



**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**SCHOOL OF LAW**  
**GRADUATES PROGRAM**

**Assessing the legitimacy of unilateral economic sanctions imposed against human rights violations under international law**

A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of Master of Laws (LL.M) in Public International Laws, School of Law, College of Law and Governance Studies, Addis Ababa University

**By: Akberet Beyene Gebereselassie**

September 2024

Addis Ababa, Ethiopia

ADDIS ABABA UNIVERSITY  
COLLEGE OF LAW AND GOVERNANCE STUDIES, SCHOOL  
OF LAW

LL.M PROGRAM (Public international Law)

**Assessing the legitimacy of unilateral economic sanctions imposed against  
human rights violations under international law**

By

Akberet Beyene Gebresellasia

Approved by Board of Examiners:

Adviser Dr. Wendemagegn Tadesse Signature \_\_\_\_\_

Examiners

1. Dr. Getahun Alemayehu Signature \_\_\_\_\_

2. Dr. Mesenbet Assefa Signature \_\_\_\_\_

## DECLARATION

I, Akberet Beyene Geberesellasi, hereby declare that the thesis entitled '*Legitimacy of Unilateral Economic Sanctions Imposed to redress human rights violations under international law*' is my work and it has not been submitted for any degree or examination in any other university. I also pledge that all the sources I have used or quoted in any form are duly acknowledged.

Akberet Beyene Gebresellasi

Signature:

## ACKNOWLEDGMENT

Above all, I express my deepest gratitude to god, I recognize that without his grace and mercy, I wouldn't be where I am today.

I extend my sincere appreciation to Dr. Wendemgegn Tadesse, my advisor, for his invaluable advice throughout the entire thesis process.

My sincere gratitude also extends to my family who made a significant contribution on conducting this thesis.

## Table of Content

DECLARATION .....	0
ACKNOWLEDGMENT.....	i
Table of Content .....	ii
List of Acronyms.....	iv
Abstract.....	v
Chapter one .....	1
Introduction .....	1
1.1 Background of the study .....	1
1.2 Statement of the problem .....	2
1.3 Literature review.....	4
1.4 Research objective.....	5
1.4.1 General objective .....	5
1.4.2 Specific objective .....	5
1.5 Research question.....	6
1.6 Significance of the study .....	6
1.7 Scope of the study.....	7
1.8 Limitations of the study .....	7
1.9 Research Methodology .....	7
1.10 Organization of the paper.....	8
Chapter 2.....	9
Human rights enforcement mechanisms and their effectiveness under the international law.....	9
2.1 Introduction .....	9
2.2.1 Charter-based human rights monitoring mechanisms .....	10
2.2.1.1 Human right Council .....	10
2.2.2 Treaty-based human rights enforcement mechanisms .....	11
2.2.2.1 State Parties Reporting Obligation.....	11
2.2.2.2 Complaint mechanisms.....	11
2.3 The effectiveness of international human rights enforcement mechanisms .....	12
Chapter 3.....	16

Unilateral economic sanctions under international law .....	16
3.1 Introduction .....	16
3.2 What are unilateral economic sanctions?.....	16
3.3 Legitimacy and effectiveness of unilateral economic sanctions imposed to redress human rights violations under international law .....	17
3.3.1 The principle of sovereign equality of states and non-intervention.....	18
3.3.1.1 Principle of sovereign equality of states .....	18
3.3.1.2The principle of non-intervention.....	19
3.4 unilateral economic sanctions imposed to redress human rights violations in line with the principle of non-intervention and state sovereignty .....	20
3.5 Unilateral economic sanctions imposed to redress human rights violations under the United Nations Charter (UN Charter) .....	23
3.6 The effect of unilateral economic sanctions imposed to redress human rights violations .....	26
Chapter four .....	32
4.1 Conclusion and recommendations .....	32
4.1.1 Conclusion.....	32
4.1.2 Recommendations .....	33
References .....	34

## List of Acronyms

UN United Nations

UDHR United Nations Declaration of Human Rights

ICERD International Convention on the Elimination of Racial Discrimination

ICCPR International Covenant on Civil and Political Rights

HRC Human Rights Committee

ICESCR International Covenant on Economic, Social, and Cultural Rights

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CRC Convention on the Rights of a Child

CAT Convention against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment

ICMW International Convention on the Protection of Rights all migrant workers and members of their families

ICPED International Convention for the Protection of all Persons from Enforced disappearance

ICRPD Convention on the Rights of Persons with Disabilities

UPR Universal Periodic Review

OHCHR Office of Higher Commissioner for Human Rights

GA General Assembly

ICJ International Court of Justice

US United States

ICRC International Committee of Red Cross

EU European Union

## Abstract

This thesis sought to investigate the efficacy of international human rights enforcement mechanisms, the meaning and purpose of unilateral economic sanctions, and their use in response to human rights abuses. It determines whether unilateral economic sanctions are consistent with international law and assesses their effectiveness in protecting human rights.

Following a discussion of the aforementioned concerns, the thesis contends that unilateral economic sanctions implemented in response to human rights infractions are not expressly prohibited by international law. Instead, the character and proportionality of the action establish its legitimacy per the fundamentals of international law. The rights of the sanctioned state to development, self-determination, and humanitarian concerns are all impacted by those unilateral economic sanctions in different ways. The thesis suggests that caution be exercised in selecting the kinds of sanctions to be imposed to prevent unintentional humanitarian crises and human rights violations until a definitive answer is provided about the legitimacy of those unilateral economic measures by public international law.

# Chapter one

## Introduction

### 1.1 Background of the study

According to Alexander .k, Sanctions have a long history dating back to 432 BC, when the Athenian Empire forbade Megara traders from using its marketplaces, severely crippling the economies of the rival city-states. <sup>1</sup> Around the end of the 19th century, sanctions started to take on its modern form. At that time, they were mostly utilized as a form of blockade that involved the use of military force by a nation or coalition to close the ports of other nations, and blockades known as Pacific blockades were used.<sup>2</sup>

Before the 20th century, states employed economic sanctions to deter the belligerent state's economic capabilities during armed conflicts. <sup>3</sup>The Middle Ages saw an increase in trade volumes within politically divided areas, and this gave rise to the adoption of trade embargoes as a tool for policy.<sup>4</sup> In 1880, a different kind of trade limitation was also implemented for political reasons. States would refuse to purchase or sell goods to other states to voice their disapproval of those states' policies. Even if their goal was different from that of the sanctions in place today, other types of economic sanctions were in use before the turn of the 20th century.<sup>5</sup>

According to M. Shervin, A government's intentional actions to deprive a target country of trade or financial relations is known as an economic sanction, It involves cutting off trade and financial ties with a state, organization, or person concerning foreign policy and international norms. Examples of such actions include travel bans, asset freezes, arms embargoes, restrictions on foreign aid, and trade restrictions.<sup>6</sup>

Over time, there has been an increase in the use of sanctions in general and economic sanctions in particular. Sanctions can currently be applied by a single state or by a coalition of governments operating under the auspices of an international body like the African Union, European Union, or United Nations. For instance, the Security Council may choose to impose

---

<sup>1</sup> Alexander .k, the origins and use of economic sanctions. (Palgrave Macmillan. London 2009) page 8

<sup>2</sup> ibid

<sup>3</sup> Ibid

<sup>4</sup> ibid

<sup>5</sup> ibid

<sup>6</sup> M.Shervin Majlessi , ‘use of economic sanctions under international law’; a contemporary assessment.2002

measures that do not involve the use of armed force, according to Article 41 of the UN Charter. It creates a framework of collective security that governs the amicable resolution of disputes between states if it anticipates the time when collective measures may be applied in the event of acts of aggression, breaches of the peace, or threats to the peace.

On the other hand, several states have attempted and continue to attempt to impose economic sanctions on a certain state for various reasons. According to M. Shervin, A variety of unilateral economic sanctions, including export controls and embargoes, were imposed between 1945 and 1990 for various political reasons as well as other human rights-related concerns.<sup>7</sup> Nonetheless, the UN Security Council only levied two economic sanctions on South Africa and Rhodesia between 1945 and 1990.<sup>8</sup> Additionally, it has used Article 41 authority to impose sanctions against terrorist organizations like Al-Qaida and the Taliban as well as states like South Africa and Somalia from 1966 to 2022.<sup>9</sup>

At this moment, many individual governments are continuing to impose economic sanctions unilaterally on those states that are thought to violate human rights, on top of the economic sanctions imposed by the UN or other organizations.

