

ECONOMIC SANCTIONS AGAINST THE ISLAMIC REPUBLIC OF IRAN FROM THE HUMAN RIGHTS PERSPECTIVE

Arash Izadi, Attorney at Law, PhD

Candidate School of Law –Xiamen University China

Abstract

Since the Islamic Revolution in 1979, Islamic Republic of Iran has always exposed to various international sanctions due to different reasons and excuses. They put Iran under different sanctions directly or indirectly through international organizations, under the pretext of creating an international order. As matter of fact, they pursue their own foreign policy goals and use sanctions as a means to achieve those goals. Economic sanctions is one of the sanctions type that have been imposed on Iran since the beginning of the revolution, And some of them involve deprivations and restrictions of Iranians which are against the basic and essential principles of human rights; although they are inapplicable based on International human rights documents and treaties, and their implementation is a crime and acts contrary to human rights. Governments cannot violate fundamental human rights and arrangements to humanitarian law with excuses of avoiding violation of international law and international order.

Keywords: Economic sanctions, human rights, treaty, Iran, the international law

Introduction

It is about 35 years that Iran is tolerant of economic and non- economic sanctions, with somehow serious effects and impacts on people's life. Based on the sanctions type and according to their nature, severity, they affect society and peoples. In this article, we will try to discuss the impact of these sanctions on primary and fundamental human rights of Iranian population. Now, the question is, whether the countries imposing sanctions against Iran are human rights violators and surpass human right regulations through these sanctions?

It's the question that this paper try to provide an answer for, and since the sanction on a general definition is a reciprocal action against illegal and unlawful acts aimed at stopping the unlawful acts of the country whom subject to sanctions, is it proper to use these excuses and ignore human rights laws and regulations, and to just overlook it??

Usually sanctions affects those who are living in the penalize nation and have no impact on outsiders; even in some cases increase their economic interests [for example, the actual price of boycotted goods multiplied due to sanction on the black market]. But the sanctions ban put pressure on people and cause some restrictions and constrained. Even if boycotting country suffer some financial burden due to imposing sanctions on other country, the sanctions expenditure is low in comparison with the cost of armed conflict,

So, they avoid high cost military actions with Sanctions [1]. It's worth mention that the number of peoples who have lost their lives as a result of economic sanctions after the Cold War is greater than the number of those who died in the history of the use of weapons of mass destruction [2].

We try to figure out the inconsistency of sanctions imposed on Islamic Republic of Iran with the international standards of human rights and it will be discussed in more detail in

the next sections. We will continue with goals and aims of sanction and their definition, and then investigate sanctions that imposed on Iran. We will discuss laws and regulations that violated due to implementation of these sanctions.

In the international relationships arena, states as the main actors in this field, using different and various tools to achieve their goals. Governments do not always state their goals clearly and explicitly, and by the failure of diplomacy they move towards sanctions to achieve their set foreign policy objectives. Among which may be mentioned the war and diplomacy, in this cases in which countries diplomacy have failed, sanctions are their next step. One of the types of sanctions is economic sanctions, which some Scholars have interpreted it as an economic weapon. In this context, it should be noted however, that Sanctions are not always impact only sanctioned country, but in many cases, the sanctioning country or countries experience some economic burden due to these sanctions.

International criminal prosecution which is the latest sanctions and in 1993, the UN Security Council in a courageous act defined this type of sanction in the shadow of establishing the International Criminal Court for individuals responsible for war crimes (serious crimes in violation of international humanitarianLaw)[3] in the former Yugoslavia[4];

Severing of Communications, which disrupt and prevent the freedom of communication and communication by telephone, telegraph, mail, Internet, and sea, air and land delivery; Economic sanctions (trade embargo), which is the most common sanction that applied frequently and in this paperWe will Describe it; **Military Sanction (Arms embargo)**, usually applies in response to military threats and breaches of international peace and security.

Islamic Republic of Iran and the international economic sanctions

Sanctions against the Islamic Republic of Iran can be divided into three broad categories; United Nation sanctions, European Union comprehensive multilateral sanctions and United States Unilateral Sanctions. It should be noted here that the first sanctions were imposed on November 14, 1979 by the United States of America against Iran after capture of spy's house. This trend continued against Iran after that event, and took more dimensions, and some sanctions imposed by Europe and the UN Security Council. This discussion is continued by evaluation of economic sanctions applied in pursuant to Security Council resolutions, and end by the sanctions imposed by the United States of America and the Union of Europe; the sanctions imposed by other countries against Iran will be discussed at the end of this section.

