



# World Scientific News

WSN 16 (2015) 12-27

EISSN 2392-2192

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## The impacts of economic sanctions on human rights in countries of Iran and Iraq

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### ABSTRACT

Economic sanctions serve as a foreign policy tool which allows a country or countries to exercise their own political ends on the target country by the time a conflict unfolds. Sanctions mean actual deprivation or threats to deprivation of the target country from access to economic resources in order to create changes to the policies of that country which are principally exercised unilaterally, multilaterally or collectively. After the First World War, the number of 183 rounds of economic sanctions were enforced where as many as 140 rounds of which had been implemented by the United States. Today, explanation of adoption and exercise of most economic sanctions is based on human rights claims. Despite all this, a closer look at the impacts of sanctions and also failure and success of which in fulfilling their goals reveals that sanctions are not appropriate tools for the promotion of human rights and their safeguarding. Sanctions have some adverse impacts that could lead to a degradation of human rights in the target country. This impact mostly emerges due to the dependency of human rights on the income level of the states; because a state must have enough resources so that it can promote education, health, employment and other human rights norms. Through this channel, this research intends via a scientific analysis method and utilization of credible researches with reference to credible evidence and judicial procedures of international authorities to substantiate whether there is a rational relationship between the category of economic sanctions and its relevant legal elements within human rights and international laws. In this analysis by relying on international teachings and based on legal arguments, the legitimacy extent of the U.S. sanctions against Iran and Iraq has been assessed and an overall picture of is presented.

**Keywords:** Economic sanctions, Legitimacy, Human rights, International rights

## **1. INTRODUCTION**

For the fulfillment of each organization's goals, some pillars and mechanisms are instituted so that they guarantee the effectiveness and efficacy of the decisions of that organization. The United Nations whose foundation is based on the ruins of the Second World War, the only body with authority and sanction is the Security Council; a council which due to its unfair structure and existence of the veto right, the spirit governing its decisions is more than anything founded on the political interests and tendencies of its permanent members. However, the world states who had been plagued by the damages of two World Wars succumbed to this discriminatory structure in the face of frustration and hope of freedom from the wars and entrusted the security council the responsibility of maintaining international peace and security; hence they foresaw some tools in the Charter for safeguarding maintaining international peace and security; most important of which are economic sanctions. With the Cold War ended, the Security Council managed to use these tools in numerous cases. Of course, in the beginning sanctions were praised as a method involving no costs and or risks amounting to military conflicts; however the harmful outcomes of sanctions on human rights laws and the lives of civil people of the target countries gradually began to come to surface.

Violation of human rights in sanctions was followed by numerous criticisms by people, groups and international organizations and in this regard, extended discussions in the area of illegitimacy of these sorts of sanctions from the international regulations perspective were raised. Given the fact the Iranian nuclear case is raised in the security council and adoption of sanction resolutions which as a matter of fact leave the highest costs and negative impacts on the shoulder of people and the Iranian peoples' right to human rights and also due to an absence of legal resources in this regard, it sounds necessary to explore legitimacy and legal liability of sanctions breaching human rights.

The research hypothesis is that sanctions in most cases have resulted in the violation of human rights and the adoption and exercise of these kinds of sanctions will contribute to the fulfillment of the international responsibility of the body imposing them. Given this hypothesis and relying on legal evidence and documents, the legal basis for the imposition of sanctions in the United Nations, impacts of sanctions on human rights laws in accordance with examples of sanctions being imposed, duties of countries against sanctions in breach of human rights and international responsibility of the security council against these decisions will be investigated. In this analysis, by relying on international teachings and based on legal arguments, the legitimacy extent of the U.S. sanctions against Iran and Iraq has been assessed and an overall picture of is presented. In defining sanctions, we can state that it is an economic tool for causing a country to change behavior which is used by another country. Economic sanctions against the Islamic republic of Iran are sanctions which have been experienced since the beginning of the Islamic revolution and were intensified during the War and are persisting as we know it where sanctions are seen rising in recent years.

The West and the United States on top, when they felt they would not be able to cause Iran to surrender and deter it from the path it had taken and get it to redirect to the course they favored through military and political threats, they decided to act within the economic area. For them, economic sanctions and pressures against Iran would incur massive costs of the administration of the country for the government of the Islamic Republic of Iran and thus the country would find it difficult to continue working; on the other hand, they thought higher costs and economic inefficiency would result in popular dissatisfaction with the government

and hence the Islamic Republic government would not work easily; thereby the West as they thought would manage to seize its goals with little costs and avoid a direct confrontation with Iran and hence obtaining their most favorable result, i.e. changing the political system in Iran.

