



Original Article

Pages: 1-15

Exceptions of Economic Sanctions in Human Rights Conventions

Davood Seify Qareyataq¹, Maryam Poodineh Peer² and Samira Zare Jam Khaneh³

Received: 2018/10/17 Revised: 2019/01/15 Accepted: 2019/03/21

ABSTRACT: Studies show that after the cold war, the Security Council has widely used sanctions based on CHAPTER VII. Economic sanction is one of the tools for maintaining international security and keeps the peace in international community to the Security Council. The aim of this interdicts is to change operations and conducts and using imposed force on the government under interdicts. But actually these interdicts cause the detrimental effects on purposed country's population and breach of human rights. In the present study, the method of analytical-descriptive research has been used and the data collection is library method. The results of this research show that, although the Security Council has authority to exert sanctions based on Chapter VII to keep international peace and security, but this authority has been limited to follow United Nations goals and principles and on one hand depends on binding of many human rights standards and by regard to limiting law of UN Security in the charter, exertion of sanctions that violates human rights, is out of United Nations competency and does not have legal validity. So member countries of United Nations don't require this interdict, because of violation of the human rights by Council.

KEYWORDS: Sanction, Economic Sanction, Security Council, Human Rights Conventions.

¹ Faculty member in Department of Human science, University of Zabol, Iran.

E-mail: davoodseify@gmail.com

² MA of Private Law, Mazndaran University, Department of law. *E-mail: Poudinehm953@yahoo.com*

³ Master of International Law Damghan Azad University. *E-mail: samira_z60@yahoo.com*

1. INTRODUCTION

One of the forces exerted on the countries that violate international law is using international sanctions for changing actions of those countries (Hadadi, 2005). International interdict as a tool for keeping international peace and security is in Charter VII. At first because of nonmilitary nature of sanction and uncompensable consequences and dangers of military actions, it seems that using of interdicts can be suitable replacement for military actions. Though by increasing interdicts and widely destructive effects of military actions on civilian people, there are significant worries. The main Cause of these worries is that these kinds of interdicts violate the human rights law and friendly human rights (Zamani, Mazaheri, 2011).

Basically, in view of the international law the sanctions are lawful, unless the aim of that is dominance and pressure on other countries be inconsistent with undertaking contract of other countries. In other hand, exerting economic sanctions in legal conditions depends on following international law and the followers of international law must accept some legal limitation in the sanctions exertion. It means that the decision of Security Council would be binding only if it is cited according to Charter or doesn't have any contradict with basic principles of Charter (farokh seiry, 2008:4). According to this view, the decisions of Security Council have some limitations (Shygan 2009). As a result, Charter doesn't grant unlimited authority to United Nation and Security Council.

Across relevant regulations, strenuous efforts have been done to establish specific criteria to limit authorities. So the Security Council is required to follow international law when it exerts some interdicts in the 7 chapter of charter (Geiss.Robin, 2005).

Traditionally Security Council actions have been applied against nations. Aim of civil actions of 7chapter of charter is using force on purposed nation by some interdicts in order to retire them of international economic and politic community to obey Security Council requests. These privation and restrictions apply on all elements such as land, community and government. By this view, Charter doesn't offer any remedy to reduce public harm under sanctions. Organizers leave the remedies and worry of harmful interdicts on civil community. So bring to an end this situation by obeying international community requests. The reason of this is that by 1945, the idea of individual has not considered as subject of international law yet, and private rights are in the domestic competency of the government. So reticence of charter is because of traditional ideas of power principle. People suffered by government that is under one of situations in Article 39. Whereas other nations that are executors of Security Council decision, should be safe of negative effects of that cases. Sometimes interdicts have destructive effects more than military effects. And it does not seem that civilian at least have same support in the situation of military disputes (Momtaz, 2009).

Changing of Security Council's sanctions policy, in order to make them intelligent based on the principle of distinguishing between political and military leaders and their supporters on the one hand, and innocent civilians on the other hand, can bring the international sanctions the tools to conform to international law. In comparison with poor effect of multilateral sanctions, intelligent or purposed sanctions have more effect, because of direct focus on required area (Momtaz, 2009). These sanctions try to follow human rights law and human constitutional law, and reduce the cruel pressure on innocent people by multilateral sanctions.

So, by studying the exceptions of economic sanctions in the human rights, conventions must distinguish the human rights from the sanctions. So they can reduce bad effect of the sanctions on people life. By attention to these problems and difficulties and the aims of research, these questions are asked:

- 1-Does Security Council have any limitation to exert sanctions on purposed countries?
- 2- Must Security Council follow the human rights principles to exert sanctions?

3- Does non-execution human rights law and friendly human rights with Security Council cause responsibility for Council?

4- What laws are among human rights law exceptions which Security Council must follow them and are pointed in human right conventions?

Research Hypothesis:

- On the basis of international law, UN Security Council has some limitations in exertion of sanctions.

-It seems that Security Council must follow principles of human rights conventions in exertion of sanctions.

-Sanctioning Countries in case of violation of human rights have civil responsibility.

Economic interdicts and condition of liability derived violation of Human rights exceptions are the problem of nations such as Iran that have been ignored in international law. On the base of that, the main goal of this research is practical use for units and organs involved with interdicts and actual persons under interdicts. Until by enough aware of limits and human rights principles of interdicts, purposed nations can advocate their rights in the international community, such as supreme court Hague, Human rights committee and general assembly of united nation.

