

ECONOMIC SANCTIONS AND THEIR IMPACT ON HUMAN RIGHTS



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ECONOMIC SANCTIONS AND THEIR IMPACT ON HUMAN RIGHTS

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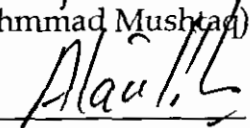
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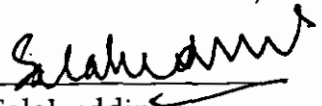
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Dedicated

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To

My Family and friends

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ABSTRACT

The dissertation mainly focuses on the ineffectiveness of economic sanctions as a peace restoring mechanism. The research indicates that economic sanctions pose a serious threat for enjoyment of human rights in the targeted society and have negatively affect the status of United Nations as custodian of human rights. Power of the Security Council for imposing economic sanction contradicts with the Articles 1, 24, 55 of the UN charter and scores of other provisions of many international documents for the protection of human rights. It often fails to realize predictable change and hampered the life expectancy in sanctioned society. Indeed the empirical cases of unilateral and multilateral sanctions specify that economic damage does not persuade involuntary political changes in the targeted behavior ; besides, these sanctions become a weapon in the hand of super powers to exploit the interest of others states.

Economic sanctions not only reduce the world prosperity but also cause collateral damage to the neighboring states. Indeed political instability plays a key role in the success of sanctions, while these sanctions always generate negative impact on a powerful opposition in the targeted society. Whenever sanctions produce some positive results it is invariably due to combination with some other factors. Hence, the conclusion is that imposing economic sanctions is not a preferable choice for attaining the anticipated goals of maintaining and restoring international peace.

INTRODUCTION

It is evident from the history of nations that states assert economic pressures to accomplish certain foreign policy goals.¹ Economic sanctions are conscious actions by governments to entail economic deprivation on a target state or society by restricting and terminating traditional economic relations. These include trade and financial measures, including control upon export to the target state, restrictions upon import from the target state and interruption of official and commercial finance, such as cutting off aid or freezing assets. Also economic sanctions are considered as response to domestic political needs and economic pressure.

Economic sanctions are considered not only as a tool to achieve the foreign policy objectives but it has been a response to domestic political needs and economic pressures.

Economic sanctions are old phenomena which trace back to 432 B.C, of when trade embargo was enforced by Athens against Megra in response to their alliance with the Spartan.² As a result of that they were deprived from access to Athenian port and trade market.

¹ David, A, Baldwin, *economic Statecraft*, Princeton 1985

² Jonathan, Eaton Sanctions: *Some Simple Analytics*, American Economic Association, 1999 available at <http://www.jstor.org> 15- 3-2008

States employ financial pressure as an arsenal during warfare. However it became an independent tool of foreign policy after the formation of the League of Nations. Twentieth century is witnessed frequent use of economic sanctions either unilaterally by single state or multilaterally by a coalition of states or by an international organization such as the League of Nations. Article 16 of the Covenant of the League of nation authorized imposition of economic sanction. Later on the United Nations empowered the Security Council to apply these measures as peace restoring mechanism for maintaining international peace and security under article 41 of the United Nations charter.

Some international law experts distinguish economic sanctions from the other types of peaceful method. According to Margaret Doxey economic sanctions "as penalties threatened or imposed as a declare consequences of the target's failure to observe international standard or international obligations."

Various identical terms have been used might or might not specify the relevant phenomenon: Such as economic aggression, economic coercion, trade embargo and trade boycott etc. Regardless of the use of term, economic sanction, become an important instrument in the hands of the Security Council to oblige the states to comply with certain international norms or standard. Though the Security Council has power to impose economic sanctions against the violator of international peace and security, but the term "economic sanction" in not

mentioned in Article 41. It only directs the total or partial interruption of economic relations and severance of diplomatic relation. This term economic "sanctions" is inferred by jurist or legal experts.³

Under Article 39 the UN charter the Security Council shall determines the existence of any threat to the international peace, breach of peace, or act of aggression before moving Article 41. A narrow interpretation of the article 39 would means that the security council holds this power only incase of actual war or potential war. Nonetheless the Security Council used this mechanism against on many occasions for different purposes such as enforcement of human rights, terrorism, and restoration of democratic Govt etc. Before the end of the cold war Article 41 only twice came into operation, against Rhodesia and then against South Africa. The post cold war era became known as "sanctions decade" due to the frequent use of this mechanism. An eminent example of comprehensive sanctions is Iraq, which drew the attention of international community towards the unintended consequences faced by the innocent people of Iraq. Therefore the Security Council adopted certain reforms in the form of targeted sanctions. Along with this, some human rights activist raise the issue of the violation of human rights by the cruel sanctions, as in Iraq 5,000 children died every week because of lack of food and medicines. Denis hallidy, the

³ Article 41 Charter of United Nations 1945

director of the Food Coordinator Program of United Nations resigned as a protest owing to inadequate condition of food in Iraq.

Apart from this, the question of efficacy and objectives of economic sanctions become controversial in international forum following the adverse impact of comprehensive sanctions against Iraq. International jurists and politicians divided the objectives of sanctions into primary, secondary and some other such as James Barber even mention tertiary goals. According to James "primary objectives" are related with the behavior of the target state, the secondary objectives are linked with the prospect of sender state and the tertiary objectives are correlated with extensive international consideration. However there are five objectives of economic sanctions upon which jurists have consensus. These are:

- Compliance ("to compel the target state to change behavior and observe the demands of sender.")
- Subversion ("to overthrow the leader or the Govt of the target state.")
- Deterrence ("to discourage the receiver state from reiterate the same act.")
- International symbolism
- Domestic symbolism ("to get domestic support for political purposes.")

Also economic sanctions are divided into positive and negative sanctions.

Negative sanctions are most prominent due to its frequent use for the purpose of inflicting economic pain on the target state while positive sanctions

are actions committed to promote collaboration between some states. Sanctions are divided into limited, moderate and extensive groups by Hufbauer. Reducing of bilateral assistance and restriction on dual use technologies comes under the category of limited sanctions, financial sanctions are included in moderate sanctions, and, lastly, the comprehensive sanctions are placed under extensive sanctions such as sanctions against Iraq. ⁴Although the primary purpose of economic sanctions is to maintain international peace and security, the initiator of such sanctions most often the secondary objectives. For example the primary purpose pf economic sanction against Iraq was to restoration of international peace but the secondary objective was to have access to the oil of Iraq.

In fact, the notion of economic sanctions is based on a naïve theory that economic pressure on the citizens would make them pressurize the Govt to alter its policy. However these sanctions often fail to accomplish the sender goals. Instead it mostly put negative affect on the targeted society, as price of sanctions is always paid by the masses. Furthermore, it also affects credibility of United Nations as a guardian of human rights. Article 1(3) of UN charter provides that purpose and principle United Nations is to resolve international economic, social and cultural problems and to ensure the promotion and encouragement of human rights. This responsibility is reinforced under article 24(2) of the charter that the Security Council while discharging its duty will work in accordance with

⁴ Raul, Caruso, *Should We Set the Market Free? Some Notes on International Economic Sanctions* Available at <http://www.jstor.org> 15- 3-2008

the purpose and principle of the charter. Beside this there are several international human rights instruments sponsored by United Nations for the protection of human rights across the world. Among these are the Universal Declaration of Human Rights, International Covenant on Civil, Political Rights. Convention on the Rights of Child and International Convention on Economic Social and Cultural Rights etc. these instrument provides for the protection of life, right to work, right to education and right to health which, especially all rights to life is hampered in the sanctioned society.

Critics of the economic sanctions point out that if these sanctions are an ineffective tool for maintaining peace and reversely its human cost is remarkable why the states utilize this mechanism. The answer could be that because it is less expensive and it does not contaminate the repute of the sender state in the international community as the war.

Similarly the people affected by disastrous effects of sanctions can not seek legal redress in any forum. In other words no remedy is available to the victims of the United Nations economic sanctions. National court do not have jurisdiction because imposition of sanctions is the act of an international community. The international court of justice has no jurisdiction or the power to review any decision of the Security Council. At present the UN also does not provide any remedy against the decision of the Security Council United Nations

must establish a separate fund for the people who are suffered and still suffering from the devastating results of economic sanctions.

CHAPTER 1

ECONOMIC SANCTIONS

1.1 WHAT ARE ECONOMIC SANCTIONS

Economic sanctions are actions, initiated by one state or coalition of states, towards another state or states in order to change its or their behavior or to comply with certain norms that the sender state or states deem important. These are coercive economic measures designed to get some political objectives or policy changes by the targeted states. International authors' term economic sanctions as a punitive action taken by the international community in case of failure of the target to comply with certain international standard.¹

Barry E carter defines economic sanctions: "*Coercive economic measures taken against one or more countries to attempt to force a change in policies, or at least to demonstrate the sanctioning country's opinion of another's policies.*"²

Former US president Woodrow Wilson stated in 1919: "*nation that is boycotted a nation that is in sight of surrender. Apply this economic, peaceful, silent,*

¹ Elias Davidsson, *Towards an definition of economic sanctions*, 2003 available at www.aicgs.org, lastly visited 23-08-2007

² Barry,E,Carter ,*International economic sanctions improving the haphazard U.S. legal regime*, Cambridge university press, 1998

*deadly remedy and there will be no need for force. It is a terrible remedy. It does not cost life outside the nation boycotted, but it brings pressure upon the nation which, in my judgment, no modern nation could resist."*³

Whereas Collective sanctions are generally defined as "*collective measures imposed by organs represented by international community, in response perceived unlawful or unacceptable conduct by one of its members and meant to uphold standards of behavior required by international law.*" ⁴

Economic Sanctions are restrictions with respect to economic activity and are designed to compel a state or states for changing its behavior that are considered to be violating certain norms of international law. It may be unilateral and multilateral and can be comprehensive and targeted. It can be applied by an international organization such as, the League of Nations before WWII and the United Nations. An individual state can also initiate sanctions, such as the United States and the United Kingdom imposed economic sanctions against Cuba and Rhodesia respectively. Mostly they are applied by the powerful states against the recalcitrant nations. They represent something between a

³ D, Losman, *international economic sanction*, Albuquerque university of New Mexico press, 1979

⁴ Boris, Kondoeh, *the limits of economic sanctions under international law the case of Iraq* available at www.casi.org.uk lastly visited 16 2 2008

“diplomatic slap on the wrist” and “more extreme measures such as convert actions and military measures.”⁵

Economic Sanctions also include severance of diplomatic relations, boycotting of athletic and cultural events, and confiscation of the property of citizens of the targeted country. However the most striking form of sanctions that has an utmost impact is constraint on international trade, financial flow or the movement of people. In this sense economic sanctions cover four different areas.⁶

1. Restrictions on the flow of goods;
2. Restrictions on the flow of services;
3. Restriction on the flow of money; and
4. Control of market in order to condense or eradicate the target's chance of gaining access to them.⁷

Boycotts are economic and social isolation of the targeted state. In case of embargo, the sender state bans the transport of goods of to the target state via air, sea and land. Embargo is more hostile it allows the confiscation of property of receiver state. Another form of sanctions is freezing or blocking financial assets,

⁵ Lance, Davis, Stanley Engerman, *History Lesson: Sanctions Neither War Nor Peace*, American Economic Association, 2003 available at www.jstor.org lastly visited 22-11-2007

⁶ Maria, Bengtsson, *Economic Sanctions Go Smart A Human Rights Perspective*, 2002 available at www.w3.org lastly visited on 12-9-2008

⁷ *Ibid*

weapons and military technology as well as travel and visa restrictions.⁸ Economic sanctions are designed to harm to the targeted state for changing certain policies and in this sense they resemble war, however the rules for regulating sanctions are not clearly defined. As compared to wars, sanctions are more attractive for punishing departures from international laws because they are lower cost method for resolving the disputes among the states.

The UN charter does not define the term "economic sanctions". Economic sanctions mentioned in chapter VII are different from economic countermeasures.⁹ Economic countermeasures are bilateral measures, imposed in peace time and generally considered legal if not prohibited by the national law. The rationale behind economic sanctions is that, the overall situation will become intolerable for the masses that will in turn pressurize the government to change certain policies. ¹⁰Goals of such sanctions vary from case to case and are divided primary, secondary and tertiary goals. Primary goals are declared and easy to identify e.g. putting pressure on apartheid regime as in the case of South Africa, increasing respect for human rights and fighting against terrorism. Secondary

⁸ Ibid

⁹ Economic Sanctions mainly understood in the context of international law, under Article 41 of the UN charter. These sanctions are belligerent in nature and are intended as a pressure tactic preceding use of force in international law. Economic Countermeasures in the area of international trade law are usually referred to as retaliation and take the form of withdrawal or suspension of trade concession. There have been the instances where both have overlapped, most notably in the Nicaragua case in the late eighties where the United States and EC both partook in the suspension of concession o Nicaragua, along the use of force in invading that country and imposing Economic Sanctions on it. it has to be noted though that the ICJ and the dispute settlement body of the GATT both declared those respective measures to be legally questionable but at present no suitable remedy in national or international law exist to challenge or compel the offending party to suspend or withdraw such measures.

¹⁰ David, Lektzian *Making Sanctions Smarter*, International Peace Research Oslo

goals could be meant to establish a disarmament process or try to make some changes in a states constitution. Tertiary goals related with broad international standard.

1.2 AUTHORITY OF SECURITY COUNCIL TO IMPOSE SANCTION:

The United Nations charter provides a mechanism for maintaining international peace and security. The Security Council is vested with primary responsibility of maintaining International peace and security. Decisions of council are binding on all the member states of the United Nations under article 25 of charter.¹¹

Whereas Chapter VII Article 41 of the UN Charter empowers the Council to take appropriate measures in this regard as it validates the imposition of mandatory sanctions, ranging from severance of diplomatic and economic relations via rail, sea and air to severance of means of communication.

Article 41 reads:

"The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial

¹¹ Dr, H.O.Agarwal, *International Law*, Allah bad Law Agency,

interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”¹²

The Security Council can only be operative under the said Article if other requirement under Article 39 of the Charter are fulfilled, i.e.¹³ to determine the existence of any threat or breach of international peace and security. Before taking an action under Article 41, the Security Council may take provisional measures under Article 40 of the charter in order to avoid the aggravation of the situation¹⁴. Normally the Council adopts resolutions to condemn an act of aggression by a state and order to restore international peace and security. Article 42 of the charter directs the state for the Collective Use of Force and Article 43 provides for the agreement among the member states for maintaining international peace and security. Articles 44 – 49 provide a scheme in case of Collective use of force since the United Nations does not have its own forces, under Articles 44_ 49 member states are bound to provide their technical and strategical assistance. The Security Council has an economic sanctions committee whose job is to monitor the implementation of such sanctions.¹⁵

¹² Article 41, Charter of United Nations 1945

¹³ Article 39 of United Nations “*The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security*”.

¹⁴ Article 40 “*In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures*”.

¹⁵ Article 41” *the Security council may decide what measure not involving the use of armed forces are to be employed to give effect to its decision s, and it may call upon the member states of the united nations to apply such measures. These may include complete or partial interruption of economic relations and of rail,*

The Security Council has fifteen members, five of which (USA, Russia, UK, France and China) are permanent members. Decisions in the Council require

sea, air and postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations.

Article 42 "Should the security council consider that measures provided for in article 41 would be inadequate or have prove to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstration, blockade and other operation by air, sea, or land forces of Member state of United Nations.