This article strives to delineate a situation of a full blown economic war against Iran and Iraq's nations and provides a realistic view on sanctions state to the readership. This research intends via to substantiate whether there is a rational relationship between the category of economic sanctions and its relevant legal elements within human rights and international laws. In this analysis by relying on international teachings and based on legal arguments, the legitimacy extent of the U.S. sanctions against Iran and Iraq has been assessed and an overall picture of is presented. The most significant objectives of the article are:

1. Exploration of the impacts of crisis in the U.S. and Iran relations and sanctions polices against Iran
2. Substantiation of a rational relationship between the category of economic sanctions and its attached legal elements
3. Guidelines for confronting economic sanctions and bypassing them
4. Exploration of negative impacts of economic sanctions on the implementation of human rights in Iran and Iraq

## **2. METHODOLOGY**

This research is a theoretical one which falls under the comparative and descriptive type of research. In this research most work is based on library method. The material needed has been collected by using library, digital library, profile of publications, Persian papers and the internet. We then categorized all the material after taking notes and gathering information and thereafter we laid them in separate chapters and then based on thesis methodologies we theoretically analyze them comparatively.

Since the Iranian country has been facing with global pressures after the victory of the glorious Islamic Revolution and given the fact this nation has been grappling with the abyss of wars and confronting military wars and threats to wars and struggling with economic sanctions and because economic sanctions have been imposed against Iran by Western nations and the fact that the West's unilateral sanctions and particularly those imposed by the U.S. against our economy is a matter which depends on various factors, we need to have closer look at all dimensions of sanctions and thus, it becomes imperative to explore the legitimacy and effects of the U.S.'s sanctions and the West against Iran as well as guidelines for bypassing them.

As we know the United States has not specified a clear position in its own sanctions against Iran; though these sanctions are expressed under the pretext of avoiding the jeopardy of the international peace and security because of Iran's Nuclear Program; however upon interpreting the views of the heads of this country and the past 35 year record of the positions of the two countries of Iran and the United States against each other, it appears the United States did not have good will on sanctions against Iran with regards to the international community and follows its objectives for the sake of weakening and finally subverting the Islamic Republic of Iran system. In his book titled "Reflections on American economic sanctions against Iran from an international law perspective", Zyaee (2012) states that

American unilateral actions against Iran in imposing sanctions violates the principle of peaceful coexistence among states which necessitates respect for political principles of the international law, i.e. legal equality of states, non-intervention, collaboration and friendship, respect for independence and territorial integrity of states among member states of the international community. These types of measures, due to the fact they are not legitimate lack international prestige. For this, within international sanctions framework, special attention should be directed at such aspects as legitimacy, their necessity and adequacy and also at the impacts of these sanctions on innocent civil people.

## **2. 1. Legal basis of imposition of economic sanctions by the Security Council**

The Security Council within the framework of international peace and security enjoys the authority to impose sanctions in the context of the Charter's Seventh Chapter. This Council as safeguard of international peace and security must first establish the existence of "threats against peace", "violation of peace" and or "aggression" and then reflects upon it, advises, requests for provisional measures and or embark on a forcible action. The first Council's action, i.e. establishment of the above-mentioned cases should be once performed when some serious threats to the international peace and security has occurred. Hence, political objectives and motives of the Council's members must not be effective in this establishment. Of course, no criterion is set for determination and establishment of the status of "threats against peace" and, "violation of peace" and "aggression" in the Charter and this issue has caused ambiguity regarding these three terms. The Security Council's procedure in this regard, too has been shaky and founded on political tendencies of the permanent members of the Council.

Thus, article 39 of the Charter has met with numerous criticisms and investigations (Falsafi, 1990). Meantime, United Nations' members states who were discontented against referral, definition and determination of the three cases to the Security Council and as result were dissatisfied with unlimited expansion of the Council's authority and performance, made every effort for explaining criteria in this regard.

However, the Security Council, having established the three fold items and in order to prevent the situation from aggravating could ask the stakeholders prior to any action to perform provisional actions which are deemed by the Council as necessary and favorable and it also could provide advices in line with maintaining international peace and security or decides what military or non-military actions should be done for safeguarding the international peace and security. Non-military measures stipulated in article 41 of the Charter is the main foundation for the United Nations' sanctions and on this basis, the Security Council, while implementing its own decisions could request the member states of the United Nations to enforce the sanctions intended by the Security Council against the wrongdoing country or countries.

