

Sanctions as Violence

Written by Alexandra Hofer and Mohammad Kanfash

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Unilateral sanctions are popular foreign policy tools in the USA and the EU, both actors readily employ them to defend their interests and promote their values abroad, often clothing them in the language of international norms and values. Parallely, academia often presents them as an alternative to war, an in-between policy substitute to diplomacy and kinetic warfare. While sanctions are considered peaceful because they don't involve the use of (physical) force, we argue that they are inherently violent by virtue of their design and objectives and constitute structural violence, as illustrated by their impact on the societies of sanctioned states. This article first defines structural violence and then explains how it aptly captures the impact of sanctions, particularly by drawing attention to their contribution to food insecurity in Syria. It then considers the consequences of denying this violence by focusing on the lack of regulation.

Rewriting sanctions' lethal legacy

Johan Galtung (1969) is best known for having coined the term 'structural violence', which has then been picked up by various disciplines. He described it as policies that result in avoidable harm, a reduction of potential and the unequal distribution of resources. For example, "if people are starving when this is objectively avoidable, then violence is committed" (Galtung 1969: 171). Such violence is collectively embedded in society and maintained by social structures and power relations. Medical anthropologist Paul Farmer (2004: 307) defined it as "violence exerted systematically – that is, indirectly – by everyone who belongs to a certain social order". To him, it constitutes a form of oppression that is reproduced through social structures, and can result in death, injury, sickness, stigmatization, psychological harm, as well as the violation of human rights. Importantly, structural violence is not intentional, rather it is the by-product of the exercise of power. These characteristics are shared by sanctions, which are politically imposed restrictions. The most severe type aims to restrict a targeted state's economic growth by preventing it from having access to an important source of income, which has ripple effects across that state's society.

According to Farmer (2004: 308): "Erasing history is perhaps the most common explanatory sleight-of-hand relied upon by the architects of structural violence". While the history of sanctions has perhaps not been erased, over time the tool has been redefined in a manner that masks its destructiveness. It has shifted from a form of warfare to a peacetime remedy. As Nicolas Mulder claims throughout *The Economic Weapon* (2022: 2): "Sanctions shifted the boundary between war and peace, produced new ways to map and manipulate the fabric of the world economy, changed how liberalism conceived of coercion and altered the course of international law". They were considered a form of warfare until the League of Nations needed a peacetime remedy to deter states from engaging in warfare (Mulder 2022), and today they are presented as an alternative to war. The purpose of sanctions has also changed over time.

When the UNSC first started implementing these measures, the declared objective was regime change: causing economic hardship on the civilian population will lead it to revolt against its government. Here, the underlying rationale is to impose economic violence by denying access to resources and restricting the target's ability to fulfill basic necessities, which would ostensibly lead to political transformation. When it became apparent that this was a naïve expectation, sanctioners' policy objectives steadily changed; sanctions can coerce, constrain, signal, punish, deter, stigmatize, outcast, and uphold norms. In many cases, these goals are purportedly achieved by inflicting economic hardship. These measures are consistently described as a means to impose harm. For instance,

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sanctioners proudly proclaim their measures will 'cripple', or 'disrupt and degrade', the Russian economy. According to Ursula von der Leyen, the EU restrictive measures "are eroding sharply Russia's economic base, slashing any prospect to modernize it" (quoted here). In 2018, the Trump administration touted that 'maximum pressure' will be applied on Iran, and Mike Pompeo ensured that the "sting of sanctions will be painful". Antony Blinken wanted Nicolas Maduros' supporters in Venezuela to "really feel the pain of [US] sanctions". Finally, one could cite the former US Special Representative to Syria, James Jeffrey, who boasted about "crushing Assad economically", making Syria a 'quagmire' for Russia and of "blocking all reconstruction assistance from anywhere including UNDP, the United Nations Development Programme."

The way sanctions are imposed has also undergone transformation. As is well known, the total embargo on Iraq and the strangulation of its economy in the 1990s illustrated how comprehensive sanctions can wreak havoc in societies. In the country, hundreds of thousands of civilians, mostly children, are said to have suffered and died due to the 'unintended consequences' of an invisible war like no others waged by the US and the UK on the back of United Nations Security Council's sanctions. For a decade, Iraqi civilians suffered under a form of 'genocidal' sanctions, a period that would later be remembered by hundreds of Syria-based Iraqi refugees that were interviewed by the co-author during his work with the United Nations office of refugees as darker and much more difficult than that of the invasion and following years.

