

## THE JUSTICE EROSION OF THE IMPOSITION OF ECONOMIC SANCTIONS IN INTERNATIONAL LAW ENFORCEMENT

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### ABSTRACT

After the COVID-19 pandemic occurred some time ago, which paralyzed all aspects of life in the world, not long after, in 2022, an armed conflict occurred involving Russia and Ukraine, which continues to this day. In line with the armed conflicts that have emerged recently, various international economic sanctions targeting warring countries have begun to be imposed. Ironically, instead of weakening the sanctioned country's defense, the embargo imposed by a sanctioned country on a particular country turns out to have a harsh impact on all aspects of the lives of its civilians, both the sanctioned country and the sanctioning country in several cases. The imposition of various international sanctions is one of the causes. Reflecting on this, the author will analyze more deeply what is the concept of international economic sanctions. Secondly, does the imposition of international economic sanctions fulfill the basic concept of implementing economic sanctions today? The method used in this paper is qualitative research with normative juridical methods. From the discussions, It can be concluded that economic sanctions are the withdrawal of trade habits and financial relations for foreign and security policy. Sanctions can be comprehensive, prohibiting commercial activity against entire countries. However, there is uncertainty regarding the length of economic sanctions imposed on a country, which causes prolonged suffering for the people of a country. Apart from that, the dominance of countries that have significant political and economic power has led to the emergence of abuse of the imposition of economic sanctions themselves. The article recommends that countries should compose the development of international legal rules originating from international agreements that focus on three main things: management processes, and results that lead to sustainable benefits based on the principle of equality in creating agreements between countries.

**Keywords:** International sanctions, economic sanctions, International Law

## A. Introduction

After the COVID-19 pandemic some time ago, which paralyzed all aspects of life in the world, not long after in 2022, on February 24, 2022, it was reported that there was an armed conflict involving Russia and Ukraine, which continues to this day. It did not stop there; the international conflict occurred again in another place, namely in Gaza, where this armed conflict involved Israel and Palestine. These international conflicts have attracted much criticism of the conflicting countries from other countries. Along with this international criticism, various international sanctions emerged targeting the warring countries. For example, recently, the United States announced sanctions against 500 Russian companies to target the Russian war machine, and export restrictions were imposed on almost 100 companies or individuals to limit Russia's ability to produce weapons.<sup>1</sup> Likewise, Britain imposed sanctions in the form of a ban on exporting metals, gems, and energy from Russia, followed by the European Union freezing around 70% of Russian bank assets. Apart from these countries, Japan, Canada, and Australia have also imposed similar sanctions on Russia, intending to weaken the Russian economy. Apart from Russia, international sanctions are also planned by the United Nations (UN) to be imposed on Israel.<sup>2</sup>

As we understand, international sanctions are a policy tool often used by international organizations, especially the United Nations (UN), to resolve conflicts and maintain global peace and security. *International sanctions* are coercive measures implemented by one or more countries or international organizations against a country, individual, or other entity to force a desired change in behavior. *International sanctions* are an instrument the international community uses to respond to behavior that violates international law or recognized international norms.<sup>3</sup> Therefore, in theory, all UN member states should believe that the application of international sanctions carried out by various countries has a solid legal basis, so there is no need to doubt whether to accept and recognize them. International law is essential apart from providing international sanctions, especially in developing a country's legal system. In particular, it regulates the protection of society in conflicts that occur within a country. International law is also one of the tools and

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1 BBC News Indonesia, *Apa Saja Sanksi Terhadap Rusia Dan Apa Dampaknya? (What are the sanctions against Russia, and what are their impacts?)*, <https://www.bbc.com/indonesia/articles/c1d1dl4vyk8o> (accessed 9<sup>th</sup> July, 2024)

2 *Ibid.*

3 Alamsyah, Syukur, A. D., & Putra, E. A.,. *Penegakan Hukum Humaniter Internasional Terhadap Partisipasi Tentara Bayaran Dalam Konflik Bersenjata (Enforcement of International Humanitarian Law Against the Participation of Mercenaries in Armed Conflicts)*. (Hukum Dinamika Ekselensia, 06(2), 2024). 56

methods that every peaceful and neutral country can use to participate in reducing the suffering experienced by society due to conflicts that cause torture, rape, and murder in a country. The impact of international conflict can be harmful, either directly or indirectly. These international conflicts have made many civilians victims who bear the negative impacts of international conflicts that occur in a country. International law places an embargo on a country to make it difficult for the country to obtain various commodities, especially necessities. It was triggered by a conflict created by a country where several embargoed countries hoped that this embargo policy would be able to force other countries to come together to resolve conflicts that occurred in the country that created the conflict.<sup>4</sup>

