation saw various challenges like:

- Landowners challenging acquisitions in court, thereby slowing the progress,
- Politically connected elites misused the program for personal gain.
- Lack of transparency in land allocation.

In the face of ineffective implementation, U.K. refused to solely fund the purchases in 1997. This led to adoption of another Land Reform program in 1998 whereby Zimbabwe aimed to compulsorily acquire half of white-owned commercial farmland over 5 years. However, landowners continued to resist and on the other side, pressure from war veterans and a new black elite demanding faster land redistribution increased.

This tension brought forth the movement of the "Fast-Track Land Reform Program" (FTLRP), wherein, in February 2000, many people, including war veterans—many of whom were their children and grandchildren—were organized by the pro-Mugabe Zimbabwe National Liberation War Veterans Association (ZNLWVA) to march on farmlands owned by white people, initially accompanied by drums, song, and dance. Both the workers, who were usually of regional descent, and the farm owners, who were primarily white, were forced off their lands. This was frequently carried out in a brutal and uncompensated manner.

These activities adversely affected Zimbabwe's economic stability in addition to their international relations with Western countries and the response came with the US freezing its credit for over 20 years, followed by the EU and Canada.

9.1. US Sanctions

The US imposed its first set of sanctions with the enactment of the Zimbabwe Democracy Economic Recovery Act (ZDERA) in 2001, in response to the controversial land reform program, with the aim to promote democracy, rule of law and economic recovery of the target nation and condemn the human rights and property rights violations. The Act restricts Zimbabwe's access to international financial institutions like the International Monetary Fund (IMF) and the World Bank and requires US representatives in these institutions to oppose any extension of loans or debt relief to Zimbabwe.

In continuation of the previous sanctions, US government passed EO 13288[123] in 2003 imposing targeted sanctions on those who undermine democratic processes or institutions in the country with the exemptions for humanitarian aid or specific types of trade. The sanctions under the order include:

- Blocking financial transactions and assets of designated individuals and entities.
- Prohibitions on US trade and investment with Zimbabwe.
- Restrictions on US foreign assistance to Zimbabwe.

[123] Exec. Order No. 13288, 68 Fed. Reg. 12,815 (2003).

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Another Executive Order No. 13391 of 2005 expanded the list of entities and individuals that are sanctioned in Zimbabwe to include those involved in actions undermining democracy, human rights abuses, and corruption. It builds on previous sanctions and enhances the US government's ability to target those responsible for Zimbabwe's governance and economic challenges. The sanctions were further intensified by EO 13469 in 2008, through asset freeze and prohibition of transactions on individuals and entities who have:

- Engaged in actions or policies that undermine democratic processes or institutions in Zimbabwe.[124]
- Been involved in human rights abuses related to political repression.
- Contributed to the economic mismanagement or public corruption that harms the Zimbabwean people.
- Assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities of sanctioned individuals or entities.[125]

The sanctions against Zimbabwe, with a recent announcement on 4th March 2024, have been lifted by the Biden government.[126] However, the targeted sanctions against human rights abusers and corrupt actors continue to be in force. The US is shifting its approach to sanctions on Zimbabwe. The Treasury Department of the country is terminating the broad Zimbabwe Sanctions Program and has declared to target specific individuals and entities believed to be involved in corruption or human rights abuses. In its latest press release on the 4th of March, 2024, the Office of Foreign Assets Control (OFAC) of Department of the Treasury has designated 11 individuals and entities under the Global Magnitsky program. Some of the high-profile individuals designated under this program include President Mnangagwa,

[124] US: Designation of a Person in Bosnia and Herzegovina for Corruption and Undermining Democratic Institutions and Processes. MENA Report. (2022).
[125] US: Treasury Targets Iranian Oil and Petrochemical Trade Network, MENA Rep. (2022).
[126] US Department of State (Press Statement). *"Sanctioning Human Rights Abusers and Corrupt Actors, and Termination of Zimbabwe Sanctions Authority."* (04 March 2024).

his wife, and other government officials allegedly involved in corruption or human rights abuses by security forces.[127]

9.2. EU Sanctions

The EU responded to Zimbabwe's deteriorating political climate, violations of human rights, and sabotage of democratic processes by enacting its first round of restrictive measures in 2002. An arms embargo, a prohibition on the export of tools that might be used for internal repression, travel restrictions, and asset freezes aimed at important figures in the Zimbabwean government were among the first sanctions imposed.[128] The EU expanded its sanctions even more in reaction to the violent political crackdown and electoral fraud that occurred during the 2008 elections. The list of sanctioned individuals and organizations was expanded to include members of President Robert Mugabe's inner circle as well as companies doing business with the government.[129]

The period between 2011 to 2013 saw some easement on the restrictions in recognition of some positive political developments and the implementation of the Global Political Agreement (GPA), the EU began to ease some of its sanctions. In 2013, a significant number of individuals and entities were removed from the sanctions list, though measures against key figures and an arms embargo remained in place.

Since 2014, The EU has shifted its sanctions to individuals and entities linked to human rights abuses and anti-democratic actions in Zimbabwe, assessing compliance with democratic reforms and continuously reviewing and adjusting its regime.

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[127] Department of the Treasury. Office of Foreign Assets Control. "*Following US termination of the Zimbabwe Sanctions Program, Treasury designates key actors under the Global Magnitsky Program.*" US Department of the Treasury. (4 March 2024). https://ofac.treasury.gov/recent-actions/20240416

[128] Council Regulation (EC) No 310/2002 concerning certain restrictive measures in respect of Zimbabwe. European Parliament and of the Council. 18 February 2002

[129] Council Decision 2008/605/CFSP, amending Common Position 2004/161/CFSP concerning restrictive measures against Zimbabwe, 2008 O.J. (L 194) 35 (EU).

The primary goal of the EU restrictions is to stop internal repression in Zimbabwe and in addition to the targeted sanctions of travel bans and asset freeze, the ruling and regulation also prohibit:

- Transfer or export of arms or/and any related materiel that can be used in Zimbabwe for,
  - weapons and ammunition
  - military vehicles and equipment
  - paramilitary equipment and spare parts;[130]

- Technical assistance services with respect to use of such weapons;

- Financing or financial assistance in relation to any military activities in Zimbabwe, including in particular
  - grants, loans and export credit insurance
  - insurance and reinsurance for any sale, supply, transfer or export of arms and related military equipment.[131]

In light of the circumstances in Zimbabwe, the Council, in February 2024, extended its restrictive measures for an additional year, expiring on February 20, 2025, which include a targeted asset freeze against Zimbabwe Defence Industries and an embargo on weapons and equipment that could be used for internal repression.[132] However, since February 2022, there has been no one on the list.

9.3. Impact and Criticism of Sanctions

The sanctions have crippled Zimbabwe's economy, hindering access to credit, international trade, and new technology. This has led to food insecurity, infrastructure problems, and limited healthcare. Zimbabwe's agriculture is crucial for employment, income, and export earnings. However, sanctions have hindered

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[130] EUR-Lex. *"Restrictive measures against Zimbabwe."* Summaries of EU Legislation. https://eur-lex.europa.eu/EN/legal-content/summary/restrictive-measures-against-zimbabwe.html. (last updated on 5 October 2020). (last visited on 11.06.2024).
[131] *Id.*
[132] Council of the EU (Press Release). "*Zimbabwe: Council renews restrictive measures for a further year.*" 2 February 2024. https://www.consilium.europa.eu/en/press/press-releases/2024/02/02/zimbabwe-council-renews-restrictive-measures-for-a-further-year/ (last visited on 11.06.2024).

access to credit and investment, reducing productivity and affecting households' livelihoods. Horticulture, the fastest-growing sector, has lost market access to lucrative markets like the Netherlands and the UK, and preferential tariff quota exports to the EU. This has negatively impacted Zimbabwe's fight against poverty and hunger.[133]

The UN argues that sanctions have had a devastating impact and should be lifted. While the critics argue that Western media ignores the historical context of land ownership and portrays Zimbabwe negatively.

10. CONCLUSION

This chapter provides a comprehensive analysis of economic sanctions through various case studies, offering a holistic view of their motivations, implementations, and outcomes. Economic sanctions are a tool of coercive diplomacy used to influence the policies and behaviors of target nations without resorting to military force. The case studies of Iran, North Korea, Zimbabwe, Venezuela, Cuba, and Myanmar illustrate the diverse contexts and complex ramifications of such sanctions. While economic sanctions are a critical tool in international relations, their effectiveness and ethical implications remain subjects of ongoing debate. The case studies highlight the need for a nuanced understanding of the contexts in which sanctions are applied and their far-reaching consequences. The insights gained from these examples can inform the development of more effective and humane approaches to using economic sanctions as a means of achieving international policy goals.

The study of the above events proves that sanctions are imposed for reasons including non-compliance with international obligations (Iran's nuclear program), human rights violations (Myanmar's treatment of the Rohingya), and political conflicts (Venezuela's governmental crisis). These motivations reflect the international community's attempt to enforce norms and regulations without direct confrontation. Whereas effectiveness of sanctions varies and depends on the

[133] Zimbabwe Submission. "*Impact on Zimbabwe and the Region of the Unilateral Sanctions imposed by the US of America and the EU.*" Office of High Commissioner for Human Rights. 19 October 2020.

political objectives of States imposing such sanctions. In some cases, like Iran, sanctions have led to significant negotiations and agreements (JCPOA). In others, such as North Korea and Venezuela, the targeted regimes have developed methods to evade sanctions, diminishing their impact. Additionally, something that is common in all cases is the sanctions' having humanitarian consequences, affecting ordinary citizens and exacerbating economic hardships.