A – UN Security Council resolutions

All resolutions issued by the UN Security Council which has been issued against Iran according to Article 41 of Chapter VII of the UN Charter, and its focus on Iran's peaceful nuclear and missile tests, which is considered dangerous for international peace and security.

B - Europe Union sanctions

On 27 July 2010, the European Union attempted to impose strike coordination economic sanctions against Iran, The sanctions include a ban on foreign trade, financial services, energy and technology sectors, including a ban on insurance and reinsurance companies owned by the Iranian government and Iranian who Approved by European insurance companies[5]. And again the Europe Union foreign ministers on January 23, 2012 decided to sanctions the new contracts to import crude oil and petroleum products from Iran as well as current contracts from 1 July 2012.

SWIFT Sanctions

On March 17, 2012, in the wake of two days before the agreement took place between the 27 EU member states, and unjustified decision of the Council of Europe, Swift banking

network (SWIFT), the global center Of financial electronic communication, discontinued all Iranian banks with international financial networks due to Europe Union decision that they had violated the current sanctions and Iran failure to comply with its international obligations and Full cooperation with the International Atomic Energy Agency in relation to its nuclear program and its continual. In this regard and in accordance with the Council conclusions of 1 December 2011, the Council agreed resonance stringent measures in the energy sector, including a phased embargo of Iranian crude oil imports to Europe, in the financial sector, including the Central Bank of Iran, in the transportation sector, as well as additional restrictions on exports and notably on gold and sensitive goods and technologies with dual-use, additionally more designated persons and entities specified in (a role) including those controlled by the Iranian Revolutionary Guards.

Europe Union countries decided to order the Swift Financial Network based in Brussels to 25 Iranian banks in their blacklist are excluded from this service, and also including Iran's central bank cut off from the network and the services.

Europe Union sanctions focused on reduction of public and government revenues of Iran by prohibiting the sale of Iranian oil. This is considering that oil has a stake in the countries per capital income; affect the country's development, livelihoods, health and well-being of individuals and the other.

C - Sanctions of United States of America

United States of America is known throughout the world as the leader and pioneer in the application of economic sanctions for foreign policy consideration. During the Cold War, Communism came to an excuse for the sanctions and the subsequent human rights issues; from the 80s onwards issues such as the threat of terrorism, drugs and the spread of weapons of mass destruction form the fields of sanctions.

As mentioned above, the Islamic Republic of Iran is among the countries which have been affected by economic sanctions of US and it was first imposed in 1979 against Iran.

Three generations of human rights

First generation: civil and political rights and freedoms

The subject matter of the rules of civil and political rights and obligations erga omnes, the so- called first generation human rights, in the sense that such rights cannot be limited under any circumstances, the rules governing these rights are imperative nature of jus cogens and obligations that arise from these rules are egra omnes obligations.

These rights are fundamental human rights that include rights to life, the right to non-discrimination, the right to physical integrity, the right to liberty, right to the outrageous behavior of torture, inhuman or offensive behavior and so on.

The second generation: economic and social rights

Economic and social rights are classified as human rights belonging to the second generation. Rights such as the right to education, the right to benefit from affordable housing, health care, labor rights, and the right to benefit from the minimum livelihood are examples of this generation human rights.

The third generation: right to environment, the right to peace, right to development [6]

These rights are aggregated in nature and include rights like the right to a healthy environment, the right to peace and the right to development.

The rights belongs to the third generation are the people's rights and not the individual rights.

A - Right to Life and Living

The most important human right is the right to life as guaranteed by law and is supported by the present law. Right to life is a fundamental right of all human rights arises.

Right to Life is in a higher status than all other rights. This right have been highlighted and confirmed in international treaties and documents as below:

Article 3 of the Universal Declaration of Human Rights states: Everyone has the right to life, liberty and personal security.

Paragraph 1 of Article 6 of the International Covenant on Civil and Political Rights states: Every human being has the inherent right to life. This right shall be protected by law. No one may be arbitrarily deprived of the right to life and self.

* In the A and C paragraph of the Article 6 , Almighty God is the source of life and keeping life is mentioned both as a right and as a duty. In addition to the life of a man is right, it is a duty.

It's an inheriting right, it means that others have no right to remonstrate against it; can't took it from a person unless there is a legal and canonical justification.

That is the duty of both the individual and others, they required to preserve and protect it.