An economic embargo is a form of economic sanction imposed by a country or group of countries against another country by prohibiting or limiting the import and export of goods and services between the two countries. One of the methods used is the blockade method, which is often used during conflicts.<sup>5</sup> A blockade is a siege (closure) of an area (country) so people, goods, and ships cannot enter and exit freely. A country uses a blockade by closing specific areas of the opposing country to weaken that country's defenses. Ironically, the sanctioning country's embargo imposed on a particular country, instead of weakening the defense of the sanctioned country, turns out to have a hard impact on all aspects of the lives of its civilians, both the sanctioning country and the sanctioned country in some instances. One example is what is currently happening in Cuba. It is classified as a developing country, where over the six decades of the embargo has cost Cuba trillions of dollars; from March 1, 2022, to February 28, 2023, the blockade carried out by the United States is detrimental to Cuba, about \$4.87 billion. Not only that, the impact of the embargo increased exponentially after Cuba was added to the United States list of countries suspected of sponsoring terrorism. Banking and financial operations have become very difficult for Cuba because of this. The embargo even affected Cuba's ability to obtain essential medicines and food.<sup>6</sup>

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4 Mangisi Simanjuntak, *Hukum Internasional "Perjuangan Negara-negara Berkembang dalam Mencapai Persamaan Hak" (International Law "Struggle of Developing Countries in Achieving Equal Rights")*, (edisi I, Mitra Wacana Media, Jakarta, 2018), 54.

5 Marthin Ellon Hattu, etc., *Embargo Terhadap Negara Dalam Keadaan Darurat Dan Pemenuhan Hak Asasi Manusia (Embargo on Countries in Emergency Situations and Fulfillment of Human Rights)*, (Pattimura Law Study Review Volume 1 Nomor 2 December, Ambon, 2023) 167

6 UN Press, *Economic, Commercial Embargo Imposed by United States Against Cuba Harmful, Violates UN Charter, Speakers Underline in General Assembly*, <https://press.un.org/en/2023/ga12552.doc.htm>, (accessed 9<sup>th</sup> July, 2024)

When economic sanctions are imposed by countries with political or economic solid power on qualified countries in lower-middle-income countries, it will have a tremendous impact on aspects of the lives of civilians in the country receiving the sanctions. This condition will be different if economic sanctions are imposed on a country that has strong political or economic power; of course, the effect of economic sanctions can be a boomerang for the country giving the sanctions. Especially when the country giving the sanctions is still economically dependent on the country receiving the sanctions. Such as the condition currently, Russia, where Western sanctions-bearing countries are also affected by the sanctions they have imposed on Russia, is like the United States, which experienced an economic decline of around 9% on March 7, 2022,<sup>7</sup> with an 18 percent oil surge that occurred in a matter of minutes. The surge in Brent oil increased natural gas prices, which affected manufacturing and transportation costs in many US industries. This situation is predicted to continue because the US is sending more gas to Europe to compensate for Russian supplies lost due to sanctions. In addition, rising oil and gas prices have made Americans angry at the US energy industry and government. It has given rise to many disputes, including the fact that the US, which was once a large importer of natural gas, was forced to stop exporting gas and prioritize its own needs.

In contrast, gas production in critical locations in the US slowed in 2022, partly due to insufficient pipeline capacity. What happened to the United States also happened to Western countries that depend on Russia. Based on IMF records, some European Union countries have an impact on economic growth stalling and the risk of a new recession emerging, which makes it increasingly difficult for Europe to get out of the debt crisis. On the other hand, financial markets are also volatile with high-cost loans made by European Union countries.<sup>8</sup>

The descriptions of the facts regarding economic sanctions arise from the implementation of Article 39<sup>9</sup> and Article 41,<sup>10</sup> Chapter VII concerning Action with

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7 Putri, A. M., *Waspadalah Negara-Negara Eropa, Resesi Dimulai (Beware European Countries, Recession is Starting)*, <https://www.cnbcindonesia.com/news/20220715102428-4-355874/waspadalah-negara-negara-eropa-resesi-dimulai?page=all>, (accessed 10<sup>th</sup> July, 2024)

8 *Ibid.*

9 Chapter VII, Article 39 stated: *"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."*

10 Chapter VII UN, Article 41 stated: *"The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."*

Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression. These two articles describe actions that the Security Council can take in maintaining and realizing international security. However, the other articles do not provide mechanisms, limitations, or concrete steps the Security Council must take to carry out its duties. Based on articles 39 and 41. It has led to allegations of abuse of power carried out by member countries of the Security Council who want to take action, including imposing economic sanctions on a particular country. Reflecting on these, the author will try to analyze more about the justice deterioration to economic sanctions imposition in International Law enforcement. The author does not intend to criticize these obstructions but hopes that in the future, this article can produce a more certain construction of International Law development, particularly regarding regulating economic sanctions imposition. Some important things from this presentation form the basis of this article's discussion: First, what is the concept of international economic sanctions? Second, does the implementation of international economic sanctions fulfill the basic concept of implementing economic sanctions today?