The Iraq debacle engendered a 'reform movement' leading to the adoption and introduction of new forms of 'targeted' and 'smart' sanctions, creating an opportunity for optimists to think of the Iraqi sanctions as a tale of the distant past. However civilian suffering, or 'collateral damage', under the new forms of sanctions has continued unabated, sustained to a great extent by the rhetoric of sanctioning governments who vehemently deny culpability for the woes of targeted societies. Evidence of the negative impact of the 'reformed' sanctions abound, and this impact has, unfortunately, been felt and lived by millions of civilians in countries such as Iran, Venezuela and Syria, whose societies have been immiserated by what has been framed as 'targeted' and 'smart' sanctions. The reality is that sanctions remain premised on inflicting pain and suffering, as these policies are very often designed to instrumentalize the anguish of civilian population as a mere means to generate domestic pressure on target states and elites to concede to foreign demands. Thus, sanctions' metamorphoses have not tempered their harmful impacts. Galtung (1969: 173) describes structural violence as silent and invisible, comparing it to the tranquil waters and the air around us. Whether they are comprehensive or targeted, the impact of sanctions is granular and diffused across society and hence imperceptible, casting long-standing socio-economic consequences. The following section elaborates further on their societal impact and demonstrates how they contribute to food insecurity in Syria.

Hostages of sanctions: societies and collateral damage

Across (heavily-) sanctioned countries, sanctions have been detrimental to the work of humanitarian operators, a hinderance to legitimate businesses, as was the case in the wake of the Russian war on Ukraine, and economic recovery of private sector, such as the case in Afghanistan, a catalyst and contributing factor to food insecurity, as well as an obstacle to peace-making activities, including violence prevention, post-conflict recovery and peace process implementation, as is the case in Colombia for instance, and conflict resolution, among others.

In Afghanistan, following the U.S. and western military withdrawal in August 2021, the US froze Afghan assets, and the country was de-facto subject to a semi-comprehensive embargo due to United Nations and US sanctions on the Taliban. Like Somalia a decade earlier, the (re)imposition of sanctions triggered a humanitarian crisis, among others due to over-compliance from international financial institutions and humanitarian actors' fear of technical violations, pushing millions of Afghan civilians to the brink of a near-famine. Tellingly, the impact of US sanctions against the country in less than a year was feared to be deadlier than 20 years of active war.

A comparably grim story can be told about war-torn Yemen, where new US sanctions on the de-facto authorities, the Houthis, have jeopardized access to remittance, a lifeline for millions of food-insecure Yemenis, exacerbating food insecurity and compounding the economic woes of the civilian population. Similarly, in Iran and Venezuela, sanctions have been found to have (severe) effects on a set of outcomes ranging from per capita income to poverty, inequality, mortality, and human rights.

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The case of Syria is another illustration of the punitive nature of sanctions. Ravaged by conflict, repression, and foreign occupation, the country is under semi-comprehensive sanction regime, and ranks as the third most sanctioned country globally trailing only behind Iran and Russia. Thirteen years into the conflict, and functioning like a siege, sanctions have come to be the main tool of war of the US and its partners in their attempt to shape the outcome of the Syrian conflict and to stall reconstruction by the Syrian government. Previous research on the sanctions has shown that they represent one of the 'strictest and most complex collective regimes in recent history,' and the 'most complicated and far-reaching sanctions regimes to ever be ever imposed'. While the EU's sanctions were 'unprecedented' in the history of the block at the time of their imposition, the US sanctions have gradually shaped into a near-embargo on all trade. Importantly, and despite being unilateral measures, and hence non-binding internationally, sanctions on Syria have effectively come to function as though they are global due to the US's extraterritorial application of sanctions and the dollar's global hegemony. Exorbitant fines on private actors for (technical) violations increased de-risking behavior exacerbating the impact of the sanctions in place.