Other than the given justification by every sanction-imposing nation, there is always a prominent role played by the geo-politics or international relations and vested interests of every country in taking the decision to implement sanctions or not. This nature makes it difficult for United Nation Security Council to impose sanctions in case of violations of International Law or security threats. Furthermore, the veto power held by the Permanent 5 nations limits this power. This, in turn, pushes other countries to impose unilateral sanctions or multilateral sanctions in conjunction with their regional organizations. Unilateral sanctions from developed countries have a major impact on a developing nation and because of this reason only, the US has a long history of imposing unilateral sanctions against nations which are either going against their own (US) national policies or are showing signs of communism in their domestic politics. As seen in the case studies, in almost every case US has involved third parties as their targets of sanctions to strengthen their economic sanctions on the targeted countries.

The result of such economic sanctions can go two ways - either the objective is achieved or the targeted nations attempt in evading sanctions. Countries under stringent sanctions frequently employ evasion tactics, including illicit trade, forming alliances with non-compliant nations, and using alternative currencies and financial systems. North Korea's maritime trade and Venezuela's oil shipments to Iran are notable examples. In this case, sanctions influence global trade relations, as seen in Russia's response to Western sanctions by strengthening ties with China and Iran. These dynamics underscore the interconnected nature of global trade and diplomacy.

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CHAPTER 4

IMPACT AND CONSEQUENCES OF ECONOMIC SANCTION VIS-A-VIS GLOBAL TRADE

1. INTRODUCTION

Trade restrictions come under economic sanctions and are used as foreign policy tools to achieve national goals like development, peace, and security. However, when these tools are used, they are controlled by some international norms, which form jus cogens or peremptory norms in International Law, which are to be followed by every civilized nation in the world.

Economic sanctions in today's globalized world can have far-reaching effects on various industries, their supply chain, their market players, investments and interests of various stakeholders (private entities or governments) of such industries, technological development involved in the same, etc. For instance, the imposition of economic sanctions in the form of trade restrictions or withdrawal of investments or corporations from a particular country creates a void or vacuum in the market of the targeted nation for respective goods and services, which is to be filled by domestic players or alternatives from allied nations. The result, however, might not always be fair or equitable in as much as fulfilling the demands of the domestic market for now-banned goods and services can create an opening for duplicate or low-quality alternatives or outright violation of trademarks or parallel imports of now-banned or unavailable goods and services.

These adverse effects can also affect the competition in the market as they can lead to the formation of monopolies or oligarchies, thereby leading to apparent and sudden hikes in the price rates. The investment industry is another area that experiences drastic after-effects of the imposition of economic sanctions.

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2. THEORY OF INTERNATIONAL ECONOMIC SANCTIONS

As discussed in Chapter 2, economic sanctions are frequently used by countries to influence the behavior of other nations. The US, in particular, has imposed many such sanctions since World War II, and the UN has increasingly used the same as a tool for maintaining international peace and order. The sanctions can be negative or positive in that they incentivize the target country to adhere to International Laws by taking action to harm a target country's economy or encouraging them to cooperate.

The sanctions come with costs and effects on both the parties, the one imposing it or the one on the receiving end. With respect to the target country, they aim to increase their economic costs, thereby hoping to change their government's behavior by causing welfare losses. In the case of the imposing country, it also may suffer economic consequences due to disruption of trade relations. Other than the two parties, the effects of the trade restrictions extend to third-party countries that are not directly involved in the sanctions. The effects can be beneficial or adverse with respect to trade relations. The types of sanctions that have prominent effects on trade of any country are:

- **Boycotts**
  Restrictions on importing goods from the target country aimed to reduce their foreign exchange earnings.
- **Embargoes**
  Restrictions on exporting goods to the target country intended to deprive them of essential products.
- **Financial Sanctions**
  Restrictions on financial transactions with the target country, potentially freezing their assets.

A research paper by Raul Caruso, "The Impact of International Economic Sanctions on Trade - An Empirical Analysis," explores the effectiveness and impact of economic sanctions on international trade using various theoretical frameworks.[134] As

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[134] Caruso, Raul. *"The Impact of International Economic Sanctions on Trade - An Empirical*

per this work, the impact of trade can be generalized into the following:

- **Reduction in trade volume**

Sanctions can depress trade and can be seen as disruptions. Its impact primarily depends on integrating the targeted economy and the sanctioning economy. The more they are integrated, the more significant the impact will be.

- **Rent-seeking behavior**

Sanctions, especially embargoes, can lead to a rent-seeking situation, where individuals or groups exploit the situation for personal gain. The sanctions often restrict the import or export of certain goods resulting in scarcity of the product in the target country driving up prices for those goods. With higher prices, opportunities arise for individuals or groups to profit by controlling access to restricted goods (through licenses or other means) and selling them at inflated prices in the target country or through smuggling and black markets, which may flourish to circumvent the sanctions.

- **Higher Prices**

The burden of sanctions often falls most heavily on consumers in the target country due to higher prices for imported goods.

In the face of such effects on the domestic market of the targeted countries, States need to adjust their economies by either public policy interventions or private sector involvement. It also may lead to changes in their production and trade patterns. Furthermore, other countries might exploit the gaps left by sanctions, benefiting from new trade opportunities or suffering from reduced market stability.

The impact of sanctions imposed on the target country can significantly affect its economy, society, and national and international politics. The present chapter will focus on the trade-related aspect of these consequences, which in turn affect the society or population of the country. The trade herein includes investments and the business sector, taxation, etc. As discussed, sanctions lead to disruptions in trade,

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Analysis." University Library of Munich, Germany. (2003).

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which brings changes in policies and trade and investment patterns. Furthermore, efforts to evade stringent sanctions can result in the target country allowing the formation of a parallel market that goes against the set international rules and regulations of trade.

3. INTELLECTUAL PROPERTY RIGHTS (IPR) IN A SANCTIONED STATE

An Intellectual Property owner can enjoy their Intellectual Property rights in multiple countries by registering them in each country or by international or regional treaties and agreements like the Patent Cooperation Treaty, Madrid System of Trademarks, or Berne Convention for the Protection of Literary and Artistic Works, etc. Intellectual property rights (IPR) are crucial in global trade for several reasons, as they help foster innovation, protect investments, ensure fair competition, and facilitate international trade agreements.

Any nation that is subject to trade or economic sanctions will have an impact on intellectual property owners both inside and outside of the sanctioned country. This is particularly true with regard to trademarks, as trademark holders find it difficult or impossible to sell or provide their goods or services in the targeted country. This hinders business growth and turnover due to their inability to access the market.[135] This inability to access the market can lead to a situation where the owner cannot use the registered trademark in the sanctioned country. Many countries have "use it or lose it" laws for trademarks, which require the registered trademark to be actively used for a certain period (often 3-5 years), failing which it becomes vulnerable to cancellation by a third party or the trademark office itself. The 'usage' principle is also considered in the case of trademark renewal. The non-use cancellation can be seen in various countries that are under sanction, such as Iran, Sudan, and Syria.[136]

Asset Freeze can be another sanction that can adversely affect the rights of intellectual property holders as freezing of economic resources of a designated person or entity

[135] Novagraaf. *"Sanctioned countries and trademark protection."* 15 September 2020. https://www.novagraaf.com/en/insights/sanctioned-countries-and-trademark-protection#:~:text=When%20economic%20or%20trade%20sanctions,restrictions%20to%20imports%20and%20exports. (last visited on 13.06.2024)
[136] *Id.*

can include IP rights like patents, trademarks, and copyrights, making the rights holder lose their ability to benefit from the same.

The adverse effects of sanctions on IP rights holders make these sanctions a more effective coercive tool that can be used to strengthen the imports or exports ban by restricting transactions related to IPR. For example, a country might ban companies from licensing their technology to a sanctioned entity.

However, even when intellectual property is not the focus of the sanctions, they still can limit the enforcement of IP rights by making it difficult for or discouraging the sanctioned entities from enforcing the IPRs in their jurisdictions. It can be better understood with a case study.

As it is known, Russia is under severe sanctions by the Western countries because of its invasion of Ukraine, which has led various big brands of Western companies like McDonald's, Ikea, Zara, and Starbucks to leave the Russian domestic market. Such transnational brands with massive global demand can leave a vacuum in the domestic market of any country on their exit, which is filled by local businesses. Similar is the situation in Russia, where local Russian businesses and companies from other countries are creating replacements for these brands. For example, "Vkusno I Tochka" replaced "McDonald's," "Stars Coffee" replaced "Starbucks," and "Swed House" replaced "Ikea." These "copycat" companies typically spring up in response to the high demand for the well-known brands' specific goods and services. Nevertheless, because so many customers are still searching for the original brand, the level of customer satisfaction from the new companies is not always adequate. Therefore, to serve this market segment, original brand products are brought to the domestic market through online shopping, parallel imports (i.e., goods from neighboring countries), or gifts from friends and family who live overseas.

