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The Position of Human Rights Sanctions in the US Strategy Against Iran and Solutions to Them

Davoud Raeisi*

Department of Political Science, Zahedan Branch, Islamic Azad University, Zahedan, Iran.

*Corresponding Author

Abstract: Human rights as one of the most important indicators of civilization are of great importance in international relations. Nevertheless, ambiguity in defining and instrumental using of it are the most important challenges in promoting human rights. Western countries, and in particular the United States, on the pretext of protecting democracy and human rights intervene in the internal affairs of other countries and, using mass media and public diplomacy, put a lot of countries under pressure, and take actions against them. Iran is among the countries under unilateral US sanctions, and the decision to impose more sanctions is under the influence of domestic political groups of the United States, as it is alleged that sanctions are imposed for breach of international obligations. The purpose of this study is to investigate the place of human rights sanctions in the US strategy against Iran and ways to deal with it. In short, it can be said that although there are differences of opinion among international intellectuals in interpreting legitimacy or unlawfulness of sanctions for a variety of reasons, but there is no doubt that they will unanimously agree that sanctions can cause interruptions in the process of international co-existence and, ultimately, a blow to global peace and security.

Keywords: Human Rights, United States of America (US), Foreign Policy, Iran.

INTRODUCTION

Human rights as one of the most important indicators of civilization are of great importance in international relations. Nevertheless, ambiguity in defining and instrumental using of it are the most important challenges in promoting human rights. Western countries, and in particular the United States, on the pretext of protecting democracy and human rights intervene in the internal affairs of other countries, and using mass media and public diplomacy put a lot of countries under pressure and take actions against them. From 1993 to 1996, the United States has imposed more than 61 unilateral sanctions against 35 countries which make up 42 percent of the world's population. The United States unilateral sanctions have become a controversial issue, due to their extra-territorial nature in respect with other countries. Many countries believe that such sanctions will interfere in their sovereignty as independent countries. With the victory of the Islamic Revolution, the United States constantly has taken into consideration the sanction as one of the means of changing the behavior of Iran. Meanwhile, they have emphasized on human rights sanctions as a kind of smart sanctions to force Iran to make concessions and adopt passive diplomacy in the political affairs, especially in the nuclear case. In this study, we try to examine the status of human rights sanctions in US strategy against Iran and appropriate approaches for managing challenges and opportunities.

The sanction describes a punitive-type measure against a country to change its behavioral pattern. There are different types of sanctions. Although, the sanctions imposed by the Security Council, having relevant conditions, are merely the only sanctions permitted by the Charter, but Iran is currently subject to unilateral sanctions, those which imposed outside the United Nations Security Council resolutions, by the United States and its allies. Unilateral sanction is in fact a punitive measure that a country sets against another in accordance with its foreign policy and national security; as the United States has imposed sanctions on Iran which its nonconformity leads to criminal (at least 1 million dollars or at least twenty years' imprisonment or both) and civil (25000 \$ or twice the amount of the deal) penalties. This study examines the position of human rights sanctions in the US strategy against Iran and solutions to face with them.

Research Method

The main objective of the present study is to evaluate the position of human rights sanctions in US strategy against Iran, which has been analyzed in the research geographical domain of United States and Iran. Time period of the research includes the review of US sanctions against Iran in the context of human rights protection dialogues after the revolution. The method used in this thesis is descriptive and library research methods. In the library method, books and articles, journals, newspapers, and scientific websites in the field of political sciences have been investigated by means of fiche collection method, and then by analyzing these contents, this research has been achieved. The research data and information are provided by searching databases, libraries and relevant organizations, and then these materials have been analyzed. The purpose of this research is to investigate the position of human rights sanctions in the US strategy against Iran using descriptive methods of reasoning, interpretation, and inference. The study also examines the issue by using the documentary method and using the laws, regulations and opinions of political scientists.

