

Unilateral economic sanctions are commonly used, but what is the legal implication

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Introduction

- Office of the United Nations High Commissioner for Human Rights (OHCHR) has said in its reports about **negative** impact of unilateral sanctions on **human rights**.
- Human Rights Watch Sanctions reports that **healthcare** sector of Iran has been negatively impacted by **US sanctions**.
 - It has impacted Iranians' **right to health** and **access to medicines** and medical care.
- Economic sanctions can destroy a country's central institutions, firms, lives and livelihoods.

Sanctions and its effects

Sanctions

- Imposition of sanctions is a **first response** to force alleged wrongdoer to **change their**

behaviour.

- Some Sanctions are trade sanctions like **barrier** of **financial** and **investment** flows between sender and receiver countries, **blockades**, **reprisals**, **embargoes** and **starvation** of enemy's population, etc.
- Examples:
 - US sanctioned countries are – Russia, North Korea, Cuba, Syria, Iran.
 - Human rights situation in **Xinjiang** and **Myanmar**;
 - Sanctions on **Iran** and **North Korea** due to their nuclear programmes
- Earlier, Sanctions were used during armed conflict and were **regulated** by **international legal instruments**.
- United States' law **Countering America's Adversaries through Sanctions Act, 2017** (CAATSA) places **economic sanctions** on third countries if they enter into significant transactions with some countries.
 - Target countries are **Iran, North Korea and Russia**.

Effects

- Economic sanctions **promote** sufferings of **civilians** particularly **marginalised sections**.
 - It deprives them their **means of subsistence** and **livelihood**.
- **Advanced** economic countries **force weak** economic countries to **stop trade with target countries**.
 - It badly influences **independent foreign and trade policies** of that country.
 - It attacks **sovereignty** of a nation which is key norm of international law.
- Economic sanctions are **disincentives** for **foreign investors**, **international organisations** and **foreign companies**.
 - It prohibits them trade and commerce with target countries due to **threat of secondary sanctions** which can target them too.

Cases under which economic sanctions are allowed and its borderline

- When target country breaches its obligations under **international law** and commits internationally **wrongful act**.
- Measures must only **aim** at **cessation** of wrongful act.
- Measures shall not be **punitive**.
- Measures must be **proportionate** and should be **terminated** once the wrongful act ceases.
- Measures shall **not** affect protection of **fundamental human rights**.
- Measures must **not violate** norms of international law.

International laws on economic sanctions

- International norms that allow transit of **basic necessities** like food and medicines during **armed conflict** have achieved universal ratification.
- **Chapter VII** of the **United Nations Charter** allows imposition of sanctions.
 - These sanctions are in form of **collective action** taken under the United Nations Security Council to **force a country** to put an end to its actions which threaten or breach international peace and security.

- **UN Charter** does not recognise unilateral measures by any member state except **the right to self-defence** as **interim** measure.
- **Article 2(4)** of the **UN Charter** sanctions promotes **general principle of non-intervention** in other country's **sovereignty, territorial integrity** and **political independence**.
 - Under Article 2(4), there is **no general prohibition** on coercive **economic sanctions** under international law.
 - Sanctions do violate international law and attract international responsibility.
- **International Court of Justice (ICJ)** has jurisdiction over the economic sanctions imposed under domestic legislations.
 - They are not immune to judicial review of ICJ.

How economic sanctions violate international laws?

- **Article 2(3)** of the **UN Charter** imposes obligation upon members to resolve their disputes **peacefully**.
 - Sanctions are **not peaceful** settlement of disputes.
- Economic sanctions violate **Article 2(7)** of the **UN Charter**.
 - **Article 2(7)** prohibits **non-intervention** in internal affairs of a country.
- It violates human rights agreement under **International Covenant on Economic Social and Cultural Rights (ICESCR)** and **International Covenant on Civil and Political Rights (ICCPR)**.
 - **Article 1** of both states that -in **no** case a person should be **deprived** of its own means of **subsistence**.
- Economic sanctions are **inconsistent** with WTO (**World Trade Organisation**) laws.

How sanctions on some countries were wrong under international laws?

- **Iran** and **North Korea** have not committed any wrong act.
 - **International Court of Justice** in its **nuclear weapons Advisory Opinion** stated that proliferation of **nuclear weapons** and its use is **not unlawful**.
 - **Nuclear Non-Proliferation Treaty** allows withdrawal under **Article X** on grounds of "**protection of supreme interests of a country**".
 - Sanctions imposed by **US** on **Iran** to counter its nuclear programme did not gave positive outcome.
- **Cuba** was wrongfully sanctioned due to its **dictatorship** regime.
 - **Cuban Democracy Act of 1992** states that purpose of sanctions on Cuba is to force them towards **democratisation**.
 - International law cannot impose legal obligation on a country to follow a specific model of **governance**.
 - **UNGA resolution of 2018** condemned **US** sanctions on **Cuba based on the premises that** unilateral sanctions **violates** international **obligations** under UN Charter.

Conclusion

Sanctions can become **weapons of mass destruction** and ignoring it can shake the **foundation** of a country. A proper **checks and balances** in form of **judicial scrutiny** is desirable.