The similarities between the originals and these new and developing local businesses in Russia in terms of their brands, logos, taglines, designs, menus, etc., give rise to concerns regarding trademark infringement. Nevertheless, the lack of activity by the trademark owners in these jurisdictions makes it difficult, if not impossible, to enforce these rights legally. Furthermore, as the situation is expanding domestic business opportunities and satisfying consumer demand for products that are currently unavailable due to sanctions, the Russian legal system would not have any vested interest in defending the rights of these Western multinational corporations, even if disputes or concerns are raised. This can be illustrated by the fact that Russia has adopted a list of goods and product categories under Russian Government Resolution No. 506 of March 29, 2022, which permits the importation of genuine goods placed on the market by or with permission from trademark owners worldwide.[137] The Ministry of Industry and Trade was tasked with compiling the list of these goods. In the face of sanctions, Russia has expanded its list of brands that can be imported without the consent of the trademark's owner to include products from US toy manufacturers Hasbro and Mattel, as well as retailers like IKEA.[138] It also includes luxury goods from brands like Yves Saint Laurent and domestic brands like Japan's Nintendo.

This parallel import process allows Russian sellers to buy original branded goods from entities outside Russia that are no longer available in Russia. Since parallel imports are often sold at lower prices than those set by the IP (herein trademark) owners, the sales from such parallel imports can cannibalize the sales of authorized products, leading to significant revenue losses for the IP owner. Furthermore, such imports may adhere to standards of quality different from those of products distributed through authorized channels. This can lead to customer dissatisfaction and harm the brand's reputation.

This phenomenon sheds light on the difficulty multinational companies face in controlling the supply chains of their goods and services. Thus, even with significant brands leaving or boycotting the Russian market, the effect of such a move is more detrimental to the company than Russia's economy.

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[137] Khabarov, Denis; Yakhin, Yuri ; Bychkov, Alexander; & Efremov, Vladimir. *"Russia partially legalizes parallel imports*." Global Sanctions And Export Controls Blog. (6 May 2022).
[138] Reuters. *"Russia adding IKEA, Lancome and other luxury goods to parallel import list*." (13 March 2023).

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4. ECONOMIC SANCTIONS AND INVESTMENT LAW

Any sanctioned State, from an investors' perspective, is usually perceived as a politically and economically unstable place of investment filled with uncertainties with respect to prospective policies as investors become wary of the potential risks associated with operating in a sanctioned environment, such as disruptions in supply chains, currency fluctuations, and increased compliance costs.

4.1. Historic Relation of Sanctions and Investors

Sanctions can lead to uncertainty about future policy changes, potential asset freezes, and operational difficulties. However, in the pre-globalized era, the sanctions were also used to pressure other countries into protecting the investments and interests of their citizens by using military threats and blockades (a form of economic sanction).

The European powers and the US frequently used so-called "gunboat diplomacy," by which the home States of the investor would rely on the threat of superior force or economic sanctions to protect the interests of their nationals. The Don Pacifico affair is an episode of gunboat diplomacy that concerned the United Kingdom, Greece, and Portugal.[139] Pacifico, a British citizen residing in Athens, was subjected to mob violence in April 1847. His attackers were even aided by the police. Pacifico alleged £30,000 in damages, which he tried to recover from the Government of Greece to no avail. After failed diplomatic communications, the British Government instituted a pacific blockade on the coast of Greece, which brought protests from the French and the Russians, with whom Britain shared a protectorate of Greece.[140] Ultimately, the issue was arbitrated, and Pacifico recovered from the government of Portugal and later from the Greek Government, which paid two-third of his original claim.

The incident had a significant impact on the internal politics of Britain. In a famous five-hour speech to the House of Commons, Lord Palmerston, Britain's foreign secretary, defended the policy by making a comparison between the British Empire and the Roman Empire:

> *"just as a Roman could claim his rights anywhere in the world with the words*

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[139] Don Pacifico Affair, H.C. Deb. (3d ser.) (25 June, 1850) (U.K.).

[140] Don Pacifico Affair, Britannica, https://www.britannica.com/event/Don-Pacifico-affair. (last visited June 4, 2024).

'Civis Romanus sum' ('I am a Roman citizen'), 'so also a British subject, in whatever land he may be, shall feel confident that the watchful eye and the strong arm of England will protect him against injustice and wrong.'"[141]

Another example is the Venezuelan blockade crisis, where Britain, Germany, and Italy imposed the blockade on Venezuela for refusal to pay damages sustained by European citizens during the civil war.[142] Some commentators and advocates say that the Neer case of 1926 encapsulates the level of protection that host states had to grant foreign nationals. The case *"asserted a high standard for the violation of the international minimal standard by requiring that the denial of justice must be such as would shock a reasonable bystander."* [143]

In contrast to the pre-industrialized era, the cross-border investment sector has come on the effect side rather than the cause side in today's globalized economy. The sanctions are no longer a tool for ensuring foreign investors; instead, they have come to be recognized as one of the sectors adversely affected by the imposition of economic sanctions. One example is South Africa, which, during the apartheid era, witnessed disinvestment because of international sanctions. Major corporations and investors pulled out, leading to economic isolation and significant economic decline. However, neighboring countries and alternative suppliers benefited from the vacuum left by the exit of Western businesses.

4.2. Direct Impact - Capital and Foreign Direct Investments

Sanctions can restrict access to international financial markets and credit sources, as seen in the case studies from the previous chapter wherein isolating the country from the international financial system is the first and foremost action taken by the US while sanctioning any country, in as much as the US dollars is the strongest and globally accepted currency in the world market and severing transactions with US banks has prominent effect on the trade to and from the sanctioning State. Such sanctions make it difficult for businesses in sanctioned countries to obtain the capital

[141] "*Don Pacifico Affair*", Encyclopædia Britannica, http://www.britannica.com/event/Don-Pacifico-affair (last visited Oct. 2, 2015).
[142] Nancy Mitchell, "*The Danger of Dreams: German and American Imperialism in Latin America.*" 62 (1999).
[143] Neer v. United Mexican States, 4 R. Int'l Arb. Awards 60, 1 (Mex-US Cl. Comm'n Oct. 15, 1926).

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needed for investment and expansion.

The restrictions of financial transactions can limit the access to essential resources, technology, and expertise needed for business operations, making it difficult for companies to maintain or expand their investments in the host countries. Such restrictions can also lead to supply chain disruptions due to trade restrictions, impacting their ability to produce and sell goods. An excellent example is Venezuela, which invested most of its income in the extraction and supply of its oil. When hit with the sanctions, it drastically reduced its exports to almost zero.

In their "The Impact of Economic Sanctions on Foreign Direct Investment: Empirical Evidence from Global Data" paper, Loan Quynh Thi Nguyen and Rizwan Ahmed investigate how global economic sanctions impact foreign direct investment (FDI).[144] The study uses data from 172 countries between 2003 and 2019, analyzing the effects of various types of sanctions on both total FDI inflows and its components, namely greenfield investment and cross-border mergers and acquisitions (M&As), where greenfield investments refer to a form of foreign direct investment (FDI) where a parent company or government entity starts a new venture in a foreign country by constructing new operational facilities from the ground up including building new production plants, factories, or offices, as opposed to acquiring existing facilities. As per this research, sanctions negatively affect FDI by harming infrastructure and economic development in the target countries.[145]

The work further finds that,

- The impact of sanctions on FDI varies depending on country-specific factors, such as the infrastructure level and economic development.

- Different types of investments and sanctions have varying effects. For instance, building entirely new facilities abroad (greenfield investment) is not significantly impacted by limitations on military goods or trade. On the other

[144] Loan Quynh Thi Nguyen & Rizwan Ahmed, "*The Impact of Economic Sanctions on Foreign Direct Investment: Empirical Evidence from Global Data.*" 25 J. Econ. & Dev. 55. (2023).
[145] Ю. М. Дерев`янко, Ю. Н. Деревянко, Y. M. Derevianko & Л. Мбвана. "*Foreign Investment in Tanzania: Current State, Problems and Perspectives.*" (2016). https://core.ac.uk/download/141454987.pdf. (last visited on 12.06.2024).

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hand, sanctions can hurt attempts by foreign companies to buy existing businesses in another country (cross-border M&A).[146]

Economic sanctions affect the prospective FDIs and drive out existing investors as the uncertain environment they cause might lead to investors pulling out their capital to avoid future losses. This sanction-induced environment further destabilizes the economy of the sanctioned State, as much as the process of investors pulling out of the investments brings down the value of the assets concerning such investments, leading to significant losses for other investors and discouraging further investments.

Other than the points mentioned above, it is to be noted that the FDIs can work as a double-edged sword, as countries with substantial investments from other nations are less likely to face sanctions due to the potential economic repercussions for the sanctioning country. Studies show that countries heavily invested in by major economic powers such as the US or China are less likely to be sanctioned.[147] Furthermore, the integration of Multinational Corporations (MNCs) in the local economy creates a complex interdependence that makes sanctions less attractive or feasible.

4.3. Indirect Impacts - Trade Barriers, Inflation and MNCs

Economic Sanctions usually include trade embargoes, i.e., a ban on either import or export of goods from and to the sanctioned nations, and sometimes there might be complete trade blockage. Such sanctions can reduce trade volumes and affect the global supply chain. Today's globalized and integrated global economy can magnify the effects of the sanctions on one country as the trade disruptions caused would affect not only the sanctioning or targeted countries but also the trade partners of such countries dependent on them for specific goods or services. Russia can be a prime example of this in that the export of oil and gas from Russia supports the backbone of most European nations. In light of the same, if any small or economically weak nation is at the receiving end of such consequences, it might limit its ability to participate in

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[146] Loan Quynh Thi Nguyen & Rizwan Ahmed, "*The Impact of Economic Sanctions on Foreign Direct Investment: Empirical Evidence from Global Data.*" 25 J. Econ. & Dev. 55. (2023).
[147] James A. Piazza, "*The Foreign Direct Investment-Sanctions Puzzle: The Role of Investments in Sanctions Decisions.*" 55 International Studies Quarterly 1. (2011).

global commerce.