Unilateral Sanctions Against Iran and Violations of International Law

One of the characteristics of contemporary history is the emergence of the United States as a country that has a keen interest in imposing sanctions on its target countries alongside its foreign policy goals. From 1993 to 1996, the United States imposed more than 61 unilateral sanctions on 35 countries, accounting for 42% of the world's population. America is the undisputed champion of sanctions in the world! Unilateral US sanctions have become controversial issue because of their extra-territoriality to other countries. Many countries believe that such sanctions affect their sovereign rights as independent countries (Delbruck, 1998). Iran is among the countries under unilateral US sanctions and the decision to impose more sanctions is under the influence of its domestic political groups, as it claims sanctions are imposed for violations of international obligations.

“Francis Boyle” asserts about the illegal dimensions of the sanctions: Iran has a certain right to use nuclear energy, and this exists in the Nuclear Non-Proliferation Treaty enacted in 1967. This could be the basis for pursuing illegal sanctions. These sanctions violate the rights that Iran can enjoy under the NPT. Iran's right to have nuclear energy and enrichment is indisputable, and this is guaranteed under the Non-Proliferation Treaty (Khaji, 2012).

Lack of legal basiss

Regardless of whether the referral of Iran's nuclear issue to the Security Council was in accordance with the IAEA Statute and the non-proliferation treaty, and regardless of whether the Security Council is fully free to exercise its powers or is limited to the entire Charter, Unfortunately, some countries, such as the United States and a group of countries, namely the European Union, have gone beyond the Security Council's sanctions resolutions and have imposed unilateral sanctions on Iran. The Security Council has kept this issue in its sole discretion and in no resolution has issued any authorization for countries to resort to unilateral measures. The recent sentence by the European Court of Human Rights on the need for the union to lift

sanctions against two Iranian banks from 2010 implies that these sanctions, even in the union itself, are not legal and have no legitimacy. From the perspective of an objective observer, these processes clearly show that American and European sanctions against Iran are the result of policy making rather than justifiable actions based on legal frameworks, human rights norms and international humanitarian law (Mumtaz, 2013).

UN and sanctions

The United Nations and its members are implementing sanctions under article 41 of the United Nations Charter. Article 41 of the Charter stipulates "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". This is in the event that, according to article 39, the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression, and sanctions will be imposed solely for the purpose of maintaining or restoring international peace and security. Economic sanctions imposed by the United Nations should not include food, medicine and other humanitarian items (Esfandiar, 2011).

Sanctions and human rights

The important thing that is deliberately neglected is the impact of sanctions on basic human rights. The ethics and legitimacy of sanctions are generally not respected, which themselves lead to human rights violations. Some argue that the Security Council ought not to comply with the principles of justice and international law in imposing sanctions under article 41 of the Charter. It should be said that it is generally accepted that the Security Council is bound to observe the principles of human rights and international humanitarian law when establishing, monitoring and reviewing sanctions regimes. The power to impose sanctions should be considered in the context of the United Nations Charter as a whole, and be applied in accordance with the objectives and principles of the Charter, including the promotion of human rights and the norms of international law (Esfandiar, 2011).

Effectiveness of sanctions

There are many doubts about the effectiveness of the sanctions. According to a study, only one of every three post-World War II sanctions has succeeded in achieving its predicted political goals. Of the 103 post-World War II sanctions up to 1996, 69 sanctions or 67% were unsuccessful, meaning they had no effect on the behavior of target countries or had little impact. Countries that are supposed to be punished by sanctions can find other companies and countries to trade that are not seeking to change in country under sanctions. This causes the loss of America and other countries imposing unilateral sanctions, both in the economic and diplomatic fronts (Mumtaz, 2013).

Extra-territoriality of unilateral sanctions

The issue, regarding the unilateral US sanctions against countries, which should not be ignored is the nature of their extra-territoriality that is referred to them as secondary sanctions. Accordingly, nationals, companies and third countries are also forced to refrain from doing business with the target country, otherwise they will be punished. The second sanction are based on extra-territorial jurisdiction and is considered as a violation of the rules of international law. In fact, recourse to second sanctions reflects the lack of an international consensus on sanctions against the target country (Khaji, 2012).