These measures could contain ceasing all or parts of economic relations, railway, marine, aerial, postal, telegraph and radio communications as well as communication instruments and also severance of political relations. Unlike the recommendations by the Security Council in article 39 which is not binding and a disagreement over the provisional measures of article 40 to be bindings (Zamani and Sadat Meidani, 2007), the Council's decisions will be binding for the member states of the U.N. as per articles 41 and 42.

In practice, the Security Council, prior to the 1990s due to bipolarity of the Cold War and the Veto Right had just managed to impose and enforce sanction in two cases of South

Rhodesia (Current Zimbabwe) and South Africa whereas with the collapse of the East Bloc and end of the Cold War, this council was brought under the indisputable influence of Western Countries led by the United States. Thus, its interferences in international developments saw a great increase. In accordance with these conditions, the Security Council managed to adopt numerous binding resolutions (Torabi, 2007), and to make use of economic sanctions broadly (Geiss, 2005).

## **2. 2. International organizations and states' commitment towards Human Rights**

When the United Nations was formed, Human Rights found an elevated position in the international community and countries and international organizations through various treaties declared their own commitment towards International Laws on Human Rights; laws, most of which were binding prior to the finalization of Human Rights treaties as conventional rules of the international laws; the International Court of Justice in its advisory theory with regards to the Convention for the prohibition of genocide, consider the principles underlying the Convention's foundation as binding even without any kind of arbitrary commitment on states (Rostam Zade, 2005).

Tanaka, the Judge at the International Court of Justice states in his theory on the Southwest Africa that international treaties announce the existing standards of the Human Rights which are credible and binding. However, some documents that can be invoked in regard to respecting the Human Rights in sanctions are binding while some others remain non-binding.

Binding documents: Of most significant of these documents is the Charter of the United Nations. One of the United Nations' objectives in the Charter is international cooperation for promotion and encouragement of respect for the human rights. In this document, states, the United Nations and the interested elements are obliged to take steps for promotion of life quality, right to employment, expansion of economic and social affairs, public health and respect for human rights. Also, as per article 24 of the Charter, the Security Council is obligated to fulfill its own actions in the context of Charter's principles and objectives. Of binding documents are special documents on Human rights and humanitarian documents with such subject matters of Treaties and Conventions.

Non-binding documents: Human rights in proportion to their own nature involve various non-binding documents. The most significant of the documents are the resolutions by the General Assembly of the United Nations, specifically the World Human Rights Declaration and the enactments which are considered to be the explanations of the article 1 of the Charter with regards to respect and promotion of the human rights. The General Assembly's resolutions, though advisory not being per se binding are of high significance given the fact they are adopted with reference to the binding human rights' documents and the fact in accordance with the near unanimous membership of the World Countries in the General Assembly, the resolutions are indicative of the collective will of the world community and the international custom.

## **2. 3. Comparative investigation of the impacts of sanctions on human Rights issues**

Studying conditions arising from the Security Council's sanctions based on documents and reports indicate sanctions violate various human rights and humanitarian principles by breaching distinction principle.

### **2. 3. 1. Right to life**

Right to life as the most significant and highest right from which other rights derive has been emphasized in article 3 of the World Human Rights Declaration, article 6 of the International Political and Civil Treaty (Brownlie, 1995), article 6 of the Convention on Child Rights and many other international documents (Vakil, 2005); this right has been supported by many countries as an inherent right of all human beings. Devastating outcomes of sanctions on the Right to life which is surely an authoritative rule that cannot be encroached (Jill and Sun, 2000) is undeniable in many rounds of sanctions specifically in encompassing sanctions; because all out poverty, cessation in supplying social services and food and drug shortage as a result of embargoes will entail spreading of diseases and increase of fatality rates. According to the reports by various bodies of the United Nations, effects of sanctions in Iraq, including shortage of healthy drinking water, food and primary life supplies led to death of hundreds of thousands of vulnerable people. In this regard, women and children endured the highest devastating effects of sanctions.

### **2. 3. 2. Right to enjoy appropriate life standards**

According to the Human Rights Declaration, any individual has the right to provide his and his family life quality, health and well-being in terms of supplies, housing, medical care and necessary social services. The right to social security and enjoying prestigious life conditions should be respected even in circumstances of unemployment and illness. This right has been broadly stipulated in articles 11 and 12 of the international Treaty on Economic, Social and Cultural Rights and the signatories of this treaty have recognized the right of man and his family to have equal appropriate level of life quality and continued promotion of these conditions and thus have announced their own pledge over the adoption of conducive measures in this regard. Sanctions by leaving negative impacts on production, employment and national income have produced low economic return, low and unfair distribution of labor and services and caused irregularity and social gap. Totally, this has led to a degradation of life quality and peoples' livelihood, thereby depriving them from having appropriate life standards. Statistical reports about Iraq and Haiti confirm this issue (Garfield, 2002).