The sanctions against Syria include humanitarian exemptions and derogations, to allow, for example, food importations and humanitarian work. However, as evidenced during the outbreak of Covid19 and the February-2023 earthquake, they have been of very limited benefit and are rendered obsolete due to a set of built-in problems, including their ambiguity, short termism and the tedious bureaucratic requirements involved in obtaining them. The impact of sanctions on the Syrian economy, business community and networks, humanitarian operations, as well as access to health, medicine, energy, and water is increasingly attracting attention and academic and research communities are starting to investigate the deleterious effect of sanctions on these sectors. One sector where the impact has been severe, and potentially lethal, is food security.

In the country, where food insecurity has reached unprecedented levels with millions of civilians facing starvation and hunger, sanctions, as argued by the current UN's Special Rapporteur on the Right to Food, have come to represent 'a particular form of violence within the food system,' as they jeopardize and exacerbate the state of food security in the country. Based on earlier and ongoing research into the topic, we assert that while sanctions are not solely to blame for food insecurity in the country, the two are inextricably linked. Sanctions directly and indirectly impact the different dimensions of food security, namely availability, access, and economic affordability as well as utilization. Food availability simply refers to the availability of food; homegrown or imported. In Syria, sanctions undermine both the supply chain and food production. Fearful of (technical) violations and unable to engage in banking transactions with the heavily sanctioned country, trading houses and cargo companies have refused to sell or ship food to the country limiting the availability of food. Sanctions have further undermined the agricultural sector compounding the problem.

Sanctions also undermine the affordability and economic access dimensions of food security, which is understood as the ability of individuals and households to obtain food, by contributing to (hyper)inflation and restricting access to remittances / money transfer services, a lifeline for Syrians. As a result of sanctions, the reaction of private actors, including banks and financial services provided, has been characterized by overcompliance and an increased de-risking behavior leading to a near collapse of the ability of Syrians to send money via official routes. The co-author's personal experience with PayPal, who suspended his account and threatened to close it down because of a small donation to WFP, is one of the many examples of this 'overcompliance phenomenon.'

A third area where sanctions have had a negative impact in relation to food security is utilization, which is commonly linked to access to clean water and energy, among others, that enable individuals and communities to prepare food and diversify diets. In both these sectors, sanctions have prevented large scale rehabilitation work, forcing communities in large parts of the country to survive on water trucking and limited hours of electricity.

Unregulated violence

We argue that seeing sanctions as non-violent, 'between war and words', obscures their destructive impact. It means that they can be presented as sound policy tools, leaving little room for critical discussion on their consequences. For many, sanctions are a 'go-to' policy tool in response to international crises, especially ones that involve grave violations of international norms. Yet, within this debate little attention is paid to how sanctions also undermine these

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norms. For example, while the Trump administration claimed that they were employing sanctions to promote a “free, prosperous, and stable Venezuela”, it was shown that these measures “have inflicted, and increasingly inflict, very serious harm to human life and health (...) and that these sanctions would fit the definition of collective punishment of the civilian population” (see Weibrot and Sachs 2019).

Sanctions practitioner Richard Nephew has written that: “the application of pain against a sanctions target is sheer sadism unless it is connected to an expectation about what that pain will achieve and is matched by a readiness to stop inflicting pain when the sanctioning state’s objectives are met” (2018: 48). But what happens when sanctions fail to achieve their declared policy goals, or when their impact undermines that goal? After all, sanctions are notorious for their frequent failure at meeting their purported political objectives (especially when these aim to coerce a change in behavior). Faced with this failure, it is often argued that sanctions are “better than nothing”, as policymakers preferred to be seen as “doing something”. Framing the discussion in this matter is a fig leaf for the severe humanitarian consequences of far-reaching sanctions, even those that are passed for ‘targeted.’ If sanctions are being used to soothe domestic constituents, to send a normative signal, or even to uphold human rights, then is the price the sanctioned society pays worth it?

It is often argued that sanctions manipulate a decision-maker’s cost benefit analysis by making the wrongful, or undesirable, policy less attractive because it is too costly. The rationale is that once sanctions are imposed, decision-makers will be inclined to change their policy to the less costly alternative so that sanctions are lifted. But what about the sanctioner’s cost-benefit analysis? Which equation justifies the price paid by those who suffer the consequences of sanctions (who often have little influence on decision making)? In many cases, the actor imposing the sanction does not have to bear the brunt of the consequences (although sanctioning states’ economies, and in some cases those of third parties, are also impacted), especially as there is no normative framework that regulates these measures’ adoption. On the other hand, they may suffer the consequences of overzealous sanctioning, as illustrated by the discussion over de-dollarization (see also here).