Article 43 1: all members of united nations, in order to contribute in maintenance of international peace and security, under take to make available to the security council, on its call and in accordance with a special agreement or agreements, armed forces, assistance and facilities, including right of passage, necessary for the maintenance of international peace and security.

2: such agreement or agreements shall govern the number of types of forces, their degree of readiness and general location, and the nature of facilities and assistance to be provided.

3: the agreement or agreements shall be negotiated as soon as possible on the initiative of Security Council. They shall be concluded between the security council and member state or between the security council and groups of members and shall be subject to the ratification by the sovereign state in accordance with there respective constitutional process

Article 44: when Security Council has decide to use force it shall, before calling upon a member not represented on it to provide arm forces in fulfillment of obligations assumed under Article 43 , invite that Member , if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingent of that member's armed forces.

Article 45: in order to enable the United Nations to take urgent military measures, members shall hold immediately available national air-force for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined actions shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the military Staff Committee.

Article 46: plans for the protection of armed force shall be made by the Security Council with the assistance of the military Staff Committee.

Article 47 1 :There shall be a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's Staff military Requirement for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2: the military Staff Committee shall consist of chiefs of Staff of the permanent member of Security Council or their representative. any member of the United Nations not permanently presented on the committee shall be invited by the committee to be associated with it when the efficient discharge of the committee's responsibilities require these the participation of that member in its work.

3: the Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Question relating to the command of such force s shall be worked out subsequently.

4: the military Staff Committee, with the authorization of the Security Council and after conclusion with appropriate regional agencies, may establishes regional sub committees

Article 4 1:he action required carrying out the decision of the Security Council for the maintenance international pence and security shall be taken by all the members of the United Nations or by some of them, as the Security Council may determine.

2: such decisions shall be carried out by the member s of the United Nations directly and through their actions in the appropriate international agencies of which they are members.

Article 49: The members of the United Nations shall join in affording mutual assisstance in carrying out the measures decided upon by the Security Council. .

majority of the members present and voting, provided that any of the five permanent members does cast a negative vote called veto.¹⁶ The presumption behind giving the veto power to these five States is that the cooperation of all these power is essential for maintenance of international security and peace.¹⁷ This was a mechanism made for the purpose of avoiding a future conflict among the big powers that may result into catastrophes like the two World Wars.

On 16th December 1966, the Security Council in its 1340th session adopted its resolution No 232. Whereby for the first time the Security Council imposed economic sanctions under Chapter VII of the United Nations Charter¹⁸, Meant to ending the rebellious regime of Ian Smith in Rhodesia against the United Kingdom. Primarily the Security Council by adopting its resolutions no 221 imposed selective sanctions that were later made comprehensive. Rhodesia was located in Southern Africa and it was predominately governed by the Government of White Settlers until 1974. Prior to 1964 Rhodesia was known as Southern Rhodesia, a colony of the British Empire. On 11th November 1965, it declared independence from the British government and known as UDI (Universal Declaration of Independence). This act of Rhodesia was internationally condemned. Rhodesia is a multicultural society.¹⁹ Rhodesia was

¹⁶ Dr, H.O.Agarwal, *International Law*, Allahbad Law Agency,

¹⁷ Ibid

¹⁸ D,J, Harris, *Cases and Material on international law*, Sweet and Maxwell, 1983 p.689

¹⁹ Department of Public Information, *Everyone's United Nations*, United Nations Publications, 1986, see also Margaret, Doxey, *International Sanctions in Contemporary perspective*, Macmillian Press, 1987

ruled by the white settlers who formed five percent of the population but who were economically dominant. After declaration of UDI, the indigenous people of Rhodesia demanded majority rule. On the other hand European thought that African rule would jeopardize their lives and status. The International community backed by United Kingdom demanded the protection of human rights; end to racial discrimination and to end the illegal regime of Ian smith. The Situation becomes worst and it was mounted to non armed conflict within the country. The Security Council while acting under Article 39 determinate the threat to international peace and security imposed economic sanction against Rhodesia under article 41. The Following things were restricted under by following the 221 resolution:²⁰

- import and export of following items into the Rhodesian territory
- asbestos
- iron
- ore
- chrome
- pig_iron
- sugar
- Tobacco
- copper

²⁰ UNSC Res 221(16 December 1966)

- meat products
- leather products
- Registration of any vessel and air craft of any of these commodities originating in Rhodesia.
- Restriction were imposed on the sale or shipment of arm, ammunitions of all types, military air crafts, military vehicle and equipment and material for manufacture and maintenance of arm in Rhodesia. Any such activity that encourage above mentioned acts were restricted. Supply of oil was restricted.²¹

Article 25 of UN charter bounded the member states to comply with the provisions of present resolution of the Security Council. ²²

After imposition of economic sanctions the Security Council *second time* acted under article 41 in 1976 against South Africa.

Recalling its first resolution 392 (1976), the UN strongly condemned the apartheid policy of South Africa²³. And it condemned the massive killing of African people including children and students and opposed its racial discrimination policies and demanding cutting of economic ties with South Africa.

²¹ Ibid

²² Article 25, Charter of United Nations 1945

²³ UNSC Res 392 (19 June 1976)

1.2.1 History of South Africa apartheid Regime

South Africa is bordered by Botswana and Zimbabwe in the north, and Mozambique and Swaziland in the East, Indian Ocean in South East and Atlantic Ocean in the South West.

²⁴Population of South Africa is divided in four different racial groups as follows:

- (1) blacks 75%
- (2) Whites 14%
- (3) Colored 9%
- (4) Indians 3%

Dutch was the first European nation which established settlement at Cape Town in 1652. When the British arrived two centuries later, a war broke out between two European nations known as Anglo-Boers war (1889-1902). At the end of the war the British were successful who got control of the whole area. In 1910 four colonies of Transvaal, Cape, Natal and Orange Free states incorporated into the Union of South Africa that served British interests in the region.

Consequently South Africans came under the Rule of Whites and faced restrictions imposed by the imperial powers. In 1948, when nationalist Africans came in power, a specific policy of racial discrimination known as Apartheid²⁴ introduced and several discriminatory laws were enacted. For instance Prohibition of Mixed Marriages Act 1949(miscegenation) , individuals were classified on the bases of race and a

²⁴ South Africa under Apartheid available at www.wikipedia.com

classification board was created to rule in questionable cases.²⁵ The Group Areas Act of 1950 system designed to geographically separate the racial groups. The Separate Amenities Act of 1953 enacted to separate beaches, buses, hospitals, schools and universities. All South Africans were obliged to carry identity documents.²⁶ For blacks, these identity documents became a sort of passport by which black could be prevented from migrating to 'white' South Africa. Blacks were prohibited from living in (or even visiting) 'white' towns without a migration permit. Blacks were restricted to live in cities except those who were employed there and females were excluded from this employment. By following the said rule wives were separated from their husbands and parents from children.²⁷

protest against such discriminatory policies begun after a decade. In 1960, sixty nine blacks were killed protesting against the law which restricted the movement of black and other minorities at Sharpsville.²⁸ Also these policies were internationally condemned. The UN Security Council passed many resolutions and declared these discriminatory policies contrary to the UN charter and called the South African Govt to end the apartheid policies and to end massive killing. Finally, on November 4, 1977, the Security Council Council acted under Article 41, adopted its resolution No 418 whereby it imposed economic sanctions against South Africa. Primarily arm embargos were imposed which were later converted into comprehensive economic sanctions.

²⁵ Davenport, T.R.H. *South Africa. A Modern History*. MacMillan, 1977

²⁶ Ibid 25

²⁷ Ibid

²⁸ Ibid

1.2.2. Sanctions Against Iraq:

A long standing territorial dispute between Iraq and Kuwait, led Iraqi invasion of Kuwait on August 2 1990. After the invasion, the UN Security Council²⁹ called its emergency meeting and condemned the act of aggression of Iraq by adopting its resolution No 660, and demanded the evacuation of Iraqi forces from Kuwaiti territory immediately. On 6th August 1990 the Security Council adopted its resolution No 661 and imposed stringent economic sanctions against Iraq, failing to comply with the directions of Security Council³⁰. After the end of war these sanctions were extended³¹ to the removal of "*Weapons of mass destruction*" by adopting resolution No 687. The resolution says:

- After the date of resolution import and export of all the commodities originated in Iraq or Kuwait is prohibited
- Any activities which promote the export of any such commodities by the nationals or by their flag vessel of Iraq or Kuwait is prohibited and specially transfer of fund restricted in this regard.
- Strict retraction imposed on sale and supply of all types of military equipment by the nationals Iraq and Kuwait and by their flag vessel.
- Any commercial Activity by any of state was restricted, all these restriction were imposed with the exception of supply strictly for medical

²⁹ UNSC, Res 660

³⁰ UNSC, Res 661(6 august 1990)

³¹ UNSC, Res 687(3 April 1991)

purposes and foodstuff. Security Council directed all the member and non member states strictly comply with present resolution. Under present resolution council appointed a special committee to monitor the implementation of sanctions.³²

1.3 HISTORY OF ECONOMIC SANCTIONS

It is evident from history of nations that States assert economic pressure for achieving their foreign policy goals.³³ States rely on economic sanctions not only to accomplish their foreign policy objective but to influence politics as well. In ancient and medieval times states employed economic sanctions as arsenal during war time. History of economic sanctions can be traced back in 432 B.C.,³⁴ where an Athenian statesman ordered economic sanctions against Megra a city state which had refused to join Athenian -led Delian League during the war of Peloponnesian.³⁵ Megra had supported Sparta Athens's enemy these sanctions led to thirty years Wars. Until twentieth century nation states used economic sanctions as a subsidiary part of their military stratagem.

³² Ibid

³³ Robert, A, Pape and David, A, Baldwin, *Evaluating Economic Sanctions*, MIT Press ,available at <http://www.jstor.org> lastly visited 12-22-2008

³⁴ David, A, Baldwin , *Economic Statecraft*, Princeton University press, 1985

³⁵ Peloponnesian war available at www.wikipedia.com see also Bagnall, Nigel. *The Peloponnesian War: Athens, Sparta, And The Struggle For Greece*. New York: Thomas Dunne Books, 2006

Until nineteenth century economic sanctions exist in the form of pacific blockade. Blockades include among others the deployment of a naval force by a country or coalition of countries to interrupt commercial intercourse with certain ports or coasts of a state with which these countries were not at war. Although most naval blocked employed during wars, the term pacific blockades originated in 1850 distinguished those blockades used in a declared war. Gradually, pacific blockades evolved as a coercive means to induce the recalcitrant states to pay their debts and to settle their disputes etc. First blockade was placed in 1827 by, Britain, France and Russia against Turkey when Greeks were fighting for independence from Turkey. They deployed a fleet off the Greek coast to avert the supply and support of Turkish and Egyptian forces fighting in Greece. However, these three powers were not at war with Turkey. From 1827 until World War I, twenty one pacific blockades were placed mostly by the powerful European powers against smaller nations in Europe, Latin America and Asia. The list of targeted states included Turkey in 1827; Portugal in 1831; Holland in 1832-1833; Colombia in 1834; Panama in 1837; Mexico in 1838; Argentina in 1838-1840; San Salvador in 1842; Nicaragua in 1842 and again in 1844; Argentina in 1845-1830; Greece in 1850; Sicily in 1860-1861; Brazil in 1862-1863; Bolivia in 1879; China in 1884-1883; Greece, again, in 1886; Zanzibar in 1888-1889; Siam in 1893; Greece, yet again, in 1897; and Venezuela in 1902-1903. Almost without exception, the targeted countries were small and underdeveloped. In contrast to this the targeting countries included great Britain (twelve times), France (eleven

times), Italy and Germany (three times each), Russia and Austria (once each) and Chile (once). Evidently, the great powers had found a weapon that they thought is cost-effective. Indeed, a great power would often act alone, and only seven of the 21 pacific blockades between 1827 and 1903 drew support from more than a single country (Hogan, 1908)³⁶.

However, the use and discussion of the legitimacy of economic sanctions never becomes frequent until the enactment of the League of Nations in the early twentieth century. The League of Nations was the first international organization formed for maintaining international peace and security, though it had limited powers. The League was formed by following the Paris Peace Conference in 1919-1920.³⁷

Their purpose was of the creation of the League of Nations to prevent war, disarmament and global welfare. It had three organs, Secretariat, Council and Assembly. As goals of the council included prevention of war and settling disputes among the states through negotiation, the charter of League of Nations provided a mechanism for those nations engaged in war. The Rule of economic sanctions as embodied in Article 16 allowed sanctions against any state accused of violation of international of peace and security and these sanctions were embedded as peaceful method of resolving dispute.³⁸ The Article states:

³⁶ Ibid

³⁷ Arthur, Sweetser, *From The League to the United Nations*, American Academy of Political and Social Science Available at <http://www.jstor.org> lastly visited 8-8-2008

³⁸ Anton, Bertram, *The Economic Weapon as a form of Peaceful Pressure*, Oxford University Press available at <http://www.jstor.org> lastly visited 15-8-2008

Article 16³⁹,

1. *"Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.*
2. *It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League. The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford*

³⁹ Article 16, Covenant of the League of Nations 1919

passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

3. *Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon."*

The League of Nations dealt with four cases where question of legality of economic sanctions was discussed, sanctions: in 1921 (versus Yugoslavia); 1923 (versus Greece); 1932-1933 (versus both Paraguay and Bolivia, to settle the Chaco Tl'ar); and, most notably and most unsuccessfully, in conjunction with the United Kingdom against Italy in 1933-1936, Although in several instances came the economic sanctions as a punitive measure could come in operation against the aggressor, but the league was inactive after its formation until the out break of the second World War. In 1923, after the assassination of three Italian officers on Greek territory Italian cruises were dispatched to Corfu and captured the island. A Formal request for imposition of sanctions was made by the Greece and this was a fit case for imposition of economic sanctions.⁴⁰

⁴⁰ Dr. George, DeFiedorowicz, *Historical Survey of Application of Sanction*, Oxford University Press, 1936, available at <http://www.jstor.org> lastly visited on 22-08-2007

In September 1921 Albania pleaded to the League of Nations against the aggression in Albanian _Serb_Croat_Slovene. On 7th November 1921 Mr. Lloyd George instructed to call special council meeting to agree upon the measures under article XVI in the covenant in _Serb_Croat_Slovene_issue.⁴¹

In December 1928, Paraguay and Bolivia quarrel over territory of Chaco Boreal. All diplomatic relation, broke off and hostilities begun till 1931. All effort for resolving dispute failed, after eight months in February 1933, on Swedish initiative states decided to impose arm embargo against both countries. Such embargo was effectively imposed and brought both states for stopping war. In 1934 council adopted a report for imposition of arm embargo when recommendations for embargo were insisted by the member states. Although that embargo was far different from sanctions. Collective sanctions imposed by the league once against Italy following its invasion on Ethiopia.⁴²

On 3rd Oct 1935, Italian forces moved towards Ethiopia and on 6th Oct they captured the city of Adowa. On Oct 7th League declared Italy an aggressor and started its process for imposition of economic. The extensive history of economic sanctions sustained even after the formation of United Nations and become an arsenal in the hands of Security Council. ⁴³

⁴¹ Ibid

⁴² Ibid

⁴³ Ibid

I.4 RECENT DEVELOPMENT OF SANCTIONS

Frequent use of economic sanction by the Security Council has raised a number of issues related to economic sanction. Comprehensive sanctions against Iraq and its adverse impact on civilian the population gave way to the debate of ethical reforms of the economic sanctions. The UN agencies and some NGOs brought the UN attention towards the worse situation of Iraqi peoples suffering from sanctions.⁴⁴ The International Federation of Red Cross and Red Crescent articulated in its "World Disaster Report 1995" lack of growing misgiving about the humanitarian impact of sanctions. In the 1995 Supplement to the Agenda for Peace⁴⁵, the UN Secretary-General Boutros Boutros-Ghali termed sanctions a "blunt Instrument" and questioned whether inflicting suffering on vulnerable groups in the target country is a legitimate means of putting pressure on political leaders. He proposed the establishment of a mechanism to monitor the application of sanctions and to evaluate their impact on the target state.⁴⁶ The UN commission on Economic Social and Cultural rights reported in December 1997 that immediate attention is required to be paid to the vulnerable in the targeted

⁴⁴ Boris, Kondoch, *the limits of economic sanctions under international law the case of Iraq*, www.casi.org.uk See the Annual Report of the Secretary-General on the Work of the Organization, New York, 1998, p.62 (A/53/1) see also, Annual Report of the Secretary General Report on the Work of the Organization UN Doc. A/53/1 (1998) available at www.un.org lastly visited 22-12-2008

⁴⁵ Boutros-Ghali, Boutros, 1995. *Supplement to an Agenda for Peace*. New York: United Nations.