In the absence of a proper and effective response to the imposed economic sanctions, a country might go into economic recession and inflation due to disruption of trade, decline in foreign investments, and restricted access to international financial systems, making it difficult for the targeted country to conduct transactions, obtain loans, and manage foreign exchange reserves. Reducing foreign exchange inflows and confidence can lead to a devaluation of the local currency, making imports more expensive and exacerbating economic problems. Also, import bans on necessary raw materials and components can disrupt domestic production, leading to factory closures, job losses, and a decline in economic output. This inability to import goods, especially essential commodities like food, medicine, and energy, creates shortages, which leads to a rise in prices of such commodities as demand outstrips supply. Due to scarcity or reliance on more expensive sources, the higher costs for raw materials and components result in increased production costs, often passed on to consumers. Iran, Venezuela, and Zimbabwe are the best examples of this point.

In the case of Iran, the sanctions imposed by the US and EU over its nuclear program led to a deep recession where its GDP contracted significantly and inflation soared, reaching over 40% in 2013. In the meantime, the Iranian rial lost a substantial part of its value against the US dollar, leading to higher import costs. This currency devaluation caused widespread price increases, particularly for imported goods and raw materials. In addition to all this, its foreign investments dwindled, and oil exports, one of the most important sources of revenue, were significantly restricted, leading to reduced national income and government revenues.

On the other hand, sanctions on Venezuela, though not wholly liable, have played a significant role in its economic collapse. The sanctions and mismanagement led to a severe recession, with the economy shrinking by over 60% from 2013 to 2020. Venezuela has also experienced hyperinflation, with rates reaching millions of percent annually at the peak, and the cost of essential goods soared, making them unaffordable for many citizens.

Zimbabwe is another country that has suffered from an economic crisis due to the economic sanctions imposed on it, which created a situation of hyperinflation, resulting in the collapse of the currency and making imports prohibitively expensive for most of the population. In order to stabilize the prices, an attempt was made to switch to foreign currencies, which helped only to a certain extent as they could not restore purchasing power to pre-sanction levels.

By discouraging investment and innovation, economic sanctions can create a vicious cycle of economic stagnation in the targeted country, further weakening its economy and limiting its ability to recover from the sanctions. In such situations the role of policymakers and diplomats becomes increasingly important so as to come up with effective policies and alternative trade partners to bring back the economy to life or to seek alternative or new sources of income in order to keep the economy running.

5. GLOBAL ECONOMIC IMPACT

As mentioned earlier, it is impossible to limit the impact of the economic sanctions on the target country and the sanctioning country in the highly globalized world.

5.1. Supply Chain Disruptions

Supply and value chains, in the present times, intricately connect nations worldwide despite their economic wealth differences. Where value chain refers to a company adding value to its raw materials to produce products and eventually selling them to consumers, the supply chain represents all the steps required to get the product to the customer.[148] Private multinational corporations set up their supply and value chains in places with the most competitive advantage, such as cheap labor, favorable industrial policies, low compliance costs, tax concessions, etc., usually found in the least developed or developing countries. Therefore, the MNCs connect the economies of first, second, and third-world countries. Any disruption in any step of the supply or value chain can affect various industries across the world.

Thus, economic sanctions on significant suppliers of raw materials can severely

[148] Tamper, Evan. "*Value Chain vs. Supply Chain: What's the Difference?.*" Investopedia. 28 May 2023. *See also,* Baker University. "*Supply Chain and Value Chain.*" https://lib.bakeru.edu/Supply-chain-and-value-chain/definitions; National Institute of Standards and Technology. "*Supply Chain.*" Computer Security Resource Center. https://csrc.nist.gov/glossary/term/supply_chain. (last visited on 13.06.2024).

impact industries that rely heavily on such raw materials. Iran, Venezuela, and Russia are perfect examples of this with respect to their oil and gas supply. The energy sector is the backbone of any economy. With most of today's energy consumption relying on fossil fuels, the countries holding limited reserves of such fossil fuels have a robust presence in the energy market as much as the oil and gas industry is more of an oligarchy with control of supply in few hands. Sanctions in such countries have always been tricky as they have a widespread impact worldwide. When sanctions were imposed on Venezuela, buyers of its oil in the Caribbean suffered from a price hike and a shortage. Sanctions on Iran also led to a price hike for many nations, and the after-effects were long-lasting. In today's world, where every household, let alone the commercial sector, is heavily, if not wholly, reliant on electricity consumption, the sanctions on such suppliers adversely affect the trade, economies, and the general population of other nations. The case of Russia is an ongoing example of how almost all of Europe, which is also among the foremost sanctioning countries, is a significant importer of Russian oil and gas.

5.2. Change in Trade and Investment Patterns

The aftermath of economic sanctions on essential players of the supply chain, besides being devastating for specific countries, more often than not leads to the formation of new trading partnerships in as much as the gap left by the sanctioned or affected country is always filled by the upcoming nation providing similar products and services to that of the former. A sanction on one country can become an opportunity for another. This opportunity can come in two ways:

- **Filling the supply gap**

  Sanctions create vacuums in markets where the sanctioned country was previously a significant player. Other countries can step in to supply the goods or services that are no longer available from the sanctioned country. This shift is only sometimes detrimental to the sanctioned State, as both sides can see this process. Trade previously conducted with the sanctioned country gets diverted to other nations. Countries not part of the sanctions regime can benefit by increasing their exports or imports to fill the gap. Furthermore, the vacuum does not only move the trade but also brings a shift in investment and industrial and technological opportunities as sanctions on technology and industrial sectors can lead to new collaborations and partnerships elsewhere. Countries with developed industries can provide the technology or industrial goods that the sanctioned country can no longer access.

Following are some examples for the same:

1. **Russia** - After the EU sanctioned technology imports from Russia, China became a major technology supplier to Russia. On the other hand, the sanctions against Russia have also led it to seek new trade partners for agricultural imports, which allowed countries like Brazil to fill the gap. As a result, Brazilian agricultural exporters, especially in the meat and dairy sectors, increased their exports to Russia, benefiting from the reduced competition from sanctioned countries.

2. **Iran** - With Iranian oil restricted from many markets, other oil-producing countries like Saudi Arabia and the US were able to increase their market share. These countries filled the supply gap by the reduction of Iranian oil in the global market, benefiting from increased export volumes and potentially higher oil prices.

3. **China** - The US has imposed various sanctions and trade restrictions on Chinese technology companies like Huawei, citing national security concerns. In light of this, companies from countries like South Korea (e.g., Samsung) and Taiwan (e.g., TSMC) have seized the opportunity to expand their market share in semiconductors and telecommunications equipment sectors. With Chinese companies facing restrictions, firms from these countries have been able to secure more contracts and increase their sales in the US and other markets.

- **Increase in domestic production**

  Besides looking for an alternative trade partner, sanctions can encourage the sanctioned country to produce more of the sanctioned goods and services domestically to reduce its dependency and vulnerability on external factors. This can lead to long-term economic growth in the sanctioned country as they focus on developing new infrastructure for new industries. An example for same can be the sanctions on Iran whereby when the US imposed sanctions on Iranian oil exports, it created an opportunity for the US to increase its own oil production.

5.3. Financial Market Volatility

Fluctuations in currency are inevitable in a free and open market. However, economic sanctions make it more volatile. A currency's value depends on various interconnected factors, such as interest rates, inflation, the overall economic performance of a country, government debts, the balance of payment (BoP), currency intervention, and speculations. There is no fixed outcome with respect to the impact of sanctions on the currency value, as the relationship between currency fluctuations and economic sanctions is complex and depends on the specific type of sanctions and the overall economic situation.

In the case of export sanctions, the country's ability to sell goods and services abroad is restricted, which reduces the flow of foreign exchange coming into the country. This decreases the demand for the sanctioned country's currency in the financial market, resulting in the depreciation of its value. On the other hand, import sanctions initially positively impact currency because of the low demand for foreign currency. However, it can eventually weaken the currency due to disruptions in production and shortages of goods and services. For example, if a country relies heavily on imported goods, import sanctions can reduce demand for foreign currency, causing a temporary appreciation. However, this can be deceptive as it does not reflect the underlying economic issues caused by the sanctions.

Furthermore, due to uncertainty and loss of confidence in the targeted country's economy, investors might become less willing to hold their currency and, therefore, sell off the same, putting downward pressure on its value.

With the recent sanctions on Russia, the ruble (Russian currency) initially depreciated sharply due to export restrictions on oil and gas. However, Russia imposed capital controls and limited imports, artificially reducing demand for foreign currency and causing a temporary appreciation. This does not reflect the long-term economic

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damage caused by the sanctions.