2. LITERATURE REVIEW

Economic sanctions are studied in different aspects in the international law. Fredrick Schuster (2009), Marco .A (2012) and Bossyt Marc (2000) in a research titled: 'legal economic sanctions in the view of the international law' concluded that only Security Council is allowed to enact sanction against offender country under the seventh chapter of Charter, in the case of serious breaking or threat world peace, and aggression to a nation. But the authority of council is limited and should follow courtesy principals and necessity principals of sanctions. Otherwise it is illegal sanction.

Boris Kondoch (2003) and Hoskins Eric (1997) evaluate the sanctions against Iraq in the view of international law. After analysis of principals and conditions of sanctions in the Charter of United Nations, they showed that not only the sanctions against Saddam, didn't stop him from acting against international peace, but also caused inexistence of thousand vulnerable individuals of Iraq, (among them inadequacy of pure water, food, medicine and primary necessities of life), between them women and children had a bad effect from sanctions.

Also according to results of researches of Mallory Wen (2013), the sanctions of Security Council against Congo which was applied with the aim of stopping violation of human rights by government and rebels, caused wide breaches of civilian rights.

Emmitt Y. Riley (2012) analyzes relations between economic sanction and human rights in the despotic regime by time series data. The results of this analysis suggest that economic sanctions imposed on purely autocratic regimes, significantly decrease levels of political repression when measured in terms of extra judicial killings, political imprisonment, disappearances, and torture. The implications of this analysis suggest that international actors should continue to rely on coercive diplomacy on the international stage when dealing with the most autocratic forms of government. Furthermore scholars studying economic sanctions should revisit the assertion that economic sanctions increase political repression.

Robert (2004) in an article examines economic sanctions from an ethical perspective. Utilitarian ethics and rights theory are applied to economic sanctions in general. Special attention is paid to the economic sanctions imposed against Iraq and Cuba. The conclusion is that economic sanctions are very difficult to justify on any grounds and have negative consequences. Sanctions should not be used as a tool of international relations.

Aminzade (2012) along with human rights, recognized the social rights and the competition rights rules, restrictive factors of legal sanction, and believed that nowadays, the nations must

have a share in the trading, so they can meet the necessity of human rights. Also the right of trade is one of the principal rights that cause economic and social development. Moreover, WTO seeks to support the free trade system and pick up trading borders. So the member nations accept any unlimited trading. Rahim and et al (2014) in a case study criticize any unilateral sanction out of United Nations Charter and recognized them inconsistent with international law and human rights.

Tridmiss and et al (2012) proceeds to survey competency of Europe Union in exert of sanction against private individuals and protect fundamental rights of sanctioned individuals in the supreme courts of Europe. According to this research, UE has a legal competency to exert sanction against individuals that help terrorism and the votes of Europe revision court confirmed them. But on the base of UE rules, sanctioned individuals can claim nullification of Union sanctions.

Totally in abovementioned research, the main subjects are recognizing of principals and explaining legal sanction or effect of them on society. But researchers don't pay attention to exertion of legal sanction by Security Council to protect human rights.

3. THEORETICAL FRAMEWORK

By paying attention to exceptions of economic sanctions in human rights conventions in this research, these facts have been studied in three aspects: (sanctions, economic sanctions, human rights exceptions).

3.1. Meaning of Sanction

Different views and definitions of "interdict" have been presented by scientists of social science, but there isn't any consensus among them. In the political dictionary and word book (sanction) is synonym of interdict, approval, fine, penalty and executive guarantee (Noroozy khiabany, 2005) Britannica dictionary writes under (sanction) and (guarantee): (sanction) and (guarantee) in the international law employ as a tool for guarantee of the international rules and regulations by government mass-action. That it may begin by the governments critics and rebukes in the international organizations against other government and finishes by economic sanctions or military forces.

In the other place, about this word: sanction is synonym of executive guarantee or fines "political, economic or military punishment against violator of the international law by mass-security system." (Dargahi, 2010)

Sanction in French language is synonym of just fines by threat and imposition. According to "wild" belief, sanction is a tool that causes follow and execution of regulations and obligations. So it is necessary for international societies to maintain peace, calm, and observe the rule between the governments. Briefly, the interdiction consists of: regulatory refusal of social, political, economic or military relationship of a government or a group of government for punishment or acceptance function. So it employs more in the international economic relation, and others refuse transactions and services with them. The interdict may be comprises of all products and services or limits one group of products. (Evans, Graham and Nonam, Gefry, 2002)

It is important to note that although there are some elements of punishment in the interdict, but it does not mean difficult conditions for interdicted individuals of a country. The aim of this is a change in the political action of this country. Some other believes the most important role of sanction is prevention (ZARIF, and Mirzaie.1997).

3.2. Species of Sanctions

The sanctions are different in three aspects: 1-goals 2-addressee 3-the method of interdict

The sanctions are divided into two groups based on goals:

First: sanction with strategic goal, in this case, the strategic interests of a state is in danger. That in this case sanctions substitute of war. That it has less expense than war.

Second: sanction with changed action, in this case, there is no multilateral interdict and change of the government (Mustafa zahrany, 1997).

The sanctions are divided into three groups based on addressee:

First, unilateral sanctions: in this case, the country exerted sanctions based on one-side.

Second, multilateral sanctions: that several countries exert sanctions against another country.