⁴⁶ Ibid 45

countries as sanctions abusing the basic economic, social and cultural rights.⁴⁷ . The President of International Committee of the Red Cross on 28 November 1998 appealed to the General Assembly to notice the price paid by the vulnerable groups in Iraq.⁴⁸

*"Let me conclude by saying that the humanitarian situation in Iraq poses a serious moral dilemma for this Organization. The United Nations has always been on the side of the vulnerable and the weak, and has always sought to relieve suffering, yet here we are accused of causing suffering to an entire population. We are in danger of losing the argument, or the propaganda war - if we haven't already lost it - about who is responsible for this situation in Iraq - President Saddam Hussein or the United Nations."*⁴⁹ Kofi Anan

Humanitarian consequences have served as main impetus to review sanctions. A huge debate broke out about the undesirable impact of sanctions on the vulnerable after the adoption of resolution 661 and 687 against Iraq. The United Nations request the member states and organizations to conduct research and give suggestion to refine the design and implementation of sanctions. UN sanctions policy has enhanced to a large extent since late 1990, emphasized to change policy predominately on three fronts. A reassessment of the purpose of sanctions, a mounting pledge to taking sanctions seriously, and the

⁴⁷ Ibid

⁴⁸ Thomas ,G, Weiss, *Sanction as a Foreign Policy tool Weighting Humanitarian Impulses*, saga Publications available at <http://www.jstor.org> lastly visited 22 12 2008

⁴⁹ Gowllod, Debbas, *United Nations Sanctions and International Law*, 2001

implementation of commendation emerge from the discussion of expert on technical issues. This discussion has conducted by diplomats, government expert, academic experts and non governmental organizations. In 1997 a study was conducted by UN Department of Humanitarian Affairs commission that suggested that leading legal principles for the imposition of sanctions must be ascertained and the purpose of imposition of sanctions must be definite.⁵⁰ . A working paper submitted by the Russia stressed that sanctions regimes must pursue well defined purposes, have a time frame, be subject to regular review and provide clearly stipulated conditions for their determination, and not be politically motivated.⁵¹ Growing concern for the humanitarian impact of sanctions gave rise to the evolution of the concept of "Smart" or "Targeted" sanctions" and humanitarian exemptions in order to ensure the human rights and to minimize the adverse impact of civilians in the sanctioned state. Targeted sanctions strike political elites or entities that are responsible violation for international peace and security. Targeted sanctions include financial sanctions such as freezing of assets, arm embargo, travel ban and diplomatic sanctions

⁵⁰ David,M, Malon, The UN Security Council from the Cold War to 21st Century, Viva Book Private Limited, 2006

⁵¹ UN Doc. A/AC182/L100 (1998), Para. 41-47.

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1.4.1 Financial sanctions:

Targeted financial sanctions engage the institution and financial instruments to adopt the coercive measures against transgressors such as government officials, elites who support them or member of non governmental entities in an attempt to restrict or change their behavior or policy. Such Sanctions are targeted because they strike only to the violators of international peace usually the leadership, responsible elites, or operationally the responsible individuals. They are financial because they involve the use of financial instrument Financial sanctions include the reducing of economic resources, blocking of financial services and freezing assets of targeted state that is outside the targeted state. Financial sanctions are different from trade sanctions⁵² which restrict the imports and exports of the targeted country. For example the day when Iraq invaded Kuwait, the US president passed an order to block all the property of Iraqi government and banned all transactions from USA to Iraq. The President ordered that:

'All property and interests in property of the Government of Iraq, its agencies,

*Instrumentalities and controlled entities ... are hereby blocked*⁵³

⁵² Marc. Bossuyt, The Adverse Consequences of Economic Sanctions on the Enjoyment of human Rights, Sub commission on the promotion and protection of human rights, 2000, <http://www.globalpolicy.org> lastly visited on 12-9-2007

⁵³ Dr. George, De,Fiedorowicz, *Historical Survey of Application of Sanction*, Oxford University Press, 1936,available at <http://www.jstor.org> lastly visited on 22-08-2007

In 1998 United Nations imposed targeted financial sanctions against total independence of Angola UNITA.⁵⁴ In 1999 the Security Council by adopting its Resolution No 1267 imposed targeted financial sanction against the Taliban regime of Afghanistan⁵⁵

1.4.2 Diplomatic sanctions

In Diplomatic sanctions countries sever their diplomatic ties or reduce the number of ambassadors. Severance of diplomatic relations cause harms to the prestige of the targeted country in the world politics. Diplomatic sanctions directly hit the ruler and officials of the country, political leaders may be banned to take part in international organizations⁵⁶. For example United Nations prohibited the apartheid government of South Africa to participate in its operation.⁵⁷

1.4.3 Military sanctions

Military sanctions include arms embargos or the extinction of martial support and training. It denies the access of targeted state to the weapons or weaponry market. In Travel bans restrictions are impose on the travel of certain entities and on political elites responsible for disturbing international peace and security.

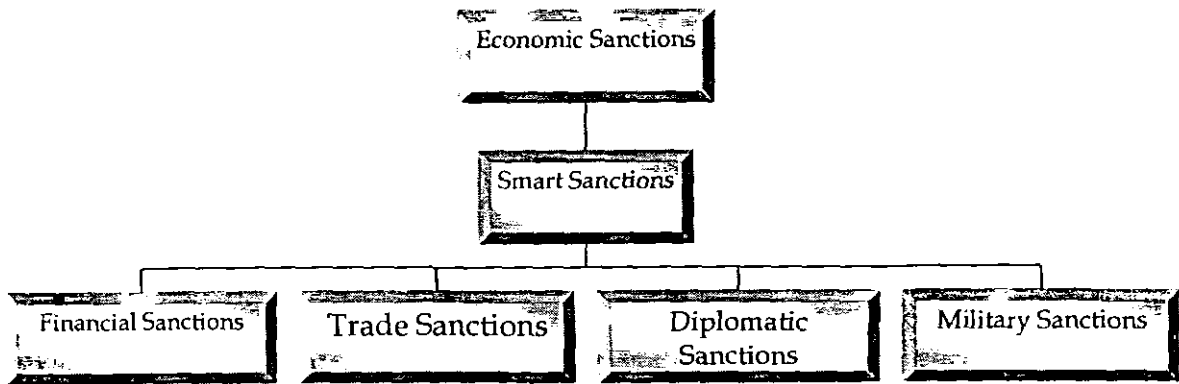
⁵⁴ UN Doc. A/AC182/L100 (1998), Para. 41-47.

⁵⁵ UNSC, Res 1267

⁵⁶ Dr. George, De, Fiedorowicz, *Historical Survey of Application of Sanction*, Oxford University Press, 1936, available at <http://www.jstor.org> lastly visited on 22-08-2007

⁵⁷ Ibid

Travel ban has a dual functionality, first it works as ban on ability to enter in a particular country (visa restriction) and secondly restriction on the entry of certain individual of targeted state to a targeting states. The United Nations imposed travel bans against the government of Libya in 1992 on the refusal of Libya to extradite two hijackers required in Lockerbie case. The United Nations imposed travel sanctions against Sudan in 1996.⁵⁸



Upon the request of the United Nation different seminars and researches were held by different states and international institutions for further improvement of targeted sanctions. In the beginning of 1998 "Interlaken process" was sponsored by the government of Switzerland to concentrate on financial targeted sanctions. "Bonn Berlin process" was initiated by the German government in 1999 which they assessed the travel restrictions, aviation bans and arms embargo while in

⁵⁸ UNSC, Res1556

2002 "Stockholm process" was initiated by the Swedish government discussed the procedural issues or implementation of different kinds of targeted sanctions.

1.4.4 Key findings of Interlaken Process regarding Financial Sanctions:

Interlake process analyzed the drafting and implementation procedure of economic sanctions. It suggested some recommendations in these two specific areas and proposed that the resolution for imposition of sanctions should identify the objectives of economic sanctions. Restrictions imposed by the sanction should answer the four critical questions:⁵⁹

- Whom are the measures to be imposed against?
- Who will implement the measures?
- When and for how long are the measures to be effective?
- What are the components of the financial sanctions?⁶⁰

Key terms in the resolution should be clearly defined. There should be a mechanism for international monitoring of sanctions and establishment of sanctions committee.

A "sunset clause" proposed by the process for the suspension of sanctions for the lifting of sanctions upon the achievement of the objectives of sanctions. It was proposed that a legal and administrative framework is required for the useful implementation of sanctions at international as well as

⁵⁹ Thomas J. Biersteker, *sue, Targeted Financial Sanctions*, Watson institute for international studies brown University 200, available at www.smartsanctions.com lastly visited 22-8-2008

⁶⁰ *ibid*

national level. States should ensure the existence of a legal authority for implementation and monitoring of sanctions at national level, direct the financial institutions about the implementation of sanctions inform the public through media about the imposition of sanctions, and enact the (civil or criminal) law for breach of sanctions.⁶¹

1.4.5 Key finding of Bonn Berlin Process regarding arm embargo and Travel ban:⁶²

Language of resolution regarding arms embargo should be very clear and review the embargos regularly. Use the term of travel ban instead of visa ban because it has broad implications. Arms embargo and travel bans should be limited with time. Resolution regarding aviation bans should specify whether it is a ban on specific aircrafts on international level or restriction on provisions on the services of targeted state or closure of their offices. Bonn Berlin process as well proposed the legal and administrative framework is required at national level for imposition of sanctions.

1.4.6 Key findings of Stockholm process:⁶³

Stockholm Process gave recommendations in relation to the implementation and design of sanctions. A Resolution should identify the purpose of sanctions and

⁶¹ Ibid

⁶² Watson Institute for International Studies Brown University, *Background Paper on Targeted Sanctions*, 2004 available at www.smartsanctions.com lastly visited 22-8-2008

⁶³ ibid

maintain international support for the sanctions. Make sure to the implementing state about the rationale of sanctions and ensure the transparency in making decision of sanctions. There should be a humanitarian exemption clause in a draft resolution. Ensure a mechanism for the implementation and monitoring of sanctions. The UN authorities should maintain launch training programs for effective use of economic. Cooperation in different area of information is required between the UN and the targeted state.

CHAPTER 2

EFFECTIVENESS OF ECONOMIC SANCTIONS

2.1 OBJECTIVES OF ECONOMIC SANCTIONS

Former international organization, the League of Nations failed to maintain peace in the world. Numerous factors contributed toward the failure of the League. However major problem was lack of enforcement mechanism to give effect of its decisions. It was fail to maintain collective security. The League was too indecisive because of lack of an influential powerful member state such as USA. Nonmember states sustain trade relation with the sanctioned states of the League. Another major factor was the incident of great depression; at that time it was difficult to impose economic sanctions effectively hence the powerful nations like Japan and Italy seized small states without any effective punishment.¹

After the failure of the League of Nation, the proponents of the United Nations envisaged an enforcement mechanism under Article 41 of the charter. The Security Council may call member States for imposition of economic

¹ C.J, Fenwick, Failure of League, American Society of International Law, available at <http://www.jstor.org> lastly visited 8-8-2008

sanctions in case international peace and security is threatened, as mentioned in article 39 of charter by any state or organization.² The charter does not provide what exactly means to "threat peace" and it left on the discretion of the Security Council to determine threat to international peace and security according to the situation. Originally Article 39 may have referred basically to the threat to inter state- conflicts. Security Council left this narrow approach, for example in 1961 it determined threat to peace in Congo case whereas the conflict was predominately internal.³

The Security Council may impose economic sanctions to give effete to its decision or use them as an enforcement countermeasure. The Question of determination of threat to the international peace and security is discussed in Spanish Sahara case.⁴ In April 1946 Poland invoked Article 39 and submitted a draft resolution in the Security Council seeking the council to declared that the activity of Franco regime in Spain endangers "international peace and security"; hence impose economic sanctions against Franco regime.⁵ Sub committee in this case made a distinction between potential and actual threat and recommended that the word "threat" in article 39 refers to an actual threat. but this would be a narrow interpretation. ⁶ Any threat to peace is potential by nature. It may

² Article 41 Un charter

³ D,J, Harris, *Cases and Material on International law*, Sweet and Maxwell, 1983,pg,593

⁴ ibid

⁵ Ibid

⁶ Ibid

mature tomorrow, after tomorrow, or in five years. It is a question of time. If threat to peace is no longer potential, then we have to do with actual aggression. Moreover sanctions enumerated in Article 41 indicate that Article 39 speaks of threat to peace, it refer not only to an act of aggression that has already been committed or to a threat that might materialize in few weeks or months, but also to any threat, however potential.

Especially after the end of cold war the Security Council extensively adopted broader interpretation and it seems that incase of an extreme violence inside a state chapter VII can be invoked. For instance, in 1992, the Security Council determined that fighting between different fractions in Somalia constituted a threat to peace and security.⁷ In other words the Security Council can invoke Article 39 with respect to the violation of human rights, humanitarian law and in terrorism cases. As in Lockerbie case sanctions were imposed against Libya, in Kurdish case the Security Council took same action. But it does not mean that the Security Council has limitless power. The basic objective of economic sanctions is to maintain international peace and security. The Security Council may impose sanctions in three cases:

- When an act of aggression has been committed by a state
- When an international peace is breached by a state, and

⁷ D.J, Harris, *cases and material on international law*, Sweet and Maxwell, 2004

- When there is threat to international peace and security.⁸

Political goals of sanctions vary from case to case. States impose economic sanctions for multiple reasons. Margaret Doxey divided goals of sanctions into eight categories; deterrence, compliance, punishment, destabilization, limitation of conflicts, solidarity, symbolism and signaling. Deterrence refers to the discouraging the target state from committing more malfeasances the third state from committing similar act. Compliance seeks to “inflict pain” on the target state and thereby force it to change its policy. It may include goals as to protect human rights such as the Security Council impose economic sanctions against South Africa in 1967. punishment simply refers that the wrongdoer or the violator of international norms must pay the price of their wrong. Destabilization is a common feature among the sanction regime. It may include diminishing the military power of a targeted country. International community may also apply sanction to show their solidarity. Symbolism and signaling refers to the action that does not bear a serious instrumental intent’ rather to publicly indicate objection to a particular behavior.⁹

According to James Barber, in each case at first sight the clear cut objective of sanctions imposed by the sender state is to modify the behavior of state of the receiving state that is the primary objective of sanctions; however objective

⁸ Article 39, The Charter of United Nations 1945

⁹ James, M, Lindsay, *Trade Sanctions as a Policy Instrument*, International Study Quarterly, available at <http://www.jstor.org> lastly visited 26-9-2008

secondary and tertiary objectives are also attached with the primary objectives.¹⁰ Primary objectives relates to change in the behavior while secondary objectives concern to the position, behavior and potential of the government imposing sanctions and tertiary objectives concern with the broader international consideration relating either to the structure and operation of international system as a whole or those part of it regarded as important by the imposing state.¹¹

For instance in 1935 multilateral sanctions were imposed by the League of Nations against Italy following its invasion of Abyssinia. Primary and ostensible objective of sanctions were to defend the small state of Abyssinia against the aggression of Italy. As Britain pushed the Security Council, imposed sanctions against Rhodesia in 1967. The primary objective of sanctions was to restore the legal government of Rhodesia. But Britain who was pursuing for the institution of sanction has its own national interests.