### **2. 3. 3. Right to Health**

The right to health and enjoying medical and treatment services is among the rights which have been stressed by the Human Rights Documents. The Treaty on Economic, social and Cultural Rights recognizes the right of all people to enjoy the best physical and mental status of human beings and gets all countries to commit to fully provide this right, so that they offer measures for reducing abortions, reducing child fatality, improving healthy growth conditions for children, improving medical care, preventing, treating and combating diseases specifically infectious and prevalent diseases, and creating conducive conditions for establishing medical centers for the public. Reports by the international bodies on Iraq suggested that sanctions had highly increased fatalities by disrupting necessary infrastructures for health and therapy services. In these reports it was stated harsh economic sanctions had led to food shortage and destruction of the healthy drinking water system. Hence, many requests were offered for putting an end to human suffering and miseries of the peoples of Iraq by removing the sanctions imposed.

### **2. 3. 4. Right to Education**

The Treaty on Economic, social and Cultural Rights recognizes the right of each person to access to Education; education whose goal is growth and development of man and reinforcement of respect for basic freedom and rights. For this purpose, member states of this treaty have pledged to make the primary education as compulsory and offer it to the public freely. Making the high school education and the academic education public for people by all means is among the commitments of the member states of the treaty. The national education structure which is influenced by harsh economic sanctions has met with serious problems due to economic problems and absence of necessary budget, thereby resulting in wastage of a large spectrum of people, particularly children and adolescents' ability to access education and enough services in this regard.

### **2. 3. 5. Right to development**

The right to development guarantees freedom, progress and fair enjoying of material and non-material facilities and sources by human beings which the global community has at its disposal and include food, education and health, housing, social security, art communications, freedom, security and all means and arrangements which safeguard the continuation of man's life and his material and spiritual development (Molaei, 2003). According to the international documents, the right to development is a universal, inalienable and inherent right of all human's basic rights including the right to life and meantime the international community and the states need to avoid creating obstacles in the strategy of enjoying the right to development and direct effective collaboration for the fulfillment of the right to development and removal of its obstacles (Vakil, 2005). Imposition of economic sanctions has been staged in the contrary direction of such a duty (Raei, 2000); weakening of the countries' economic system will cause to cease their development in different cultural, economic and social areas. Reflecting on countries being under relatively comprehensive sanctions, we will find out that the right to development is as a matter of fact one of the most vulnerable human rights' criteria within the framework of sanctions. In total, violation of human rights by economic sanctions is an indispensable affair and its salient example is harmful effects of sanctions on Iraqi people by the time of Saddam's tenure (Tabatabaee, 2000). Dozens of reports and investigations by the United Nations' agencies, NGOs and independent groups have explicitly considered people of Iraq as the main and primary victim of the sanctions and believe the role of sanctions as undeniable in breaching the basic human rights in Iraq in its entirety.

### **2. 4. Human rights impacts of the Security Council's sanctions against the Iranian nuclear program**

In accordance with the increasing significance of the Nuclear Technology, western nations, specifically the United States have made efforts to make use of different tools including sanctions and economic pressures for preventing independent countries like Iran from accessing this sensitive and necessary technology. These countries by supporting the Iranian nuclear program to be raised in the International Atomic Energy Agency and adopting 10 resolutions by the board of governors since September 2003 to November 2009 have referred this dossier to the Security Council (Zahrani and Dolatkhah, 2010). On the same basis, the Security Council has ratified various sanction resolutions against Iran in line with

the Charter's Seventh Chapter. In accordance with repeated inspections by the IAEA of Iranian atomic installations and reports of the agency about non-finding of evidence or clues as to the deviancy of the program from its peaceful course and also in accordance with the fact countries have inalienable right to peaceful nuclear technology within the international documents (Hojjat Zade and Sartipi, 2012), specifically as stipulated in article 4 of the famous Non-Proliferation Treaty (NPT), the ratification of these resolutions could just be explained through political objectives and motives. Apart from the measures being political and enforcement of dual standards by the Security Council in the area of Non-Proliferation, sanctions inflict most damage to the people of Iran in regard to having fundamental laws on Human Rights thus resulting in deprivation or at least restriction of people of Iran in enjoying these rights like rights to appropriate life quality level, health, education and development. These rights have been stressed in various and binding documents; however the Security Council, based on international sanctions and also those of the U.S. government and its western allies has adopted unilateral embargoes (Valizade, 1997) and putting constraints on the Iranian peoples' rights to these rights, thus violating human rights in this country. We refer to some instances in this regard:

As per resolution 1737 and its subsequent resolutions, Iranian nationals cannot study in higher education centers and universities of foreign countries in fields which are related with the nuclear program. It has been explained that restriction and prohibition from studying abroad for the Iranian nationals in some specific fields will result in the application of the knowledge acquired for the nuclear and missile programs of the Iranian government. Paragraph 17 of the said resolution which has been emphasized in later resolutions asks all countries to prevent admitting Iranians students or training Iranian nationals in their lands or by way of their nationals in areas which could contribute to the sensitive nuclear program and production of nuclear warheads missile programs of the Iranian government. This clause is a kind of innovation in the Security Council's sanctions, because the Security Council, upon claiming to sanction states has not put forward such sanctions against any other country. In spite of the fact that Education is a fundamental right of man and states and international organizations cannot restrict this right for political reasons and potential using it in the future, the Security Council requested the states to put in place some stringent educational regulations and not to allow Iranians to acquire sciences related with Nuclear and missile technologies (Zamani and Sadatmeidani, 2007).

In all these resolutions, Iran has been requested to suspend Uranium Enrichment and the activities related to it; essentially, the foundation of this request, in accordance with numerous applications of the nuclear technology and its role in development and progress of different sciences like medicine and production of radio drugs, agriculture and production of electricity has affected the human rights of Iranian people in different areas including the right to health and development and enjoy appropriate like conditions. The Council in paragraph 15 of the resolution 1803 not only bars Iran from industrial enrichment, but it also prevents research activities and development of these sciences by the Iranian scholars and this is a point which is clearly contradictory to the right to development and progress of nations. Clause 5 of resolution 1747 by the Security Council bans sale and transference of any kind of weapons and related material to the Iranian government and prevents provision of such items from Iran for other countries.

Also, in paragraph 6 of this resolution and in paragraph 8 of the resolution 1929, sale and transference of any kind of conventional weapons including airplane, helicopters and

warships and the like to Iran has been banned and countries have been prohibited from any sort of financial and technical assistance in this regard. These sanctions in case of weakening the military foundation of Iran will leave a negative impact on the legitimate right of the Iranian nation against possible aggressions by foreign powers ; a right to defense which has been recognized as an inherent right as per article 51 of the Charter. In this regard, the case of Russians not delivering the S-300 missiles shows that despite the contract between the two countries, the missile delivery has been postponed. As per clause 14 and 15 of resolution 1929 of the Security Council, restrictions in the area of financial and insurance services and inspections have been imposed against shipping activities and according to clause 23 of this resolution, various restrictions have been enacted against the Islamic Republic of Iran's banking system. In accordance with the significance of the banking and shipping services in development and advancement of countries, these sanctions and constraints and the similar instances will leave negative impacts in the Iranian peoples' right to appropriate life standards and other rights stipulated on the international human rights documents and thus it will be the people who bear the costs of the sanctions.

Also, concerning recent American oil and banking embargoes in alliance with European countries against Iran, and given the intense dependency of Iranian economy on states' oil revenues, these sanctions aimed at reducing the states' revenues will violate the peoples' right to many human rights laws. Reduced value of the national currency, reduced economic growth, inflation and rising prices, the major reason for which has been enforcement of sanctions against the Iranian economy in the area of oil and banking sector in the past two years have all led to reduced services to people by the states, increased unemployment rate and reduced peoples' purchasing power for the low income classes. Wholly, we can say that the main victims of the Security Council's sanctions and those imposed by the United States and the European allies against Iran are the normal citizens in the country. Thus, adoption and exercise of these sanctions are in disconformity with the human rights and lack credibility in terms of international laws.

## **2. 5. Security Council's jurisdiction**

In maintaining international peace and security and the issue of human rights violation, this suspicion might be raised that in contradiction between significance of international peace and security and that of human rights, it is the international peace and security which precedes and the Security Council can impose sanctions in violation of human rights. To respond to this suspicion legally, the Charter which is the basis for jurisdiction and authority of the Security Council regarding international peace and security must be referred to. Concerning the liability for the international peace and security which is vested upon the Security Council as per article 24 of the Charter, there are two fundamental theories. By highlighting the significance of the international peace and security, some consider the Security Council as having unlimited and all out authority and maintain that there is no obligation for the Council's obedience of the international legal rules and the Charter (Kelsen, 1951). To the contrary, most international law experts, in accordance with legal documentations consider the jurisdiction of the Security Council as with regard to maintaining peace and security as being limited to the Charter's international regulations and laws and maintain that throughout the Charter, there is a serious endeavor for adopting norms which make the powers of the Security Council conditional (Shayegan, 2001).