## 1.2 Statement of the problem

All people are born with certain rights, which are known as human rights. Since the Second World War ended, the international community's perspective on human rights has grown, leading to the development of international human rights law.<sup>10</sup> However, the United Nations Universal Declaration of Human Rights (UDHR), which was adopted in 1948 and is largely regarded as a source of fundamental standards for human rights that everyone should uphold, is what gave rise to current international human rights.<sup>11</sup> Numerous international human rights treaties and other instruments, along with the related enforcement procedures, have

---

<sup>7</sup> Ibid

<sup>8</sup> Ibid.27

<sup>9</sup> Ashley Bruce, 'the effect of sanctions on uman rights'(2022)<<https://the Hague peace.org. /the effect of sanctions on human right/>> accessed on march 14,2023

<sup>10</sup> Christian Tomusucah , Human rights: between idealism and realism(New York : Oxford University Press 2014)page 12

<sup>11</sup> ibid

been adopted since that time. States that ratify human rights treaties undertake to uphold, defend, and fulfill such rights. They also owe it to themselves to make sure that domestic legislation complies with international norms.<sup>12</sup>

The main responsibility for defending and advancing human rights is carried out by governmental or nongovernmental national human rights institutes found in each state. We all witness grave violations of human rights, particularly by states either directly or indirectly (failure to prevent the violation). This is true even though many states have ratified regional and international human rights treaties with the promise of implementing those principles and elements to improve their human rights practice. Consequently, The effectiveness of those state procedures for enforcing human rights is thus being questioned by the international community.

The majority of human rights scholars and the international community contend that despite the existence of numerous human rights treaties with their monitoring bodies that are designed to ensure the protection of human rights, human rights are not still protected. This is because, in addition to national human rights enforcement mechanisms, human rights enforcement mechanisms that are available at the regional and international level are also practically becoming less effective in achieving their goal of human rights protection.

As a result, now a time individual states are continuing to impose unilateral sanctions especially economic sanctions as a way of punishing the state for its failed role in fulfilling its obligation of ensuring the protection of human rights. Through time this act of imposing unilateral economic sanctions to redress human rights violations is attracting a lot of criticisms concerning its legality under international law. This criticism and doubt over unilateral economic sanctions continue to be unsettled at the international level.

This thesis aimed to investigate the legitimacy of unilateral economic sanctions imposed to address human rights violations under international law. Specifically, it examined the scope of the UN Charter principle that is use of force, state sovereignty principles, and the notion of non-intervention. The effectiveness of those human rights enforcement mechanisms based on the UN Charter and treaties is examined, and the idea of state responsibility also explored to ascertain what might happen if the enforcement mechanism fails. The thesis assessed

---

<sup>12</sup> United nations human right office of the higher commissioner, 'international human rights law' <<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law#:~:text=By%20becoming%20parties%20to%20international%20treaties>> accessed March 15, 2023

whether or not the act of imposing unilateral economic sanctions is permitted under international law by examining the impact of those sanctions on abuses of human rights.

### 1.3 Literature review

The controversy surrounding the legality of unilateral economic sanctions has spurred a considerable body of literature, predominantly critiquing such measures.

Seyed M. Rowhani argues against legality of unilateral economic sanctions, grounding his stance in the UN Charter. He contends that according to Articles 39 and 41 of the Charter, it is up to the Security Council to request member states to implement the measures adopted by the Council and also paragraph 7 and 4 of article 2 of the Charter implicitly prohibit all forms of civilian intervention including economic pressure and coercion against other countries so there is no time when individual states can be allowed to impose unilateral sanctions even when they witness the presence of human rights violation in particular state.<sup>13</sup>

Another aspect of the critique against unilateral economic sanctions pertains to their outcome (consequence), Ozdamar Ozgur and Shanin Evgeniia argue that unilateral economic sanctions especially trade restrictions are witnessed to cause a high negative impact on the general population of the sanctioned state.<sup>14</sup> Even though those sanctions are imposed as a way to correct the human rights violations act they are most of the time imposed whenever there is a violation of civil and political rights and this is practically leaving high negative results on the socio-economic rights especially associated with a right to education, right to adequate standard of living, medical care, right to health .etc. <sup>15</sup>in which this is leading to the fear of many that the expansion of unilateral economic sanction is leading to the exclusion or disregard of those other human rights which are socio-economic rights of the mass population of the sanctioned state. Economic sanctions imposed against a country are serious obstacles for investors, foreign banks, and international financial institutions, and this will harm the

---

<sup>13</sup> Seyed Mohsen. Rowhani, "Rights-Based Boundaries of Unilateral Sanctions," Volume 32 Wash. Int'l L.J. 127 (2023) page 135

<sup>14</sup> Ozgur Ozdamar and Evgeniia Shanin, "consequence of economic sanctions; the state of art and path forward" (2021) page 3,4

<sup>15</sup> ibid

country's economy which in turn affects the human rights of the population living in the particular state<sup>16</sup>.

As observed above, much of the literature questioning the legality of those unilateral economic sanctions tends to focus on the negative consequence of their imposition. In doing so, they often overlook the examination of the potential positive impact of these sanctions and fail to analyze the effectiveness of international human rights enforcement mechanisms available. This omission neglects an understanding of the motives and objectives driving the implementation of unilateral economic sanctions.

This thesis, alongside evaluating the legal standing of these measures under the UN Charter the principles of international law, and the challenges faced by the existing UN-based human rights enforcement mechanisms is assessed. Additionally, the thesis has delved into the objectives behind the imposition of unilateral economic sanctions and their resultant effects. Through this comprehensive analysis, the aim is to ascertain the legitimacy of unilateral economic sanctions under international law.

#### 1.4 Research objective

This research aimed to critically analyze the legitimacy of unilateral economic sanctions imposed against human rights violations. The study is guided by the following objectives.

##### 1.4.1 General objective

To analyze the legitimacy of unilateral economic sanctions under international law imposed against human rights violations.

##### 1.4.2 Specific objective

The study delved into the following issues in analyzing the legitimacy of unilateral economic sanctions as a response to human rights violations

- Assessing the legitimacy and effectiveness of unilateral economic sanctions to redress human rights violations under international law.
- Assessing the effectiveness of those international human rights enforcement mechanisms available at the UN.

---

<sup>16</sup> Ibid, page 5

## 1.5 Research question

The research had the following research questions.

- What are those human rights enforcement mechanisms included under the UN and are they working effectively?
- What are unilateral economic sanctions imposed to redress human rights violations and are they prohibit under international law?
- How effective and legitimate are those unilateral economic sanctions imposed to redress human rights violations?

## 1.6 Significance of the study

As we all are aware, every state maintains sovereignty, and interference is generally not allowed except in cases involving threats to international peace and security or for humanitarian issues. Over time, the practice of imposing sanctions, especially economic sanctions started to be practiced as collective and individual measures by states. The main issue that is becoming a reason for imposing economic sanctions is human rights violations. However, in addition to those economic sanctions imposed by the UN Security Council, the continuing act of imposing economic sanctions by individual states is producing the question of its legality under international law. So the findings of this study will be of great relevance to policymakers, international law experts, human rights advocates, and scholars interested in international law, and international human rights.

Also since the effect of those unilateral economic sanctions imposed as a response to human rights violations is to be discussed in this thesis it will allow readers to have information on whether those unilateral economic sanctions imposed against human rights violations are achieving their objective of protecting human rights or not.

Overall, this study will contribute to the existing body of knowledge on the legitimacy and effectiveness of unilateral economic sanctions as a means of addressing human rights violations, and it will serve as a valuable resource for future research on this topic.

## 1.7 Scope of the study

The research primarily aimed at analyzing issues concerning the legitimacy of unilateral economic sanctions imposed against human rights violations within the framework of international law. In this, the scope of the study is to encompass an examination of the effectiveness of human rights enforcement mechanisms available under the UN to elucidate the rationale behind unilateral economic sanctions. It delved into the purpose and legal base of those unilateral economic sanctions imposed to redress human rights violations per those international law principles of non-intervention, state responsibility, and state sovereignty. Furthermore, the thesis explored the principles outlined in the UN Charter.

## 1.8 Limitations of the study

Due to reliance solely on secondary sources, accessing certain relevant documents proved challenging as they required payment for access. Consequently, this limitation restricted the depth of analysis.

## 1.9 Research Methodology

This research is doctrinal research, as well as an inquiry of secondary sources. Due to the doctrinal nature of this research, legal materials, international instruments, and so on, are analyzed using doctrinal tools.

Also since it is an international law analysis sources of international law were taken into consideration ranging from principles of international law, and other soft laws. Some purposely selected cases that focus on economic sanctions imposed to redress human rights violations by individual countries are also covered to allow us to assess the effect of those economic sanctions from the perspective of international law.

A qualitative inquiry of secondary sources such as books, articles, and publications was used in conducting this research.

## 1.10 Organization of the paper

The paper is organized into three main chapters.

The first introductory chapter deals with the background, statement of the problem, research question, the objective of the study, scope of the study, methodology, literature review, and organization of the study.

Chapter two of the paper deals with human rights treaties and their enforcement mechanisms. In this chapter, the nature of UN Charter-based and treaty-based human rights enforcement mechanisms and their effectiveness will be discussed.

Chapter three of the paper deals with defining and analyzing the legality and effect of unilateral economic sanctions imposed to redress human rights violations.

Finally, the paper comes up with concluding remarks.