As stated above that the objectives or the goal of sanctions are varying from case to case but the most ostensible goals of the sanctions are as follows:

¹⁰ James, Barber, *Economic sanctions as a policy instrument*, Blackwell, 1994 available at <http://www.jstor.org> lastly visited 4-1-2007

¹¹ Ibid

2.1.1 Retaliation of transgressors:

The first purpose of economic sanction is to punish the wrong doers or the violator of international law. This approach is based on the theory that the wrong doers must pay the price of their action.¹² It is analogous to penalize the violator instead of leaving with the expectation of rehabilitation. Imposition of sanctions in this sense expresses offensive undesirable behaviors, moreover unilaterally or multilaterally, and therefore to contribute to the establishment of worldwide accepted standard of legitimized conduct. In this context sanctions must be designed according to the extent of offence.

2.1.2 Deterrence:

Another Purpose of economic sanctions is not only the punishment of the wrong doer but it as well has deterrence effect. Sanctions are designed to deter the other states or entity who holds the intention of committing similar act.¹³ Sanctions designed for deterrent purpose should be explicit, proportionate to the act being deterred and credible with regard to the cost to be incurred and credibility of application.¹⁵

¹² David, Leyton, Brown, *the Utility of Economic Sanctions*, Croom Helm, London. 1987

¹³ James S, Lindsey, *Trade sanctions as Policy Instrument*, international Studies Quarterly 1986 available at <http://www.jstor.org> lastly visited 26-3-2008

¹⁴ Ibid

¹⁵ Ibid, See also Hand Book of International Economic Sanctions 1999

2.1.3 Changing the behavior:

One of the purposes of economic sanctions is to compel a state to change its behavior or the policy and to comply with certain internationally accepted norms. For example withdrawal of troops, restoration of a democracy, withdrawal of atomic energy program and the protection of human rights.¹⁶ Such kind of economic sanctions were imposed against Iraq in gulf war with the demand of withdrawal of its troops from Kuwait, against South Africa against its apartheid regime and against Iran to withdrawal of its atomic energy program.¹⁷

2.1.4 To curb economic and military ability

Sanctions may also be imposed to restrict the target's access to weaponry market with the intention of hampering of its military capabilities. These kinds of sanctions are usually imposed to compel the target to produce the commodities by itself with inefficiency and with high cost. The Purpose of such kind of sanctions is to slow the target to achieve its policies. Such kinds of sanctions were imposed on china by the western alliance and America in post the cold war.

¹⁶ Ibid

¹⁷ Ibid

2.1.5 To signal resolve¹⁸

States also employ Economic sanctions as a signal to the target and sometimes to pressurize domestic politics as well. States show towards the target, their annoyance, resolve and solidarity in response to a provocative act of target. In fact economic sanctions are better than mere rhetoric and the best alternative of war. When economic sanctions are utilized multilaterally, they reveal the harmony of world community and can play a vital role to achieve the desirable goals.¹⁹

2.2 Results of sanctions

Frequent use of economic sanctions by the United Nations during the last two decades leads towards the question of accuracy or the effectiveness of economic sanctions.²⁰ Although Economic Sanctions are often considered an effective tool to achieve the ambitious goals but fails to achieve predictable results because the purpose and circumstances under which sanctions are imposed are variant. Effectiveness of economic sanctions is an extensive issue. Efficacy of sanctions is accompanied with the goals for which they are imposed. Most of authors' believes that the economic sanctions are metaphoric and have least practical

¹⁸ Ibid

¹⁹ Ibid

²⁰ David, Lektzian, Norwegian Red Cross and International Peace Research Institute, Oslo, *Making Sanctions Smarter: Are Humanitarian Costs is an Essential Element in the Success of Sanction?* Available at www.smartsanctions.com lastly visited 21-12-2007 ,

impact. Twentieth century witnessed increase used of economic sanctions either unilateral or multilateral by a single sovereign state and by an international organization respectively such as the United Nations.

Prior to 1990, the United Nations has imposed economic sanctions only twice against southern Rhodesia and South Africa. After the end of Cold war, the Security Council imposed economic sanction against Iraq, Yugoslavia, Somalia, Libya, Liberia, Haiti, Angola, Rwanda, Sudan and Afghanistan.²¹ Such a frequent use of economic sanctions indicates the economic sanctions as enforcement mechanism of international law. Economic sanctions are golden mean between force and diplomacy²². Sanctions are considered a peaceful means of resolving a dispute. Although sanctions are non military way of resolution of dispute but the efficacy of economic sanctions are always in question. Economic sanctions cannot make a difference between the concrete target and innocent victims and brings unintended consequences.²³ Whatever the purpose and the circumstances for imposition of economic sanctions is it always has adverse impact on the civil populations of targets and success of economic sanctions is all the time in

²¹ Robin, Geiss, *Humanitarian Safeguard in economic sanctions regimes: A Call for Automatic suspension Clauses, Periodic Monitoring, And Follow up assessment of long term Effects*, Harvard Human Rights Journal, 2005 available at <http://www.law.harvard.edu> lastly visited 27-1-2008

²² Bruce, W. Jentleson, *economic Sanctions And Post Cold War Conflict: Challenges for Theory and Policy*, National Academy of science Washington, available at <http://books.nap.edu/> lastly visited 7-2-2008

²³ David, Lektzian, Norwegian Red Cross and International Peace Research Institute, Oslo, *Making Sanctions Smarter: Are Humanitarian Costs is an Essential Element in the Success of Sanction?* Available at www.smat sanction.com

controversial.²⁴ Here we discuss the effect or results of economic sanctions. While assessing the impact of economic sanctions the following questions should be addressed:

- Whether the sanctions are successful in achieving the goals for which they were implemented?²⁵
- What are the impacts of economic sanctions?
- Whether sanctions hit the concrete target?
- Who are the effectees of economic sanctions?

The debate of the efficiency of economic sanctions divided the scholars in two groups: traditionalists and revisionists. According to former economic sanctions is an effective tool of statecraft for achieving its goals. While later believe that economic sanctions often fail to achieve the set goals and are ineffective. Among the traditionalists are Robert Gilpin, Henry Bienen and Margaret Doxey, Johan Galtung and Donald Losman belong to the revisionists group.²⁶

²⁴ Ibid

²⁵ David, Leyton, Brown, *The Utility of Economic Sanctions*, Croom Helm London, 1987

²⁶ Ibid

Table 1: economic sanctions 1914-1990 ²⁷

Multilateral Sanctions				Unilateral Sanctions			
29				77			
Single Issue		Multiple Issue		Single Issue		Multiple Issue	
15		14		49		28	
Success	Failure	Success	Failure	Success	Failure	success	Failure
20	29	11	17		20	29	3

Major study for evaluating the success of economic sanctions imposed after the world war second done by the Gray Clyde Hufbauer, Jeffery J. Schott and Kimberly Ann Elliot (HSE). 115 cases of economic sanctions were analyzed during this study and 34% successfulness or effectiveness is reported by HSE in overall cases of economic sanctions till 1990. They reviewed the success of economic sanctions from 1914 to 1990.²⁸ But this work of HSE has been criticized by Robert A Pape .He pointed out that this study of HSE is seriously flawed.²⁹ According to Pape that the 40 cases which were considered successful by HSE out of those merely 5 exposed obvious success. Out of these eighteen were resolved as a result of force, eight are failure because the target never meets

²⁷ John, H. Jackson, William J. Davey and Alan,O,Skyles, *International Economic Relations Cases and Material land Text on the National and International Regulation of Transnational Economic Relations*, West Group 1995

²⁸ Annie c miers and T Clifton Morgan, *Multilateral Sanctions and foreign policy success: can too many cooks spoil* ,Available at www.jstor.org lastly visited 10-3-2008

²⁹ Robert A Pape, *Why economic sanctions do not work*, MIT press,1997 available at <http://www.jstor.org> lastly visited 10-3-2008

the demands of sender state, and six are not the cases of economic sanctions but trade disputes and three remained undecided.³⁰ According to HSE the success of economic sanctions from the sender perspective has two parts. No

- (1) To what extent the sender's expectations are satisfied and
- (2) The contribution of sanctions towards his achievement.

Both are scale from 1 to 4: policy results (1) "failed outcome" (2) "unclear but possibly positive outcome," (3) "positive outcome.....a some what successful result," or (4) "successful outcome," and sanctions contribution: (1) "zero or negative contribution," (2) "minor contribution," (3) "modest contribution," or (4) "significant contribution." A product of 9 or higher (3 or more on higher scale) is counted sanctions as successful.³¹

While assessing the success, economic sanction should meet the standard of success: (1) the target state conceded to the significance of coercer's demands, (2) economic sanctions were actually enforced before the target state changed its policy and (3) no more plausible reason exist for the target to change its conduct.³²

³⁰ Ibid

³¹ Ibid

³² Ibid

Table: 2 evaluations of effectiveness of economic sanctions success by HSE³³

POLITICAL GOALS	SUCCESS CASES	FAILURE CASES	SUCCESS RATION (PERCENTAGE OF TOTAL)
Modest policy changes	17	34	33
Destabilization	11	10	52
Disruption of military adventure	6	12	33
Military impairment	2	8	20
Other major policy changes	5	15	20
TOTAL	41	79	34

Furthermore almost all economic sanctions are imposed against small economies and the weak states. 115 cases assessed by HSE indicate that the GNP of the sender country was nearly over ten times that of the target and in the majority of cases more than 50 time greater. And where modesty changes were at stake the sender economy was on average more than 200 times larger than the

³³John H.Jackson, William J. Davey, Alan O. Sykes , *Legal Problems of international Economic Relations Cases, Materials and Text on the National and international Regulation of transnational Economic Relations*, West Group,1995

Sanctions impede the concept of free trade and resultantly profits of the free trade. And they are considered as barrier, to the globalization. Opponent of the sanctions argued that sanctions trim down the global prosperity and they assert inequitable weight on at least two- third population of world who are in need of a large amount of merchandise at lowest price.³⁹

International cooperation for imposing comprehensive sanctions is difficult to materialize. It is difficult to obtain desired outcome since, states secure their own interest by sustaining covert trade relation with the targeted state. Incase of unilateral sanctions alternative market always exist for sanctioned commodities⁴⁰ . Substitute purveyors filled the gap and provide alternative market for targeted nation. Besides the of comparative advantage law propose that after the imposition of sanctions one among the outstanding partners is ready to offer a substitute resource. Therefore an opportunity to access to the alternative market for the sanctioned state is always present and they can find the banned goods easily but to some extent at high cost. ⁴¹

Though the sanctions are anticipated to be inflicting economic damage on the target country, however, have some impacts on the senders as well. This can be fallowed by adopting the elementary trade theory: free trade in a competitive

³⁹ Hand book on international economic sanctions.1999

⁴⁰ Ibid, see also William H Kaempfer and Anton D. Lowenberg, *International economic sanctions A Public Choice Perspective*, Westview press 1992. and, Klaus, Knorr, *The Power of the Nation: The Political Economy Of International Relation*, New Yark: 1975

⁴¹ William H Kaempfer and Anton D. Lowenberg, *International economic sanctions, A Public Choice Perspective*, Westview press 1992.

commodities across borders and thirdly by cheating, it refers actual smuggling thus, these practices circumvent the effect of economic sanctions.⁴⁸

2.3 SHORT FALL OF ECONOMIC SANCTIONS:

From the above discussion one can easily deduced that Economic sanctions are not an efficient tool for restoring peace. The said mechanism was entrusted in the United Nations charter to the step of war for resolving international peace and security under article 41. The proponents of Charter contemplated that economic sanctions would have minimum human cost and collateral damage than war. But the history of economic sanctions shows that it has severe adverse impact on civilian's life and often failed to accomplish the predictable results. There are certain reasons accountable for the failure of economic sanctions such as:

- The major cause of the breakdown of economic sanctions is that, they always hurt the wrong target in the targeted society. The persons or the elites who have the authority to modify the offensive behavior were by no means affected by such sanctions.
- Economic sanctions work slowly.⁴⁹ Effect of sanctions is disastrous on the targeted state. Sometimes sanctions inflict economic pain without any

⁴⁸ William H Kaempfer and Anton D. Lowenberg, *International economic sanctions, A Public Choice Perspective*, Westview press 1992.

political gain. The current example is Iraq where sanctions continued almost 13 years where it decimated the whole Iraqi society but completely failed to bring desired results.

- Economic sanctions can not bring automatically the expected changes. History indicates that where economic sanctions brought some positive results, they were always accompanied by some others means of statecraft such as force.
- The effect of economic sanctions is difficult to predict.⁵⁰
- Economic sanctions provide opportunity to flourish black markets.⁵¹ In a state of economic sanctions the prices of sanctioned goods increase, the Government tries to make available all necessary goods. Therefore no other solution is left for that Govt but to resort to black market. Iraq is the obvious example of flourishing of black market. During the economic sanctions black market flourished near the Jordanian boarder at alarming stage.⁵² This is one of the strong ways that hampers the political objective

⁴⁹ Annie c miers and T Clifton Morgan, *Multilateral Sanctions and foreign policy success: can too many cooks spoil*, Available at www.jstor.org lastly visited 103-2008

⁵⁰ Ibid

⁵¹ David, Lektzian, Norwegian Red Cross and International Peace Research Institute, Oslo, *Making Sanctions Smarter: Are Humanitarian Costs is an Essential Element in the Success of Sanction?* Available www.un.org lastly visited 13 9 2008

⁵² Most smuggling of goods into, and to a lesser extent out of Iraq is done through Jordon, turkey and the Govt control region around Basra. Wall Street Journal June 14, 2001.

of economic sanctions. It is a proven fact the elites of Baath party gained more wealth as a result of economic sanctions.