Also, reports by the Conference on adoption of the Charter in San Francisco indicate that the international law has been implicitly intended as the norm basis of the Charter. However, justly investigation of the Charter's material also confirms the second theory; because the stipulation of clause 1 article 1 of the Charter stating fulfillment of international peace and security in the light of justice principles and international laws has been inferred that the elements of the United Nations are exposed to the international laws and are obliged to observe international law rules while performing their duties; an affair which has been emphasized in the decisions by the International Court of Justice.

Another major attribution in this regard is clause 2 of article 24 of the Charter which in regard to the liability for maintaining international peace and security explicitly obliges the Security Council to observe United Nations' objectives and principles and has stipulated: "The Security Council will act upon objectives and principles of the United Nations while performing these duties". Therefore, the authority of the Security Council in maintaining the international peace and security is limited to observance of Charter's rules and international laws and since the principle of support and observance of human rights as one of the objectives of the United Nations in the Charter and international laws is undeniable, the Security Council cannot from a legal point of view breach the human rights laws with reference to the international peace and security.

Imposition of sanctions in violation of human rights is encroachment of the different material of the Charter and the International laws and lacks legal legitimacy. On the other hand, it is noteworthy that human rights violation, by any means, including imposition and enforcement of economic sanctions could allow for the violation of international peace and security, as the Security Council itself has extensively breached the human rights in such cases as Rwanda, Yugoslavia and the like.

The United Nations' General Assembly with a realistic analysis in regard to the human rights violations in the policy of Apartheid by the South Africa announces through the resolution 721 enacted on December 8, 193 that : "To safeguard sustainable peace, it does not suffice for the collective treaties on combating the violation of peace and act of aggression to be finalized..... rather maintaining actual peace depends on observance of all principles and objectives announced in the Charter, specifically the human rights and political freedoms for all" (Savari, 2011). In any case, the international community has comprehended the significance of supporting the human rights and in the past two decades, it has strongly responded to a number of crises and wide ranging violations of the human rights through different ways of expansion of peace keeping missions or even guidance of military interventions; these interventions could include military humanitarian interventions in Somalia in 1993, Yugoslavia in 1999, Kosovo in 1998 and Darfur in 2003; measures that indicate unbreakable links of maintaining international peace and security with human rights (Sajjad Poor, Mohamdi, 2012).

Regarding the international community developments, we observe expansion of norms and modern measures with the aim of supporting the human rights and emphasis on development of accomplishment of the international justice. Creation of courts by the United Nations in relation with the crimes perpetrated in domestic wars of Rwanda and former Yugoslavia and also establishment of the International Criminal Court are among fundamental actions done by the international community in the area of combating the human rights violation and indicate a move towards the international justice and prominence of human rights.

## **2. 6. Legal outcomes of human rights -violating sanctions imposed by the Security Council**

It has been specified from the material that imposition of sanctions violating the human rights lack legal legitimacy. Illegitimacy of the sanctions will involve two outcomes: non-obligation of countries to observe these sanctions and creation of international liability for the United Nations and the Security Council against human rights violations.

### **2. 6. 1. Duty of United Nations' member states against sanctions violating human rights**

Members in article 25 of the Charter stipulated agree to accept and enforce the decisions by the Security Council in accordance with the Charter. The concept of the article is should the decisions including sanctions by the Security Council are not found to be based on the Charter, e.g. they are in violation of the principles and objectives of the United Nations, countries shall not be legally bound to accept and implement those decisions (Shayegan, 1999). The legal effects of a resolution by an international element hinges on the authority of that element (Farokh Siri, 2009). In case the decision adopted is in contradiction with treaty entrepreneur and the jurisdictions provided therein, the act is regarded as out of the powers and duties and it shall not entail any legal effects. As a consequence, the sanctions violating human rights, in terms of violation of the Charter's laws and international laws are outside of the legal powers and authority of the Security Council and lack certain legal credibility. Hence, the actions are not only non-binding for the member state of the U.N. (Sadat Meidani, 2005) but also the duties and commitments of the countries for supporting the human rights require confrontation with these kinds of sanctions.