## Chapter 2

### Human rights enforcement mechanisms and their effectiveness under the international law

#### 2.1 Introduction

Human rights are universal, inalienable, indivisible, and interdependent rights that are granted to everyone living all over the world for being created as a human being.<sup>17</sup> when states become parties to international human rights treaties it means they will assume obligations and duties under international law to respect, protect, and fulfill human rights through ratification of international human rights treaties.<sup>18</sup>

Governments are expected to modify or redraft their domestic legislation in line with treaties that they ratified.<sup>19</sup> Behind those international human rights treaties that exist at the international and regional level, UDHR is considered the foundation for the concept of international human rights laws and treaties.<sup>20</sup> This declaration was adopted in 1948 with the inspiration of introducing a body for legally binding international human rights treaties. Until now it is being used in inspiring nations to ensure justice in the area of human rights. It represents a universal concept of basic rights and fundamental freedoms that are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights.<sup>21</sup>

Over time those elements and core principles incorporated under UDHR are being used in different domestic constitutional and legislative provisions, in international customary law,

---

<sup>17</sup>United Nations human right office of the higher commissioner, 'what are human rights?'

<[https://WWW.Ohchr.org/ what are human rights? >](https://WWW.Ohchr.org/what%20are%20human%20rights?) accessed June 20,2023

<sup>18</sup> United nations human right office of the higher commissioner, 'international human rights law'<<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law#:~:text=By%20becoming%20parties%20to%20international%20treaties>> accessed June 20,2023

<sup>19</sup> ibid

<sup>20</sup> United nations human right office of the higher commissioner, 'universal declaration of human rights'<[Universal Declaration of Human Rights >](#) accessed June 20,2023

<sup>21</sup> United nations, 'the foundation of international human rights law' <[The Foundation of International Human Rights Law | United Nations >](#)accessed June 20,2023

treaties, or other general principles. <sup>22</sup>For example, the most commonly known treaties such as ICCPR and ICESR came into force in 1976 incorporating the elements of UDHR such as the right to life, equality before the law, right to work, freedom of expression, and many more under their body. through time many other specialized treaties started to emerge having a focus on addressing issues of racial discrimination, torture, enforced disappearances, and disabilities, rights of women, children, migrants, minorities, and indigenous people.<sup>23</sup> In general there are both UN Charter based and treaty based human rights enforcement mechanisms under the international law.

## 2.2.1 Charter-based human rights monitoring mechanisms

### *2.2.1.1 Human right Council*

This council was created on 15 March 2006 by UN General Assembly resolution 60/251 replacing the Human Rights Commission. This is the main inter-governmental body under the UN which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all and also for addressing human rights violations by investigating allegations of human rights abuse in member states of the UN. <sup>24</sup>

This council is composed of 47 members who are selected by GA based on their geographic region and there are 3 regular meeting sessions per year. <sup>25</sup>Those resolutions or decisions that express the will of the international community on specific human rights-related situations are to be adopted during its regular session also there are sometimes special sessions which are held by request of any council member with the support of 2/3 of the council members. <sup>26</sup>

Under this Council, the mechanisms used to monitor human rights protection are universal periodic review, the advisory committee, complaint procedure, and special procedure.

---

<sup>22</sup> United nations human right office of the higher commissioner, 'international human rights law' <<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law#:~:text=By%20becoming%20parties%20to%20international%20treaties>> accessed June 22,2023

<sup>23</sup> ibid

<sup>24</sup> United Nations human rights council, '[Welcome to the Human Rights Council](https://www.ohchr.org/en/hr-bodies/hrc)' <<https://www.ohchr.org/en/hr-bodies/hrc>> accessed October 20,2023

<sup>25</sup> ibid

<sup>26</sup> ibid

## 2.2.2 Treaty-based human rights enforcement mechanisms

Those 9 UN human rights treaties have functioning monitoring committees called treaty bodies which contain independent experts who can monitor the implementation of the core international human rights treaties.

### *2.2.2.1 State Parties Reporting Obligation*

According to Jane Connors state that ratifying a specific human rights treaty will have a legal obligation to implement the rights recognized in that treaty and also to report on the implementation of the rights and standards enshrined in that treaty.<sup>27</sup> Except subcommittee on protection against torture all core human rights treaties provide an obligation to party states to submit periodic reports on how those elements incorporated into those treaties are being implemented.<sup>28</sup> Those reports are expected not only to show what measures were taken by the country to implement the rights included in the treaty rather it will also be used to assess those problems and shortcomings faced in implementing the treaties and come up with solutions.

### *2.2.2.2 Complaint mechanisms*

A complaint procedure is a formal process by which an individual, group of individuals, or other states make a complaint to a treaty body associated with the violation of human rights included under the treaty by a particular state.<sup>29</sup> There are three main types of compliant mechanisms under human rights treaties that are known as individual complaints, interstate complaint and inquire procedure.<sup>30</sup>

---

<sup>27</sup> Jane Connors, 'the United Nations Human rights treaty system,' (2009 )page 3

<sup>28</sup> *ibid*

<sup>29</sup> Peany I.parker , 'compliant mechanisms under the UN Human Rights Treaties'(2014) p.1

<sup>30</sup> United Nations human rights office of the higher commissioner, '[Complaints procedures under the human rights treaties](https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures)' <<https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures>> accessed October 20,2023

## 2.3 The effectiveness of international human rights enforcement mechanisms

The purpose of the UN-based human rights enforcement mechanisms sometimes referred to as treaty and charter-based human rights monitoring mechanisms, is to guarantee international human rights protection. Nevertheless, several states, intergovernmental organizations, and academics contend that despite the monitoring mechanisms' establishment and efforts to advance and improve human rights, they continue to fall short for various reasons.

Concerning the UN Charter-based human rights enforcement mechanism Human Rights Council's membership composition is facing high criticism. First, according to Lauren Vriens, the absence of eligibility criteria for states to become candidates is creating a gap for exploitation because all member states of the UN are eligible to be elected as members of the council which will allow states that are known as grave human rights abusers to get a chance to be elected.<sup>31</sup> He also claims that votes are to be made unanimously which is made with the aim of confidentiality however this is creating a way for exploitation since there is no chance to defend against those candidates who are considered as abusers of human rights by raising their experience concerning human rights protection.<sup>32</sup> Additionally, even if the GA members are expected to assess the candidate nations' record in defending human rights, the unanimous voting process makes it impossible to assess the GA members' positions on selecting the best state for defending human rights. As a result, states deemed to have a dismal record on human rights may be granted membership in UNHRC.<sup>33</sup>

On the other hand, a 2/3 vote of GA members has the authority to suspend a UNHRC member state from membership if it is determined that it systematically violates human rights.<sup>34</sup> Nevertheless, this will not have a preventive effect, even though it will force UNHRC members to uphold human rights during their tenure. Due to the member election

<sup>31</sup> Lauren Vriens ' Troubles plague UN human rights council' (2009) <[<sup>32</sup> ibid](https://www.cfr.org/backgrounder/troubles-plague-un-human-rights- Troubles Plague UN Human Rights Council | Council on Foreign Relations (cfr.org) > accessed November 1, 2023</a></p></div><div data-bbox=)

<sup>33</sup> ibid

<sup>34</sup> ibid

process's severe shortcomings in distinguishing between candidates with and without a solid record of upholding human rights.

Second UNHRC is given the power to look at and assess human rights violations to be committed by members of the UN however according to Brett Schaefer the council is criticized for its biased focus on some countries rather than trying to explore human rights violations by different states.<sup>35</sup> For example, Israel has been the main focus area of UNHRC although there are many grave systematic human rights violations committed by other countries.<sup>36</sup> According to UN Watch since 2006 of those resolutions passed condemning countries by UNHRC 95% of them are made against Israel.<sup>37</sup> And many argue that this kind of biased focus is helping many grave human rights violations committed in different states to be forgotten. So this is making the council lose its objective of ensuring the protection of human rights in all UN member states.