- According to Johan Galtung economic sanctions generate perverse effect in the target society that decreases the likelihood to accomplish the political ends. These perverse effects are usually referred, "rally around the flag" effect.⁵³ Cortright and Lopez also noted that, ".....sanctions provide authoritarian government with leverage to create a rally round the flag effects as a mean of suppressing domestic opposition". For example the Targeted regime can gain popularity in society specially by controlling the media. As a result of that people can never pressurize the Government for changing its policy. As in Iraq the people blame the US and UK for starving them and they believe that although they did not hold enough political rights during Sadaam Hussein's they had good quality of food and one of the best health system in middle east at that time.⁵⁴
- Economic sanctions weakened the opposition of the government and the middle class. A flourishing opposition is necessary for bringing the change in the policy of Govt policies but was damaged in Iraq⁵⁵

⁵³ John, Galtung , *On the Effect of International Economic Sanctions*, World Politics Vol 19, 1997

⁵⁴ Anthony, Arnove, *Iraq under Siege: The Deadly Impact of Sanctions and War*, Viva Book Private limited. 2003

⁵⁵ William, H, Kaempfer, *Economic Sanctions Against a Dictator*, 2001, Available at www.google.com

- Economic sanctions damage the long lasting economic relation between the sender and the target states and as a result decreased economic opportunities. It's not only limited to the economic relations but also effect the political relations. And especially economic sanctions imposed by the United Nations affect its moral responsibility for protecting human rights because economic sanctions never work without human suffering. Moreover sanctions give raise the possibility of war.⁵⁶

2.4 SUGGESTIONS FOR THE IMPROVEMENT OF ECONOMIC SANCTIONS:

Economic sanctions considered are as the less expensive means for resolving international disputes. States often opt for them. But as discussed earlier they are ineffective for the achieving required and have negative impact on the secured rights of people in the targeted society. There are some suggestions to minimize the human cost of economic sanctions.

1. Sanctions must be seen as the last resort after the exhaustion of all form of pacific tools for resolving the disputes. Because it has always

⁵⁶ David, A, Baldwin, *economic statecraft*, Princeton University press, 1985

unintended consequences, both on the innocent citizens and the third countries as well.⁵⁷

2. Before implementations of economic sanctions the sender states must carry out an assessment about the effectiveness and possible consequences of sanctions ⁵⁸because economic sanctions means to build up economic pressure on the citizens of the states violating international norms resulted from the pressure on the Governments for changing their particular policies.⁵⁹But most of the economic sanctions imposed whether unilaterally or multilateral by the United Nations against the states where people have no voice in decision making, such as Iraq, Haiti and Libya.
3. Sanctions must be clear, precise with defined objectives and must be carried with clear criteria for termination. ⁶⁰ The sender states should not be allowed to use delaying tactics or extend the economic sanction for punishing a particular regime as the United States did in the case of Iraq. When the objectives are fulfilled, sanctions should be terminated.

⁵⁷ James, A, Paul, Sixteen Policy Recommendation on Sanctions, 1998 available at <http://www.globalpolicy.org>, lastly visited on 22-1-2007

⁶¹ UNSC, work of the Sanctions Committee , S/1999/92, 29 January 1999, Available at www.un.org lastly visited 29-2-2007

⁵⁹ UNSC, General issue of Sanctions, Non-paper/Rev 10,26 September 2002, Available at www.un.org lastly visited 29-2-2007

⁶⁰ Ibid

When target state meets partial demands sanctions should be lifted partially for further encouragement.

4. Sanctions must be imposed with clear guidelines, policy and must meet with the criteria required by the international law, international humanitarian law and the human rights law. ⁶¹
5. Before the imposition of economic sanction, UN various agencies must assess negative impact of sanctions on the peoples of target, neighboring states and on the trading partners. Compensation has to be awarded for the collateral damage of economic sanctions. Compensation fund must be adequately and fully organized by the proponents of sanctions.⁶²
6. The Security Council Sanctions Committee that monitors and supervises the implementation of economic sanctions must have efficient accountability system to fulfill the requirement of transparency. Report of the sanctions committee must be made open. Schedule meeting of sanctions committee should be held on regular bases. ⁶³

⁶¹ Ibid

⁶² Ibid

⁶³ UNSC, work of the Sanctions Committee , S/1999/92, 29 January 1999, Available at www.un.org lastly visited 29-2-2007

7. Sanctions should be limited for a specified time. In the United Nations sanctions mechanism once sanctions are applied its continued till the objectives are met. Usually states especially permanent member states of Security Council veto the request for termination of sanctions for their political ends. So, sanctions should be renew after a specified time even though they have set for prolong period.⁶⁴
8. Sanctions must carry humanitarian exemptions specifically food and medical equipments. And there must be well organized mechanism for monitoring and the implementations of these exemptions which ensures the delivery and supply of these exempted good.⁶⁵
9. There must be regular or periodic review of economic sanctions by the UN Sanctions Committee. Report of the assessment or the unintended impact of economic sanctions must be made open for the public. ⁶⁶
10. The UN secretariat must ensure sufficient allocation of budget and staff for the implementation and assessment of the impacts of economic sanctions. Expenses for maintenance of sanctions must be born by the UN or the sender of economic sanctions. It must not be deducted from the proceeds for the humanitarian purposes as UN the

⁶⁷ Ibid

⁶⁵ Claude Bruderlein, *Coping with the Humanitarian Impact of Sanctions: An OCHA Perspective*, available at www.smartsanctions.com lastly visited 9-09-2007

⁶⁶ Ibid

did in the case of Iraq. In Iraq sanctions regime expenses of the sanctions committee were paid by the Iraqi Govt from the revenue of Oil for Food Program.⁶⁷

11. Regional bodies should be indulge in the implementation and assessment of economic sanctions
12. United Nations before imposing economic sanctions should assess the economic growth of a target state. Because already economically weak states definitely shift the burden of sanctions on the vulnerable as in case of Rhodesian white regime shifted the burden of sanctions on Blacks who were already economically suffering.
13. Instead of comprehensive sanctions targeted sanctions must be used and efforts should be made to make the targeted sanction more effective and humane. United Nations must maintain a sufficient fund for the compensating the human cost of economic sanctions. Innocent effectees of economic sanctions must be paid from that fund on regular bases. ⁶⁸
14. As economic sanctions become a most common tool to maintain international peace and security, as a result a large number of states

⁷⁰ James, A, Paul, Sixteen Policy Recommendation on Sanctions, 1998 available at <http://www.globalpolicy.org>, lastly visited on 22-1-2007

⁷¹Expert Seminar on Targeting Un Financial Sanctions, Available at www.smartsanctions.com lastly visited 11-11-2007

affected so there must be a permanent mechanism for assessing the effect of sanctions on non targeted or third states. To this end UN should establish a general criteria and guidelines for assessing the impact and methodology to approach the Security Council under article 50.⁶⁹

Such guiding principles have to cover up the following area:

- Right to approach to the Security Council
- Expeditious consideration of all the applications for assistance under article 50
- Rendering non preferential and fair treatment to all the applications
- Inviting the affected member states to its meeting and to meeting of its subsidiary body.
- The methodology for determining and evaluating losses as a result of the imposition of sanctions.

72 UNGA(50th Session) report of Special Committee on the Charter of United nations and of Strengthening of the Role of Organization' (22 August 1995) UN DocA/50/361 available at <http://www.un.org> lastly visited 12-01-2008

CHAPTER 3

IMPACT OF ECONOMIC SANCTIONS ON HUMAN RIGHTS

3.1 RELATIONSHIP BETWEEN ECONOMIC SANCTIONS AND HUMAN RIGHTS:

The Horrors of the World War II brought the attention of world community to the recognition and safeguard of human rights. The United Nations is formed with the aim

Maintain international peace and security and

Bring prosperity in the world in other words the aim of the UN is
to work for the welfare of world community.¹

United Nation's charter guarantees protection of human rights. Along with the UN charter, there are other conventions guarantee protections of human rights. The Security Council, while acting under article 41 is bound to act in accordance with the UN charter.

¹Article 1 "To maintain international peace and Security, and to that end: to take effective collective measures for the prevention and removal of treat.....
To develop friendly relation among nations based on the respect for the principle of equal rights and self determination of the peoples, and to take other appropriate measures to strengthen universal peace;
To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respects for human rights and for fundamental freedom for all without distinction as to ace, sex, language, or religion; and
To be a center for harmonizing the actions of nations in the attainment of these common ends".

Article 1 paragraph 1 of the UN charter avows that the united nations, while taking any measures for maintaining international peace and security or resolving any international dispute must act in conformity with the principles of justice and international law.²

Article 1 paragraph 2 requires that in resolving international problems, measures undertaken by the Security Council must respect the principles of equal rights and the right of self-determination of people.³

Article 1 paragraph 3 requires from the United Nations to promote and encourage respect for human rights and international cooperation for resolving socio-economic and humanitarian problems. To avoid unnecessary humane suffering this condition bounds the Security Council to take humanitarian causes into account while imposing economic sanctions.

Article 1 paragraph 4 requires that the actions taken by the Security Council must be harmonized actions. It means that the Security Council is required to take the same actions for the same wrong.⁴ Dissimilar action for the same wrong violates the provision of harmony. For example sanctions were imposed on Iraq for the invasion of Kuwait but no sanctions were imposed against Indonesia following its brutal invasions and twenty three years

² Ibid

³ Ibid

⁴ Ibid

occupation of East Timor which claimed 200,000 lives.⁵ It is impossible for the Security Council to invoke article 41 when the permanent members violate international peace such as no sanctions were imposed against Britain and France in 1956 in Suez Canal case. And no consensus to impose of economic sanctions can be materialized against Israel following its persistent violation of territorial sovereignty of Palestine. In other words Security Council is handicapped, where the interest of permanent members is involved. When veto power was granted to the five permanent members at that time they were really super powers, but international scenario has been changed now. To sum up International community should propose reforms within the Security Council in order to balance the power.

Article 55 emphasizes the curb of article 1 paragraph 3 that UN shall promote:⁶

Higher standard of living, socio- economic progress and development,
Solution of the international economic, social, health and other problems and
Respect for human rights.

⁵ Matthew, Jardine and Canstancio, Pinto, *East Timor's Unfinished Struggle: Inside The Timorese Resistance*, South End Press, Boston, 1996

⁶ Article 55: with a view to creation of condition of stability and well being which are necessary for peaceful relations among nations based on respect for the principle of equal rights and self determination of peoples, the United Nations shall promote:

- a) Higher standards of living, higher standard of living, full employment, and condition o economic and social progress an development:
- b) Solution of international economic social, health, and related problems; and international cultural and educational co-operation; and
- c) Universal respect for, and observance of, human rights an fundamental freedom for all without distinction as to race, sex, language, or religion.

3.1.1 Limitation by article 24:

The aforesaid article requires that the Security Council to act in accordance with the principle and purpose of United Nations while taking any decision under chapter VII. Promotion and encouragement of human rights and fundamental freedom for all is the purpose of United Nations as mentioned in Article 1 clause 3. Thus Security Council can not be waived from the scrutiny and liability whether or not it took into account the provision of article 24 or if it acted in accordance to the principle and purpose of the United Nations.⁷

3.1.2 Relevant resolution of General Assembly to the sanctions:

A Number of resolutions have been passed by the General Assembly to clarify that Article 1 of the UN charter must be taken into account while imposing sanctions. The Following are some important the resolutions;

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1. ⁷ Article 24 :in order to ensure prompt and effective action by the United nations, its member confer in security council primary responsibility for the maintenance of international peace an security, and agree that in carrying out its duty under this responsibly the security council act on there behalf.
 2. In discharging these duties the Security Council shall act in accordance with the purpose and principle of the United Nations. The specific power granted to the Security Council for the discharges of these duties are laid down in chapter VI, VII, VIII, and XII.
 3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

- Declaration on the principle of International Law Concerning Friendly Relations and Cooperation among the States in accordance with the United Nations charter.⁸
- Charter of Economic Rights and Duties of States.
- Permanent Sovereignty over natural resources.
- Universal Declaration on the Eradication of Hunger and Malnutrition.⁹

3.1.3 Limitation on sanctions by human rights:

Respect for the basic Human rights has become the main concern of the international community after the end of Second World War. A large number of international conventions were adopted world wide recognition and protection of human rights. "Human rights are rights that every human being has by virtue of his or her dignity"¹⁰ and these are inalienable. State parties are bound to respect these non-derogable rights even in the state of emergency. The Security Council is bound to respect all these rights enshrined in the Universal Bill of Human Rights. Among these are the Universal Declaration of Human Rights 1948 (UDHR), International Convention on Civil and Political Rights 1966 (ICCPR) and International Convention on Economic Social and Cultural

⁸ UNGA, Res2625, October 24, 1970

⁹ Economic Social Council commission on Human Rights 'Sub Commission on promotion and protection of Human rights the Adverse Consequences of economic sanctions on the enjoyment of human rights' (21 June 2000) E/CN/Svb.2/200/33 available at www.un.org

¹⁰ Human Rights Handbook for Parliamentarians Office of United Nations high commissioner for human rights available at www.un.org

Rights 1966(ICESCR). Security Council is not party or signatory of all these conventions. However all these conventions were discussed and sponsored by United Nations. Every single member of United Nations has signed and ratified at least one of the document related to Human Rights. On the other hand it may be argued that organ of united nation, including the Security Council, would be estopped from behavior that violates the rights protected in these treaties.¹¹ In international law principle estoppel prevents a state to act in contra version whatever it has decided previously. Five permanent members of the Security Council are the signatory of either ICCPR or ICESCR, hence bond by the obligations enshrined within these two conventions.

Article 4 sub clauses 2 of 1966 ICCPR talks about the non- derogable rights. These include right of life¹², prohibition on torture or cruel and degrading treatment¹³, protection against slavery, its trade and servitude¹⁴, protection against civil imprisonment,¹⁵ protection against retrospective punishment¹⁶, right of recognition before law¹⁷ and freedom of thoughts, conscience and

¹¹ . Cf. Akande, He states that it would be anachronistic if an organ of the United Nations was itself empowered to violate human rights when the whole tenor of the Charter is to promote the protection of human rights by and in states.

¹² Article 6 (1)ICCPR with the exception of clause 2

¹³ Article 7 ICCPR

¹⁴ Article 8 ICCPR

¹⁵ Article 11 ICCPR

¹⁶ Article 15 ICCPR

¹⁷ Article 16 ICCPR

religion¹⁸. Among all these rights, right of life is considered the supreme right and largely affected by the economic sanctions. Original document of these conventions affirmed the safeguards of life against arbitrary killing but this is the narrow interpretation. Broader interpretation of right to life covers variety of aspect that apprehends the safety of life in the targeted society such as malnutrition. Human Rights Committee in its general Comment No 6 stated that "inherent right to life" could not be understood in a restricted manner. State parties should take all measures to minimize the infant mortality and to increase life expectancy, especially by adopting to eliminate malnutrition and epidemics. Moreover, the permanent members of Security Council have ratified the Convention on the Rights of Child (CRC) with the exception of United States of America. All parties to the convention are required to recognize the right of life¹⁹ and ensure to the maximum possible extent the survival and development of child.²⁰ Hence the sanctions if imposed must not result in denying the child access to the food and services indispensable for securing life. The Sender state should not adopt policies that lead towards malnutrition, infant mortality or epidemics among the children. Economic Social and Cultural Committee has commented that the Right to food is essential for the fulfillment of other human rights enshrined in the international Bill of Human Rights.²¹ It means that the

¹⁸ Article 18 ICCPR

¹⁹ Article 6(1) CRC

²⁰ Article 6(2)

²¹ Committee on Economic, Social and Cultural Rights, General Comment No. 12, The right

food embargo which jeopardizes the production and access of food in other state is not permissible. The only exception regarding the right to life is the humanitarian law in an armed conflict with the condition of principle of proportionality.²² United Nations has imposed comprehensive sanctions against four countries South Africa, Haiti, former Yugoslavia and Iraq. Among all these states Iraq is the most effected and sanctions plunge Iraq in pre-industrial age.²³ Economic sanctions have adversely affected the right of life of people and have radically declined the life expectancy in Iraq. Prior to the Gulf war, life expectancy rate was 77, 4 years of age for men and 78, 2 for woman. While at the time of lifting sanctions in 2003 according to the World Health Organization it was 50, years of age for male and 61 for female. This enormous declined of life expectancy is comparable with the African state of Ethiopia suffering from severe famine and drought at that time. Infant mortality rate has more than doubled after the imposition of sanctions.²⁴ World Health Organization confirms the death of five thousand children every month as a result of economic sanctions. There are many reasons of the tragic death of children. For instance, malnutrition, water related diseases because of the collapse of water and

to adequate food (Article 11), E/C.12/1999/5 (12 May 1999), .., available at www.unhchr.org lastly visited 13-9-2008

²² Hans-Peter Gasser, *International Humanitarian Law* (Haupt: Henry Dunant Institute, 1993), 50-52.