Third, UN sanctions that, applied by Security Council

In international view, the interdict is as a punishment for members of international society. This is the capacity of some organizations based on United Nations Charter. So the sanctions as a punishment only include Security Council of United Nations resolution. There are other sanctions in a political literature that not only are not real sanctions, but also are called "act of government". In other words, these are domestic law that executed internationally (Ghmami, 2012).

The sanctions divided into two groups in view of governmental act:

First: primary sanctions: if the sanctions depend on relationships of two countries so a country refuses transactions and social relations with other country. This interdict is limited.

Second: secondary sanctions, sometimes a country may extend sanctions and refuses transactions and financial relation with other countries that are related to interdicted country. That is called secondary sanctions. Sometimes in the secondary sanctions, such as American DAmato law against Iran" that determined some punishment for the countries that have relation with Iran (Kusch, Hans G; 2005).

3.3. Economic Sanctions

Carter said about economic sanctions: coercive economic measures against one or several countries and their goals are for changing policy or proof of their views about politics of that country (carter, 1989). Robert P. Quinn brought up this issues in his book "economic sanctions guidance" that are sanctions proper way to foreign politics goals?" and "what solutions are proper to insure the interests by these sanctions?" He appended that: "the sanctions are important arms in the politic arsenal". Of course these arms must be used with high precaution until laborer and related organization, their providers and shareholders don't have any injuries (Quinn, 2000). Hufbauer and Scott limited it to operational dimensions: economic sanctions include: inform to refuse or threaten to refuse common trade and financial relationships (Hufbauer and Schott, 1999). Advantage of this definition is limiting oneself to evident facts, but not to motive commentaries. These definitions have used articles of United Nations charter, which are basic law of economic sanctions of United Nations. In article 41 there isn't any reference to economic sanctions but have an ungeneral executive dimensions that include "full or partial commentary relations of economic and railway, sea, air, mail, telegraph, radio, and other communication tools and limit diplomatic relations"(Davidson, 1996).

4. METHOD OF RESEARCH

Present research is applicative and the method of this research is analytical-descriptive. The data gathered by studying of library references such as literature, books, articles and sites.



5. HUMAN RIGHTS EXCEPTIONS TO SANCTION

5.1. Right of Life

The right of life is the most important of rights that other rights arise from that, in the article 3 of Human Rights advertisement, (Brownlie, 1995) emphasized on civil and political rights in article 6 international promise, article 6 in the Children rights convention and other international documents and supported as an essential right to human.

Catastrophic effects of sanctions on right of life that are commander and unaggressive rules, are irrefragable in many sanctions, in particular full sanctions, because these result in poverty, shortage of food and drugs, delaying on social services and increasing the diseases and mortalities. Based on different unit of United Nations reports, effects of sanctions in Iraq including inadequacy of water, food, drugs, life primary possibilities, caused damage on hundred thousands of individuals.((Normand, 1996; Hoskins, 1997;ebrahimi,2005)

5.2. Right of Proper Standards of Life

Based on Declaration of Human Rights, each person has right of providing life level, welfare and care of oneself and family in regard to food, home, medical care and necessary social services. The right of social security and respective life even in disease and unemployment conditions must be respected (universal declaration of Human Rights, art.25-1). This right brought up in the cases of 11 and 12 in international treaty of economic, social and cultural law. And members of this treaty recognized the right of individual and his family in proper level of life (art.11-12).

The sanctions with negative effects on production, occupation and national income, cause of poor economic income, poor and unjust distribution of product and services and social disorders and totally lack of proper standards of life. Statistical reports about Iraq and Haity confirmed this claim (Garfield, 2002).

5.3. Right of Wellbeing (Removal of Sanitary and Medical Equipment from Sanction)

After efforts of international society for support of Human Rights, effective factors in Human Right were recognized. Among cultural, social and economic rights, the right of wellbeing is one of the basic human rights in the international Human Rights. The right of wellbeing is an uncut link to right of life and in other side, has tied to social security and health rights. Moreover the right of healthy environment, which is in third generation of Human Rights, is based on the right of healthy life. So the right of healthy life is in the chain of different generates of Human Rights (Zamani, 2006). Healthy is defined in introduction of World Health Organization (WHO):"not only the healthy consists of nonexistence of diseases, but consists of full physical, mental and social relief".

The right of wellbeing is one of the recognized human basic rights in international Human Rights. This right in deferent treaty and international law, has a firm place, and takes into account of total principles of developed law. The first and general right of wellbeing in the international treaty is in the charter of United Nations. Although there is not any reference of this right to Charter, but the article 55 of that, obliged to rise of high standard life. The second right of wellbeing in the international treaty that moved next titles, is in WHO by 1946. In this article:" having high standard of healthy is one of basic right of human" and "healthy people are basic for the peace and security".

But the most perfect expression of wellbeing rights in the international treaties, founded in the international economic, social and cultural rights. In the first joint of Article 12 of this treaty it is said that: "the present nations of this treaty, recognized individual rights to utilize high standards of physical and psycho health". In the second joint of the same Article proceeds to actions that should adopt the wellbeing rights by member nations. Also the wellbeing rights

have the most important place in the human rights treaty. Three treaties of them are: the Article 5 of convention undertakes nations to warranty the rights of public health, medical care, collective security and collective services. Article 12 of the convention indicates nation's agreement equal access to healthcare services for men and woman (Majande, 2007). Article 10 of above convention foresights the access to training information for family health. Article 11 indicates occupation affairs and health of working place rights. Article 12 attended to female healthcare and proper services in the period of pregnancy and after that, and Article 14, to rural female. Article 24 of convention said about the right of children in special life level that is enough for physical, psycho, moral and social development of children and utilizes of high standards of healthcare and medicate for children. Article 26 of American human rights convention, Article 16 of African charter of human rights and nations, Article 17 of Cairo human rights in Islam and European social charter, recognized the right of healthy in the regional level (mirzadeh et al, 2013).