Universal periodic review is the main achievement of the HRC which was created to be used as a place where all human rights situations of all members of the UN to be assessed to improve the human rights situations of all countries. Since 2008, all member states of the UN have been reviewed 3 times, and in time of review, the universal nature of this process creates an equal chance for all states of the UN to be reviewed on the performance of their human rights protection and promotion.<sup>38</sup> Not only this, since those recommendations made to the state under review will be filed at OHCHR's website to be able to be accessed by everyone it can be used as a public document whenever it is needed. However, this process is still not free of challenges in many ways for instance according to Sameer Rana, since the review process in UPR is to be made based on peer review many states tend to give comments not based on the truth but rather based on their relation with the state under review.<sup>39</sup> Those states who came from similar regions or who have good relations with the state under review tend

---

<sup>35</sup> Brett Schaefer, 'the UN human rights council is broken'. ( July 2023) <[https://www. The biases of the Human Rights Council – GIS Reports \(gisreportsonline.com\)](https://www.ThebiasesoftheHumanRightsCouncil-GISReports(gisreportsonline.com))> accessed November 2,2023

<sup>36</sup> ibid

<sup>37</sup> Jewish virtual library a project of Ace. [UN Human Rights Council Anti-Israel Resolutions \(2006 - Present\)](https://www.jewishvirtuallibrary.org) <<https://www.jewishvirtuallibrary.org>> accessed October 19 2023

<sup>38</sup> United Nations human rights council. '[Universal Periodic Review](https://www.ohchr.org/en/hr-bodies/upr)' <<https://www.ohchr.org/en/hr-bodies/upr>> accessed November 3,2023

<sup>39</sup> Sameer, Rana, 'Review or Rhetoric? An Analysis of the United Nations Human Rights Council's Universal Periodic Review', (2015 ) p 29

to give good comments rather than comment on factual issues.<sup>40</sup> Not only this some also forward good comments wishing that will they receive good comments from the state under review when their turn arrives.<sup>41</sup>

the other main problem shown is associated with its enforcement mechanisms because this UPR is made based on dialogue-based mechanisms and when recommendations are made to the state under review to be implemented then the UPR follows the progress or failure of every reviewed state, and also in case where there is consistent non-cooperation then the HRC will decide what measures to take. However, since those recommendations are not binding some states refuse to abide by those recommendations, even concerning those who accepted those recommendations there is still no strong implementation mechanism within HRC whenever there is non-cooperation.<sup>42</sup> Even though this UN Human Rights Council has been successful in promoting human rights, due to those above-listed problems and other issues this council continues to receive criticism from many states, non-governmental organizations, and other human rights scholars concerning its effectiveness in protecting human rights.

Concerning treaty-based human rights enforcement mechanisms those international human rights treaties are created having the goal of ensuring the protection and growth of human rights, however, like those UN Charter-based human rights enforcement mechanisms they are still facing some challenges in their effectiveness. Different objectives drive states to sign multilateral human rights treaties. And once they become party states, they must uphold and carry out the terms of such treaties, regardless of the reason for their participation. The primary responsibility among these numerous responsibilities is preparing a state report that details the state's performance concerning human rights. Nevertheless, because many states ratify and sign numerous regional and international human rights treaties concurrently, they frequently neglect to submit accurate state reports to these treaties and other international organizations because of the sheer number of treaties they are parties to.<sup>43</sup> In addition, most states struggle financially to carry out their obligations or recommendations when they

---

<sup>40</sup> Ibid 30

<sup>41</sup> page 30

<sup>42</sup> Ibid.32

<sup>43</sup> Geneva Academy of humanitarian law and human rights. 'fundamental challenges of the UN human rights treaty body system''(2015)page5

simultaneously accede to UN, regional, and other international multilateral human rights accords.<sup>44</sup>

Finally, since there is no strong enforcement mechanism, those treaty organizations are powerless to properly follow up and take action whenever there is a failure to uphold one's end of the bargain. Thus, international human rights monitoring organizations continue to face criticism for falling short of their ultimate objective, which was to strengthen the advancement and defense of human rights.

---

<sup>44</sup>Ibid .page 4

## Chapter 3

### Unilateral economic sanctions under international law

#### 3.1 Introduction

International state interaction is as old as a state formation. But as time went on, the kinds and intensities of contacts began to expand. States were able to share new inventions and technology, learn about the political, social, and historical ramifications of global development, and advance trade and financial interdependence thanks to these international interactions. However, because of the increasing number of sanctions, international relations are not always easy. Instead, they are confronting difficulties.

#### 3.2 What are unilateral economic sanctions?

First and foremost, there isn't a single, agreed-upon definition of sanctions; however, according to Perry S Becky, they are acts that nations or other international, regional, or organizations do to punish unlawful activity or to exert pressure on a state to alter its policies or behavior.<sup>45</sup> At the same time, one type of sanctions known as economic sanctions is applied to hurt a specific state's economic interests and is of a coercive commercial or financial nature.<sup>46</sup>

Economic sanctions can be broad, focusing on the entire economy of the state under sanctions, or they can be targeted, also known as smart sanctions, which concentrate on a particular sector of the economy. Examples of such sanctions include export restrictions, asset freezes, travel bans, and so forth.<sup>47</sup> Financial sanctions, which can take many different forms, such as forbidding loans to targeted nations, trade embargoes, and restrictions on the retargeted country's imports and exports, are other possible components. The targeted nation's economy will be severely impacted by this since lenders will be reluctant to extend credit out

---

<sup>45</sup> Perry S Becky, 'Sanctions and the Blurred Boundaries of International Economic Law' (2018) page 1

<sup>46</sup> Andreas Lowenfeld, 'International Economic Law' (2<sup>nd</sup> edition, Oxford University Press, 2008), page 3

<sup>47</sup> Council on foreign relations. '[What Are Economic Sanctions?](https://www.cfr.org/backgrounder/what-are-economic-sanctions)' <<https://www.cfr.org/backgrounder/what-are-economic-sanctions>> accessed April 23, 2024

of concern that they may face sanctions.<sup>48</sup> Economic sanctions can be applied unilaterally or multilaterally by international organizations like the UN. When applied multilaterally they serve as the main tool for restoring peace at the international level whenever there is a threat to international peace and security. This is because, as stated in the UN Charter articles 39 and 41, the UN Security Council has the authority to order UN member states to impose economic sanctions on a state that poses a threat to international peace to force that state to comply with its obligations under the Charter.<sup>49</sup> However, individual governments have been and are still imposing economic sanctions on a specific state outside of the UN for a variety of reasons in the framework of unilateral economic sanctions. From those different types of unilateral economic sanctions, those restrictions that are implemented to advance human rights by penalizing serious human rights violations and fixing inadequate human rights conditions in another nation are the most commonly used types of unilateral economic sanctions.

### 3.3 Legitimacy and effectiveness of unilateral economic sanctions imposed to redress human rights violations under international law

International law is a set of rules and norms that guide and govern how states and other actors should act at the international level.<sup>50</sup> However, those rules and norms are not found organized in one source rather they are incorporated in different sources which are considered sources of international law.<sup>51</sup> Since the goal of this thesis is to specifically evaluate the legality of unilateral economic sanctions that are imposed to address violations of human rights, only those fundamental principles of state sovereignty and the prohibition against intervention that have a direct bearing on the subject will be discussed here, even though other principles are part of international law, such as the peaceful resolution of disputes.

<sup>48</sup> *ibid*

---

<sup>49</sup> United Nations Charter of 1945

<sup>50</sup> International Court of Justice of 1946. Article 38

<sup>51</sup> *ibid*

### 3.3.1 The principle of sovereign equality of states and non-intervention

#### *3.3.1.1 Principle of sovereign equality of states*

The word sovereignty has been given different definitions through time. However, in modern international law, it is commonly defined as having supreme, independent authority over one's region.<sup>52</sup> Over time, there have been several interpretations of the phrase sovereignty. Nonetheless, it is often understood in contemporary international law to mean possessing absolute, autonomous power over one's territory.<sup>53</sup> It may also refer to a state's sovereignty over its citizens and the authority to establish its laws, forms of government, and economic structure. A sovereign state is not subject to outside authority regarding its territory or population.<sup>54</sup>

Various components make up sovereignty. The first component is absoluteness, which refers to the state's sole right to govern over its area without any restrictions or limitations.<sup>55</sup> The other component of universality, known as the second universality, is a state's right over individuals or groups of individuals residing on its territory. According to this, no one living inside a state's borders may claim exemption from sovereignty, except for diplomatic representatives, who are exempt due to extraterritorial concerns.<sup>56</sup> The final component relates to the right's permanent and inalienable nature, which is its enduring quality that ensures it will endure throughout the state's existence and cannot be taken away by any outside force.<sup>57</sup>

All sovereign states are equal in the international arena, where there is no superiority and no distinction in treatment based on political or economic factors, regardless of the type of state sovereignty: internal or external, legal or political, *de jure* and *de facto*, or popular sovereignty. This principle of sovereign equality of states was incorporated in the declaration on friendly relations and cooperation among states, in which it stipulated that "all states enjoy sovereign

---

<sup>52</sup> Alex Asong, 'the concept of the sovereign equality of states I international law' (2016), p 13

<sup>53</sup> *ibid*

<sup>54</sup> *ibid*

<sup>55</sup> Benjamin M. state sovereignty and non-interference in international law, a critical appraisal (University of Oxford, 2018), page 29

<sup>56</sup> *ibid*

<sup>57</sup> *Ibid*

equality in which all have equal rights and duties and are equal members of the international community notwithstanding differences of an economic, social, political or other nature”.<sup>58</sup> Article 2(1) of the UN Charter, which states that all states are equal before international law regardless of their size in terms of territory, population, economic, or military might, also incorporates this idea.<sup>59</sup>

### *3.3.1.2 The principle of non-intervention*

Since intervention is defined as interfering in another state's internal affairs, the principle of non-intervention takes on a greater significance and becomes the main tenet of international law. It all comes down to a state's being forbidden from interfering in another state's domestic affairs.<sup>60</sup> This principle is the backside of the state sovereignty principle since it creates a duty on the part of the other states to refrain from interfering. Several sources of international law contain this idea. Article 2(7) of the UN Charter, states that even the UN is not allowed to interfere in a state's internal affairs unless there are enforcement measures specified under Chapter VII.<sup>61</sup> In addition, governments are not allowed to use force to impede another state's right to self-governance or sovereignty, according to Article 2(4) of the charter.<sup>62</sup>

Other regional treaties such as The Charter of the Organization of American States under its Chapter IV and Article 19,<sup>63</sup> protocol on the amendment of the constitutive act of the African Union under article 4 subparagraph (r) also included the principle of non-intervention in the treaty.<sup>64</sup> Not only that, but many bilateral treaties also contain the non-intervention concept. The term "non-intervention" was frequently used by the International Court of Justice (ICJ) in its rulings concerning case laws throughout that period.