## **B. Methodology**

The right methodology must be used in research to guarantee a scientific truth because it is a guideline for conducting research, including analysis of research data. The methodology is a way of finding obtaining, or carrying out an activity to obtain concrete results. The use of legal research methods in writing this article can explore, process, and formulate legal materials obtained to obtain conclusions following scientific truth to answer the legal issues faced. The right method is expected to provide a sequential flow of thought to achieve the assessment.

The method used is descriptive, a research method to obtain an overview of the situation and circumstances by presenting the data obtained as they are. Then, through various analyses, several conclusions are drawn. In contrast, the research is carried out with a normative juridical approach. An analysis is carried out by first identifying legal facts and setting aside irrelevant matters to determine the content of the law to be resolved. Second, relevant legal materials and non-legal materials must be collected. Third, the issues should be studied based on the collected legal materials. Fourth, conclude in the form of arguments that answer legal matters. Fifth, provide the ideas that have been built in conclusion. The conclusion is based on the analysis of the main problem.

In this study, the author uses international and Indonesian research journals related to economic sanctions as the primary source in writing this article. In addition to these sources, the author also relies on sources from books that specifically strengthen the legal concepts used. At the same time, the data and facts used as the background for this research are obtained online.

In this data, the data that has been obtained is then analyzed using a qualitative analysis approach. This approach involves observing the data and connecting each piece with the relevant provisions and legal principles. We employ inductive logic, which is the process of thinking from the specific to the general, using normative tools, interpretation, and legal construction. The data is then analyzed using qualitative methods, leading to conclusions drawn using deductive methods. This process allows us to produce general conclusions regarding the problems and objectives of the research.

Researching **the justice erosion of the imposition of economic sanctions in international law enforcement** was conducted by targeting the development of new legal thinking for nations that prioritize life values rather than merely the interests of a particular country. It has created obstacles for the author in conducting the research itself.

## **C. The Economic Sanctions and the Current Imposition Practice**

### **1. The Concept of Economic Sanctions**

Chapter VII of the UN Charter empowers the UN Security Council to implement sanctions (Article 41), a responsibility that all UN member states respect. These sanctions, which are the most potent peaceful means of the international community to prevent threats to international peace and security or to resolve them, do not include the use of military force. However, if sanctions do not lead to a diplomatic resolution of the conflict, the Security Council can authorize the use of force separately. It is crucial to distinguish UN sanctions from unilateral sanctions imposed by individual countries to further their strategic interests. Unlike the latter, which are typically intended as strong economic coercion, UN sanctions are a collective effort to maintain global peace and security, with the UN Security Council playing a pivotal role. This distinction is important for a comprehensive understanding of the global political landscape.

Understanding the three forms of international legal sanctions: diplomatic, economic, and military, is crucial in the field of international relations. The softest sanctions, namely

diplomatic sanctions, can reduce or terminate diplomatic relations, such as reducing diplomatic relations from an embassy to a consulate, withdrawing an ambassador, or even assigning a *charge d'affaires* to replace the ambassador. Economic sanctions, which include trade embargoes or boycotts, asset freezes, cash transfer bans, technology transfer bans, and travel warnings, are also of great importance. However, it is the understanding of the implications of military sanctions, the most severe form of military intervention, for example, invasion or military aggression that truly underscores the gravity of the situation.<sup>11</sup>

*Economic sanctions* are the withdrawal of customary trade and financial relations for foreign and security policy purposes. Sanctions can be comprehensive, prohibiting commercial activity against an entire country, such as the long-standing US embargo against Cuba, or they can be targeted, blocking transactions by and with specific businesses, groups, or individuals.<sup>12</sup> At its core, economic sanctions are a strategic manifestation of a country's use of economic instruments in its foreign policy, a concept commonly known as economic statecraft. As Baldwin articulates, the art of international relations lies in a state's ability to influence targeted international actors, both state and non-state, through the strategic deployment of various economic instruments.