The impact of sanctions on exchange rates has been examined by Barry Eichengreen and others in their research titled "Sanctions and the Exchange Rate in Time," using historical data from 1914 to 1945 to test predictions from recent theoretical models regarding the effects of sanctions on exchange rates.[149] The study tests recent models by Itskhoki and Mukhin (2022) and Lorenzoni and Werning (2022), which predict the effects of different types of sanctions (import restrictions, export restrictions, asset freezes, and trade embargoes) on exchange rates. The models suggest that the type and scale of sanctions imposed influence the direction of exchange rate movements. The findings of the analysis suggest:

- Import restrictions typically lead to an exchange rate appreciation due to reduced foreign currency demand.
- Export restrictions result in depreciation as they decrease foreign currency supply.
- Trade embargoes have mixed effects depending on their scope.
- Asset freezes lead to exchange rate depreciation proportional to the value of assets frozen.

The effects of the sanctions vary in magnitude and precision across different types of sanctions, and the type of sanction significantly influences the exchange rate through different mechanisms—for example, import restrictions lower foreign currency demand, while export restrictions lower foreign currency supply.

In addition to currency value and exchange rates, the Global financial markets may also react negatively to the imposition of sanctions, leading to increased volatility and uncertainty. Sanctions can have a domino effect, and if a major economy is sanctioned, they can have a ripple effect on other financially interconnected countries. This can lead to a broader market sell-off as investors might get worried about the overall health of the global financial system.

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[149] Barry Eichengreen, Massimo Ferrari Minesso, Arnaud Mehl, Isabel Vansteenkiste & Roger Vicquéry. "*Sanctions and the Exchange Rate in Time*." NBER Working Paper No. 30236, Nat'l Bureau of Econ. Research. (2022).

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Moreover, depending on the type of sanctions, specific sectors of the economy can be particularly affected. For example, sanctions on a major oil producer can cause a spike in oil prices, impacting energy companies and consumers. This volatility within specific sectors can then spill over and affect the broader market. The 2014 sanctions on Russia following the annexation of Crimea led to a significant sell-off in Russian stocks and a weakening of the ruble. In contrast, the ongoing sanctions on Iran have caused significant volatility in the global oil market.

6. SANCTIONS EVASION

While studying the impact of economic sanctions on global trade, it would be erroneous to leave out the consequences resulting from the sanctioned countries' actions to evade or counter them. Sanction evasion can be referred to as the intentional circumvention of restrictive measures and international law, which can result in a financial crime with a significant impact on international relations, global trade, the domestic economy, and society.[150]

As discussed in Chapter 2 of this dissertation, there needs to be a specific comprehensive framework of rules and regulations that govern the legality of the economic sanctions levied on targeted countries by others. It is mainly so because the function of determining and forming foreign trade policies comes within every nation's sovereign rights, keeping in mind that external forces do not intervene in the sovereign authority of another nation. However, in the highly globalized and integrated world, foreign relations and trade policies cannot be understood in a watertight compartment as much as they affect various entities outside the sovereign jurisdiction of the policy-making country. Therefore, even without a proper set of rules in place for economic sanctions or sanctions in general, it cannot be denied that trade restrictions, along with other sanctions, have become an extensively recognized foreign policy tool that works in compliance with International Law (like UN Charter) and trade rules and regulations agreed under various international agreements like WTO, TRIPS, WIPO, etc.

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[150] "*Sanctions Evasion.*" International Maritime Law & Policy Organization. https://www.imlpo.com/pages/sanctions-evasion. (last visited June 4, 2024).

With the ‘not-clearly-defined-but-well-settled’ position on the legality of international economic sanctions, the same has to be understood comprehensively, giving its wide-ranging effects and after-effects due consideration, including the repercussions of imposing sanctions. In the face of sanctions, the target country can either comply with the demands of sanctioning States or develop policies and diplomatic methods to help them overcome the sanctions. However, in the case of stringent sanctions or when most states come together to impose sanctions, the targeted nation might undermine international law and cooperation.[151] Such activities can distort international trade by promoting illegal trade routes, black markets, and illegitimate businesses.

Usually, sanctions are imposed unilaterally by each nation or by a coalition of nations acting in accordance with a resolution adopted by the UN Security Council; however, there has never before been a circumstance in which all nations have agreed to sanction one another. This uneven application of sanctions can create significant disadvantages for businesses in compliant countries.[152] It can be disadvantageous in the following ways:

- Companies operating in sanctioned nations incur higher expenses due to having to look for new partners, suppliers, and markets. These expenses consist of higher prices, more difficult logistics, and the requirement for more thorough due diligence to guarantee compliance. Thus, it can increase the operational costs of such businesses.

- Businesses in non-compliant nations can trade with sanctioned entities, frequently occupying the market voids left by compliant enterprises. As a result, they can keep or even increase their market share without being constrained by rivals in nations that have complied, thereby giving them a competitive advantage.

- Unevenly implementing sanctions may also result in skewed market dynamics as businesses that violate sanctions may be able to obtain cheaper goods and services from these nations, providing them with a competitive edge. This distortion could create competition and unequal opportunities in the international

[151] *Id.*
[152] *Id.*

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marketplace.

In the case of recent sanctions on Russia, a similar situation can be seen where countries like China and India, which are non-sanctioning, could avoid buying oil at cheaper prices. It can be further illustrated by the case of Iran, where because of sanctions, companies from the US and EU had to cease operations and investments in Iran, leading to significant financial losses and the need to establish new supply chains. Meanwhile, firms from countries like China and India continued their economic activities in Iran, gaining market share and access to Iranian resources at competitive prices.

Anytime there are sanctions, the government of sanctioned States must take measures that can mitigate their adverse effects on the domestic economy and general population. Therefore, it cannot be denied that there are good reasons to avoid sanctions through divestment and restructuring, but there is an acceptable difference between avoidance and evasion.[153] In furtherance of this, in the previous case studies, it can be observed that the US has time and again targeted corporate entities based in their jurisdictions as well as third parties such as non-US corporations and specific individuals with asset freeze, travel bans, fines, and penalties to discourage aid to the targeted nation or individuals. In order to ensure the effectiveness of the imposed sanctions, various screening and due diligence programs have been established for States and international organizations. For example, the Russian Elites, Proxies, and Oligarchs (REPO) Task Force which was established to exert pressure on Russia by targeting the financial resources of sanctioned individuals and entities with joint effort from the EU, the G7 countries (Canada, France, Germany, Italy, Japan, the United Kingdom, and the US), and Australia.

Its latest report of March 2023 highlighted various methods used by Russia and its proxies and allies to circumvent the sanctions. It emphasized the increasing need for screening and due diligence programs on sanctioned entities.[154]

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[153] Ruth Helena Alves de Mota. "*Sanctions evasion: the art of hiding and not getting caught.*" LSEG. Risk Intelligence Insights. 13 February 2024.
[154] *Id.*

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Some of the illegitimate or illegal ways that can be adopted by sanctioned entities or by businesses working in sanctioned countries are discussed below:

- **Informal Economic Activities**

  In the hope of overcoming the competitive disadvantages of businesses and corporations of sanctioning and sanctioned countries, such companies and individuals might turn more and more to the informal economy, which is less regulated and frequently involves bribery, smuggling, and other illegal activities to get around sanctions.[155]

- **Third-party intermediaries**

  Sanctioned individuals or firms might use third-party intermediaries, deceptive trade practices, and other methods to continue their operations without adhering to the sanctions. For instance, Iranian firms relied on intermediaries in Dubai to circumvent US sanctions.

  Financial sanctions impede their targets' capacity to transfer or spend money, purchase and sell services, or get credit and investment. As a result, the targeted actors are mainly left with three methods to protect their assets and properties.[156] These are:

  - Sell them at a loss before sanctions take effect;
  - Transfer them to trusted proxies such as family members or employees or
  - Transfer them to non-sanctioning jurisdictions.[157]

  The third method can be well illustrated by the example of the Russian oligarchs, 20 of which had been sanctioned by the EU, US, U.K., Switzerland, and Canada in 2014 due to the annexation of Crimea by Russia. Nine of them were again

[155] Bryan Early & Dursun Peksen. "*Searching in the Shadows: The Impact of Economic Sanctions on Informal Economies.*" 72 Pol. Res. Q. 821. (2018).

[156] JMLIT, Joint Money Laundering Intelligence Taskforce. 2022. "*Financial Sanctions Evasion Typologies: Russian Elites and Enablers.*" URL: https://nationalcrimeagency.gov.uk/who-we-are/publications/605-necc-financialsanctions-evasion-russian-elites-and-enablers/file. (last visited on 14.06.2024).

[157] Can Kavakli, Kerim. Marcolongo, Giovanna. Zambiasi, Diego. *"Sanction Evasion Through Tax Havens.*" Bocconi University. Working Paper N.212. November 2023.

sanctioned in February 2022 after Russia invaded Ukraine.[158] Many of these targeted elites or oligarchs adopted the method of 'asset-shifting' by making sure to transfer the ownership of their assets and funds in sanctioning countries to shell companies in non-sanctioning jurisdictions, which usually have the reputation of being tax havens. In order to keep their wealth safe from the sanctions regimes, the Russian oligarchs registered most of their assets in the British Virgin Islands, the Isle of Man, Cyprus, or the two Russian tax havens, Oktyabrsky Island and Russky Island. An analogous situation occurred in the case of Russian billionaire Alisher Usmanov in 2022 when German authorities attempted to seize a 512-foot Dilbar yacht that was believed to belong to the billionaire mentioned above. Nevertheless, upon closer examination, it was found that the yacht was owned by Klaret Continental Leasing Limited, a Malta-based company registered in the Cayman Islands.