---

<sup>58</sup> Declaration on principles of international law, friendly relations and cooperation among states in accordance with the UN Charter of 1970.

<sup>59</sup> United Nations Charter of 1945

<sup>60</sup> Devan Krishna, 'intervention: meaning and its legality in international law'.(2023)

<sup>61</sup> Ibid

<sup>62</sup> United Nations Charter of 1945 super note 133

<sup>63</sup> Charter of the organization of American states of 1948

<sup>64</sup> protocol on the amendment of the constitutive act of the African Union of 2003

### 3.4 unilateral economic sanctions imposed to redress human rights violations in line with the principle of non-intervention and state sovereignty

As discussed above, the subject of state sovereignty and non-intervention principles are widely acknowledged international concepts that states voluntarily choose to be bound by in various treaties. The subject of unilateral intervention's legitimacy must be considered in light of these principles since it is still performed by numerous individual governments. One of the common bases for individual states to interfere in the internal affairs of sovereign states through economic measures is the persistence of human rights violations in various states. The ongoing imposition of unilateral economic sanctions is becoming a state practice, but it is not becoming an international customary norm due to continuous opposition from several governments.

The UNGA declared in 1965 that "*no state may use or encourage the use of economic, political, or any other type of measures to coerce another state to obtain from it the subordination of the exercise of its sovereign rights to secure advantage.*" This was the first declaration on the principle of non-intervention, which is the declaration on the inadmissibility of intervention in the domestic affairs of states and the protection of their independence and sovereignty.<sup>65</sup>

Similarly, ICJ has explained the principle of non-intervention in many of its decisions, especially in the 1986 case of Nicaragua the court stated that '*the principle of non-intervention forbids all states from intervening in the internal affairs of a state either directly or indirectly with or without armed force in support of the opposition within another state.*'<sup>66</sup>

The idea that no state has the right to directly or indirectly interfere in another state's internal affairs for any reason at all forms the basis for the explanation of the principle of non-intervention in both situations.<sup>67</sup> Nevertheless, as numerous ICJ rulings and UNGA resolutions demonstrate, the conclusions drawn about the principle of non-intervention center

---

<sup>65</sup> United Nations General Assembly Resolution 2131 'Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty' (21 December 1965).

<sup>66</sup> Nicaragua vs US judgment of 27 June 1986, icj rep 14 para 202

<sup>67</sup> United Nations General Assembly Resolution 2131, super note 139

on the objectives and driving forces behind the intervention rather than on all interventions, regardless of their goal. Therefore, even though the principle of non-intervention has been the subject of numerous rulings, there hasn't been a definitive ruling that addresses the legitimacy of unilateral economic penalties imposed to address human rights infractions.

There are two categories of thought among states and academics regarding the unilateral economic sanctions that are applied in reaction to abuses of human rights. Unilateral economic sanctions are opposed by many academics and developing nations, who argue that they should be illegal regardless of the goal because they allow economically powerful states to take advantage of those developing nations economically to further their agendas, which goes against the non-interventionist principle.<sup>68</sup> On the other hand, proponents of unilateral sanctions contend that a state would violate international responsibilities if it is incapable or fails to uphold its obligations under human rights accords.<sup>69</sup> Customary international law or treaties may be the source of a breach of an international commitment, according to Lori Fisler Damrosch.<sup>70</sup>

Numerous human rights treaties address various aspects of human rights, as covered in Chapter 2 of this thesis. Numerous nations signed various bilateral and multilateral human rights treaties, agreeing to uphold and be bound by the tenets and components of such agreements. All states that ratify human rights treaties undertake three duties: first, to protect individuals and groups from violations of their fundamental rights; second, to respect those rights by not interfering with their enjoyment; and third, to fulfill by acting in a way that makes it easier for those rights to be enjoyed.<sup>71</sup> As human rights concerns gain momentum, human rights infractions are now being considered by the international community in addition to internal affairs. There are regional and international institutions in place to enforce and monitor the application of those human rights if the state fails to carry out the obligations it assumes under those treaties. As was covered in Chapter 2 of this thesis, however, those

---

<sup>68</sup> Rahmat Mohamad, 'unilateral sanctions in international law, a quest for legality'(.2015).page 73

<sup>69</sup> *ibid*

<sup>70</sup> Lori Fisler Damrosch, 'the legitimacy of economic sanctions as countermeasures for wrongful acts' (Columbia law school,2019) .page 11

<sup>71</sup>United nation human rights office for higher commission.' international Human Rights Law

'<[https://www.ohchr.org/en/instruments-andmechanisms\\_national\\_Human\\_Rights\\_Law](https://www.ohchr.org/en/instruments-andmechanisms_national_Human_Rights_Law)>. Accessed November 10,2023

international human rights enforcement mechanisms are still failing to achieve their goals. Consequently, the question that needs to be answered is whether other states have the right to intervene whenever there is a breach of an international obligation.

To answer this It is best to refer to the ICJ judgment given in the Barcelona traction case of 1970 which held that "*acts of aggression, genocide, protection from slavery, and racial discrimination are erga omne which are up to the international community to protect.*"<sup>72</sup> The international community uses the obligation *erga omnes*, which means "towards all," to protect its shared values and interests. As a result, all states may be required to refrain from breaking international legal norms, and they may also have the right to take action whenever an obligation is broken.<sup>73</sup> The article on state responsibility for internationally wrongful acts, which codifies the customary international law rule of "state responsibility," gave harmed states the right to promptly take appropriate countermeasure actions in response to another state's violation or breach of international obligations.<sup>74</sup> As per the provisions of Article 12 of state responsibility for international wrongful acts, "a violation of an international obligation refers to a failure to comply with the obligations requirements, irrespective of the obligation's source."<sup>75</sup>

In the event of human rights violations within a particular state's territory, since those victims are individuals or groups of people, the sanctioning state cannot justify its sanctions as a countermeasure. The sanctioning state may, however, legitimize its action based on Article 48(1)(b) of the article, which includes a ground where states other than the injured state can use third-party countermeasures in time when the breached international obligation is owed to the international community as a whole. This is per the ICJ judgment that classified those fundamental human rights as *erga omnes* that are owed to the international community to protect in times when there are human rights violations.<sup>76</sup> In general, when a state imposes economic sanctions based on human rights violations, looking to the objective planned to be achieved by the economic sanction alone is not enough to justify the act under third-party

---

<sup>72</sup> the Barcelona Traction, Light vs Power Company, Limited (Judgment) [1970] ICJ Rep 3, par. 23

<sup>73</sup> Tanaka, y. 'legal consequence of obligations erga omnes in international law' (2021) page 3

<sup>74</sup> Article on state responsibility for international wrongful acts of 2001 Article 51

<sup>75</sup> *ibid.*

<sup>76</sup> *ibid*

countermeasure; rather, the nature of the violated human rights and the proportionality of the measure taken also need to be assessed.

### 3.5 Unilateral economic sanctions imposed to redress human rights violations under the United Nations Charter (UN Charter)

As an international organization founded on treaties, the UN was created with distinct goals in mind. By implementing effective collective actions for the prevention and removal of threats to international peace, the primary goal is to sustain peace and security on a global scale.<sup>77</sup> It also included the settlement of international disputes in a peaceful manner as one of its principles to avoid a threat to international peace.<sup>78</sup>

As was previously mentioned, this international organization forbids the use of force unless under specific circumstances, such as the first one, in which the Security Council determines that there is a threat to international peace and decides that force must be used to restore it.<sup>79</sup> Second, the state that is under assault has the right to adopt self-defense measures, which are naturally a forceful measure until the council takes action, even if the Security Council has the authority to take action as specified in Articles 41 and 42 of the UN Charter.<sup>80</sup> Therefore, it appears that the UN Charter prohibits the use of force by individual nations in all circumstances other than those mentioned above to uphold the principle of non-intervention. Concerning non-armed unilateral economic sanctions, those who insist on the illegality of unilateral economic sanctions in general claim that economic sanctions are also to be included in the use of force, saying that their coercive nature will have the impact of forcing a particular state to be subordinate in choosing its policy freely.

The use of force is the term used under Article 2(4), but it is not as detailed as "armed force," which is the word used under Article 42. However, since the goal of the UN is to create a

---

<sup>77</sup> United Nations Charter of 1945 Article 1.