Under international law, the equality of sovereignty is the bedrock of the international legal system. The principle of equality of sovereignty has taken its legitimacy from Clause 1 of Article 2 of the United Nations Charter, which acknowledges: The Organization is based on the principle of the sovereign equality of all its Members. Equality of states means that the dignity, character and independence of a state as well as its territorial sovereignty are respected. While international law guarantees self-determination, it also imposes restrictions on foreign interference. This issue has been recognized that one of the elements of sovereignty is that it should be applied within the territorial boundaries. The use of economic sanctions by America is a flagrant violation of the sovereignty of other states and the legitimate interests of companies (Mafei, 2006).

Countermeasures

In order to be able to properly analyze the justification of countries which imposed sanction against Iran by resorting to countermeasures, we need to investigate the source and nature of the obligations allegedly violated by Iran and which have led to the adoption of counteractions. It is alleged that Iran has violated two specific collective obligations indicated in the NPT and then, according to context of article 42 (b (i)) of the International Law Commission on Responsibility of States for Internationally Wrongful Acts, countermeasures are justifiable (Khaji, 2012). First, the obligation under article 2 of the treaty regarding non-manufacturing or otherwise acquiring nuclear weapons or other nuclear explosive devices has been violated. Second, it is argued that Iran has also violated the obligations contained in article 3 of the treaty on the acceptance of the Agency safeguards mechanism. It must be said that this argumentation is wrong and the adoption of unilateral countermeasures is justifiable not only merely based on Article 42 (b (ii)) of the International Law Commission, but also if the breach of the obligation has a character that considerably changes the position of all members as damaged governments that fulfillment of obligation is dependent on them. The separation approach between treaties and obligations and the classification of obligations as dependent obligations is totally irrelevant (Mumtaz, 2013).

The Conclusions of Sanctions Against Iran

If we want to express the effects of sanctions in a simple sentence, we should say that sanctions have been successful if the purpose of the sanctions was to exert pressure on ordinary Iranians. But if the goal of sanctions was to persuade the Iran's government to stop its nuclear program, not only sanctions were ineffective, but also have accelerated the Iran's nuclear program (Forughi, 1998). As the IAEA reports acknowledges, before the start of sanctions on the nuclear issue, Iran has only one uranium enrichment facility with 164 active centrifuges that have enriched uranium up to 3.5%, one generation of centrifuge machines and about 100 kg of uranium reserves were enriched. Today and after the sanctions, Iran has two enrichment centers and approximately 12,000 centrifuges, enrichment levels of up to 20 percent, a new generation of centrifuge devices and reserves of about 8,000 kilograms of uranium have enriched (Khaji, 2012).

Iran's nuclear progress under the ever-increasing sanctions leaves no doubt that exertion of force and threat is the most important factor in encouraging Iran to increase its skill and self-sufficiency in nuclear technology. A similar event took place during the Iran-Iraq war. Before the war, Iran was not even able to make a bullet and was completely dependent on the West. But during the war and after its aftermaths, despite all the sanctions and pressures on Iran, the country built a huge military industry; achieved self-sufficiency in the construction of conventional weapons; built a huge arsenal of long-range missiles and even launched a satellite in the space. Sanctions have pushed the direction of Iran's international trade from the West to the East. In fact, Iran has taken the policy of eastward turn or Asianism (Aghayi, 1996). Among the people of the Middle East, Iranians have the least sense of hostility towards the United States. But US officials, while aware that sanctions are harassing ordinary Iranians, are threatening the treasure of normal relations between the two countries by planting the seeds of separation of the Iranian people from the United States. The Gallup poll shows that Iranians feel the effects of sanctions, however they do not blame their leaders but the United States (Gharibabadi, 2011).