Article 25 global human rights allocated to the right of health:" each person has the right of enough welfare for himself and family among food, clothing, home, and medical care and collective security".

On the basis of these documents there is a sufficient reason to accept the health right as a norm of customary international law and it is binding for all countries.

However, in resolution 1747 The Tehran Nuclear Research Center, which is active in the field of medicines and medical equipment, has been explicitly banned. In addition, Europe and America have banned the sale of important drugs into the country.

5.4. Right of Food (Exit Imports of Basic Foodstuffs from Sanction)

In the international law, the right of food is a basic right for each person and it's the right to be free from hunger and having sustainable access to food quality and quantity. Legal basis of the right of food in article 11 of resolution is International Covenant on Economic, Social and Cultural Rights. The first line of article 11 emphasized on essential rights of food, home, clothing and improvement of life. In the second line, following right of food as one of basic necessity for human has been emphasized (Talaee and Razmkhah: 2013).

The right of food unlike practical negligence is under consideration in theory and hinted to some titles of human rights. At first we hint the right of food article 25 of world human right advertisement. This article prescribe that;" Everyone has the right to a standard of adequate living for the health and well-being of himself and of his/her family, including food, clothing, housing and medical care and necessary social services, and the right to security". Many legal authors believe that many clear parts of that context entered to international common law. Even by reject of this view, it can't be refrained that world human rights advertisement is in upper condition of common law titles, because this title in many cases hint to basic principles of human rights and United Nations goals to Charter as higher title of international law(Vidar,2003; Hannum,1998).

In the first line of article 11 it is provided that:" the countries in this agreement recognized the right of proper life such as food, clothing and home and also improvement of life conditions". This line of article is one of great context in the agreement and involved in issues that is about "development". In fact, in this article the right of food is a part of proper standards of life (Razmkhah, 2013).

Beside of the right of food as a human rights, (Molai,2007) this right can be found as a comment of sixth article of international agreement in politics and civil law and that is about the right of human life. Committee of Human Rights believed that the right of life in this article has unlimited commentary. This committee in NO6 commentary claimed that: "support of life

rights requires certain and known actions for rise of desirable life" (No 6, 1982 and NO28 commentary, 2000:1).

Article 20 of convention 1951 is related to refugees' condition that engaged to ration of foods and related to right of food indirectly (Convention relating to the Status of Refugees (CRSR), 1951).

Also in forth line of article 24, convention of children rights 1989 bring up:" the government must provide children food and finish their mortalities".

Beside of international binding law titles, international conferences and advertisements and agreements have many recommendations that world general consensus shows for the norms of food right. For instance, we can hint to world advertisement about food by 1992, Vienna advertisement about human rights by 1993, Rome advertisement about world food security by 1996, food world planning by 1996, agreement 15-171 in United Nations by 1996, and more important millenary development advertise of United Nations by 2000 that, they consent reduced the hungry people to half until 2015 (Honar bakhsh, 2009). Also after five years in world meeting advertisement by 2002 again emphasized on the right of healthy food and security (Talaee and razkhah, 2013).

The sanctions of Security Council sometimes violate this basic right and consequent of that violate other human rights.

Not only this case appears in Iraq, but punishment against Federal Republic of Yugoslavia had a hard pressure on civilian. When the farmers of Yugoslavia because of reduced worth of Dinar didn't sale the crops to government, independency fall to risk (Resiman and Sterick, 1998). Security Council interdicts, against Haeety caused of increase in children mortality.

5.5. Right of Access to Water

Contrary to unrecognition of the right of access to water in Human Rights titles, but this right is the basic right for human. Unfortunately the right of access to water from reporter of United Nations doesn't recognize as the most important right of human in world titles explicitly. For instance, in the first line of article 25 Human Rights advertisement 1948 propounded that: "every person has the right of providing proper life level, health and welfare of himself and his family in regard to food, home, and medical care and social security." Without any hint to water or access to water" Lack of this right in the titles of Human Rights, is unusual because of basic right of human and undoubtedly, this right is more basic than formerly recognized it in the international society and Human Rights titles. Recognition of the right of access to water is necessary to fulfill other human rights because this right is related to the rights of life, food, education, healthy, proper environment or development. In other words, warrant of aforementioned rights is impossible without recognition of the right of access to water (Dashab, 2012).

General sanction of Security Council violates this basic right. For instance, "the government of Milosowich declared that because of prohibition of chemical imports, for filtration of water, significantly enhanced contagious diseases, and in the first months of interdicts 108 individuals died because of diseases (Resiman and Sterick, 1998). Also in Iraq, the interdicts cause filtration reduction of water (Ibid).

So with this issue in mind that the unequal access to water and resources reduction lead to large differences in levels of human origin (Dashab, 2009). And attention to that the Security Council primary responsibility is maintaining international peace and security, It seems that the general sanction of Security Council are opposed of the right of access to water. Its Inconsistent with his the primary task of the council (Zamani and Mazaheri, 2011).