Another instance involves the Rotenberg brothers, Arkady and Borris Rotenberg, who are Russian billionaires and close associates of Russian President Vladimir Putin. According to a July 2020 Senate subcommittee report, the two spent over $18 million on art purchases in the months following their US sanctions in March 2014. Via a network of offshore firms with headquarters in the British Virgin Islands and Cyprus, they were able to purchase multiple pieces of art. In July 2014, Arkady's son Igor took over ownership of Milasi Engineering, a company based in Cyprus. The report characterizes this transfer as made "solely to evade sanctions," with the ownership 'intentionally structured to be opaque to hide the identities of true beneficiaries.'[159]

According to an empirical study by Bocconi University, financial sanctions force foreign assets of sanctioned countries to be relocated but remain accessible to their owners. The study also reveals how sanctions can be evaded through tax havens. Furthermore, it was noted that when targeted countries are subject to sanctions, their deposits in the sanctioning countries decrease, but their deposits and new entities in tax havens increase concurrently.

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[158] Forbes. "*Evading Sanctions: A How-To Guide For Russian Billionaires.*" March 9, 2022. URL: https://www.forbes.com/sites/giacomotognini/2022/03/09/evading-sanctions-a-how-to-guide-for-russian-billionaires/?sh=6a09408d4fa2. (last visited on 14.06.2024).
[159] *Id.*

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- **Tax Avoidance**

  Businesses or sanctioned personalities may also engage in various forms of tax evasion, misreporting commercial invoices, and avoiding paying taxes and customs duties to remain profitable while under sanctions. This lowers government revenue and may cause more serious economic problems. Other than corporate entities or individuals, targeted nations might use a 'burden-shifting' strategy to recover losses incurred by sanctions from citizens or common people by increasing the taxes applicable to them.[160] The other method to evade financial sanctions is to transfer the targeted assets to a place where they cannot be affected by the sanctions. This is known as the 'asset-shifting' strategy which brings into the picture tax haven countries.[161]

  During the sanctions regime on Russian oligarchs, tax havens such as Monaco, the Cayman Islands and Switzerland saw a huge inflow of money. These jurisdictions were reluctant to apply the transparency principles to identify the source of the funds to avoid conflicts of interest in as much as such steps could have ceased the inflow of funds. However, it must be noted that Russian funds and assets are not the only ones that find solace in such tax havens; instead, the elites and super-rich entities of almost every nation have also secured their places in the same jurisdictions. In order to prevent the 'asset-shifting' method of evading financial sanctions, the Western world is using these assets to pressure offshore financial centers to compromise the confidentiality of the sanctioned targets and avoid being boycotted by the global financial system.

Activities of such kind undermine the existing international rules and trade regulations to ensure a free and fair trading environment. They can give rise to a parallel economy that remains unregulated and unchecked. A Bryan Early and Dursun Peksen study argues that sanctions disrupt formal economic activities, incentivizing firms and individuals to shift to the shadow (informal) economy. By analyzing data

[160] Kirshner, Jonathan. "*The Microfoundations of Economic Sanctions.*" Security Studies 6(3): pg 32–64. 1997.

[161] Vittori, Jodi. "*How Anonymous Shell Companies Finance Insurgents, Criminals, and Dictators.*" (2017). URL: https://www.cfr.org/report/how-anonymous-shell-companies-finance-insurgentscriminals-and-dictators. (last visited on 14.06.2024).

from 145 countries between 1971 and 2005, the authors find that sanctions significantly increase the size of informal economies, which has broad implications, including reduced tax revenues, increased corruption, and altered economic participation patterns.[162] The findings suggest that economic sanctions harm formal economies and significantly alter how economic activities are conducted, pushing them into the shadows.

7. CONCLUSION

Sanctions, while aimed at exerting political pressure, often lead to unintended economic consequences that ripple through both the targeted and global economies, and understanding the broader economic consequences of sanctions is essential to developing strategies to mitigate their adverse effects. In this chapter, the author has explored the intricate relationship between economic sanctions and their broader implications on global trade, investments, and other areas, such as Intellectual Property Rights. It focuses on the issues that are most likely to arise during the continuation of such sanctions, especially concerning the dispute settlement mechanisms in the field of investments and intellectual property. In response to the sanctions, the targeted nations often look the other way towards such disputes to avoid any further damage to their domestic industries or businesses.

Additionally, the impact of economic sanctions extends to intellectual property rights (IPR) by hindering the enforcement of IPR in targeted countries, leading to increased instances of counterfeiting and piracy. This erosion of IPR protections not only affects the economic interests of IP holders but also undermines innovation and technological advancement. The inability to enforce IPR can further discourage foreign investment and disrupt the competitive balance in global trade.

Economic sanctions can significantly disrupt international trade by severing established economic relationships and increasing the cost of business for companies in compliant countries. This results in a competitive disadvantage as firms in compliant countries may face higher operational costs due to restricted access to specific markets. Conversely, companies in non-compliant or less strictly regulated

[162] Bryan Early & Dursun Peksen, *"Searching in the Shadows: The Impact of Economic Sanctions on Informal Economies."* 72 Pol. Res. Q. 821. (2018).

countries can exploit these restrictions, continuing their business activities or gaining an unfair market advantage.

Moreover, sanctions frequently drive economic activities into the shadows, fostering the growth of informal economies. This shift not only undermines the efficacy of sanctions but also impacts the economic stability of the target countries by increasing corruption and reducing State revenues. The increased informal economic activities pose challenges to governance and economic reforms, affecting the overall welfare of the citizens and the capacity of the State to resist external pressures.

Interestingly, despite having multiple negative connotations, sanctions also create opportunities for other nations. When one country is sanctioned, its trading partners may seek new markets, opening opportunities for businesses in other regions to fill the void left in the global market. This dynamic highlights the complexity of sanctions as a tool of foreign policy, where the intended pressure on one nation can inadvertently benefit another.

In conclusion, while economic sanctions remain a critical tool for achieving foreign policy objectives, their application and enforcement require careful consideration of the broader economic implications. Uneven application of sanctions can lead to market distortions, competitive imbalances, and the proliferation of informal economic activities. Future policy efforts should minimize these adverse effects to ensure that sanctions achieve their political goals without undermining global economic stability.

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CHAPTER 5

CONCLUSIONS, SHORTCOMINGS AND SUGGESTIONS

1. INTRODUCTION

There is no denying the increasing prominence of economic sanctions in international relations. This foreign policy tool has become a hot topic for debate for its legality and impact on the world's various units, be it at national, regional, global, or even individual levels. International Law does not clarify the legality of unilateral sanctions imposed by nations. However, for collective measures, explicit provisions under the UN Charter are taken against any target nation in the form of financial, trade, or military sanctions.

As observed in the previous chapters, the current framework for sanctions in International Law is broad and vague. It only provides a structure for sanctions imposed in furtherance of the Security Council Resolution. Additionally, unilateral sanctions, or those imposed by regional organizations, are usually exercised under the sovereign right to decide whom to trade with. This sovereign right, however, often intervenes with the target country's domestic work. This dichotomy is the most fundamental issue that underlines the legality of international economic sanctions, and the answer to this lies in realism, as per which the world governance has to be seen and understood beyond the black-and-white meaning of rules and regulations set in the international arena. The supranational organizations now holding important positions in the globalized world owe their existence to each sovereign's consent to be part of such organization and be bound by it. By agreeing to become a member of the international organizations, each State gives up its sovereign powers to a certain extent, which in turn provides authority to the organization. In today's world, where every industry is intertwined with others irrespective of territorial or geographical borders, the complex web leaves no one out of the picture. Every economic, social, or political event of one country impacts the world at large because of the chain of reaction of every event. For example, the general elections of India or the US presidential election are important events not only for India or the US but also for their trading partners, their protectorates, the land-locked countries that depend on them, and others who will be indirectly affected.

2. FINDINGS

Based on the study conducted, the following are the findings reached on the research questions –

- **FINDING 1 - Economic Sanctions in International Law**

  The concept of economic sanctions in International Law is backed by both theoretical and legal frameworks. The economic sanctions can be broadly divided into two categories: unilateral and multilateral. Multilateral sanctions can include sanctions by regional organizations like the EU and African Union or through UN Security Council Resolutions. Chapter VII, Article 41 of the UN Charter permits the UN Security Council to impose economic sanctions without armed force, including disruption of economic relations, communication, and diplomatic severance.[163] The Security Council determines whether there is an act of aggression, a threat to the peace, or a breach of the peace and then determines what steps should be taken, according to Article 39 of the Charter. Similar frameworks are provided under regional organizations for imposing sanctions, often supplementing UN sanctions or implementing their measures.

  On the other hand, unilateral economic sanctions do not find any specific place in International Law, such as the UN Charter or WTO Agreements. It derives its authority from various schools of thought like realism, liberalism, constructivism, etc., which view sanctions as either tools for powerful States to influence or coerce weaker States to achieve strategic objectives or as a means to promote international norms and values, such as human rights and democracy. The nature of unilateral sanctions is highly debatable. These frameworks and theories provide a broad, comprehensive understanding of economic sanctions' legal and theoretical underpinnings in International Law. They guide the design, implementation, and evaluation of sanctions to ensure they achieve their objectives while complying with legal and ethical standards.

[163] Habibzadeh, F. "*Economic sanction: A weapon of mass destruction.*" The Lancet. (2018). https://doi.org/10.1016/s0140-6736(18)31944-5. (last visited on 13.06.2024).