### **2. 6.2. Basics of the international responsibility of the Security Council against violation of human rights in sanctions**

International organizations due to enjoying rights and duties at an international level have legally independent characters apart from the members (Talaee, 2010) and possess legal capacity for performing their duties. Although the legal character of the United Nations has not explicitly been mentioned in any of the Charter's articles, accomplishment of objectives and principals of the United Nations' Charter makes the existence of the legal character for the United Nations' unavoidable. In article 1 of the Charter, such great objectives as maintaining international peace and security, expansion of friendly relations in the international arena, obtaining of international cooperation in resolving international issues with economic, social and cultural aspects for the United Nations and humanitarian cause have been determined (Brownlie, 1998). This article is implicitly inferred that the United Nations' founders have intended to create an international legal character, because it is impossible to achieve these goals without having a legal character being in possession of authority and duty. Wholly, from the Charter's articles it is easily inferred that the United Nations and even its specialized bodies do possess some international legal character (Ghorban Nia, 1996). Existence of legal character of international organizations has also been reflected in advisory decisions of the International Court of Justice.

In its advisory decision in 1949, the Court regarding the case of damages inflicted on the U.N. staff states " U.N. members have unanimously created a mechanism which possesses an independent international character and thus it can act to prosecute legally and offer an international petition for the compensation of the damages done on the organization or its

officers or ask for reimbursement against the country inflicting damage if the said country is a member to the Organization or not". Also, the Court in its own advisory decision in 1956, in response to the General Assembly on the authority of the bureaucratic court of the international labor organization implicitly confirms that UNESCO could raise a claim as the plaintiff. Existence of a legal character for the international organizations will involve the authority for enjoying rights and duties. The jurisdiction for concluding treaties, lawsuit, establishment of diplomatic relations and using of privileges and attached immunities are among the rights of the international bodies (Brownlie, 1998). On the other hand, when an organization has a legal character independent of the members, it needs to assume international responsibilities against violation of its duties because international organizations as legal persons assume some duties and commitments in accordance with the international laws and in case organizations breach international agreements and treaties, whether the encroachments are on form of acts or omission, they will be held liable (Zamani, 2005).

### **2. 6. 3. Comparative investigation of international responsibility elements in imposition and exercise of sanctions violating human rights**

Although rules pertinent to international responsibility fall more or less under the Common Law, numerous efforts have been made for codification of these legislations. The International Law Commission which is charged with formulating and developing international laws, after years of debate as to the rules of civil responsibility offered in 2001 its final report regarding states' international liability. Of course, the responsibility of the organization has not been mentioned in this scheme, but in accordance with the fact the rules formulated in this plan are derived from Common Law of the international law which include all legal persons, one can broaden the international liability to all elements subjected to the international laws including states and organizations and use rules in assessing the Security Council's responsibility against adoption of sanctions violating the human rights.

As per article 2 of the plan of states' responsibility (2001) two elements of violation of international commitment and attribution are necessary for the fulfillment of international responsibility. The International Court of Justice, in various decisions including advisory and lawsuit based has compared and investigated these two elements. The Security Council, due to the Charter's regulations cannot impose sanctions which violate the Principles and objectives of the United Nations. Sanctions violating the human rights upon the infringement of specialized human rights documents will violate articles 1, 24 and 55 and this is the violation of the interactional commitments by this element of the United Nations. Regarding the second element, i.e. attribution of violation from international commitments with regards to the subject of sanctions violating the human rights as stated in the decisions by the international Court of Justice and inspired by the International Law Commission Plan regarding the states' international liability, international organizations are not like natural and legal persons, rather in a real world, bodies and staff of an organization perform duties on their part (Ghorban Nia, 1996).

In a final analysis, by considering recent developments of the international law which is based on the necessity of expansion of international cooperation in all areas, specifically commercial exchanges under fair conditions, states are obligated to avoid from resorting to any action deemed contradictory with the international cooperation. No doubt that international cooperation is the ends of the United Nations and economic sanctions threaten international cooperation seriously. International sanctions due to some reasons like the

principle on non-intervention, principle of free trade, different international treaties, international responsibility system, human rights, and right to development are illegal and lack legitimacy. Although as per chapter seven of the United Nations' Charter, the Security Council has the authority to use sanctions as a tool for the sake of international peace and security, this jurisdiction is limited to conditions including observance of U.N.s' principle and objectives. In fact, the Security Council has the duty in its actions to act upon the international laws particularly the U.N. Charter.