Economic statecraft can generally be divided into positive and negative instruments. Positive instruments are carried out by providing incentives, rewards, or what could also be termed carrots to the intended or targeted actors.<sup>13</sup> Examples of positive instruments include providing foreign aid, reducing import tariffs, providing favorable treatment in trade, export and import subsidies, granting licenses, reducing or eliminating taxes in foreign investment relations, and so on. Meanwhile, negative instruments are implemented by imposing economic sanctions as a form of punishment or what could also be termed sticks to international actors. Negative instruments in the form of economic sanctions usually take the form of embargoes, boycotts, freezing assets, suspension of aid, imposition of increases in import tariffs, imposition of import quotas, dumping, revocation of ownership, unpleasant tariff discrimination, and so on.<sup>14</sup> Those giving

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11 Andre Jordi Pakekong, etc., *Tanggung Jawab Negara Sebagai Subjek Hukum Internasional Dalam Menjaga Perdamaian Dunia (State Responsibility as a Subject of International Law in Maintaining World Peace)*, (Jurnal Fakultas Hukum Universitas Sam Ratulangi Lex Privatum Vol.XII/No.2/sep/2023)

12 Masters, Jonathan, What Are Economic Sanctions?, (<https://www.cfr.org/background/what-are-economic-sanctions>), Accessed on July 20<sup>th</sup>, 2024

13 Kaminski, T. (2017). Political Significance of Sovereign Wealth Funds. In T. Kaminski, P. Wiśniewski, D. Urban, M. Obroniecki, & T. Jurczyk, *Political Players? Sovereign Wealth Funds' Investments in Central and Eastern Europe* (pp. 27-28 ). Łódź University Press.

14 Baldwin, D. (1985). *Economic Statecraft*. Princeton University Press.

economic sanctions, commonly called senders, come from international organizations, countries, and groups of countries. Meanwhile, the party sanctioned or referred to as a target is usually the state, but it can also be individuals.<sup>15</sup> Sending countries generally have a more significant or higher economic level than the target country.

Economic sanctions as a negative instrument of economic statecraft are nothing new in the international political constellation. World countries, especially Western countries, have widely practiced economic sanctions during the Cold War era. During this period, economic sanctions became a popular foreign policy instrument. In other words, economic sanctions in foreign policy increased, inviting academics to discuss it.<sup>16</sup> In addition, western countries now prefer economic sanctions rather than military force. Economic sanctions are coercive or threatening in nature and generally aim to change the behavior or policies of the targeted party. Economic sanctions are sometimes claimed to be economic forces controlled by certain national interest groups through the withdrawal of aid undertaken by the government or other activities occurring in the target country, or the threat of trade and financial relations withdrawal. The motives behind economic sanctions are to punish, prevent, and restore. Sanctions can be imposed to punish a country for actions taken or to prevent a country from carrying out specific actions in the short term.<sup>17</sup>

From 1960 to 1980, a frequently arose regarding sanctions studies: whether economic sanctions were an effective foreign policy instrument. In the 1990s, researchers finally researched when and how economic sanctions can be successful or effective, why countries impose sanctions, and why some sanctions last longer than others. Regarding the effectiveness of economic sanctions, *Hufbauer* et al. in the 1990s concluded that the percentage effectiveness of economic sanctions against targeted countries only showed around 33% at that time.<sup>18</sup> Robert Pape emphasized *Hufbauer* et al.'s opinion that economic sanctions will almost certainly not work. The success of economic sanctions is only around 5%, not 33%, so economic sanctions are a sad form of failure.<sup>19</sup> According to him, military sanctions or coercion are more effective

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15 Hufbauer, G. C., Jeffrey, S., Kimberly, E., & Barbara, O. (2009). *Economic Sanction RECONSIDERED*. Washington DC: Peterson Institute.

16 Losman, D. L. (1979). *International Economic Sanctions: The cases of Cuba, Israel, and Rhodesia*. Albuquerque: University of New Mexico Press.

17 Andréasson, G. (2008). *Evaluating the Effects of Economic Sanctions Against Burma*. Lund: Lund University.

18 Hufbauer, G., Schott, J., & Elliott, K. (1990). *Economic Sanctions Reconsidered: History and Current Policy*. Washington DC: Institute for International Economics.

19 Pape, R. (1998). *Evaluating Economic Sanctions*. *International Security*, 195-198.

than economic sanctions. The pessimism of *Hufbauer* et al. and Pape (1990 & 1998) also confirms *Wallerstein's* (1968) opinion that economic sanctions are very effective in drawing resistance from the sanctioning country but are almost useless as a means of changing the policy or behavior of the targeted country. For instance, the economic sanctions against South Africa during the apartheid era were largely successful, while those against Cuba have been largely ineffective.

Morgan and Schwebach,<sup>20</sup> who focus more on when economic sanctions are successful or effective than whether economic sanctions are successful, conclude that sanctions are very rarely successful. This rarity of success underscores the need for a more nuanced approach to the use of economic sanctions. Economic sanctions can be effective if they cause high costs to be paid by the target, thereby increasing success. On the other hand, the high costs that must be paid by the sanctions giver can reduce the sanctions' effectiveness. Following the conventional wisdom that the greater the destructive power of a sanction, the greater its effectiveness, Morgan and Schwebach<sup>21</sup> proposed imposing sanctions on the target country's population or domestic community. In other words, economic sanctions are more effective than targeting the government in power if they are aimed at the target country's domestic society. However, sanctions against domestic communities in target countries also hurt the sanctioning country. The stronger the power of sanctions, the more detrimental it is to the economic interests of the sanctioning country, for example, the domestic industrial group of the sanctioning country. In addition, the longer the sanctions are imposed, the longer the target country can be immune to sanctions.