- **FINDING 2 - Impact on non-targeted nations and the global economy**

  The impact of economic sanctions is multifaceted and not limited to any specific area of economics, political, or social. Its immediate and direct effects can be seen in the trading sector, currency value, and domestic market with restrictions on imports, exports, and cross-border investments. However, the subsistence of such sanctions over time affects the government's ability to fulfill its welfare functions and further reduces the civilian population's living standards. As discussed in Chapter 3, the integration of national economies at a global level due to the universal phenomenon of globalization has enhanced the effects of the sanctions in the target country and its aftereffects, which can be observed throughout the global economy. This has raised various new issues like,

  - ✓ Settlement of disputes relating to existing investments, including parties from sanctioning or sanctioned States;
  - ✓ Violations of Intellectual Property Rights of well known brands (who have withdrawn from the domestic market) in sanctioned States.
  - ✓ Increase in parallel imports of restricted goods and brands.
  - ✓ Incentivizing the adoption of illegitimate methods to evade sanctions like tax evasion, transporting goods through sea routes under the radar, etc.
  - ✓ Deliberate ignorance of the illegitimate and trade-distorting methods by the sanctioned State to protect its domestic economy.

- **FINDING 3 - Adequacy of the present system of laws for economic sanctions**

  Regarding ensuring the sanctions' legality and their adverse impact, the framework for sanctions in International Law is very lax. The theories, legal provisions, agreements, and customary practices have provided legitimacy to the sanctions by a sovereign State as its foreign policy tool. However, this legitimacy only applies to a certain extent, and the present framework needs to fully comprehend the extensive reach of the consequences of using this tool. Severing trade and financial sanctions on any State can isolate their economy from the global financial and trading network, thereby driving them into stagnation and, ultimately, poverty. Sometimes, restrictive measures imposed to protect human rights may eventually lead to further deterioration of the existing human rights of the civilian population of the target State. Even in the provisions of the UN Charter, there is no mechanism for judicial review of the Security Council's decision. It is also observed that no present mechanism or system is set up to address the issues arising in various trade sectors due to imposed sanctions.

- **FINDING 4 - Need for modification**

The current international legal framework needs comprehensive, systematic laws governing economic sanctions. This absence leads to ambiguities and varied interpretations of international principles, such as the UN Charter, which complicates the enforcement and legitimacy of sanctions. In addition, the decision-making process of the UN Security Council needs to improve its power to address threats to international peace and security or to protect and promote human rights, mainly because of the veto powers held by the permanent five countries. Even with the passing of the Security Council Resolution imposing economic sanctions, each member's intensity of enforcement differs, leading to inconsistent implementation influenced by powerful nation's political and economic interests. This inconsistency undermines the fairness and effectiveness of sanctions, leading to accusations of double standards and geopolitical bias. It also disrupts formal economic activities, often driving them into the informal sector, which not only diminishes the efficacy of sanctions but also fosters corruption and reduces State revenues, further destabilizing the affected countries. The inconsistency also raises the chances for adoption and development of evasion tactics leading to disruption of global trade.

Thus, the present framework for economic sanctions in International Law requires modification to make it more comprehensively effective in answering the above issues.

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3. SHORTCOMINGS

The research has identified several significant shortcomings in the current framework of economic sanctions:

3.1. Lack of comprehensive legal framework

United Nations Charter provisions provide a legal basis for economic sanctions in the International Law, supported by the WTO Agreements like GATT and GATS and other regional trade agreements like NAFTA (now USMCA). However, the same is valid only for multilateral sanctions. Therefore, the framework of economic sanctions in International Law presents several drawbacks, including cases of unilateral economic sanctions, which are often criticized for violating International Law and need a universally accepted mechanism for determining their lawfulness.[164] Moreover, there are no adequate or efficient mechanisms for monitoring and enforcing compliance with sanctions can result in challenges in ensuring that States adhere to the established guidelines.[165]

3.2. Limited Litigation on Economic Sanctions

Neither the International Court of Justice (ICJ) nor the Dispute Settlement Body (DSB) of WTO has laid down many precedents elucidating the legal regime surrounding economic sanctions or clarifying the legality of economic sanctions and distinguishing between legal and illegal sanctions. Although unclear or specific, efforts have been made to align or implement the sanctions in accordance with the fundamental legal principles. For example, in the case of *Kadi and Al Barakaat International Foundation v. Council and Commission* (2008),[166] the European Court of Justice (ECJ) attempted to balance the fundamental rights of the two individuals listed under UN Security Council resolutions and subsequent EU regulations for alleged links to terrorism whereby their assets were frozen without any

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164 "*Unilateral Sanctions in the Context of Modern International Law*." Meždunarodnoe pravo, No. 3 (2023), https://doi.org/10.25136/2644-5514.2023.3.38737. (last visited on 12.06.2024).

165 Jana Ilieva, Aleksandar Dashtevski & Filip Kokotović. "*Economic Sanctions in International Law.*" UTMS J. Econ. No. 1 (2018).

166 *Yassin Abdullah Kadi & Al Barakaat Int'l Found. v. Council & Comm'n*. Joined Cases C-402/05 P & C-415/05 P. 2008 E.C.J. I-293. (3 September 2008).

opportunity to challenge the listing or defend themselves. The Court acknowledged the importance of fighting terrorism. However, it held that the EU regulations infringed on their fundamental rights as much as they did not provide procedural safeguards and the right to an effective remedy. Another case where the legality of economic sanctions was looked into by the ICJ in *Islamic Republic of Iran v. United States of America* (2023)[167]. Herein, the Court found that the United States had violated the 'Treaty of Amity, Economic Relations, and Consular Rights (1955)' by taking specific measures against Iranian assets, including those held by the Central Bank of Iran (Bank Markazi). It rejected the US argument that the Treaty did not apply due to exceptions for essential security interests, which were again rejected by the Court and awarded compensation to Iran for the harm caused by the US violations. However, with the history of non-compliance by the US with the ICJ rulings, there is limited hope of executing this judgment, thereby bringing us back to the problem of the absence of a proper mechanism or system with respect to defining the scope of legal economic sanctions.

3.3. Inconsistent Implementation

Sanctions are often implemented inconsistently, influenced by powerful nations' political and economic interests. This inconsistency undermines the fairness and effectiveness of sanctions, leading to accusations of double standards and geopolitical bias. This issue is equally applicable to UN-imposed sanctions because not all the Member States impose the Security Council-mandated sanctions with an equal degree of severity, providing the targeted nation with an easier route to circumvent the adversities of sanctions. These inconsistencies further incentivize businesses and corporations to disrupt trade activities.

3.4. Trade Distortions and Informal Economies

The existing frameworks do not take into account the adverse effects of sanctions suffered by investors or corporate entities having a presence in the

[167] *Islamic Republic of Iran v. United States of America*, Judgment of Mar. 30, 2023, I.C.J. Reports 2023.

States that are directly or indirectly affected. Some activities that result in trade disruptions are investment disputes, expropriation of assets by target nations, violation of Intellectual Property Rights, etc. It further encourages tax evasion by elites, under-the-radar trade links between sanctioned and sanctioning States, parallel imports, hoarding, smuggling, black markets, and other unfair trade practices. It is to be noted that such practices pose further problems, as the target country has no vested interest in restricting such acts as they help keep the domestic economy running.

4. TESTING THE HYPOTHESIS

The hypothesis of this research states that

> "*The current laws for economic sanctions are inadequate in providing unambiguous grounds for imposing such sanctions and do not provide clear reasonability standards for imposing of such sanctions.*"

Thus, it would be reasonable to conclude that the research's findings support the stated hypothesis after using a qualitative research methodology to analyze case studies, existing empirical and theoretical data, and international legal documents such as the UN Charter, General Assembly Resolutions and Declarations, and WTO Agreements as primary and secondary sources.

5. SUGGESTIONS

The researcher concludes this work by providing the following suggestions:

5.1. Comprehensive Legal Framework

Developing a detailed and binding international legal framework for economic sanctions can provide more explicit guidelines and standards for adopting and implementing economic sanctions. A comprehensive framework would also allow the stakeholders to outline the conditions, procedures, and limitations for imposing sanctions to ensure consistency and fairness.

5.2. Strengthening Enforcement Mechanisms

Additionally, establishing an authoritative international body within

International Law could serve as an ideal mechanism for determining the lawfulness of economic sanctions, which can provide a platform for evaluating sanctions' legality and ensuring compliance with international norms and standards. It can also address the current lack of clarity and controversy surrounding unilateral sanctions imposed by individual States. Such a mechanism could promote transparency, accountability, and consistency in applying economic sanctions on a global scale. By enhancing the legitimacy and oversight of economic sanctions, an authoritative international body could contribute to more effective and fair implementation of these measures in international relations.

5.3. Monitoring and Reporting Mechanism

Mechanisms ensuring regular monitoring and reporting of sanctions can be set up to assess the implementation of sanctions and promptly address any potential violations by various methods ranging from on-site inspection to analysis of existing data concerning implementation, effectiveness, and violation of economic sanctions. Such a mechanism can help address evasion tactics by improving financial transparency, tracking asset movements, and imposing penalties on entities that facilitate sanctions evasion.

5.4. Multilateral Coordination

International cooperation is the fundamental requirement for establishing the framework and an institute. Identifying the adverse effects of the economic sanctions on trade is the first step towards better and more efficient use of this tool. Further improved coordination among international bodies, such as the UN, WTO, and regional organizations, can enhance the legitimacy and effectiveness of sanctions. Multilateral agreements and collaborative enforcement can also reduce the likelihood of unilateral actions driven by national interests.