²³ UNICEF document E/ICEF/1994/P/L.23, 5 April 1994, available at www.unicef.org lastly visited 12-8-2007

²⁴ William, Seuffert, *the Mortality of Economic Sanction Emerging from the Shadow of Iraq* available at www.jstor.com lastly visited 12-12-2008

sanitation system and the lack of medicines. According to one reports of UNFP and ICRC approximately 70 percent women are suffering from anemia. To sum up economic sanctions has serious negative and long lasting impact with no results. It always takes full account of the human rights of innocent peoples. Sanctions have severe socio-economic consequences in Iraq. It undermine the intellectual and cultural revival of Iraq, demolished the family system, undermine the women social and economic advanced and encouraged the brain-drain.²⁵ In short, comprehensive regime of economic sanctions in Iraq amounted to a severe violation of the right to life guaranteed by the United Nations charter and other conventions relating to the protection of human rights.

3.1.4 Universal Declaration of Human Rights (UDHR)

UDHR is the mother document adopted by the international community to recognize and protects human rights. Following provision protect the human rights such as:

Article 3: everyone has human right to life, liberty and the Security of person.²⁶

Article: 5. No one shall be subjected to the torture or to cruel, inhumane and degrading treatment and punishment.²⁷

²⁵ Ibid

²⁶ Article 3 UDHR, 1948

Article: 25 (1) every one has the right to a standard of living adequate for the health and well- being of himself and of his family, including food, clothing, housing and medical, care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or the other lack of livelihood in circumstances beyond his control.

2: Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.²⁸

3.1.5 Other human Rights instrument relevant to the sanctions:

Convention on the Rights of Child:

Article 6 (1) states that all the parties recognize the every child has the inherent right to life.

2 states parties shall ensure to the maximum extent the survival and development of the child.

Article 28. (1) State parties recognize the right of the child education and with a view to achieving this right progressively and on the bases of equal opportunity, they shall, in particular:

²⁷ Article 5 UDHR, 1948

²⁸ Article 25 UDHR 1948

- (a) Make Primary education compulsory and available free to all;
 - (b) Encourage the development of different form of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need.
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at school and the reduction of drop-out rates.
2. States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present convention.
3. State parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to the

scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

- Declaration of the principle of international cultural cooperation
- Standard minimum rules for the treatment of prisoner
- Convention on Elimination of all form of Discrimination against Woman

Human Rights which may be violated by Economic Sanctions

Human Rights	Relevant United Nations Instruments
Right to life	UDHR(3), ICCPR(6)
Right to liberty and security of person	UDHR(3); ICCPR(9)
Right to freedom of opinion and expression	UDHR(19); ICCPR(19); CRC(13)
Right to adequate food, and to be free from hunger	UDHR(25); ICESCR(11)
Right to the provision of medical assistance and healthcare	UDHR(25); ICESCR(12); CRC(24)
Right to adequate clothing and housing	UDHR(25); ICESCR(11)
Right to a standard of living adequate for health and well-being	UDHR(25); ICESCR(11), CRC(27)
Right to education	UDHR(26); ICESCR(13); CRC(28)
Right to work, and to just and favorable conditions of work	UDHR(23); ICESCR(6,7)

Right to work, and to just and favorable conditions of work	UDHR(23); ICESCR(6,7)
Right to social security	UDHR(22); ICESCR(9); CRC(26)
Right to participate in government	UDHR(21); ICCPR(25)

3.2 ECONOMIC SANCTIONS IN PRE COLD WAR ERA AND POST COLD WAR:

In the pre cold war era Almost all of the economic sanctions were imposed unilateral and there were few examples of multilateral sanctions. The UN imposed economic sanctions in 1951 against China after her alleged involvement in Korean War. The General assembly declared porcelain an "aggressor" and on 18 May 1951 adopted resolution No 498, called member states for imposition of voluntary sanctions against china.²⁹ Object of the sanctions were arms, ammunition, and implementation of war, atomic energy materials, petroleum, transportation materials of strategic value and item useful in production of arms, ammunition and implementation of war.³⁰ The communist block did not participate in the vote, and the resolution was passed by 47-0, with eight

²⁹ UNGA, Res, 498, 18 May, 1951.

³⁰David, Leyton, *The Utility of Economic sanctions* , Croom Helm London, 1987

abstentions (Syria, Sweden, India, Pakistan, Burma, Afghanistan, Egypt and Indonesia).

After the end of the cold war economic sanctions were frequently used by the United Nations as peace restoring mechanism. The Cold war resulted in the unanimity of permanent members of the Security Council, consequently unanimity of decision in the Council. Iraq is obvious example of comprehensive sanction of the United Nations. United Nations imposed sanctions against number of country because of multiple reasons .for example, federal republic of Yugoslavia, Libya, Rwanda, Liberia, Somalia, Sudan, sierra, Leon, Angola, Eritrea, Ethiopia and Afghanistan is the recent example of economic sanctions. Detail of the imposition of such sanctions has discussed in chapter one.

3.3 ADVERSE IMPACT OF ECONOMIC SANCTIONS ON HUMAN RIGHTS:

Article 24 of UN charter bounds the Security Council to act in accordance with the purpose and principle³¹ of UN charter while acting under Article 41. Although economic sanctions are considered non military means to maintain

³¹ Article 24: *1. in order to ensure prompt and effective actions by the United Nations, its member confer on the Security Council primary responsibility for the maintenance of international peace and Security, and agree that in carrying out its duties under this responsibility the Security council acts on their behalf. 2. In discharging these duties the Security Council shall act in accordance with the purpose and principle of the United Nations. The specific powers granted to the Security for the discharge of these duties are laid down in chapters VI, VII, VIII, and XII.*

international peace and security but always has unintended consequences on human rights in targeted society . Economic sanctions translate pressure on the government by the people to change its policy or behavior towards a particular issue. However empirical cases of economic sanctions show that they are often ineffective and have negative impact on innocent people.

3.3.1 Impact of economic sanctions on Iraq:

Iraq covers the area 43.5 million hectares. Of which 91.2 is in south- central Iraq and 8.8 percent area comprises its three autonomous northerner governorates. Merely 28 percent land is arable while rest is desert. Approximately 8 million hectares are located within the irrigated facilities, and 4 million hectares are rain-fed. The actual cultivated land is very low.³² About 74 percent of irrigated lands, mainly in Southern Iraq have salinity problems. Thus the domestic food production was already a problem in Iraq and dependence on imported food was 70---80%. ³³

On 6 August 1990, the Security Council adopted its Resolution³⁴ No 661 and imposed comprehensive economic sanction against Iraq. The Purpose of

³² Anthony Arnove, *Iraq Under Siege The Deadly Impact of Sanctions and War*, Viva Books Private Limited, 2003

³³ Abbas,, Alnasarwi, *Iraq: Economic Sanctions and Consequences 1990--2000*, available at <http://www.jstor.org> lastly visited 22-12-2007

³⁴ UNSC, Res, 661,1990

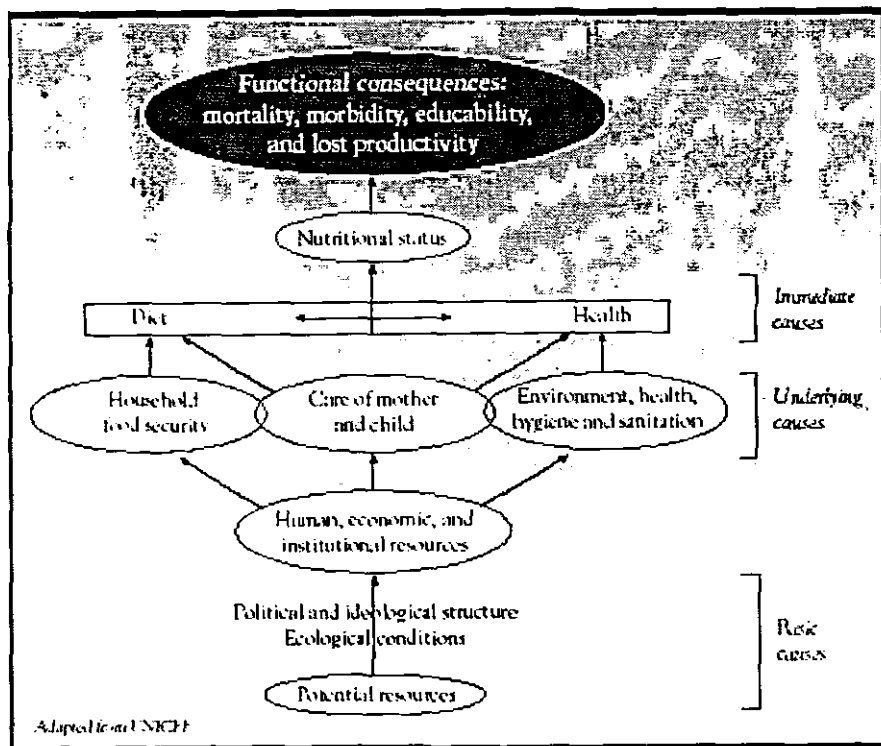
sanctions were withdrawal of Iraqi troops from Kuwait but later on sanctions were extended to the disposal of mass destructive weapons. Iraq was placed under comprehensive UN economic sanctions for almost 13 years. The Sanctions have devastating impact on innocent people of Iraq. Sanctions imposed on Iraq were comprehensive and just little humanitarian exemptions were available till 1991. In 1991 resolution 706 and 712 adopted by the Security Council allowed the sale of petroleum and petroleum based products up to \$1.6 billion³⁵ in each six months. Although these resolutions were never implemented.

With the implementation of sanction's resolutions the human situation and the economy of Iraq turned into deterioration. A Comparative study of all sectors of life prior to and after the imposition of comprehensive sanctions demonstrates that development of the state of Iraq and quality of life has reduced drastically. Before 1990 Iraq was a nation of with progressive socio-economic indicator for health, education, water and electricity supply, sanitation and agriculture development. Iraq was a country belongs to middle income group and it had one of the best health systems in Middle East.³⁶ After 1990 it has turn into impoverished, and in economic and social term, poorly performing state.

³⁵ UNSC, Res 706 and 712 1991

³⁶ UNICEF, An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

Malnutrition was not practically witnessed, household were effortless and access to a balance nutritional intake were affordable for every citizens. Well equipped, well supplied Health care services were guaranteed by a widespread network of hospitals and health facilities. Trained health care staff was available all the time in hospitals. Access of patient to hospitals was very easy as supported by the systematic network of hospitals. Ambulances and emergency services were developed and benefited from a properly maintained network of roads and telecommunication.³⁷



Water and sanitation services benefited from large investments in water and Sewage treatment plants before 1990, assuring nearly widespread access to

³⁷ Ibid

Plentiful safe drinking water and to a quite clean environment. Electricity had been made available even to remote villages.³⁸

Economy of Iraq was mostly dependents on 90% of export of oil and import of equipment and other input for economic development. According to annual official report of 1989 the oil sector contributed 61% of the GDP, 22 % was contributed by other services, industry contribution was 12% and agriculture sector contributed 5%. Other sources of revenue included organized religious tourism with Iran which brings round about \$2.7 in hard currency each month and had barter trade with Jordan and Turkey. 1989 the total GNP of Iraq was 14b Iraqi dinars which turn down to 2.9bn dinars in 1996 In The First Eight years of sanctions Iraq lost US\$ 120bn in Foreign exchange earnings.³⁹

In 1987 unemployment was estimated 4.49% and the ratio of female unemployment was 7.13%. By 1997 the ratio of female unemployment had doubled, reaching 17.6% which resulted decrease of GNP and pressing need for of more family income. Even those who are employed seek part time or additional jobs. 81%population was livings beneath the poverty line in 1993, though this had improved to 55% by 1997. ⁴⁰ Due to this situation children were

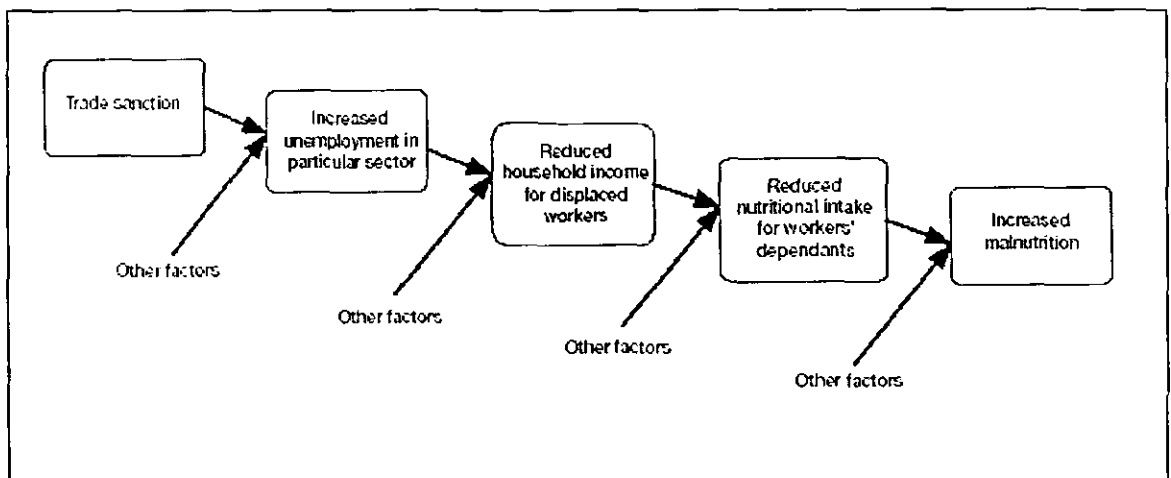
³⁸ Ibid

³⁹ Richard Garfield, *The impact of economic sanctions on Health and Well -being*, Overseas Development Institute, London, 1999. Available at, www.oneworld.org/odi/rrn/index.html, lastly visited 14-06-2008