## **2. The Imposition of Economic Sanctions: A Current Form of Justice Deterioration**

Before discussing further developments in the current imposition of economic sanctions, we must look at the history of the imposition of economic sanctions themselves. Imposing economic sanctions as a foreign policy has lasted for at least 2500 years. One of the first recorded economic sanctions in history was the *Megarian Decree* (circa BCE 432) imposed by Athens on the Megara. Athens did this as a diplomatic step against the *Megarians*, who had cultivated Athenian land and killed an Athenian herald. The sanctions imposed by Athens are: barred trade with Megara at the decree and denied

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20 Morgan, C., & Schwebach, V. (1997). Fools Suffer Gladly: The Use of Economic Sanctions in International Crises. *International Studies Quarterly*, 27-35.

21 *Ibid.*

the *Megarians* access to Athenian ports. The *Megarian Decree* is viewed by many as a major cause of the *Peloponnesian War*. One view is that these sanctions imposed costs on the *Megarians* without resorting to war, in which case they failed to achieve their goal. On the other side, many believe that Pericles persuaded the Athenians to adopt the *Megarian Decree* precisely because he intended to foment war, in which case they would count as a success in achieving a dubious goal.<sup>22</sup>

After World War I ended, many nations wanted to use economic sanctions as an alternative to war. Although several sanctions were imposed and did not achieve maximum results, one example was the League of Nations imposing sanctions on Italy in 1935 in response to their invasion of the Abyssinia region in Ethiopia. However, at the time, Italy was seen as a counterweight to Nazi expansionism in Germany, which made countries such as Great Britain and France unwilling to implement such sanctions. Ultimately, these sanctions were considered a major failure that weakened the League's standing. Apart from these examples, the United States also imposed strict trade restrictions on Japan to prevent Japanese military conquest in East Asia. However, the results obtained reaped the opposite results; these sanctions contributed to Japan's decision to expand the war by attacking Pearl Harbor in 1941.<sup>23</sup> These two examples illustrate that the imposition of sanctions does not stop a conflict but becomes the cause of armed conflict in the end.

After World War II, the imposition of economic sanctions increased very rapidly. The imposition of sanctions has also undergone many changes, not only in the purpose of imposing them but also in the type and who imposes them. The imposition of economic sanctions can be divided into four eras, namely:<sup>24</sup>

### 1. Cold War Era (1950-1975)

In this period, the United States imposed one-third of the sanctions unilaterally. The United States does this because of its role in many of the sanctions imposed by the UN and ad hoc multilateral coalitions. The United States is active in imposing the most sanctions, making it responsible for expanding the use of sanctions. These sanctions are most often implemented to destabilize political regimes or to influence

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22 Kagan, Donald. 1969. *The Outbreak of the Peloponnesian War*. Ithaca, NY: Cornell University Press.

23 Boudreau, Donald G. 1997. "Economic Sanctions and Military Force in the Twenty-First Century." *European Security* 6 (2): p. 28-46.

24 Morgan, T. Clifton, et. al., Economic Sanctions: Evolution, Consequences, and Challenges, *Journal of Economic Perspectives—Volume 37, Number 1—Winter 2023*: p. 7-9

the course of a military conflict (either by pressuring combatants to end fighting or to support the messenger's territorial claims). Increasing economic prosperity for everyone, but also creating asymmetrical power relations; That is, when countries depend on each other through trade, the less dependent country can use restrictive trade policies to increase its power by gaining advantage in disputes over other issues. After the end of World War II, the Cold War between the Soviet Union and the United States became a major feature of international politics, and the United States frequently used sanctions to support its Cold War policies.<sup>25</sup>

This era saw the United States play an active role in international sanctions, and trade sanctions and arms sanctions remained the instruments of choice, and sanctions were often used in efforts to bring about regime change. The US sanctions against Cuba, which exist to this day, are a clear example of this. Apart from that, the United States also frequently imposed sanctions on Soviet bloc countries in Eastern Europe, as well as refusing to allow China to integrate into the global economy, and often sanctioned countries deemed to be “going communist.”