According to Article 4 of the Covenant, this general reservation is against the object and purpose of the Covenant. Article 4 banned the violation of Article 6, even at a time of public emergency which threatens the life of a nation and its status has been officially announced.

Non- violating rights

Now the question is remain, when a suspension of fundamental rights (e.g. the right to life) is forbidden, even for a temporary period (Article 4, paragraph 2, of the Covenant), how can we make limitation on these rights with the imposition of sanctions?

Right to life cannot be a departure from the common law in the International Covenant on Civil and Political Rights, the European Convention and the American Convention on Human Rights.

This evidence represents the fact that right to life is basic human rights, and it's violated by the United States of America by sanctions against Iran Aircraft Industries.

U.S. Department of Commerce passed on the anti- terrorism surveillance program on March 30, 1984 against Iran and as a result, exports of aircraft, helicopters and its parts were banned.

This unilateral sanction against Iranian Airlines cause different technical defects and airliners crashed inIran, we will give a brief description of them:

According to reports from Iranian news agencies, there are 17 air accidents over the past 25 years in Iran and about 1,500 people have been killed. Reports added that the prices of raw materials and components, increased wear and insecure flights are the impacts of sanctions against Iran.

The witness to this claim is Report A36-WP/275 which was reported in the 36th meeting of the international civil Aviation organization (ICAO). The body and conclusions of this report [7] emphasize that the UnitedStates sanctions on Iran have been posed a great risk to the safety of passenger flights. Because Iran's access to parts and necessary servicesfor a safe flight is prohibited,The report also declares that flight safety is Very important for human life and human rights, and it is beyond any political differences or conflicts[8].The report citing a technical problem that has been identified by the technical experts of the organization [9].

B - Right to Development

UN General Assembly in 1979, with emphasis on the “right to development is a human right” and emphasize that “equal opportunities in development is priority for the United Nations and its constituent

States”, has taken great strides in this way. In 1986, another resolution[10] , the General Assembly as a natural consequence of the first chapter, emphasis on developing tasks for governments: the duty to work together to ensure the development and promotion of international development policy.

State sanctions could also be considered as a violation of the right to development. Right to development was recognized as a universal right and integral part of fundamental human rights in the Vienna Declaration and Programmed of Action on June 25, 1993. Paragraph 4 of Resolution Human Rights Commission as “human rights and unilateral sabotage acts”, explicitly stated that any restrictions, blockades, bans on trade and assets are listed as sabotage act which is a human right violation crime (Resolution of March 4, 1994)

In most of the economic sanctions listed, all prohibitions and restrictions are directly or indirectly affects in order to prevent or even reduce the country's development and when the country's international trade and economic exchange and knowledge services is prohibited, it will lead to problems in the development of the country.

C- The right to own

The right of ownership is a right that has been violated repeatedly by the economic sanctions against Iran. In many of the aforementioned sanctions, Iranian citizens have been deprived of this known right. These rights are included in the documentation of human rights, and Article 17 of the Universal Declaration of Human Rights was one important case of them, which stated:

Article 17 of the Universal Declaration of Human Rights:

A. Every person has the right to own property individually or socially and otherwise.

B - No one shall be arbitrarily deprived of property right.

Two points rose in this article, the human being has the right to own property, and certainly none of the human being can be fully deprived of his property; which both of them were violated in economic sanctions against Iran. The Iranian people themselves have been observance of denied ownership of many items and their property has been seized and confiscated and it has deprived them of the right to own.

D - Right to work and livelihood

Right to work and right to livelihood is well known in our times and guarantee the survival of any community. Unfortunately however, this right was violated in the shadow of frequent economic sanctions, which is as important point in the mankind literature and has been emphasized in many international treaties.Paragraph 2 of Article 1 of the International Covenant on Civil and Political Rights regarded right to work and livelihood and in paragraph A of Article 23 of the Universal Declaration of Human Rights on the right to work.

As you can see, right to work and livelihood have been accepted in most of the international literatures without any condition and clause, but again, unfortunately in the sanctions imposed against Iran, it is generally not considered and prohibitions business with Iranian nationals and avoid providing any services, transportation and Banking and financial aids to Iran and Iranian nationals are examples of violation of the these rights, directly and indirectly.

E. Right to Welfare and Health

Economic sanctions have deteriorating effects on peoples' health, due to its impact on public and private health care costs, the cost of these services, shifts in actual revenues, decreased access to primary health care; So, it is endanger your health. The relationship between health and the economy of a country is well studied and the two are necessarily interdependent. Sanctions on the government's ability to import essential commodities will

affect the purchasing abilities of households. In term of acceptance in the international documents, paragraph 25 of the Declaration on the Human Rights stress about this right.