6. CONCLUSION

Economic sanctions are undeniably better alternatives to restrictive measures like military force and physical territorial interventions. This is accurately illustrated by

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the increased adoption of this tool by sovereign States after the Cold War. Therefore, in order to ensure effective and safe implementation of this power, it is necessary to understand and identify its wide-ranging and multilayered impact in different fields and acknowledge them to either enhance or develop a new international legal framework that not only governs the adoption and implementation of sanctions but also provide clarity and transparency in the mechanism.

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BIBLIOGRAPHY

I. BOOKS AND E-BOOKS

- ✓ Anna Ventouratou. "The Law & Practice of International Courts and Tribunals". 18 November 2022.
- ✓ Andrew D. Mitchell. "Research Handbook on UN Sanctions and International Law". (Larissa van den Herik ed., 2017).
- ✓ Nicholas Mulder. "The Economic Weapon: The Rise of Sanctions as a Tool of Modern War". (2022).
- ✓ Peter A.G. van Bergeijk ed. "Research Handbook on Economic Sanctions". (2021).
- ✓ Masahiko Asada, "Economic Sanctions in International Law and Practice" (2020).
- ✓ Matthew Happold & Paul Eden eds., "Economic Sanctions and International Law" (2016).
- ✓ Paul Szaz, "The Law of Economic Sanctions" (1998).

II. ARTICLES

- ✓ M. Mararike. "Zimbabwe Economic Sanctions and Post-Colonial Hangover: A Critique of Zimbabwe Democracy Economic Recovery Act (ZDERA)–2001 to 2018". 7 Int'l J. Soc. Sci. Stud. (2018).
- ✓ Mario Larch, Serge Shikher, Constantinos Syropoulos, & Yoto V. Yotov. "Quantifying the Impact of Economic Sanctions on International Trade in the Energy and Mining Sectors". (2022).
- ✓ Raul Caruso. "The Impact of International Economic Sanctions on Trade: An Empirical Analysis". Peace Econ., Peace Sci. & Pub. Pol'y. (2003).
- ✓ Anton Filipenko & Olena Bazhenova & Roman Stakanov. "Economic Sanctions: Theory, Policy, Mechanisms". Baltic Journal of Economic Studies. (2020).
- ✓ Josh Levs. "A summary of sanctions against Iran". CNN. (2012).
- ✓ Zachar Laub. "International Sanctions on Iran". Council on Foreign Relations. (2015).

- ✓ M. Aparo. “The IAEA for Building Future Safeguards Capabilities”. Springer Proceedings in Physics. (2020).
- ✓ Elisabeth Braw. “Russia’s growing dark fleet: Risks for the global maritime order”. Atlantic Council, Issue Brief. (2024).
- ✓ Fifield, Anna. “Punishing North Korea: A Rundown on Current Sanctions”. Washington Post. (2016).
- ✓ Berger, Andrea. “A Familiar Story: The New UN Report on North Korean Sanctions Implementation”. 38 North, US-Korea Institute at Johns Hopkins University’s Paul H. Nitze School of Advanced International Studies. USA. 2017.
- ✓ Davenport, Kelsey. “UN Security Council Resolutions on North Korea”. Washington, D.C., USA: Arms Control Association. 2016.
- ✓ William M. LeoGrande. “A Policy Long Past Its Expiration Date: US Economic Sanctions Against Cuba”. Social Research. (Winter 2015).
- ✓ Cederlöf, Gustav. “The Low-Carbon Contradiction: Energy Transition, Geopolitics, and the Infrastructural State in Cuba”. University of California Press. ISBN 9780520393134. (2023).
- ✓ Caraway, Rose. “Post-embargo Cuba: Economic Implications and the Future of Socialism”. Teresa Lozano Long Institute of Latin American Studies. (2004).
- ✓ Barry Eichengreen, Massimo Ferrari Minesso, Arnaud Mehl, Isabel Vansteenkiste & Roger Vicquéry. “Sanctions and the Exchange Rate in Time”. NBER Working Paper No. 30236, Nat’l Bureau of Econ. Research (2022).
- ✓ Ю. М. Дерев`янко, Ю. Н. Деревянко, Y. M. Derevianko & Л. Мбвана, “Foreign Investment in Tanzania: Current State, Problems and Perspectives”. (2016).
- ✓ Loan Quynh Thi Nguyen & Rizwan Ahmed, “The Impact of Economic Sanctions on Foreign Direct Investment: Empirical Evidence from Global Data”, 25 J. Econ. & Dev. 55 (2023).
- ✓ Bryan Early & Dursun Peksen. “Searching in the Shadows: The Impact of Economic Sanctions on Informal Economies”. 72 Pol. Res. Q. 821 (2018).
- ✓ Ruth Helena Alves de Mota. “Sanctions evasion: the art of hiding and not

getting caught". LSEG. Risk Intelligence Insights. 13 February 2024.

- ✓ Kerim Can Kavakl, Giovanna Marcolongo, & Diego Zambiasi. "Sanction Evasion Through Tax Havens". Bocconi University. Working Paper N. 212. November 2023.

III. INTERNATIONAL STATUTES & RESOLUTIONS

- ✓ United Nations Charter, June 26, 1945, 59 Stat. 1031, T.S. No. 993.
- ✓ General Agreement on Tariffs and Trade (GATT). General Agreement on Tariffs and Trade. 1947. Geneva: World Trade Organization.
- ✓ G.A. Res. 58/198, U.N. Doc. A/RES/58/198 (Dec. 23, 2003).
- ✓ G.A. Res. 52/459, UN Doc. A/52/459 (1997).
- ✓ Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, [2001] 2 Y.B. Int'l L. Comm'n 26, UN Doc. A/56/10, GAOR, 56th Sess., Supp. No. 10 (2001).
- ✓ S.C. Res. 1718, U.N. Doc. S/RES/1718 (Oct. 14, 2006).
- ✓ S.C. Res. 2270, U.N. Doc. S/RES/2270 (Mar. 2, 2016).
- ✓ S.C. Res. 2321, U.N. Doc. S/RES/2321 (Mar. 30, 2016).
- ✓ S.C. Res. 2397, U.N. Doc. S/RES/2397 (Sept. 11, 2017).

IV. WEBSITES

- ✓ https://www.britannica.com/topic/economic-sanctions.
- ✓ https://www.cfr.org/backgrounder/international-sanctions-iran.
- ✓ https://www.iaea.org/topics/safeguards-agreements.
- ✓ https://www.swift.com/insights/press-releases.
- ✓ https://www.bbc.com/news/business.
- ✓ https://home.treasury.gov.

APPENDIX

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1.	Name of the Candidate	Ms. Pratishtha Negi
2.	Title of thesis/dissertation	Economic Sanctions and its Impact on Global Trade
3.	Name of the supervisor	Dr. Anil R. Nair
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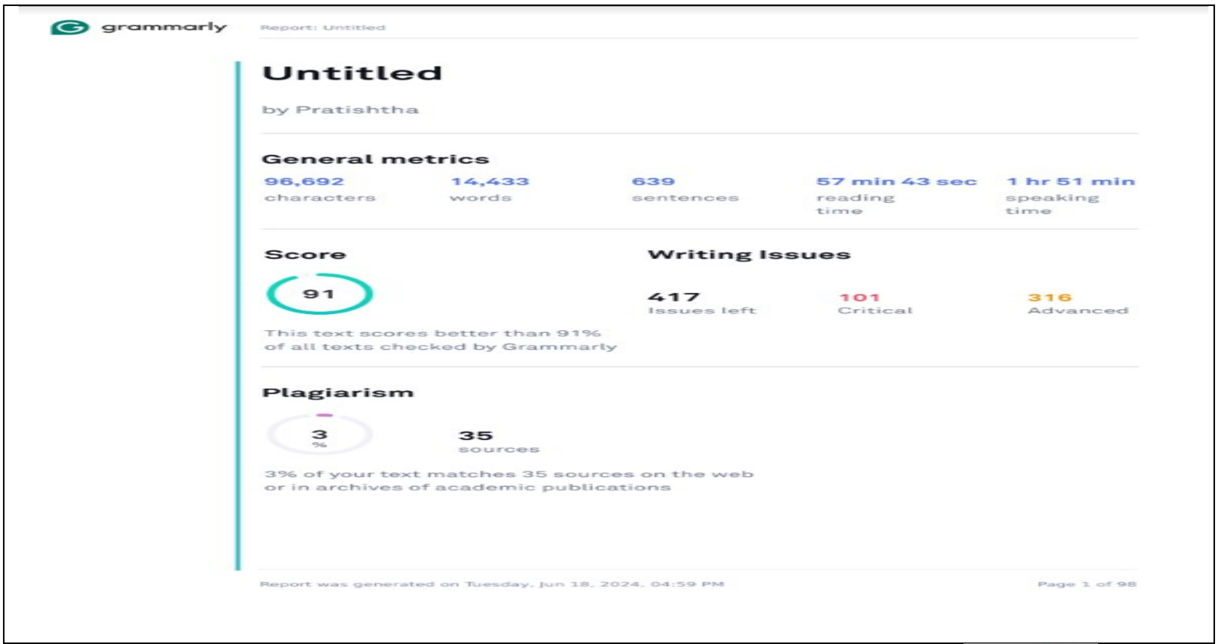

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