5.6. Right of Trading (Sanctions against the Right to Personal Business)

International trading system doesn't recognize basis of rights, but importance of this system for meeting the needs of a country, causes bringing up this, in the right of trading. Of course this right was in some views as prohibition of prejudice in the trading (Wai, 2003). But these days separating human rights from trading aren't easy. Because this separating causes creation of some political problems that don't have any sanction in most cases (Alston, 1982). These days' countries must have a share in trading for meeting of needs. Also this right as a basic right causes economic and social development that is a civil right. Without trading substructure of education, health and medicine which warrant the right of them, couldn't be provided (wai.2003). Amaritassen the winner of Nobel Prize believed that diseconomy of some countries is cause of non-access to the sources of education, land, health care, justify and credit (Ariel Arson, 2008).

After Second World War, two motions appeared for growth of two fields. One of them was publishing of Human Rights advertisement by 1948 and other was assembling of contract for trading by 1947. Poor instance of these motions, after Second World War, showed that the governments considered making a relation between human rights and trading (Ariel Arson, 2008). Even the right of trading founded in Vitoria opinion that recognizes trading right to nation's right. So today trading usually is the governmental right (Askari, 2008).

Extensive use of "effective evaluation" in the ground of trading and human rights appeared as a right for basis of other rights in enhanced human rights and economic standards (Harrison, 2008; John S et al, 2003).

The statement of "trading ideas are causes of peace" Attributed to Montesquieu. He explained that the natural effect of trading is peace. He believed that the date of trading is same as human date and also economic trading for meeting of human needs is cause of relationship between countries. War is an important case to enhance trading expenses so it makes some obstacles in the direction of trading (Howse, 2006). Disputes increases the price of goods, and reduced the exports of nations at war and so opposed nations try to limit using of those goods (W. Polachek et al, 2006). on the other hand, whereas some resources used for war, the expense of production raised and more interest make more expenses of war because the governments lose more interests. So the trading enhanced the peace (Watkins, 1942).

5.7. Right of Education

Economic, social and cultural covenant rights recognized individual's right to education. (Article, 13-2) The education aims to raise human character and enrich respect to basic human rights. For this purpose, the member countries of this contract, undertake high education for public (Zamani Shahraki, 2013).

Also by virtue of article 26 in human rights advertisement and article 28 in children rights convention, the right of education is a human right that has an important role in the human rights system. Because education make people aware (Dehshiry & Sharif, 2009).

Between two levels of elementary- middle school and high education, the role of access to new science for science life in high education is more important. High education as one of basis education right in human rights titles is under considered. The human rights declaration emphasizes on high education for all as a human rights. In other side, individuals with high education can make development and new way to high level of life. 26(1), universal declaration, (Dehshiry & Sharif, 2009) this will be achieved through broad access to educational resources like access to resources in different ways, such as students transfer, teachers, and access to new possible research (UNESCO Recommendation on the Recognition of studies and Qualification in Higher Education, UNESCO conference, UNESCO, Paris 1993).

So there is a bilateral relation between education right and free access to knowledge. On the one hand knowledge needs to train people for its development and one of the necessary cases of scientific activities is free access to scientific sources.

We proceed to free academic debate in access to knowledge. It means that members of scientific community can be free to follow knowledge, ideas, develop and extend them. These cases must be in the different areas of research, education, study, conversation, production, creation and inventions (Dehshiry & Sharif, 2009).

For academic freedom different cases and conditions must be verified. One of the necessary cases for free scientific activities is free access to scientific resources. So for academic freedom, knowledge must consider as public goods not private goods. (Academic Freedom 21th century, the AFT (American Federation of Teachers), statement of Academic freedom, 2007).

But we proceed to two issues of commercialization of scientific research and related them to security:

1-commercialization of scientific research:

Interests of trading require of unspoken research, that by make obstacles in information transfer and scientific, there is no chance to assess and examine information. So in the high education areas violate the right of education.

2- Connection of knowledge and security

For different pretext of security, academic freedom is ignored and nations prevent from emission of knowledge and prevent scientific research in the reason of politics (Dehshiri, Sharif shahi, 2009).

So education structure of the nation under interdicts, by the reason lack of requiring budget has high disorders, and spoiled the rights of children, teenagers and juveniles in access to enough education and training in these areas (Zamani, Sahraki, 2013).

5.8. Right of Development

The right of development is undertaking freedom and progress and enjoyment of each person from material and spiritual resources that include food, education, health, home, social security, arts, communication, freedom, security and all equipments for human life and growth of them (Molai, 2002; Senqobta, 2005). Based on international titles, the right of development is a universe right, inalienable and inseparable from basic human right, among them right of life and international society and other government should avoid some obstacles in this way.

Imposing Economic sanctions are the opposite direction, this task (Rai, 2001) and the weakening of the economic system of countries, stop its development in various cultural, economic, social fields and in some cases cause a rollback.

Totally violation of human rights in economic sanctions is evident and obvious sample of that are injurious sanctions on the rights of Iraqi people. Of course the sanctions have injurious effects on Afghanistan, haytie, Cuba and ...

6. THE EFFECTS OF SECURITY COUNCIL SANCTIONS ON NUCLEAR PLANNING OF IRAN

By considering ever increasing importance of nuclear energy, western countries in particular USA try to use different tools, such as sanctions and economic pressure for control of independent country such as Iran to access this critical and essential technology. These countries have refereed Iranian nuclear file to Security Council by supporting of propounding Iran nuclear issue in international atomic energy agency, and approved 10 resolutions in Council by SEP 2003 to Nov 2009, refer (zahrany and Dolatkah, 2010). Based on this issue, Security Council approved some resolutions against Iran in frame of seven chapter of Charter. By refer to repeated inspections of atomic energy agency, from nuclear installations of Iran and reports of

this agency based upon lack of evident against Iran and also by consideration to the right of peaceful using of nuclear energy, in particular to article 4 NPT, approved these resolutions by the goals of political impetus (Hojjatzadeh, sartipi, 2012).