## 2. Late Cold War (1975–1990)

In this era, the United States, as the single largest economy in the global system, played a pivotal role. Despite the economic recovery of Western Europe and Japan from World War II in the early 1970s posing a challenge to the United States' economic hegemony, the nation remained resilient. The European Economic Community (EEC) was beginning to fulfill its promise of allowing its members to act with one voice. Politically, the United States was weakened by the long and unsuccessful war in Vietnam. However, it continued to be a significant player in the global political landscape, albeit with some loss of position as a supporter of democratic values and human rights.<sup>26</sup> In most countries of the world, coercive dictatorships and military juntas have replaced colonial governments and fledgling democracies. The Cold War was a period of détente between the United States and the Soviet Union, except after the Soviet invasion of Afghanistan, which was subject to significant economic sanctions. In addition, many guerrilla organizations (such as the *Baader-Meinhof* gang in West Germany, the Red Brigades in Italy, and the *Symbionese* Liberation Army in the United States) began to use terrorist tactics.

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25 Barber, James. 1979. “Economic Sanctions as a Policy Instrument.” *International Affairs* 55 (3): 367–84.

26 Eichenberg, Richard C. 2005. “Victory Has Many Friends: U.S. Public Opinion and the Use of Military Force, 1981–2005.” *International Security* 30 (1): 140–77.

The impact of these factors is seen as the accelerated use of sanctions continues, with the United States remaining the country that sends sanctions most frequently. Notably, the International Emergency Economic Powers Act of 1977, a significant milestone, gave the US president broad authority to regulate various economic transactions following the declaration. This act, and the frequent use of economic sanctions by the United States, had a profound global impact, despite being contrary to customary international law at the time.

Indeed, this law became an “all-in-one” law for US sanctions, and the frequent use of economic sanctions by the United States was contrary to customary international law at the time. However, European states also emerged in this period as coordinated sanctions. Throughout the period, trade sanctions continued to be used consistently. However, they became a smaller proportion of overall sanctions, marking a significant shift in international relations. A steady increase in financial and military sanctions had begun. Although the use of sanctions for regime destabilization continues at a fairly constant level, there has been a significant increase in the use of sanctions to protect human rights. By the end of the period, sanctions were widely used to combat international terrorism.

### **3. Post-Cold War: 1990–2000**

In the early 1990s, the Cold War abruptly ended with the collapse of the Soviet Union, and a wave of democratization swept much of the world. This significant shift was accompanied by a strengthening of the global order. International organizations such as the United Nations played a pivotal role in promoting multilateralism, increasing respect among nations, and reassuring the world about the strengthening global order.

During this period, the United States emerged as a key player, significantly influencing the global political landscape. The US played a crucial role in incorporating China into the international economic system.<sup>27</sup> The Maastricht Treaty of 1992, which created the European Union, set Europe on a path to greater economic coordination, marking a significant strengthening of the economic front. In 1995, the World Trade Organization replaced the 1947 General Agreement on Tariffs and Trade (GATT), further regulating trade relations and making it more challenging to implement trade sanctions.

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27 Jacobson, Harold K., and Michel Oksenberg. 1990. *China's Participation in the IMF, the World Bank, and GATT: Toward a Global Economic Order*. Ann Arbor, MI: University of Michigan Press.

Even though these changes look perfect, the seeds of opposition are still planted and spread. International terrorist organizations, especially Al Qaeda, began to gather strength. At the same time, there was a backlash and protests against globalization, a process of interaction and integration among the people, companies, and governments of different nations. These forces became particularly prominent after 2000. During the 1990s, the frequency of sanctions implementation remained constant at historically high levels, and the 1990s became known as the 'decade of sanctions'.<sup>28</sup> However, it was just a very short period.

#### 4. Post-9/11: 2001–Present

The September 11, 2001, terrorist attacks on the United States sparked two decades of war. This period also saw a shift away from democratization and towards nationalism. The world has recently experienced massive economic upheaval following the profound impact of the 2008 financial crisis and the ongoing global pandemic. Once again, we have interstate war in Europe, which has triggered the most sweeping sanctions ever imposed on a relatively powerful economic power.

In the ten years after 2001, the use of sanctions increased, the majority of which were financial, travel, and other sanctions targeting specific individuals and companies. Although the use of sanctions to support human rights continues to increase, the use of sanctions to support democracy is decreasing. Sanctions have rarely been used to effect regime change in this period, but their application to combat international terrorism has increased substantially.

Several factors play an essential role in driving this change. First, the increasing reliance on targeted sanctions follows theoretical advances suggesting they should be more effective.<sup>29</sup> Second, the United States enacted several changes to its constitution, making implementing and enforcing financial sanctions easier.<sup>30</sup> To weaken the activities of terrorist organizations, the United States now requires financial institutions to track and report financial transactions. It has prompted the United States to target sanctions on specific companies and individuals and pushed most of the application of those sanctions to financial institutions. The United States has also exercised extraterritorial jurisdiction over foreign entities that conduct

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28 Cortright, David and George A. Lopez. 2002. *Smart Sanctions: Targeting Economic Statecraft*. Lanham, MD: Rowman and Littlefield.