From the point of view of international law, sanctions are imposed by organs of the international community in response to unlawful and unacceptable behaviors of one of the countries. The purpose of the behavioral criteria of the international community is the accepted conducts of the international community that has been prescribed by international law (Bigzad, 2000). In the present days, the pursuit of the nuclear project and the non-application of some of the norms wanted by the West by the Islamic Republic of Iran have led to sanctions against Iran. If the provisions and rules in the Nuclear Energy Agency's Charter are to be criterion, it is certain that Iran's insistence on pursuing nuclear programs can not entail violations of international law in

the international community. In the sight of the United States and its western allies, the divergent behavior of the Islamic Republic of Iran is a kind of rejection of the international legal system, so the solution is to take measures to prevent its spread. In this regard, the imposition of sanctions against the Islamic Republic of Iran should be considered as the main symbol of the West's policy of preventing rebellious behavior and violating the international law system (Aghai, 1996).

In recent times, and despite the tendency of the United States and its allies to use the option of sanctions against the Islamic Republic of Iran, some aspects of the sanctions can be assessed. The first aspect of these sanctions reflects in the short-term, medium-term and long-term. In this regard, the effect of the sanctions in the short term has, in some cases, put pressure on the financial system of the Islamic Republic of Iran, and has increased transaction costs and ultimately prices. In the medium term, the effects of the sanctions have led to reduction in investment, slowing growth rate and rising inflation. In this regard, the Islamic Republic, in some cases, has witnessed a decline in the volume of import-exports and foreign-exchange reserves. Regarding long-term effects, it seems that economic sanctions will reduce investment as the most important factor in economic and industrial growth. Which ultimately makes it more difficult to achieve the goals of the Future Outlook document (Kaempfer William and Lowenberg, 1998). Therefore, without strong support, especially from some European and East Asian partners, the sanctions of US and its allies will not have a significant impact on the long-term economic interests of Iran. Structurally, economic sanctions have reached to conclusion only when they have been applied globally, comprehensively, and continuously and have had the necessary legitimacy and credibility (Mafi, 2006).

In this regard, although economic sanctions impose heavy damages on the under-sanction country, but also often have high costs for the sanction-imposing countries. For example, American sanctions have primarily affected its own oil companies. In recent years, these companies have bought nearly 3.5 billion dollars of crude oil from Iran. Estimates show that US sanctions on Iran, Libya and Syria annually impose 7 billion dollars on the United States and cause the loss of 200,000 jobs in this country. A study conducted by the international economics institute suggests that the cost of sanctions imposed on American companies only in 1995 was about 15 to 19 billion dollars (Haas, 1997).

Solutions to Confront The US Human Rights Sanctions

It should be noted that solutions to cope with US pressure on Iran should be developed and implemented based on long-term and continuous strategy.

Passive Approach

The decision makers with this approach believe that the best response to the human rights pretexts of the West is to ignore them and to continue the practices and behavior of the past. Since this approach has not a realistic perception of international processes and the important position of countries in enhancing their international power, it not only does not eliminate the cost of these pressures on the country, but it will cause further situational damages to Iran.

Median approach

This means that a more lenient attitude towards human right stands of other countries needs to be taken and to some extent pay attention to them. Paying attention to the issue of human rights in the religion of Islam and to the Islamic Criminal Code and, in some cases, to amend it according to the Fatawa of Maraji and the suspension of acts that lead to the denial of Islam. This approach, although in the short term, can enhance Iran's position in human rights circles, but in the long run it cannot meet all their demands and, as a result will face an impasse.