These sanctions have worse effect on Iranian people, from enjoyment of basic human rights, and caused privation or limitation of rights to proper standards of life, health, education and development. These rights emphasized on different binding titles of human rights. Based on 1737 resolution and subsequent resolutions, Iranian subjects can't educate in the nuclear course of foreign university. In the line 17th of resolution 1737, all countries must refuse acceptance of Iranian people in the areas of nuclear issues and product of nuclear equipment systems. This joint is kind of innovation in Security Council interdicts, because Security Council has not already imposed such sanctions. Although education is a basic right and international organs can't limit this right for the reason of political issues and use of that in the especial way.

In all resolutions Iran has been asked to suspend enriching uranium and related activities, based on this asking, the rights of healthy, development and proper standards of life, for Iranian people is under effect of bad conditions (Zamani and Shahraky, 2013).

In joint 15 of resolution 1803, Security Council not only forbids Iran from industrial improvement, but also prohibits Iranian scientists from research activities and this issue is opposed of development rights of nations. In joint 5 of resolution 1747, sail and shift of any war equipment and related material, have been prohibited for Iran. Also in joint 6 of this resolution and in joint 8 of resolution 1929, prohibited sail and shift of any current weapon such airplane, helicopter, war ship and ... To Iran, and prevented other nation to finance or technical help to Iran. This interdicts have a negative effects on Iranian military power. The right of advocacy based on Article 51 of Charter recognized as an essential right. Based on joint 14 and 15 of Security Council resolution 1929, enact limits in the field of financial and insurance services and inspect against navigation activities, and based on joint 23 of this resolution, different limits against banking of Islamic republic of Iran. This interdicts have a negative effects on proper standards of life for Iranian people. Also in the oil and banking interdicts of USA and European nations against Iran, and by high dependency of Iran to sail of pure oil, limits Iranian people to main rights of Human rights. Reduced worth of currency and economic growth, economic inflation and....that are main factors of interdicts against Iran, caused unsuitable governmental services to people, raised unemployment, reduce of purchasing and other subject. In general it can be said that the common people were victimized from sanctions against Iran. So exertion of this interdicts are in comparison with human rights principles.

7. CONCLUSION

By study of world standards of Human Rights in Charter of United Nations (1945), WHO (1948), Children Rights Conventions (1989) and other related titles that accepted international principles, can claim that there isn't any confirm for sanctions when it causes human suffering. This case takes into consideration even economic sanctions prosper of United Nations Charter. Security Council by exertion of unjust and rough sanctions causes violation of basic rights of some individuals. Unlike Fredrick Schuster (2009), Marco .A (2012) and Bossyt .Marc (2000) who know only three conditions necessary for sanction, this research shows that Security Council shall exclude human rights such as the right of life, right of education, right of food, right of development, Right of trading, and etc from sanctions issue.

So unlike to some (E.g.: Emmitt Y. Riley, 2011) views that believe sanctions are effective tools for changing manner of purposed government, but experiments were In contrast to them and revealed some facts that the sanctions have bad effects on purposed people, and violate basic rights of them. This result is consistent with the findings of the Robert W, 2004, Hoskins, 1997 and Boris kondoch, 2003 and Mallory .w, 2013.



There isn't any independence and solid legal text about exceptions of interdicts that caused violation of nation rights. So two remedies are recommended:

1- By issue of resolution or letter of recommendation via human rights committee or general assembly of the United Nations, specifying exceptions of economic sanction and recommending them to Security Council and United Nations to follow that.

2- Permanent Supreme Court must demonstrate a formal commentary of seventh chapter of charter and must oblige council to follow that.

3- In the last step, United Nations must prepare independent international convention in this case and must foresee a mechanism to follow human rights in interdicts and protest against sanctions for government and innocent people

ACKNOWLEDGMENTS

The authors thank the staff, editorial board of the Journal and Ms. Samira Zare that helped me in the writing and editing this paper.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Planning and writing of the manuscript was done by the authors.

CONFLICT OF INTEREST

Author/s confirmed no conflict of interest.

COPYRIGHT

THIS IS AN OPEN ACCESS ARTICLE DISTRIBUTED UNDER THE TERMS OF THE CREATIVE COMMONS ATTRIBUTION (CC BY 4.0)

REFERENCES:

- Academic Freedom 21th century, the AFT (American federation of teachers), statement of Academic freedom, 2007, p.25
- Agim BEHRAMI and Bekir BEHRAMI against France and Application no. 78166/01, <http://www.jstor.org/discover/2014/9/30.p.323>
- Alston, Philip. (1982). International Trade as an Instrument of Positive Human Rights Policy, 4 Human Rights Quarterly, p.155
- Aminzade Elham, Golami Vahid, (2013). Economic sanctions under the rules of competition and social rights, of foreign relations, the third year, 2013, pp.181-210. (In Persian)
- Ariel Aarson, Susan, M. Zimmerman, Jamie. (2008). Trade Imbalance: The Struggle to Weigh Human Rights Concerns in Trade Policy Making, New York: Cambridge University Press, pp.7, 189.
- Arklesh Wiley, Alexander, (2005). The impact of peremptory norms of international law in the interpretation and implementation of Security Council resolutions, Syed Qasim zamani (Translator), The Journal of Legal Studies, Issue 7, Spring, Summer, p 82. (In Persian)
- Arrove, Anthony .(2000). Iraq under Siege: The Deadly Impact of Sanctions and War, Cambridge: MA, South End Press.p.145-158
- Boris Kondoch, The Limits of Economic Sanctions under International Law: The Case of Iraq, pp.268-294. <http://www.casi.org.uk/info/kondoch01.pdf>
- Bossuyt, Marc, The Adverse Consequences of Economic Sanctions, Economic and Social Council E/CN.4/Sub.2/2000/33 .pp.1-155.
- Brownlie, Ivan .(1995). Basic Documents in International Law. Oxford: Oxford University Press, p.255-263
- Carter Barry E .(1988). International Economic Sanction: improving the haphazard U .S. Legal Regime. Cambridge: Cambridge University Press, p.13.
- Convention relating to the Status of Refugees (CRSR), 28 July 1951.
- Dargahi, Borzou. (2010). Clinton's offer New Tatic in Iran sanctions. p.85
- Dashab, Mehryar (2009), The right of access to water from the perspective of international human rights law", Proceedings of weeks of study at the Faculty of Law and Political Science, published by Tabatabai, print 1, pp.63-66-70-69. (In Persian)
- Davidsson Elias .(1996). Ten myths about the sanctions against Iraq. By, 15 July 1994. World History Archives, p.3.
- Dehshir, Sherif Amaneh. and sharifshahi, Mohammad., (2009). Access to knowledge is necessary for the realization of human rights (civil and political rights and economic, social, cultural). Journal of Constitutional Law, no.12, pp.19-20. (In Persian)
- Emmitt Y. Riley III and CHANSE Travis, (2011), Better or Worse? The Impact of Economic Sanctions on Human Rights Revisited, University of Mississippi, pp.1-22, Available at <http://ssrn.com/abstract=2018708>
- Evans, Graham and Jeffrey Nvnam (2002), Culture in International Relations, translated Humira Moshir Zadeh, Hossein Sharifi Trazkvhy, Tehran, Mizan publisher, p.96. (In Persian)
- Farokh Sirri, Mansour. (2009), Legal restrictions for the Security Council in imposed economic sanctions , Journal of International Law, the Journal of International Legal Affairs Center Vice President for Legal and Parliamentary Affairs, Twenty-Fifth Year, No.39, pp.2-4. (In Persian)
- Frederick Schauer, (2009), WAS AUSTIN RIGHT AFTER ALL? ON THE ROLE OF SANCTIONS IN A THEORY OF LAW. University of Virginia, pp.1-33.
- Garfield, Richard (2002). Economic Sanctions, Humanitarianism and Conflict after the Cold War, Social Justice, Volume: 29. Issue: 3, pp.94, Questia Media America, Inc. www.questia.com

- Geiss, Robin (2005). Humanitarian Safeguards in Economic Sanctions Regimes: A Call for Automatic Suspension Clauses, Periodic Monitoring, and Follow-Up Assessment of Long Term Effects" *Harvard Human Rights Journal*, Vol.18, spring 2005, at www.Law.harvard, p.174
- Haddad, Mehdi., (2003). International Sanctions: A national policy or international enforcement, *Journal of theory Law*, Vol 1, spring and summer, p .109 (In Persian)
- Hannum, H (1998). The Status of the Universal Declaration of Human Rights in National and International Law, *Georgia Journal of International and Comparative Law*, Vol.25, p.208
- Harrison, James, Goller, Alessa (2008). Trade and Human Rights: What Does Impact Assessment Have to Offer?. *Human Rights Law Review* 8. Term Effects: *Harvard Human Rights Journal*, Vol. 18.p.587.
- Herndle. Kurt. (1995). Action by the Security Council: Evolving practice Beyond Traditional Peacekeeping, in *Contemporary International Law Issues: Conflicts and Convergence; Proceedings of the Third Joint Conference held in The Hague, The Netherlands, July13-15*.p.282
- Hojat Zadeh, Ali Reza and sartipi, Hasan., (2012)."Collaborative law practices in the transfer of peaceful nuclear technology, *Journal of Strategy*, No. 321,p. 65. (In Persian)
- Hoskins, Eric (1997). The Humanitarian Impacts of Economic Sanctions and War in Iraq, in Thomas G. Weiss et al, *Political Gain and Civilian Pain: Humanitarian Impacts of Economic Sanctions*, Lanham, Md: Rowman and Littlefield, pp.91-148.
- Howse, Robert (2006). Montesquieu on Commerce, Conquest, War, and Peace, *Brook Journal of International Law*, Vol 31.3.pp.6, 16
- Hufbauer, Gary, Jeffery Schott, Kimberly Elliott (1999). *Economic Sanctions Reconsideration 'today and Current Policy*. Washington, D.C.: Institute for International Economics.p.32
- Ibrahim Gul, Ali R., (2008). The right to food is a prerequisite for other rights, *Journal of International Law*, the twenty-fifth year, No 39.p. 222. (In Persian)
- Ibrahimi, Sayed Nasrallah, (2005). Justice, Human Rights and Challenges in International Law, *Journal of Islamic government*, No. 35, p 149. (In Persian)
- International Covenant on Civil and Political Rights, 1966.
- International Covenant on Economic, Social and Cultural Rights (16 December 1966)
- Kausch,HansG (2005).Boycott ;*Encyclopedia of Public international law*. Amesterdam, North-Holland Publishing co,p.74
- Kim Richard Nossal (1989). international Sanctions as International Punishment, *International Organization* Vol.43, No.2.p.12-15
- MALLORY OWEN 2013, The Limits of Economic Sanctions under International Humanitarian Law: The Case of the Congo, *TEXAS INTERNATIONAL LAW JOURNAL* Volume 48, Issue 1, pp.104-123.
- Marco Alberto Velasquez Ruiz, (2012), international Law and Economic Sanctions imposed by the United Nations' Security Council. Legal implications in the ground of economic, social and cultural rights *Int. Law: Rev. COLMB. DERECHO Int. Bogotá (Colombia)* N° 21: pp. 223-254,
- Mirzade nader and Sepehrifar, Sima, (2013). The State's obligations towards the right to food, according to Article 11 of the International Covenant on Economic, Social and Cultural Rights, *Journal of Law, journal of Faculty of Law and Political Science*, Volume 34, Summer, No. 20, p. 45. (In Persian)
- Momtaz Jamshid., (2009). Security Council sanctions compliance with human rights and international humanitarian law, *Journal of Law, Faculty of Law and Political Science*, Volume 38, Number 4,pp.344, 347, 348. (In Persian)
- Mowlai, Joseph, (2002). the universality of human rights to development, *Journal of the Faculty of Law and Political Science*, No.56.pp.49-83. (In Persian)
- Mowlai, Joseph, (2007). Third-generation human rights and the right to a healthy environment, *Quarterly Journal of Law, journal of Faculty of Law and Political Science, Tehran University*, Volume 37, Number 4,p.277. (In Persian)