<sup>78</sup> Ibid, Article 2(3).

<sup>79</sup> Ibid, Article 39 and 42.

<sup>80</sup> Ibid, Article 51.

peaceful world free from armed conflict, reading the context of both articles of the UN Charter with the preamble under paragraph 7 reveals that the word "force" indicated under Article 2(4) refers only to those armed forces that can pose a threat to international peace and stability, not to economic or other non-armed types of sanctions.

Additionally, examining the drafting history reveals that during the San Francisco conference's discussion of the draft Article 2(4) provision, Brazil submitted that economic measures be included as well, arguing that its exclusion would be interpreted as permissible. Nevertheless, the drafting committee rejected this proposal despite the lack of a clear justification.<sup>81</sup> Consequently, it would be illogical to classify economic measures as using force when Article 2(4)'s definition of "use of force" does not include them despite their coercive nature. However, the General Assembly had passed numerous resolutions on the subject of unilateral coercive measures, including one on human rights, and unilateral coercive measures,<sup>82</sup> and one on the use of unilateral economic measures as a form of political and economic coercion against developing nations.<sup>83</sup> The General Assembly denounced unilateral economic sanctions in both resolutions, citing their detrimental effects on the economy and right to self-determination of the sanctioned state as well as their violation of the UN's principle of peaceful means of resolving disputes.

A perusal of the UN Charter reveals that, in international relations, states are generally expected to resolve disputes through peaceful means like negotiation, arbitration, judicial settlement, or other peaceful means of their choosing, or on the advice of the Security Council.<sup>84</sup> As per the UN Charter's Article 39, the Security Council retains the authority to take action, be it by economic or military means, even in cases when it judges that a dispute between states poses a threat to global peace and security.<sup>85</sup> It is only the state that is under armed attack that is allowed to use self-defense mechanisms until the security council takes measures.<sup>86</sup> However, as discussed in the previous topic about state responsibility, states are

---

<sup>81</sup> Documents of the United Nations Conference on International Organisation (Multi-volume, New York, United Nations 1945), Vol 6

<sup>82</sup> United Nations General Assembly Resolution number A/RES/77/214 adopted on 15 December 2022

<sup>83</sup> United Nations General Assembly Resolution number A/RES/76/196 adopted 17 December 2021

<sup>84</sup> United Nations Charter of 1945 Article 33(1).

<sup>85</sup> *ibid*

<sup>86</sup> *Ibid.* Article 51.

allowed to take countermeasures in time when there is a breach of international obligation, and Article 33(1) of the UN Charter states that ‘ ‘ *The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.*’<sup>87</sup> The article's context demonstrates that peaceful methods of resolving disputes between states should be employed when the dispute is related to the uncertainty of border demarcation, resource distribution, political disagreements, and other issues that may jeopardize global peace and security.

According to the principles of the articles on state responsibility for the internationally wrongful act under Article 49, in other scenarios where a dispute arises between states concerning a breach of international obligation, which can arise either from a treaty or other obligations, it includes the right of the injured state to take countermeasure.<sup>88</sup> So in a time when a dispute between states arises in international relations, the nature and motive behind the dispute seem to be the issues that determine what type of means to use to overcome the dispute. On the other hand, since Article 1(3) of the UN Charter stated the goal of achieving international cooperation in promoting and achieving human rights, one could argue that unilateral economic sanctions imposed to address violations of human rights are attempting to further this goal and, therefore, should not be regarded as incompatible with the UN Charter's tenets.

Furthermore, as this thesis discussed in the section above, if fundamental human rights are classified as *erga omnes*, this will result in an international obligation. Therefore, if human rights are violated, imposing a unilateral economic sanction will follow the principles of articles on state responsibility for internationally wrongful acts, provided that the measure is implemented per the article. If this is the case, then it might not conflict with the UN Charter's ideas if the peaceful dispute resolution processes included in it are not followed.

The other main concept that needs to be discussed to assess the legitimacy of those unilateral economic sanctions that are imposed to redress human rights violations is associated with the

---

<sup>87</sup> *ibid*

<sup>88</sup> Article on state responsibility for international wrongful acts of 2001.

principle of Responsibility to Protect (R2P), which seeks to ensure that the international community never fails to act when genocide, crimes against humanity, ethnic cleansing, and war crimes occur.<sup>89</sup> At the 2005 United Nations World Summit, world leaders unanimously endorsed R2P, recognizing that sovereignty entails a responsibility to protect all populations from such crimes and human rights violations.<sup>90</sup> This principle has three pillars: a state's obligation to protect all populations within its borders; the international community's role in assisting states in fulfilling this obligation; and the international community's responsibility to use appropriate diplomatic, humanitarian, peaceful, or coercive means to protect civilian populations when a state manifestly fails to uphold its obligations.<sup>91</sup> From this, we might conclude that the international community has the authority to impose measures such as economic sanctions when a certain state fails to meet its obligations. Imposing unilateral economic sanctions will eventually have the effect of honoring the responsibility to cooperate in promoting human rights, as stated in Article 1(3) of the UN Charter.

Generally, since there is currently no UN Charter provision that prohibits the imposition of such sanctions to address human rights violations, weighing the sanction's impact on human rights and the general economic development of the sanctioned state in line with the nature and cost of the human rights violation committed by the sanctioned state is the legitimate way to assess the legality of those unilateral sanctions, which will be addressed in the next section of this thesis.

### 3.6 The effect of unilateral economic sanctions imposed to redress human rights violations

In addition to the multilateral actions undertaken by the UN or other international organizations like the EU, many individual states particularly developed nations like the US are well-known for enacting economic and other non-economic sanctions in response to human rights violations. In response to human rights abuses, the US has applied various

---

<sup>89</sup> [www.un.org/en/genocide\\_prevention/United Nations Office on Genocide Prevention and the Responsibility to Protect](http://www.un.org/en/genocide_prevention/United_Nations_Office_on_Genocide_Prevention_and_the_Responsibility_to_Protect) accessed July 29, 2024

<sup>90</sup> *ibid*

<sup>91</sup> *ibid*

forms of economic sanctions against numerous regimes throughout the years, including South Africa, Sudan, Ethiopia, Eritria, Iraq, Burma, and many more.<sup>92</sup>

The benefits of those sanctions lie in their assistance to states in strengthening their civil and political human rights standards. For instance, Baek Buhm claims that during South Africa's apartheid period, human rights abuses including:-

- detaining people due to their political opinions and denying them fair trial against Article 9 of the ICCPR which bans arbitrary detention and detention without proceedings before a court,<sup>93</sup>
- freedom of political expression was denied contrary to article 19(2) of ICCPR, and<sup>94</sup>
- Lastly, those discriminatory measures against black people were contrary to Article 2(1) of ICCPR which stipulates all rights be recognized without any distinction based on color, sex, race, and other grounds were committed<sup>95</sup>

After apartheid and racial inequality in South Africa Using the Anti-Apartheid Act (CAAA) of 1986, the US government implemented extensive economic sanctions in 1986 to prohibit investment in South Africa and the import of South African goods.<sup>96</sup> The main goal of this act was to limit South Africa's access to loans while also outlawing the sale of certain commodities, including diamonds, iron, steel, agricultural products, and strategic resources.<sup>97</sup> Not only that, but this act also set requirements that had to be met for the sanction to be lifted including lifting the state of emergency; freeing all individuals who had been imprisoned solely because of their political beliefs, and allowing them to practice freely; negotiating with representatives of the black community; and unbanning and allowing those democratic political parties to freely practice their political rights.<sup>98</sup> In 1990, as a result of the economic sanctions, the South African government changed the majority of the country's apartheid laws, gave Black people more political rights, and freed political prisoners including Nelson

---

<sup>92</sup> Baek Buhm suk, 'economic sanctions against human rights violations' (2008) page 51

<sup>93</sup> ibid

<sup>94</sup> ibid

<sup>95</sup> ibid

<sup>96</sup> United states congress Comprehensive anti-apartheid act (CAAA) of 1986

<sup>97</sup> Ibid

<sup>98</sup> Ibid, section 311

Mandela.<sup>99</sup> Consequently, the US lifted its sanctions against South Africa because the country had previously complied with the requirements outlined in the Anti-Apartheid Act of 1986.<sup>100</sup> The action taken by the US and other states forces South Africa to uphold the civil and political rights enshrined in the International Covenant on Civil and Political Rights (ICCPR). It also serves as a deterrent, instructing other states on how to modify and formulate their own human rights policies concerning the protection of civil and political rights.