Despite multiple statements issued by the UN General Assembly that ‘unilateral coercive measures’ are contrary to international law, unilateral sanctions are plagued with legal uncertainty (discussed further here) and are notoriously unregulated under international law. Whereas this post argues that sanctions are a form of violence, this contradicts the general understanding under international law. Structural violence escapes regulation under international law, largely because force and prohibited coercion are limited to the exercise of physical acts. Sanctions are not considered to fall within the scope of the prohibition to use force under Article 2(4) UN Charter, which is mainly concerned with the use of force against a state’s territorial integrity. Additionally, legally speaking unilateral sanctions are not considered a prohibited form of coercion, which would fall under the principle of non-intervention. For sanctions to fall under the principle’s scope they must constitute a (i) coercive interference in (ii) a state’s domestic affairs, which are two hotly debated conditions and rather difficult for sanctions to meet. Given sanctions impact on the enjoyment of human rights, one would expect that they would constitute violations of these rights. However, this is equally heavily debated, notably because it is disputed that sanctioning countries have extraterritorial human rights obligations.

While some scholars argue that sanctions should follow the ‘just war’ principles (notably the principles of proportionality, necessity and distinction), this is rather difficult to argue from an international law perspective as principles of international humanitarian law are applicable in armed conflict, and thus not to ‘peaceful’ economic sanctions. Furthermore, very few treaties regulate unilateral sanctions, and if they do, it could be argued that these policy tools fall within a security exception. Russia successfully invoked Article XXI GATT before a WTO Panel in response to Ukraine’s complaint against Russian restrictions on traffic in transit through Ukraine. The EU also invoked the security exception found in the EU-Russia partnership agreement when Rosneft challenged the legality of the EU’s restrictive measures, which was upheld by the European Court of Justice. The outcome is that sanctioners enjoy a wide margin of discretion when adopting these measures.

Even if it could be argued that sanctions breach international law, the countries under the most severe sanctions regimes have very little legal remedies available to them. The International Court of Justice (ICJ) only has jurisdiction to hear a dispute between states if the parties involved have consented to it, and this is rarely the case when it comes

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to unilateral sanctions. Proceedings are currently pending between Iran and the USA over the latter's 'maximum pressure' sanctions regime, which Iran argues breaches the 1955 Treaty of Amity between Iran and the USA, but justice is a slow process before the ICJ. Sanctioned countries are also unable to challenge the measures before the sanctioner's domestic courts. Venezuela was allowed to appear before the European Court of Justice to argue that the EU's restrictive measures violated international law, including the principle of non-intervention. Unfortunately, the Court delivered a poorly reasoned judgment that did not provide legal clarity. Qatar enjoyed some success in its lawfare against the restrictions imposed on it by Saudi Arabia, the United Arab Emirates and Egypt, but international adjudication is highly costly and not all states are able to afford such procedures. And besides, a judgment is unable to provide full compensation to those who experience the brunt of sanctions.

Moving forward

Based on the above, one could reasonably conclude that there should be more rules governing sanctions' adoption, whether it is clearer limits or better humanitarian exemptions. However, doing so would amount to sanctioning violence and constitute an(other) attempt at making these tools 'more polite', with no guarantee that governments who adopt these tools will follow the rules. To the extent that similar reforms have failed in the past, what guarantees are there that sanctions can be made less violent? Rather, we should have honest discussions on whether the price paid by those who are directly affected by 'economic pain' is worth the political goals of the sanctioners. And rather than whitewash their nature, we should be willing to call sanctions what they are: another form of violence.

Note: this article is drawn from the authors' previous (and ongoing) work: A. Hofer, 'Violence at a Distance: Correcting International Law's Short-Sighted Vision of Economic Coercion' in K. Kirkham, *Routledge Handbook on the Political Economy of Sanctions* (Routledge, 2023), and M. Kanfash, 'Interplay between sanctions, donor conditionality, and food insecurity in complex emergencies: the case of Syria' currently being considered for publication.

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Alexandra Hofer is an assistant professor in public international law at Utrecht University, and a member of the RENFORCE research institute. Her research primarily focuses on unilateral sanctions under public international law, often drawing from other disciplines in order to have a broader understanding of how these tools impact and shape inter-state relations.

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