29 Cortright, David and George A. Lopez. 2000. *The Sanctions Decade: Assessing UN Strategies in the 1990s*. Boulder, CO: Lynne Rienner.

30 Hufbauer, Gary C., and Thomas Moll. 2007. "Using Sanctions to Fight Terrorism." In *Terronomics*, edited by Sean S. Costigan and David Gold, 179–94. London: Routledge.

business in US dollars and channel payments through US financial institutions.<sup>31</sup> The United States has also implemented secondary extraterritorial sanctions against companies, including foreign companies, for doing business with entities on their sanctions list. Third, extraordinary advances in information technology have made it possible to process information on the many financial transactions that occur every day. It has caused a change in the pattern of imposing economic sanctions itself to date.

Even though there have been changes in the patterns of imposing sanctions, such as the shift from comprehensive sanctions to targeted sanctions, on the other hand, there is also something that has not changed, namely, the role of certain countries that impose sanctions is still dominated by countries that have very strong economic and political power in the world. Although often the country that imposes sanctions is also affected, as happened in 2022. In 2022, the sanctions imposed on Russia, as described in the introduction section of this article, were initiated by the United States imposing economic sanctions, which the EU followed. However, the impact reversed on sanctioning countries by decreasing the economic growth of the countries themselves. It happens because of economic dependence on countries that impose sanctions on recipient countries.

Apart from that, based on the description of the four eras to date, what needs to be underlined is that the imposition of sanctions currently does not have a precise time limit. This lack of clarity is caused, in part, by the external politics of the sanctioning countries, such as geopolitical interests or domestic political considerations. According to the author, this is one of the consequences of the implementation of the UN Charter, where the UN Charter and other conventions relating to the imposition of sanctions do not specifically contain the duration of the sanctions imposed themselves. It will be detrimental to the people of countries receiving sanctions if the imposition of sanctions is carried out arbitrarily without any restrictions, as is the case in Cuba.

While international law is a product of agreements between member countries and other forms of international cooperation, these agreements must be built on the foundation of justice for all parties. The key to maintaining international justice is the principle of equality in creating agreements between countries. This principle

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31 Hufbauer, Gary C., and Euijun Jung. 2020. "What's New in Economic Sanctions?" *European Economic Review* 130: 103572.

ensures all states have the same rights and obligations, fostering fairness and balance in international relations.

In other words, every country must be able to put common interests ahead of their political interests. When countries take this path, it will undoubtedly positively affect the development of international law itself. However, international law enforcement itself must align with “law enforcement’s” definition. The law itself cannot be separated from law enforcement itself, which law enforcement must, of course, be able to reflect the existence of legal certainty because, in essence, the law exists to provide a sense of justice for all parties. Likewise, it hopes that international law itself will be able to provide a sense of justice for every country involved in it in the future.

There are so many theories that state that international law is not real law. All of these theories have their basis for thinking, but it has become a fact that international law in its implementation, specifically regarding the imposition of international sanctions itself, is sufficient to illustrate that it is true that international law itself is not a law, because it is the basis for enforcement. A law is visible in the method of imposing sanctions, and it should be able to reflect legal certainty. We need to realize that countries should sit down again to discuss it to improve the mechanism for imposing fair sanctions based on an agreement between member countries if there is equality between these countries during discussions towards the agreement.

#### **D. Conclusion**

The discussion above concludes that economic sanctions are the withdrawal of trade habits and financial relations for foreign and security policy. Sanctions can be comprehensive, prohibiting commercial activity against entire countries. Economic sanctions are a strategic manifestation of a country’s use of economic instruments in its foreign policy, a concept commonly known as economic statecraft. Economic sanctions themselves as a negative instrument of economic statecraft are nothing new in the international political constellation. However, what is new is the increasing use of economic sanctions in foreign policy. World countries, especially Western countries, have implemented many economic sanctions during the Cold War era until now. In this period, economic sanctions became a popular foreign policy instrument. In other words, economic sanctions in foreign policy are evolving and increasing over time. In addition, Western countries now prefer economic sanctions rather than military force.

Economic sanctions imposed are always coercive or threatening in nature and generally aim to change the behavior or policies of the targeted party. They are not just economic forces but punitive measures controlled by certain national interest groups through the withdrawal of aid undertaken by the government or other activities taking place in the target country or the threat of withdrawal of trade and financial relations. The motive behind economic sanctions is to punish, deter, and remediate, underscoring the seriousness and gravity of the consequences. Sanctions can be imposed to punish a country for actions taken or to prevent a country from taking specific actions in the short or long term.