In another scenario, the US government imposed sanctions on Ethiopia in January 2022, suspending Ethiopia from the African Growth and Opportunity Act (AGOA) on the grounds that the civil war in the northern Tigray region had triggered a significant human rights catastrophe.<sup>101</sup> As a result, the Ethiopian government and the Tigray People's Liberation Front (TPLF) signed the Ethiopia-Tigray Peace Agreement, also known as the Pretoria Agreement, on November 2, 2022, which calls for a permanent stop of hostilities to end the Tigray War.<sup>102</sup> This peace accord played an important part in restoring peace. On the other hand, many civilians who used to work in the textile business have lost their jobs as a result of the US government's sanctions..<sup>103</sup>

In a different case, it is preferable to examine the non-violent sanctions imposed by the US on Burma, or modern-day Myanmar, which are recognized for their contravention impact. Sarah H. Cleveland claim that Burma despite being a signatory to numerous human rights treaties, including the CRC, CEDAW, CEARD, and genocide conventions, the military government of Burma has violated numerous fundamental human rights, including coercive relocation of

---

<sup>99</sup> Baek Buhm suk, 'economic sanctions against human rights violations' (2008).super note 92

<sup>100</sup> United States congress Comprehensive anti-apartheid act (CAAA) of 1986 section 311

<sup>101</sup> WWW.Voanews.com([Why US Is Suspending Ethiopia, Mali, Guinea From Free-Trade Deal](#) ) accesses july 29,2024

<sup>102</sup> Jon Abbink, 'evaluating the Pretoria agreement; the limitations of presentist analysis of conflicts in ethiopia'(review of African political economy june 2023).

<sup>103</sup><https://ustr.gov/about-us/policy-office> ' [U.S. Terminates AGOA Trade Preference Program for Ethiopia, Mali and Guinea | United States Trade Representative](#) accessed july 29,2024

minorities, extrajudicial executions, torture, and arbitrary detention. As a result, many Burmese citizens have fled their country in search of asylum.<sup>104</sup>

Because of these human rights violations which include arresting proponents of democracy and political activists and violating Article 9 of the ICCPR, which deals with the right to liberty as well as violations of Article 8(3) of the ICCPR, which forbids forced labor, Article 7 of the ICCPR, which forbids torture, and Article 18 of the ICCPR, which prohibits freedom of thought and religion many nations and international organizations have imposed sanctions on Burma, particularly the US, since 1995.<sup>105</sup>

The United States imposed sanctions on Burma in 1995 with the Free Burma Act, which included travel restrictions to and from Burma, suspension of trade relations and privileges, and a ban on all imports of Burmese commodities.<sup>106</sup> Once more additional restrictions were also imposed by the US in 1997, including a prohibition on the granting of entry visas for Burmese government officials and a halt to any non-humanitarian assistance.<sup>107</sup> Furthermore, in 2003, the United States of America implemented fresh sanctions under the Burmese Freedom and Democracy Act.<sup>108</sup> The US government declared in its 2003 act that the economic sanctions would not be removed until all political prisoners were freed, press and speech freedoms were upheld, associational freedoms were safeguarded, religious freedom was practiced peacefully, and democratic elections were conducted.<sup>109</sup> The Human Rights Watch report states that the Burmese military government has implemented several measures, including the release of non-political prisoners, the use of forced labor, and the substitution of machines for human power, as a result of the various sanctions imposed.<sup>110</sup> The government permitted the ICRC (International Committee of Red Cross) to reopen its office.<sup>111</sup> Peace negotiations on political solutions were held by the military administration with opposition

---

<sup>104</sup> Sarah H. Cleveland, 'Norm Internalization and U.S. Economic Sanctions,' Yale Journal of international law, 2001) p 8-9

<sup>105</sup> United Nation higher commissioner for refugees, '[Human Rights Watch World Report 1990 – Burma](https://www.refworld.org/reference/annualreport/hrm/1991)' <<https://www.refworld.org/reference/annualreport/hrm/1991>> accessed April 25, 2024

<sup>106</sup> Congressional research service. report. US sanctions on Burma, (CRC report R41336, 2012) p 12.

<sup>107</sup> *ibid*

<sup>108</sup> *ibid*

<sup>109</sup> United States congress Burmese freedom and democracy act of 2003, section 3.

<sup>110</sup> Human rights watch, world report 1999, Burma, (1999) para. 6

<sup>111</sup> *ibid*

party leader Aung San Sun Kyi of the National League for Democracy (NLD).<sup>112</sup> Universities that had been shuttered since 1995 were reopened.<sup>113</sup>

On the other side, per Nicholas D. Kristof, those sanctions imposed by the US on Burma since 1995 had caused negative impacts on the civilian population of Burma especially over a hundred thousand labor workers who used to work in the textile industry lost their jobs due to the import retraction on textile products was made.<sup>114</sup> Even in the case of South Africa even though South Africa tried to use other means to prevent the negative impact of those economic sanctions it caused thousands of people especially those vulnerable black workers who used to support their families and themselves by working low-income jobs lose their jobs.<sup>115</sup> From this South African case, it can be seen that the economic sanctions imposed with the intent to protect the rights of black people indirectly resulted in unintended harm to most of the black community's economic ability.

As demonstrated by those cases, the targeted state's civilian population particularly vulnerable groups who may suffer more as a result of their disadvantaged social status unintentionally suffers direct and indirect economic harm as a result of the unilateral economic sanctions, which are intended to protect human rights. For example, when import limits were put in place during the sanctions that were placed on Burma, women employed in the textile sector made up the majority of those who lost their jobs and were ultimately compelled to become prostitutes.<sup>116</sup> Countries like the US implemented economic sanctions during the 1990s Iraqi invasion of Kuwait. With the Iraq Sanction Act (ISA), the United States imposed a broad economic embargo and barred financial ties with the nation; nonetheless, this resulted in severe humanitarian suffering for innocent civilians, as many women and children perished from a lack of access to food and medical care.<sup>117</sup>

---

<sup>112</sup> Human rights watch, world report 2002, Burma(2002)page 2

<sup>113</sup> ibid

<sup>114</sup> Nicholas D. Kristof, Our Man in Havana, (2003) < [Opinion | Ournytimes.com](#)> accessed December 2023.

<sup>115</sup> Thomas George Weiss and Rowman, 'the humanitarian consequences of sanctioning south Africa ,a primary assessment' in political gain and civilian pain,(1997 )page 75-77

<sup>116</sup> Nicholas D.Kristof, super note 114

<sup>117</sup>United States congress Iraq sanctions act (ISA) of 1990

The experiences of South Africa and Iraq demonstrate how the all-encompassing character of the sanctions causes citizens to become indirect victims since they impose significant constraints on the targeted nation's economy.

It is important to understand that economic sanctions, whether imposed unilaterally or multilaterally, can have unfavorable effects. These include limiting the financial and economic capacity of the sanctioned state, which can affect the well-being of individuals living in targeted countries, causing starvation and economic instability, and ultimately disrupting income. Apart from the detrimental consequences, economic sanctions can also be beneficial for safeguarding human rights since they force a targeted state to reconsider its human rights policies and amend its laws relating to human rights.

As long as the purpose of those economic sanctions is to protect human rights, the one who has to be blamed and criticized for the negative impact of those sanctions is not the sanctioning state, but rather the human rights violator state, which is the sanctioned state. Since the government of the sanctioned state is primarily responsible for fulfilling the obligations of human rights violations, the failure of the state to fulfill its obligations is what caused the problem in the first place.

Therefore, it appears irrational to blame all economic sanctions collectively given their intended purpose; however, the economic measures put in place ought to balance out all human rights, if not worsening the socioeconomic rights of the majority population and causing them great suffering to only achieve civil and political rights will violate the indivisibility and interdependence principle of international human rights law, This will ultimately result in human rights violations on their own. If this is the case, the measure's excessive nature would ultimately violate the proportionality requirement outlined in Article 51 of the article on state responsibility for international wrongful acts, rendering it unlawful.

118

---

<sup>118</sup> Article on state responsibility for international wrongful act of 2001

## Chapter four

### 4.1 Conclusion and recommendations

#### 4.1.1 Conclusion

Economic sanctions are restrictions imposed on a certain state to harm the targeted country's economic activities. It can also be described as the intentional cessation of commercial or financial links with a specific state. The UN Charter empowers the Security Council to apply coercive economic sanctions when international peace and security are threatened. Unilateral economic penalties, on the other hand, are imposed by individual states outside the framework of the UN Charter.

Many treaties and monitoring bodies address various aspects of human rights on a global scale. However, the current enforcement measures have proven to be inadequate. As a result, individual states began to express concern about human rights violations perpetrated within the jurisdiction of a particular state.

Even though the objective and purpose of unilateral economic sanctions applied against human rights violations is to preserve human rights by penalizing violators, conflicting perspectives and arguments over their validity persist. Those who accept the legality of those actions argue that they are the only effective ways to rectify human rights violations when national and international enforcement institutions fail. Those who oppose unilateral economic sanctions claim that such measures harm civilians and violate national sovereignty norms.

According to the findings of this thesis, there is no international customary law that prohibits the act of imposing unilateral economic sanctions; rather, fundamental human rights are considered one of those peremptory norms, known as *erga omnes*, which have the effect of assigning international obligations to protect not only a specific state but also the international community.