- Normand, Richard (1996). Iraqi Sanctions, Human Rights and Humanitarian Law, Middle East Report. P.40–43.
- Quinn Robert P. O, Policy Analyst (2000). The Heritage Foundation Backgrounder. No.1126 of 25 June, p.28.
- Rai, Masud., (2001). the right to development in contemporary human rights, Journal of Knowledge, No. 49.p. 27. (In Persian)
- Resman, w. Michael and L. Sterick, Douglas (1998). The applicability of International law standards to United Nation Economic Sanctions Programmers. European Journal of International law (EJIL), VOL.9. pp.104, 114,116
- Robert W. McGee, (2004). the Ethics of Economic Sanctions. Economic Affairs, Vol. 23, pp. 41-45,
- Sengupta, Arjun, (2004). The right to development in theory and practice, manochehr Tavassoli (Translator), The Journal of International Legal Services Law No.33,p.178-190. (In Persian)
- Shayeganfar, Farid, (2001). The UN Security Council and the Peace and International Security, published by the Faculty of Law and Political Sciencepp.23-25. (In Persian)
- Tridimas, P. Takis and Gutierrez-Fons, Jose A, (2009). EU Law, International Law and Economic Sanctions against Terrorism: The Judiciary in Distress?. Fordham International Law Journal, Forthcoming; Queen Mary School of Law Legal Studies Research Paper No. 11/2009, pp.660-730
- UNESCO Recommendation on the Recognition of studies and Qualification in Higher Education, UNESCO conference, UNESCO, Paris 1993.
- Vidar, Margaret, (2003). The Right to Food in International Law, South Africa, The Socio-Economic Rights Project of the Community Law Centre, University of the Western Cape,p.2,3
- W .Polachek, Solomon, Seiglie, Carlos (2006). Trade Peace and Democracy:An Analysis of Dyadic Dispute”, IZA Dp No 2170, June,p.10
- Wai, Robert. Countering, Branding, Dealing (2003). Using Economic and Social Rights in and Around the International Trade Regime, European Journal of International Law, vol14, no 1, pp. 41- 45
- Watkins (1942). Democracy and international organization: the experience of the League of Nations, American Political Science Review 36. p.42
- Wilson, John S. Mann, Catherine L, Otsuki, Tsunehiro (2003). Trade Facilitation and Economic Development: a New Approach to Quantifying the Impact. The World Bank Economic Review, vol 17, no 3.p.368
- Zahrani, Mostafa. dolatkah, Zahra., (2010). Comparison of sanctions the Security Council against Iran and North Korea , strategy juornl, no55,pp.140, 144 and 146. (In Persian)
- Zamani Seyed Qasim and Meydani Sadat, Seyed Hassan, (2006). Performance Security Council on Iran's nuclear program: referral to boycott, Journal of Legal Studies, No. 10.pp.40-39. (In Persian)
- Zamani Seyed Qasim, Zangane shahraki, Jafar., (2013). International sanctions violate human rights: the challenge to the legitimacy of the law to international responsibility, quarterly strategy journal , since 22, No. 67,pp. 38, 20, 40, 42, 43 and 44 . (In Persian)
- Zamani Syed Qasim and Mazaheri, Jamshid., (2011) . Resolution 1929 by the Security Council sanctions, threats or keep the peace?, Journal of International Law, twenty-eighth year, no. 44.pp. 116, 120, 121 , 127. (In Persian)
- Zamani Syed Qasim, (2006). human cloning and Right to Health in the realm of international law, Law and Policy Studies, No.19, p.30. (In Persian)
- Zarif, Mohammad .J and Mirzaei, Saed., (1997), America's unilateral sanctions against Iran, Foreign Policy Journal, Issue 1, Year 11. P. 92. (In Persian)