UN Committee on Economic, Social and Cultural Interpretive Theory No. 8 entitled “The relationship between economic sanctions and respect for economic, social and cultural rights” requires:

“While the majority of sanctions vary from case to case, the Committee is aware that these sanctions are almost always have significant effect on the recognized rights in the Covenant. Hence, for example, often cause major disruption in the distribution of food, medical and hygiene items, and food quality and access to clean drinking water and endangers the functioning of health systems and education, and would undermine the right to work” [11].

E - Equal rights and non-discrimination

In some cases, human rights are accepted and recognized, but this law does not apply to all people equally and the same, and issues such as citizenship, nationality, race, color, religion, social and so on is Ideal excuse lead to some people cannot benefit from their recognized human rights. Therefore, in the sanctions imposed against Iran, Iranian nationals regardless of their Iranian citizenship are excluded from benefit and enjoyment of many recognized human rights; the instances of discrimination and lack of equality. International instruments which cover issue of discrimination and inequality are as follow, however, only the most important and effective documents are listed here, there is not enough opportunity to mention all such documents. For instance Article 1 and 2 of the Universal Declaration of Human Rights.

Furthermore, no distinction shall be on the basis of the political, jurisdictional or international country or territory to which a person belongs, whether it be independent, protectorate, or non-self-governing or under any authority limitation.

Paragraph 1 of article 2 of Covenant on Civil and Political Rights and Article II, Section 1 the International Covenant on Economic, Social and Cultural hereof equally have used same text and say about non-discrimination. Covenant on Civil and Political Rights, Article 26 on non-discrimination law say the same.

International Convention on the Prevention and Punishment of the Crime of Apartheid stated about that too.

F- Self determination

Humans and communities have the right to self - determination in political, social, cultural, economic aspects and assume their own fate, no longer any excuse accepted for fade or disturbing images, Here, economic sanctions with ban on the trade and dealing with people of a particular society, makes the economic, social and objectives relevant to the demands of foreign powers imposed sanctions which is contrary to the principle of self-determination of peoples and nations, some of the root causes of this ban can be found in the documentation of these rights:

The first paragraph of the first Covenant on Economic, Social and Cultural Rights, the right to be respected and noted that their citizens have a right to economic and political issues of his own rule.

The principle of “sovereignty over natural resources” has been approved repeatedly in General Assembly of the United Nations and other international documents, and even the 1974 Declaration on the rights and responsibilities of the state, economy based on the principle of freedom and self-determination of nations and the international community and each of your opponent’s choice of open international trade [12] And further, all people can reach their goals of wealth and use their own natural resources for this Purpose, provided

that there is not any prejudice to the obligations arising out of international economic co-operation and in accordance with international law, common interests and free trade. For the purposes of the UN which is the international peace and security, all members not only cannot use force or threat in their international relations, but also committing any acts that would undermine international cooperation should be avoided.

G- right on feed and food

The right to food and nutrition is essential and fundamental human rights, it is not possible for him to survive and live without this right, so such rights is undeniable. We can't deprive any human kind from these justified rights, unless the target is destruction and suffering and torture of human. The right to food and nutrition are highlighted in numerous international conventions and documents, including the UN Human Rights Commission resolution.

The United Nations Commission on Human Rights, in a resolution dated 17 April 2000 concerning the rights of social, economic, cultural and embodied in the Universal Declaration of Human Rights and the International Covenant on economic, Social and Cultural rights, and study of special problems facing developing countries in their efforts to achieve these human rights accepted. In this resolution, the Commission emphasized that hunger is harrow and infringement of human greatness.

Conclusion

The point that is quite clear, is that sanctions against the Islamic Republic of Iran is inconsistent with certain principles of human rights, the principles of human rights accepted by all countries of the world, and even designer and imposer of sanctions. The economic sanctions against Iranian citizens and ban and restriction on trade and business facilities are contradictory with the human rights which examined in this paper. We can freely express our voice that human rights law can be applied only in cases of domestic law, not international law; and Security Council would not be the subject to decisions here. If we think so, we must consider these reservations incompatible with the object and subject of obligations, without a doubt the best of the human rights conventions.