⁴⁰ Manuel, Bessler, Richard, Garfield, Gerard Mc, Hugh, *Sanctions Assessment Hand book Assessing the Humanitarian implications of sanctions*, United Nations Inter-Inter Agency Standing Committee, 2004, available at <http://www.un.org>, lastly visited 27-12-2007

forced to work. According to a report of FAO/WFP average income of a person ranges between 3\$ and 6\$ a month. After the eight year war with Iran, Iraq stood no 50 out of 130 countries on UNDP humanitarian index, which measures national achievement in health, education, and per capita GDP. By 1995 it had dropped to 106th out of 174 countries, and by 2000 it had plummeted 126th, behind Bolivia, Mongolia, Egypt and Gabon, close to the bottom of the medium human development category.⁴¹

Immediate causes of economic sanctions:⁴²



According to HDI average age of an Iraqi citizen was 70 years in 1987, whereas in neighbor's state such as Jordan the life expectancy of a citizen was 67

⁴¹ Ibid

⁴² Manuel, Bessler, Richard, Garfield, Gerard Mc, Hugh, Sanctions Assessment Hand book Assessing the Humanitarian implications of sanctions, United Nations Inter-Inter Agency Standing Committee, 2004, available at <http://www.un.org>, lastly visited 27-12-2007

years this was improved up to 70.4 in Jordan in 1998, while at the same time life expectancy in Iraq plummeted to 63.8. Similarly in 1985 literacy rate of Jordan was 75% and it was raised up to 88.6% while Iraq was dropped from 89% to 73.5%. In 1990 Iraq was ranked by HDI three places above to the Jordan whereas it ranked 34 places below in 2000.⁴³

3.3.2 Impact of sanctions on children:

Iraq had ratified the CRC (Convention on the Rights of Children) and embodied it in national legislation in 1994. Article 6 of the CRC provides for the protection of life and survival of children.⁴⁴ Infant mortality rate in Iraq following the sanctions has increased drastically. Between 1975 -79 in the Southern and Central Iraq, mortality ratio was 47 deaths per 1000 live birth, 79 deaths⁴⁵ in 1985 -89 and it raised up to 107 during the period of 1995-99.⁴⁶ Infant mortality rate touched the figure of 102.1 in urban areas and 116.4 in rural areas. Likewise mortality rate of less than five years of age increased from 56 deaths per 1000 live birth in 1985-

⁴³ Ibid see also Muhammad , M. Ali, John, Blacker and Gareth, Jones, *Annual Mortality Rate and Excess Death of Children Under Five Year in Iraq, 1991-1998*, Population Investigation Committee, 2003 available at <http://www.jstor.org> lastly visited 12-2-2008

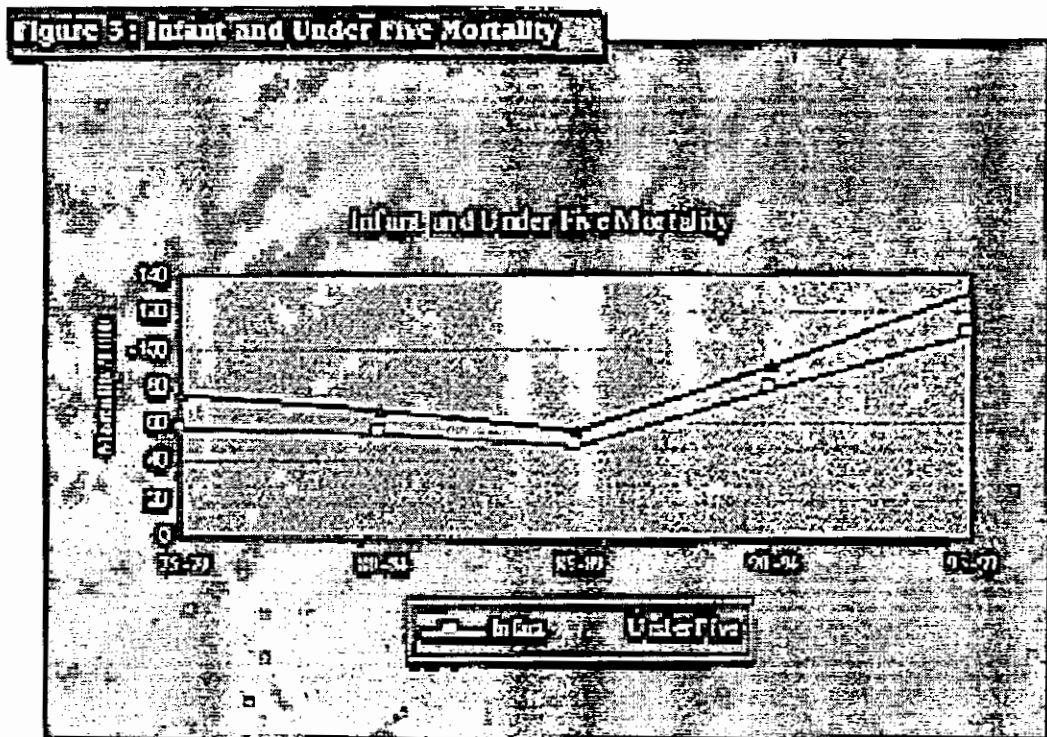
⁴⁴ Article, 6 CRC.1989

⁴⁵ From 1981 the Iran and Iraq was going on and due to the war infant death rate was increased from 47 to 79 per 1000 live birth while after the imposition of economic sanctions the death rate reached to 107 deaths per 1000 live birth. It means economic sanctions have more devastating impact than wars.

⁴⁶ Ibid 37, see also *A preliminary study on the impact of sanctions and war on Iraqi women's health, social, cultural and educational life*, A report prepared by the General Federation of Iraqi Women GFIW, 2003, Available at www.unicef.com lastly visited 28-08-2008

89 to 131 deaths per 1000 live birth 1995-1999. It was 120.9 in urban areas and 144.9 in rural areas.⁴⁷

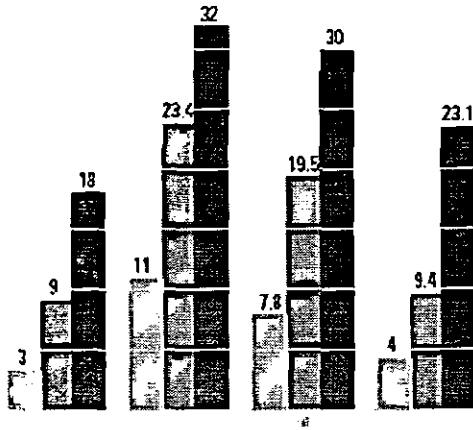
Moreover physical growth of less than five years children was alarming. MICS (Multiple Indicator Cluster Survey) 2000 reports illustrate that 15.9% are Underweight due to general malnutrition, 22.15% suffering from chronic malnutrition and 5.9% suffering from acute malnutrition.⁴⁹



⁴⁷ Ibid

⁴⁹ UNICEF, An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

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Ratio of underweight children is almost equal between girls and boys that is 15.6% in girls and 16.1%. Generally speaking infant mortality has doubled in Iraq over a past decade, while less than five

years mortality increased by two-and half- times. This is the condition of right to life and survival of child in a member state of CRC.

Malnutrition and in result of that diseases are the major factors of such alarming mortality in children. Unfortunately diseases taking life of children in Iraq are preventable. Overall 70% children died due to diarrhea and acute respiratory infection. A study conducted in 2000 demonstrate that half of children suffered from diarrhea, over third of children suffered from respiratory infection⁵⁰ and nearly half suffered from fever. 14.4% Childs suffer from diarrhea which denotes a rise of three times the average of 3.8 of 1990. MICS reports show

⁵⁰ Ibid

that 16.6 % of children suffering from underweight which means that one in five Iraqi children are underweight. Deficiency in micro- nutrients (vitamin A, iron, vitamin B and iodine) has severe consequences upon children and pregnant woman and has resulted in anemia in 70% pregnant woman. Malnutrition in pregnant women results in birth of underweight infant babies of around 23.8%.⁵¹

Causes of malnutrition and underweight children are the condition of services and utilities responsible for public health. These include, among other, water supply, sanitation system, house hold factors and the economic situation of family income.

Water and sanitation are regarded as first line in defense of diseases. In Iraq deterioration of water ply a key role in the increase of diseases in children. Euphrates and Tigris are the main source of water and susceptible for both pollution and infestation. In 1990 filtered water coverage was 95% for urban areas and 75% for rural areas.⁵² This was achieved through an advanced water system comprised of 218 fixed water treatment plants, 1, 119 mobile compact water treatment plants, 51 boosting stations and hundred of thousand kilometers of water conveyance of pipe lines.⁵³ Urban coverage declined 94% in 1997 and 92.4% in 1999. Similarly, rural coverage declined 41% in 1997 but little

⁵¹ Ibid

⁵² Over Review Report, *Iraq Watching Briefs* July 2003, Available at www.unicef.org lastly visited 7-7-2007

⁵³ Ibid

improvement of 41.7% seen in 1999. From 1990-2000, the daily per capita share of potable water of Baghdad declined from 330 to 150 liter, 270 to 110 in other urban areas and 180 to 65 in rural areas. According a report of Ministry of health and WHO drinking water is highly polluted and it is some⁵⁴ times beyond 40%.

25% of Iraqi population is in urban areas uses the piped sewerage system, about 50% use household cesspools, septic tanks and pit latrine, rest of population dispose off their excretions directly into the water, streets or open areas, forming ponds of stagnant water which cause contamination and environmental hazards both in rural and urban areas. It is estimated that about 500, 000 tons of raw sewerage is directly dumped into water daily. Most of the treatment plants are nonfunctional due to the lack of spare parts, equipments, proper maintenance and lack of skilled manpower. Many tankers and trucks for cesspool pits have been broken downs because of lack of spare parts, tires and batteries.⁵⁵

Garbage collection vehicles were facing similar problem. In 1990 there were 800 garbage collectors with the capacity of 4 tons in Baghdad which use to make two trips in daily. Now only 80 garbage collectors with a lesser capacity assisted by 400 hired garbage collectors are functional. As a result of this most

⁵⁴ UNICEF, An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007 see also An Overview report, *Iraq Watching Briefs*, prepared by Biswajit Sen, Available at www.unicef.com lastly visited 23-09-2008

⁵⁵ Ibid

garbage accumulates within the residences and garbage disposal areas are closed to the city.⁵⁶

Auxiliary machinery and equipments, such as garbage collectors, tractors, loaders, Lorrie's excavators, water and sewerage tankers, jetting vehicles, personnel and transport vehicles have dropped from 6,500 units to 700 till 1996. The number of operational workshops has dropped from 60 to less than 20. As a result of this safe drinking water became a nation wide problem and causing water related diseases such as diarrhea which increased from an average of 3.8 per child in year of 991 to 15% per child in year of 1996.⁵⁷

3.3.3 Health services after 1991:

Approximately 85,000 ton of bombs were exploded by the Coalition forces within six weeks of Gulf war in 1991. Civil infrastructure of contrary was largely damaged as a result of this massive bombardment. ⁵⁸ Before 1990 Ministry of Health received \$ 450mn for less than 20mn populations which declined after the imposition of sanctions to \$22mn for 10 to 15% increased population. Currently 929 primary health care centers are serving before 1990 they were 1,800 in

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Campaign Against Sanctions on Iraq, Mirage of Smart Sanctions, Press Release, May 15, 2002 Available at www.cam.ac.uk

number.⁵⁹ Reasons for this enormous decline are poor salaries due to hyperinflation, emigration of skilled workers, shortage of medical equipments and medicines.

3.3.4 Impact on Education Sector

Primary education has made compulsory since 1976 in Iraq. Two separate ministries work for education in Iraq one for primary education and another for higher education and scientific research at university level. Iraq had signs all the conventions related to education.⁶⁰ Sanctions have adversely effect the progress of education sector. Multiple factors involves in decline of education in Iraq. Enrolment of kindergartens dropouts' from 8.2% in 1991 to 6.8% in 1998. Report of the Education for All pointed out that about 22.6% children do not register in school from 1990 to 1998 of which 10.2 % at primary level. Decline in enrollment is more eminent in rural areas than urban areas and ratio is high in especially in the girls. According to a survey conducted by MICS in 2000 shows that 76.3% children in Iraq are attending in school at primary level it means that 23.7% did not attend the school at primary level. Among this the erosion from school is double in girls, as 31.2% and 17.5% is in boys. Problem is more acute in rural

⁵⁹ An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

⁶⁰ Ibid

areas with the rate of 39% while in urban areas it is 16.2% and female declined from education in rural areas is prominent with the rate of 49.2%. According to a National report dropout in intermediate level is increased. National literacy rate drop out from 87% in 1985 and 43% in 1998.⁶¹

Sanctions have destroyed the whole educational system. Physical infrastructure of schools had badly damaged during Gulf war. In April 1991 a visit paid by the delegation Sponsored by Americans Friends Services Committee.⁶² According to the delegation sanctions had decreased the Iraqi Government ability to provide a quality education. Mostly school administration failed to provide learning environment in the class rooms. No desks and chairs were available to the students or some times even to the teachers. Schools have no stationary and computer labs at all.

Rudimentary cooling and heating system were non functional and sometimes students sits even without ceiling fans in 100degree temperature or above that. Because of government inability to construct new buildings, schools authorities started two shifts to meet the requirement. Prior 1990 Dr. Karim Khudieri, Iraqi government maintains its commitment to the high- quality education.⁶³ New schools were constructed, teachers were trained.....primary education made compulsory and all the students

⁶¹ Ibid

⁶² Fara, Notes 65

⁶³ Ibid

received text books in free of charge and other nutritious things such as biscuits milk and fruit etc. in an interview , the principle of Ishtar school Suham Said Sadoon told that six or seven children faint every day because of malnutrition. Farid Zafar Deputy Director of UN humanitarian aid program pointed out that “pencils are forbidden because carbon could be extracted from them that might be used to coat airplanes and make them invisible to radar.” Now education sector is completely deteriorated.⁶⁴

Anupama Rao Singh, director of UNICEF in Baghdad pointed out that no systematic evaluation of academic standards since 1989. Ministry of Education estimated drop off of employees from 1990 to 1998 of 26, 394 persons of whom 16,337 are teachers. ⁶⁵Approximately 15, 798 teachers are not attending school. Regarding necessary school supplies such as school furniture, text books and teaching aids estimate given by the relevant ministry indicated that school lacks about 500,000 teaching aid units, 2 million desks, 68 million text books and 15,000 computers. Along with these 150 million pencils, 23 million erasers, 5 million rulers, and 5 million geometrical kits annually distributed by the ministry of Education since long are not given by the government.⁶⁶

⁶⁴ George, *Capaccio, Sanctions Killing a Country and a People*: Anthony, Armove Iraq Under Siege, Viva Books Private Limited, 2002

⁶⁵ , An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

⁶⁶ Ibid 65

Poverty play key role in decline of children's registration in high schools. Although primary education is free despite the fact families dropped their children from schools and placed them on work in order to get some money for feeding of their family.⁶⁷ Similarly girls are restricted from attending school and are forced to stay at home to help their family or get merry. Approximately 30.2% girls are not attending school at primary level. Unemployment is another reason of the parent's attitude towards the education. As lot of the engineer's doctors and teachers drove taxis or sells cigrates etc.⁶⁸

Intellectually Iraq had cut off internationally. Books and pencils were banned under the sanctions and no internet facility was available to the students. Iraqi Scholars were restricted to attend any international seminar.⁶⁹ Under the UN resolution of 986 only 1 percent of oil revenue allotted to the education as pointed by the Singh and Hans Von Sponeck.

3.3.5 Impact on disable children orphans and working children:

In 1980 Iraq enacted Social Welfare Law that recognized the educational, medical and economic rights of disables. It was unique piece of legislation in Arab region at that time. Provisions were made for the financial assistance in case of need.