### **3. CONCLUSIONS**

As we know economic sanctions are not free from impacts and to reach Revolution's ideals and objectives, relevant costs must be endured. However, reducing the effects of these sanctions, bypassing and neutralizing these sanctions and in case the opportunity to retaliate could be in priority. In this regard, there are various options for countering and containing sanctions ahead of the Islamic Republic of Iran; firstly, some of these guidelines will be effective in the short term and some in long term and hence for ensuring permanently getting rid of problems, both cases must be attended to. Secondly, success in any of the recommended guidelines requires prediction of various scenarios and needs laying the ground for some arrangements; thirdly, to prevent reverse results from appearing, all outcomes and side effects (short term and long term) must be investigated fully and measures be taken with accurate and sufficient planning. Fourthly, always through necessary predictions, newer methods should be intended and care should be taken while using each guideline. A number of ways for countering sanctions are provided in the following:

- Closing accounts and assets of the country and non-opening of paper credits could be considered as sanctions consequences which might harden trade process; however these sanctions could be bypassed. Some items of sanctions like non-delivery of advanced instruments and provision of post-sale services for some goods have existed before. Also, some of the goods and services under sanction could be prepared from another country such that in this regard our trading partners must change.
- Some of the sensitive goods whose production is not possible in our country could be provided through intermediaries and even companies of the sanctioning countries, though it is possible to incur more costs for preparation of these goods.
- Principle 44 of the Constitution as one of the ways for bypassing sanctions; if companies move out of the states' guardianship circle and are ceded to the private sector, it means there is a potentiality for bypassing the sanctions.
- Parts of necessary needs can be provided through private companies; tracing a number of private companies which provide parts of the country's needs is a difficult task on the part of sanctioning countries. Therefore, sanctioning domestic companies cannot be genuine.
- Iran needs to move out of single product economy and dependency on oil by diversifying goods and raising quality of goods such that the balance range of Iran and other countries are expanded and are not limited to several countries.
- Strengthening of the currency reserve accounts and using other exchange rates (except for Dollar).

- Transference of foreign deposits to the inside.
- Using money changer's shop in the area of interactional exchanges

By the same token, mechanism for coping with sanctions could be understood in form of the following patterns (Azari, 2009):

#### **1. Taking two-way actions against American and European Companies**

- Introduction of tariffs against target companies and countries
- Rationing goods and trade with target countries and companies
- Establishment of prohibition of transaction with target companies and countries
- Mutual economic sanctions of the Target Company and countries
- Setting a black list for economic agents of target companies and countries
- Blocking assets of target country or companies
- Limiting the mobility capacity of the target country in the energy market.

#### **2. Taking alternative actions through interaction with international economic networks**

Currently, global economic indices show that manifestations of network markets conduct a wide ranging activity. The economy in the current situation has a network character other than having a state or corporal nature. International economic networks can provide the Iran's needs to service, consumption, developmental and fundamental goods.

#### **3. Offering regional and international incentives for making changes to international limiting actions**

Regional countries like Turkey, Qatar, U.A.E and Saudi Arabia have an effective position for influencing the global economy and multi nationality corporations, Utilizing cooperative economic mechanisms could pave the way for the formation of a process which allows for the conduct of reciprocal actions of some of the regional corporations and countries against the West.

#### **4. Display of power for countering international threats**

One of the actions Iran can fulfill prior to enforcing economic sanctions is to implement patterns like military maneuvers in the Persian Gulf; a region through which a part of world energy needed by capitalist economy is transited. Display of power has a hostile character and is considered as a sign for reconstructing behavioral patterns. Countries like Iran with a geopolitics situation could use their own capacity for conducting non-hostile reciprocal actions.

#### **5. Recourse to votes through diplomatic channel**

Exercising economic and technologic restrictions by the United States and European Union have proponents in the structure of the countries intended. Overall, any controversial pattern of has strategic and economic repercussions for the countries who have the initiative in the international policy. For this, one can pay attention to manifestations of "constructive interaction" for change in previous decisions. The fulfillment of this will be made possible when strategic interaction is accomplished by way of influencing bodies. Recourse to vote is

one of the most effective mechanisms for resolving disputes in regional and international areas; processes that create necessary ground for elimination of strategic constraints against organizational and structural power of Iran.

#### **6. Brokering for postponement in U.S. and European sanctions through Nuclear Talks**

Iran's Nuclear Talks with the 5+1 group is considered as a symbol of Iran's strategic good will. In other words, it can be said that intermediation (brokering) method can be applied for countering limitations imposed. Brokering in the area of the economic means that exercise of economic sanctions imposed by the EU will be delayed during continuation of diplomatic negotiations.

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( Received 14 June 2015; accepted 01 July 2015 )