Invasive approach

That means to condemn and embarrass western governments and authorities using similar human rights instruments. This approach tries to fight against human rights attacks of Western countries using Western

instruments, avoiding passivity or compromise. It seems that this approach will not only offset Iran's human rights pressures and costs, and disarm Western governments in dealing with Iran's internal affairs, but it can also be accompanied by an increase in Iran's situation in the human rights societies. In this regard, there are two broad scopes for countering Western human rights strikes and retaliatory attacks: the first scope is the vertical dimension of human rights. In this sense, Iran tries to establish legal and institutional structures in order to reveal the violations of human rights in the Western societies or their allies, pursuing them using legal, diplomatic, and public media instruments; The second scope is the horizontal dimension of human rights, meaning that human rights cases that are ignored by Western governments, which in many cases are themselves the main accused of violating them, to be emphasized. For example, economic human rights, the right to development, clean environment rights and the right to information freedoms can be pointed out. In this invasive approach, it can be shown that the economic and industrial sanctions impose such irreparable damage to the human rights situation in the countries. In order to implement these strategies, the most important role in achieving goals can be achieved by entering into the propaganda phase and using traditional and modern communication tools such as radio, television and the Internet.

Conclusion

The United Nations has used various tools and methods for more than six decades of its work, with the main objective of maintaining global peace and security, to prevent and manage conflicts and threats to peace. Based on the arrangements envisaged in the UN Charter, the Security Council can respond to the threat to international security and peace using the sanctions tool. During this research, we tried to examine the legitimacy of sanctions by presenting different opinions from the international law point of view. Assessing whether sanctions can be useful as a deterrent tool, and that the use of this tool does not take into account the political interests of countries, requires more extensive researches. But in fact, economic sanctions are in conflict with the general orientation of international law and the United Nations Charter to achieve international peace and stability and to resolve international conflicts, because it interrupts international trade as a matter that leads to better interactions and rapprochement between nations due to economic interdependence, which leads to international coexistence and the reduction of disagreements between countries. At the same time, humanitarian problems stemmed from sanctions cannot be denied; the problems that make clear the relationship between sanctions and human rights violations. In short, it can be said that although there are differences of opinion among international intellectuals in interpreting legitimacy or unlawfulness of sanctions for a variety of reasons, but there is no doubt that they will unanimously agree that sanctions can cause interruptions in the process of international co-existence and, ultimately, a blow to global peace and security.

References

1. Aghaei, Seied Davood. (1996). The role and position of the United Nations Security Council in the New World Order, (Tehran, Peik-e Farhang publication), p. 264.
2. Bigzad, Abraham. (2000). NGOs and International Law, Journal of Legal Research, Autumn and Winter 2000 - Issue 31 and 32, pp. 7 to 124.
3. Delbruck, Joost. (1998). International support of human rights and the sovereignty of states, in the Jamshid Mumtaz et al., Human rights in the light of international developments, translation and editing by Hossein Sharifi Tarazkoochi, (Tehran, Daadgostar publication), pp 79-80.
4. Esfandiar, Shahram. (2011). Evaluating the Dimensions and Effects of US and West Sanctions against Iran.
5. Forughi, Mohammad Ali (1998), Wisdom in Europe, Alborz Publishing House, Tehran.

6. Gharibabadi, Kazem. (2011). The History of Philosophy in Europe, Alborz publication, Tehran.
7. Haas. Richard. (1997). Sanctioning Madness. Foreign Affairs (Nov/Dec): 74-85.
8. Kaempfer William H. and Lowenberg Anton D. (1988). The Theory of International Economic Sanctions: A Public Choice Approach, The American Economic Review, 78(4), pp.786-793.
9. Khaji, Gholamreza. (2012). Economic sanctions from the perspective of international law, with emphasis on international economic law and development right, Bi-quarterly Journal of Economic Law Encyclopedia, new period, year 19, Autumn and winter 2012.
10. Mafi, Homayoun. (2006). Reflection on economic sanctions against Iran in terms of international law, Journal of Law and Political Science, year 1, Number 1, summer 2006.
11. Mumtaz, Jamshid (2013). Unilateral economic sanctions and violations of international law, Islamic Revolution Document Center, November 2013.