⁶⁷ Ibid

⁶⁸ Barbara, Nimri, Aziz, *Targets ---- Not Victims*, Iraq Under Siege, Viva Books Private Limited, 2003

⁶⁹ Ibid

Integration of disabled children in normal school is declared as educational policy. 10% quota is fixed by the government⁷⁰ in all form of employment for disabled. Government provided employment to 'the disabled graduates in vocational school. Likewise Act define orphan and provide guideline for their admission in government houses. Law No 76 of 1983 deal with working children (Law of Care for Juvenile). Law No 76 says that any child under the age of 15 found begging, selling and any other activity of same kind in the street, shall be considered vagrant and can be taken to the court for cautionary purpose or to be placed under the guardians custody or referred to a rehabilitation center. Law NO 36/1973 prohibited child labor in Iraq ⁷¹and minimum working age 15 years according to said law.

According WHO in any population the ration of disables is approximately 10%. And even in some societies it is 5to 3% of the population. And if we assume it 3 % in Iraq with the population of 25 million it means that about 750,000 people are disable of whom 35,000 are children. During 1990 approximately 5,000 special children served in schools for disables. This figure decreased from 5,000 to 3, 286 in 1995 and 3,284 in 1999. It means diminution is

⁷⁰ Ibid

⁷¹ Ibid

37% since 1991, this reduction took place in spite of increase of population and increase of disabilities from 43% in 1991 to 50% in 1999.⁷²

Since 1990 twenty five orphan houses were providing services to 1,119 children. Number of houses as well number of beneficiaries decreased after imposition of sanctions due to the inability of government to maintain adequate resources. However disabilities are mounting as a result of natural phenomenon of poverty and stagnant economy of Iraq. Government is unable to supply medical and educational equipment, skilled staff and rehabilitation of houses. Although number of orphans has doubled following the two wars.⁷³

It is reported that there is disquieting increase of juvenile crimes. In 1990 2, 600 reported figure of juvenile offenders raised to the figure of 4,420. A study was conducted in 1999 on the services, institution and condition of working children. The situation is not different from other institutions.⁷⁴ Almost all institutions suffering from shortage of food, clothing, transportation and other necessary medical facilities.

⁷² An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

⁷³ Ibid

⁷⁴ Ibid

3.3.6 Impact on women:

Women are the immediate effectees of economic sanctions. The Child and children mortality survey conducted in 1999 demonstrated a very high rate of 294 per 100,000 live births for period of 1989-1998. Prior 1990 the ratio was 117 per 100,000 live birth according to the national report. Malnutrition is the basic reason of maternal mortality.⁷⁵

Educational rights as protected under Article 5 of CEDAW were largely effected after the imposition of sanctions. Almost 30% girls were not registered in schools for primary education according to the report of MICS of 2000. The assessment shows that 29.5 of 23,105 women from the age of 15- 19 years not attending school. Merely 48% girls attend primary school, 15.6% approached high level and just 6.9% get post graduate education. Female illiteracy rate rose from 8% to 45% from 1985 to 1995.⁷⁶

According the report of UNICEF prevailing situation in the society has severely affected the Psychological condition of Iraqi peoples. A Study indicates s that the number of patient visits psychological clinic for mental disorder has increased from 200,000 in 1990 to 220,000 in 1994 and 510,000 in 1998. Family system has broken and number of divorce increased and rise of polygamy.

⁷⁵ An Overview Report, *Joint Government of Iraq- Unicef Programme Review*, Available at www.unicef.org lastly visited 23-12-2007

⁷⁶ Ibid

Sanctions affect the Islamic value and prostitution increased in Iraqi society. Study specify that the young generation of Iraq is facing health related problem, malnourished and have no hope for better future.⁷⁷

3.3.7 Oil for Food program of United Nation:

Iraqi Government had arranged food ration program to minimize the impact of sanctions after the implementation of 661 resolution of the Security Council. In beginning that program was solely managed by the Government. The program was financed by the Government and supply of food was ensured to the people according to the available resources. Under the Ration card system every individual is entitled to 1,736 calories while the actual requirement is according to the study of Nutritional Research Institute is 2,306 calories per day which means deficient of 569 calories.⁷⁸ The United Nations specialized agencies such as UNDP, WHO, WFP and FAO monitoring the sanction drawn the UN attentions towards the famine and its results in Iraqi society. After that in April 1995 UN adopted its resolution No 986 which permitted the sale of oil for food and humanitarian goods. ⁷⁹ On 20 may 1996 memorandum of understanding

⁷⁷ UNICEF, *Child and Maternal Mortality Survey 1999*, A Preliminary Report, Available at www.unicef.org lastly visited 11-1-2007. See also An Assessment based on the United Nations Convention on the rights of child, UNICEF, 2003 available at <http://www.un.org> lastly visited 12-12-2007

⁷⁸ UN, Commission on Human Rights, E/CN.4/Sub.2/1994/50, 24 August 1994, available at www.un.org lastly visited 2-11-2007

⁷⁹ UNSC, Res 706 (July 1991)

signed by the Govt of Iraq with the United Nations secretariat for the implementation of this resolution.⁸⁰ Following this resolution Government was permitted to sell \$ 2 billion worth of oil per annum to purchase the humanitarian goods but government was not allowed to keep the hard currency out of the sale of oil it was placed in the Paris bank of New York under the supervision of the UN to which the Iraqi Government had no access.⁸¹

However MoU signed in the mid of May 1996 and in result of that sale was commenced at the end of 1996 while supply of humanitarian goods were made possible at the end of 1997. One of the basic reasons of this delay in supply of food was the ruling attitude of the UN supervisory sanction committee. Each and every contract by the Govt is required to be approved by the sanction committee seated in New York. There has been a strong suspicion of political motives at work in the approval of contract, a situation that has been specifically condemned by Kofi Annan then Secretary General of United Nations.⁸² Committee had a secret voting system and every member state holds veto power.

Nevertheless adoption of said resolution eased the responsibility of Govt and improved the supply of food from original \$ 4 billion up to 10 billion annual

⁸⁰ UNSC, Res 986(1995)

⁸¹ Ibid

⁸² Kofi, Annan, Letter to the President of Security Council, 22 October, 1999(S/1999/1086) available at www.un.org

proceeds but it is certain to note that was not aid program of the UN. Whilst 53 percent of revenue reserved for foodstuff, medicine and other humanitarian supply for the populace of center and south Iraq and approximately 30 percent were paid as compensation for the Gulf war.⁸³ Maintenance of the UN operation in Iraq and repair of oil pipe line has financed from this revenue up to 5 to 10 percent. And 13 percent reserved for the food of 3 millions of Kurds in northern Iraq.⁸⁴ It means that the UN sanctions program was not financed by the world community but by the revenue of Iraq's own oil or by the people of Iraq itself. All the expenditures of sanctions committee were paid from this oil revenue. And the inspectors of UNSCOM were as well paid by the Government of Iraq from the same oil revenue. Along with this the UN Sanction Committee approved a list consist of a number of items that comes under the dual- use group and Iraqi Govt was obliged to obtain approval from the sanctions committee before purchasing these objects. Following the dual -use category list the contracts has blocked for ambulances, chlorinators, vaccine and even a pencil were cited in the said list.⁸⁵

Gulf war and economic sanctions decimated the whole Iraqi society. Civil infrastructure was largely destroyed. In March 1999 security councils

⁸³ UN Office of Iraq Program, Oil for Food, The Basic Facts, available at <http://www.un.org/Dept/oip/reportsbasfact.html>.

⁸⁴ Knzer, *Smart Bomb , Smart Sanctions*, available at www.smartsanctions.com lastly visited 06-06-2007

⁸⁵ Ibid

humanitarian panel reported that "the oil for food system alone would not suffice and massive investment would be required in a number of key sectors, including oil, energy, agriculture, and sanitation."⁸⁶

Tun Myat a administrator of the UN oil for food program stressed that "people have become so poor in some cases that they can not even afford to eat the food that they are given free, because of many of them selling the food ration represent the major part of their income."⁸⁷

3.4 REMEDIES FOR THE VICTIMS OF UNITED NATIONS:

As I have stated above that the economic sanctions has devastating socio-economic impact on the targeted society. The mechanism was asserted in the United Nations charter with the contemplation that it would not have catastrophic effect as war has. But the impacts of comprehensive sanctions imposed against Iraq have drawn the attention of policy maker towards the human cost of sanctions. According to the official report of United Nations own agencies approximately 5,000 children died every week as a result of sanctions. A Whole coming generation of Iraq is malnourished. Sanctions severely effect the quality education. There was a noticeable dropout in primary, secondary and

⁸⁶ CASI *Disappointed at Mirage of Smart Sanctions*, Press Release, May,15, 2002, available at www.cam.ac.uk/societes/casi/briefing/prscr1409.html. Lastly visited 12-07-2007

⁸⁷ Ibid

technical education. It is important to mention that depleted uranium exploded by allied forces in a desert fox operation caused cancer in the children and thousands of children died by the leukemia and lymphoma.⁸⁸ Lack of medicine and medical equipments was another reason of casualties.

Law of remedies suggests that no loss or damage can go without the redress or remedy. Now the question is that United Nations who has the sole authority under article 39 to determinate the threat of international peace and security and in result of said determination imposed comprehensive or targeted sanctions under article 41 against the innocent people of targeted country offer any remedy for the victims of these sanctions?

Charter of the United Nations is silent about the remedy for the victims of economic sanctions in the targeted state but under article 50 the third parties or non target states suffer from the unintended effect of economic sanction has right to consult with the security council. Article 50 gives only the right of consultation and charter does not bound the council and member states to grant any explicit remedy. The Security Council has sole authority to decide what kind of aid if any, has to be granted to the non target states. The Council can adopt number of measures to mitigate the economic loss of particular state. It may modify the measures and may excuse the state from participating in

⁸⁸ Robert, Fisk, *the Hidden War, Iraq under Siege*, Anthony Armove, Viva Books Private Limited, 2003.

adopting the sanctions resolutions. And council may direct the member states and the international financial organizations to provide financial and technical assistance to the non-targeted state facing economic hardship. Such kind of support has been provided by the council in the past while imposing economic sanctions against Rhodesia, Iraq and former Yugoslavia. However charter of the United Nations does not provide any remedy for the innocent people in the targeted country who are the direct and immediate effectees of economic sanctions. They can not invoke the jurisdiction of their own national courts because sanctions are the action of international body that does not come under the states law. Conversely they do not hold any right to go to the court of sender country to get remedy. Individuals of the targeted states do not have any right to invoke the jurisdiction of international court of justice. The Security Council and the international court of justice are the independent body of the United Nations and not answerable in front of each other for their actions. It means no forum is available for the innocent people who have suffered the disastrous effect of economic sanctions at national as well as at international level. And at the time of writing no steps were taken to provide any effective remedy for the innocent victims of economic sanctions by the United Nations.

Conclusion

Economic sanctions are considered an effective tool of statecraft or the foreign policy. International organizations such as the League of Nations and after that the United Nations adopted these sanctions as a peace restoring mechanism. The Security Council has vested the Power of imposition of economic sanctions to the restoration and maintenance of international peace and security without using force under article 41. The Council has imposed comprehensive and targeted sanctions for multiple reasons. Whether the charter of the United Nations authorized the Security Council to impose sanctions for the protection of human rights, restoration of democratic Govt and fighting against terrorism this is another issue but the impacts of these sanctions on human rights is very sensitive issue that has been analyzed in detail in this study.

The rational of insertion of these sanctions in the Covenant of League of Nations and in the Charter of the United Nations was to resolve the dispute between the states without using force in other words, the purpose was to minimize human cost or suffering after the horror of two great wars.

The Councils have imposed sanctions only twice before the end of cold war. However, after the end of cold war sanctions have been imposed frequently and, hence, many authors called that period "the sanctions decade". Research

shows that despite the frequent use of economic sanctions the ratio of success for achieving the predictable results is very low.

For the First time in the history of United Nations mandatory Sanctions were imposed against the illegal Ian Smith regime in southern Rhodesia. These sanctions continued almost a decade. Although many authors considered economic sanctions against Rhodesia to be successful, it is a fact that the removal of Ian Smith was made possible not merely imposing these sanctions. Rather there were other important factors as well. These include guerilla war, independence of Angola and Mozambique and pressure from South Africa. Other Factors were (1) the general labor market distortion of apartheid proved increasingly costly and unacceptable (2) effective political movement against apartheid (3) the down fall of communist in Eastern Europe.

Sometime despite of economic demolition the expected results could not be accomplished. An Apparent example of similar case is Iraq where primarily sanctions were imposed for the evacuation of Iraqi troops from Kuwait but later these sanctions were with the disposal of mass destructive weapons and withdrawal of President Sadaam Hussein from the power. These sanctions continued near about 13 years but totally failed and unsuccessful to remove him from power. Conversely it smashed the whole economy of Iraq and has negative effect on human rights. The human cost of sanctions against Iraq is remarkable.

Beside this, the super powers or the permanent members of Security Council used this mechanism for their political purposes. As in case of Iraq the

international atomic energy agency(IAEA) given many times satisfactory reports for the ineffectiveness of weapons of mass destruction but the sanctions were never terminated because the personal interest of United States of America.

Economic sanctions brings lot of problems in targeted society that includes unemployment, shortage of medicines; malnutrition severely affects the health system undermines the right to work. Its unintended consequences results in black market, smuggling and monopoly of oppressive elites. Moreover it gives rise the keen form of nationalism, curtail the economic opportunity and severely affect the universal propriety. Apart from this in a competitive economic market states always find alternative market that curtails the effect of economic sanctions. And third party or state always topple the influence of sanctions as in the case of Rhodesian sanctions South Africa step in and assist Rhodesia.

Another issue that incriminates the morality of the any organization or the state is the vague interpretation aggression. The Charter of the United Nations prohibits the use of "force" and persuades peaceful settlement of dispute but not mentions the "measures short of war" which may include embargoes and boycott etc. hence writes differs on the interpretations such means some include in peaceful means and others as a forceful means. Generally there are two schools of thoughts the one who prohibit the economic coercion and called it economic aggression is headed by the Soviet Union and third world states and other the promoter of economic coercions are the United Kingdom and the United States of America.

Contradiction of human rights with the imposition of economic sanction is another issue that adversely affects the morality of the United Nations as a guardian of human rights. Since all human rights treaties for the safeguard and encouragement of human rights were initiated by the United Nations. Consequences of the economic sanctions are always fall on the most vulnerable Social group in the targeted country. The innocent people who have no voice in decision making. As I mentioned above that sum 500,000 people died as a result of crucial sanction in Iraq. Now the question is that whether it is just to violate human rights by imposing economic sanction for the implementation of human rights.

To conclude that the cost or the human cost of economic sanction is incredibly high while the rate of success for bringing changes is extremely low and these sanctions work slowly. Whenever economic sanctions brought some positive results or successful it always combined with some other means or factors. It means that economic sanctions may be a contributory factor together some other means of warfare for achieving the desired goals.

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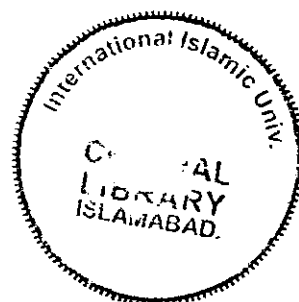
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