Many UN declarations and resolutions have stressed the fact that "the realization of economic, social and cultural rights" is an integral part of human dignity. Also, many states have used the concept of human dignity in their reports to the Committee on Economic, Social and Cultural Rights, including committee in Relation to socioeconomic rights, as well as in the Committee's concluding Observations[13]. For example, a ban on exports of commodities can be a serious impediment to the exploitation of human rights that takes place through depriving the public of the benefits and advantages that are essential for the import of goods.

A review of international human rights norms and standards enshrined in the UN Charter, Universal Declaration of Human Rights, Convention on the Rights of the Child and other relevant documents that are indicative of internationally accepted principles, It can be argued that if economic sanctions would lead to human suffering, these sanctions are not justified from the perspective of international law, and it is notable Even in the case of economic sanctions by the United Nations Charter with international agreements[14].

A number of scholars and experts believe that the United Nations is not a party to human rights treaties. Basically, they are defined and developed after the adoption of the rights specified in the Bill of Rights Charter. As can be noted in the Council's commitment to respect human rights under general international law, and human rights, especially those who come from one of jus cogens, and ensure that implied general Obligations (erga omnes)[15]. This kind of performance and behavior of the Security Council tarnished the image offers for

the international community; protection of human rights on the one hand, and on the other it ignores by imposing economic sanctions[16].

General regulations concerning human rights, inspired by Article 30 of the Universal Declaration of Human Rights, stressed that no government or individual or population cannot be referring to the rights and freedoms enshrined in the Treaties, shall affect the rights and freedoms of others. It is worth noting here that the government is not only prohibited from violating human rights, but also individuals and populations have been barred from committing such acts[17].

One of the very important provisions in Article 50 of the international responsibility of the plan adopted by the International Law Commission, prepared in compliance with international law is *jus cogens*. The government cannot give anything *jus cogens* in international law to prevent violations of international law. Under this provision, the government cannot prevent violations of international law by violation of basic human rights and humanitarian law arrangements. This two restrictions are inspired by Article 60 of the Vienna Convention (1969) on the Law of Treaties, Where it is said that there is no way to make such arrangements that conventions could be terminated one-sided or unilaterally.

References:

- Gary Clydes, Huf Bauer and others, Economic Sanctions reconsidered: history and policy.
- John Muller, Karl Muller, Economic Sanctions: a mass destruction weapon, Translated by Azarnia, TarjomanEghtesad, second year, 1378, p: 43.
- Security Council Resolution 827 of May 25, 1993.
- SeyedFatemi, Seyedmohamadghari, The analysis of Key concepts of the contemporary human rights, commitment, freedom, equality and justice, Journal of Legal Studies 33, 34.
- Council Regulation 423/2007 that was published on 27 July 2010
- Dr. SeyedFatemi, Seyedmohamadghari, The analysis of Key concepts of the contemporary human rights, commitment, freedom, equality and justice, Journal of Legal Studies 33, 34.
4. CONCLUSION 4.3 the imposed trade sanctions by the United States of America against the Islamic Republic of Iran, which, according to the findings of the ICAO mission, is detrimental to the safety of civil aviation and does originate safety deficiencies
- The Safety Deficiencies Arising Out of the United States Sanctions Against The Civil Aviation of The Islamic Republic of Iran-Economic Commission-Assembly (36th Session-International Civil Aviation Organization, Working Paper, A36-Wp/275-Ec/34-20/9/07.
- The Report on Safety” by TC 4/3.33-13 17 July 2005.
- A/RES/41/128 - 4December 1986-97th plenary meeting
- Dr. HaibatolaNajhandiManesh, Economic sanctions and International human rights, Eatamad Meli, Sat, 30, ord. 1385.
- Article 1, Paragraph 2, international Convent on economic, social and cultural rights.
- Dr. HaibatolaNajhandiManesh, Economic sanctions and International human rights, Eatamad Meli, Sat, 30, ord. 138.
- Dr. Homayoon Mafi, Contemplation of American’s sanctions against Iran from international law perspective, law and political science research journal, summer 1385, no 1, pp: 59-84.
- Dr. Jamshid Momtaz, Compliance with UN Security Council sanctions for human rights and international humanitarian law, Law Quarterly, Volume 38, Number 4, winter 1387.
- Farida Shayegan, Dr Jamshid Momtaz, Compliance with UN Security Council sanctions for human rights and international humanitarian law, Law Quarterly, Volume 38, Number 4, Winter 138.
- KoochNeghad, Abbas, Human rights restrictions on international documents, fundamental rights publications, second year, third issue, 1383.