In terms of effectiveness, unilateral economic sanctions produce both positive and negative outcomes. However, when compared to both effects, the negative outcome appears to prevail in some cases due to the significant suffering it causes innocent civilian populations. So, the only method to determine the legality of those economic punishments is to analyze their proportionality concerning the nature of the infringed human rights.

#### 4.1.2 Recommendations

As mentioned in this thesis, unilateral economic measures have both legal and political ramifications in international relations, therefore the legality question may remain unresolved. As a result, the author of this thesis makes the following recommendations:

1, Above all, greater effort should be put into developing long-term solutions to increase the effectiveness of the human rights enforcement mechanisms already in place at the national and international levels to reduce the need for individual nations to impose unilateral economic sanctions.

2, States imposing economic sanctions should not restrict access to basics and should take the necessary precautions to prevent serious unintended human rights repercussions on people.

3, To encourage states to be more human rights protectors than offenders, positive reinforcement methods should be implemented. Examples of these mechanisms include awarding worldwide recognition and favorable incentives to states with a solid human rights record.

4, The international community ought to ensure that, before a single state imposes economic sanctions, all diplomatic avenues are exhausted.

5, Before the imposition of unilateral economic sanctions, other governments and international organizations should demonstrate a cooperative interest in assessing the proportionality of those measures. If it is determined to be disproportionate, they ought to denounce it and caution the sanctioning state against enforcing it.

6, The sanctioning state that imposed the disproportionate economic sanctions ought to be held accountable for breaking the international obligation, as disproportionate economic measures contravene Article 51 of the article on state responsibility for international wrongful acts.

## References

### **1. primary sources**

#### **A, legislations, and Cases**

- Portugal vs Germany(1928) arbitral tribunal, 2RIAA 1011
- Nicaragua vs US judgment of 27 June 1986, ICJ rep
- the Barcelona Traction, Light vs Power Company, Limited (Judgment)[1970] ICJ Rep 3, par.23
- United Nations General Assembly Resolution number A/RES/77/214 adopted on 15 December 2022
- United Nations General Assembly Resolution number A/RES/76/196 adopted 17 December 2021
- United states congress Comprehensive anti-apartheid act (CAAA) of 1986
- United Nations General Assembly Resolution 2131

#### **B, Statues, and instruments**

- International covenant on civil and political rights of 1976
- International covenant on economic, social, and cultural rights of 1976
- United Nations Charter of 1945
- Article on State Responsibility for International Wrongful Acts of 2001
- International court of justice Statues of 1946

### **2. Secondary sources**

#### **A, books**

- Alexander .k, the origins, and use of economic sanctions. (Palgrave Macmillan. London 2009)
- Rahmat Mohamad, ' Unilateral sanctions in international law, a quest for legality'.(2015)
- M. Shervin Majlessi, 'Use of economic sanctions under international law'; a contemporary assessment. (2002)

- Seyed M. Rowhani's "Rights-Based Boundaries of Unilateral Sanctions," 32 Wash. Int'l L.J. 127 (2023)
- Ozgur Ozdamar and Evgeniia Shanin, "consequence of economic sanctions" the state of art and path forward.(2021)
- Michel Banton, "What we know about race and ethnicity", 1<sup>st</sup> edition 2018
- Mhairico Cowden, "children's right from philosophy to public policy" (Palgrave Macmillan New York 2016)
- Paul de Guchteneire and Antoine Pecoud, "UN convention on migrant worker's right" (Cambridge University Press 2010)
- Jane Connors, "the United Nations Human rights treaty system", (2009)
- Sameer, Rana, "Review or Rhetoric? An Analysis of the United Nations Human Rights Council's Universal Periodic Review", (2015 )
- Iryna Bogdanova, 'Unilateral sanctions in international law and the enforcement of human rights'.(2022
- Andreas Lowen field, "international economic law"(2<sup>Nd</sup> edition, 2008),
- Benjamin M." State Sovereignty and non-interference in international law, acritical appraisal" (University of Oxford January 2018)
- Lori Fisler Damrosch, "The legitimacy of economic sanctions as countermeasures for wrongful acts,37 Berkeley J.int.L,249(2019)
- Sarah H. Cleveland, "Norm Internalization and U.S. Economic Sanctions," 26 Yale J. Int'l L. 1 (2001)

## **B, website sources**

- Council on Foreign Relations. ['What Are Economic Sanctions?'](https://www.cfr.org/background/what-are-economic-sanctions)<<https://www.cfr.org/background/what-are-economic-sanctions>> accessed April 23, 2024
- United Nations Human Rights Office of Higher Commissioner, ['Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment'](https://www.ohchr.org/en/instruments/optional_protocol-convention-against-torture-and-other-cruel)< [https://www.ohchr.org/en/instruments/optional\\_protocol-convention-against-torture-and-other-cruel](https://www.ohchr.org/en/instruments/optional_protocol-convention-against-torture-and-other-cruel)> accessed September 2, 2023
- United Nations Human Rights Office of Higher Commission, ['Convention against torture and other cruel, inhuman or degrading treatment or](#)

punishment? <[https://www.ohchr.org/en/instruments-mechanisms/Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](https://www.ohchr.org/en/instruments-mechanisms/Convention%20against%20Torture%20and%20Other%20Cruel,%20Inhuman%20or%20Degrading%20Treatment%20or%20Punishment)> accessed September 2, 2023

- United Nations Human Rights Council. [‘Universal Periodic Review’](https://www.ohchr.org/en/hr-bodies/upr) <<https://www.ohchr.org/en/hr-bodies/upr>> accessed November 3, 2023
- Ana Swanson and Vindugoel. [‘Trump Administration Strips India of Special Trade Status’](https://www.nytimes.com) (2019) <<https://www.nytimes.com>> accessed March 10, 2024
- United Nations Higher Commissioner for refugees, [‘Human Rights Watch World Report 1990 – Burma’](https://www.refworld.org/reference/annualreport/hrm/1991) <<https://www.refworld.org/reference/annualreport/hrm/1991>> accessed April 25, 2024
- United Nations Human rights office for a higher commissioner. ‘International Human Rights Law’ <[https://www.ohchr.org/en/instruments-andmechanisms national Human Rights Law](https://www.ohchr.org/en/instruments-andmechanisms/national%20Human%20Rights%20Law)>. Accessed November 10, 2023
- United Nations human rights office of the higher commissioner, [‘Committee on the protection of rights of migrant workers and members of their families’](https://www.ohchr.org/en/treaty-bodies/cmw) <<https://www.ohchr.org/en/treaty-bodies/cmw>> accessed September 10, 2023
- United Nations human rights office of Higher Commissioner, [‘Committee on the Rights of Persons with Disabilities’](https://www.ohchr.org/en/treaty-bodies/crpd) <<https://www.ohchr.org/en/treaty-bodies/crpd>> accessed October 10, 2023
- United Nations human rights office of Higher Commissioner, [‘Committee on Enforced Disappearances’](https://www.ohchr.org/en/treaty-bodies/ced) <<https://www.ohchr.org/en/treaty-bodies/ced>> accessed October 2, 2023
- United Nations human rights office of the higher commissioner, [‘Committee against Torture’](https://www.ohchr.org/en/treaty-bodies/cat) <<https://www.ohchr.org/en/treaty-bodies/cat>> accessed September 2, 2023
- United Nations human rights office of the higher commissioner, ‘What are human rights?’ <[https://www.ohchr.org/ What are human rights?](https://www.ohchr.org/What%20are%20human%20rights?) > accessed June 20, 2023

### **C, online articles**

- Sarah Joseph “blame it on the WTO? HR critique. (2011)
- Bonnie Eisenberg and Mary Ruth Dotter “The History of women’s right movement” (1998) <[https://national women’s history alliance .org](https://nationalwomen’shistoryalliance.org)>
- Frans Viljoen, “international human rights law: a short history (2012)
- in Thomas Gwess, “The humanitarian consequences of sanctioning South Africa, a primary assessment” political gain, and civilian pain, 1997

- Peany I.parker, 'Compliant mechanisms under the UN Human Rights Treaties'(2014)
- Monica Pinto, 'inquire procedures; united nations human rights bodies'(2018)
- Lauren Vriens, 'Troubles plague UN human rights council'(2009) [Troubles Plague UN Human Rights Council | Council on Foreign Relations \(cfr.org\)](#)
- Brett Schaefer, 'the UN human rights council is broken'.( July 2023) [The biases of the Human Rights Council – GIS Reports \(gisreportsonline.com\)](#)
- Alex Asong, 'The concept of the sovereign equality of states I international law' volume II o 1(2016).p 13
- Devam Krishna, ' Intervention: meaning and its legality in international law'.(2023)
- Baek, Buhm suk, ' economic sanctions against human rights violations (2008)

#### **D, Other sources**

- Geneva Academy. 'fundamental challenges of the UN human rights treaty body system'(2015)1970
- Tanaka,y. ' legal consequence of obligations erga omnes in international law'.Neth int law Rev 68,1-33(2021).<https://doi.org/10.1007/s40802-021-00184-9>
- Congressional research service.report.US sanctions on Burma,(CRC report R41336,2012)