Another conclusion that can be drawn in the discussion of this article is that the application of economic sanctions as a foreign policy has been going on for at least 2500 years. Later in its development, economic sanctions continued after World War I ended when many countries wanted to use them as an alternative to War. However, several sanctions were imposed and did not achieve maximum results. Experts note that the application of modern economic sanctions is classified into four eras, namely the early Cold War era (1950-1975), then the Late Cold War era (1975-1990), the post-cold War (1990-2000), and finally, post-cold War (1990-2000), the tragedy of 9/11.2001 until now. The 'tragedy of 9/11.2001' refers to the terrorist attacks on the United States, which significantly influenced the global political and economic landscape, leading to changes in the application of economic sanctions.

The imposition of economic sanctions has negatively affected countries receiving sanctions, one of which is Cuba, which is still undergoing prolonged economic sanctions. Uncertainty regarding the length of economic sanctions imposed on a country causes prolonged suffering for the people of a country. Apart from that, the dominance of countries that have significant political and economic power has led to the emergence of abuse of the imposition of economic sanctions themselves. With the large number of economic sanctions imposed against such a background, the author concludes that there is a setback in the enforcement of international law itself. This setback can be seen in instances where powerful countries impose sanctions without the approval of international bodies, thereby undermining the principles of international law and justice. The article finds that the justice deterioration of the imposition of economic sanctions came up because the principle of equality in creating agreements between countries is more often sidelined.

Ideally, countries in the future need to place international economic sanctions in an international agreement that regulates economic sanctions in more detail. This agreement, with a strong emphasis on justice, must include when, how, the period, and various provisions that reflect justice for all parties involved. However, the most important thing is that the preparation of the agreement must prioritize the principles of international law rather than the political interests of a country. By prioritizing this, an international agreement is expected to become a law that has certainty.

### **E. Suggestion**

While international law is a product of agreements between member countries and other forms of international cooperation, these agreements must be built on the foundation of justice for all parties. The key to maintaining international justice is the principle of equality in creating agreements between countries. This principle ensures all states have the same rights and obligations, fostering fairness and balance in international relations. In other words, every country must be able to put common interests ahead of their political interests. When countries take this path, it will undoubtedly positively affect the development of international law itself. However, international law enforcement itself must align with the “law enforcement” definition. The law itself cannot be separated from law enforcement itself, which law enforcement must, of course, be able to reflect the existence of legal certainty because, in essence, the law exists to provide a sense of justice for all parties. Likewise, it hopes that international law itself will be able to provide a sense of justice for every country involved in it in the future.

Based on the author’s observation, in developing a rule of international law originating from international agreements, it is necessary to give more attention to three main things: management, process, and results that lead to sustainable benefits. The steps to fulfill it that must be applied here refer to several stages, i.e.:

- 1) Development of data on the situation and parties to a particular international agreement;
- 2) Identification of behavioral habits that have the potential to cause disobedience problems;
- 3) Formulating the provisions in the agreement that do not cause multiple interpretations in its implementation leads to difficulties in being obeyed by the parties.
- 4) Diagnose the causes of different behavior outside the norm;

- 5) Testing the ability of the parties, both obedient and disobedient to the agreement, to fulfilling their obligations (aligning the parties/equality);
- 6) Offer technical assistance to parties who are unable to carry out their obligations (under-capacity);
- 7) Threats or use of dispute resolution mechanisms;
- 8) Ensure the use of dispute resolution mechanisms, leading to the implementation of results that satisfy both parties in a proportionate portion
- 9) Conclude and suggest modification of the agreement to accommodate the aspirations and interests of the parties to the agreement

Of the nine stages, it is further classified into three main parts, which are referred to as Sustainable Law Management. We can use the three main parts as the main key to analyzing a legal provision. The three main keys are as follows:

*a. The pre-analysis stages.*

It needs to take the initial step to explore the problems related to enacting an international provision. The data used here are balanced data, including the history of an international provider and the conditions before and after the provision exists. In addition, data on the implementation of these international provisions are no less important from time to time. These problems arise when these provisions have been implemented through cases arising from applying these international provisions from all member countries and various supporting data related to implementing specific international provisions. It is done when reviewing existing international regulations in preparation for improving or amending them. This stage also needs to be carried out when international provisions will be formed according to existing needs. This stage also needs to be carried out when existing needs will form international provisions, grouping specific problems from all countries to be discussed and agreed upon before formulating and forming provisions.

*b. The analysis and development stage*

After completing the pre-analysis stage, the next stage is identifying behavioral habits that can cause disability problems; Making an inventory of behavioral habits that have caused potential disobedience problems to analyze existing data. With the results of the inventory, then the makers of the provisions can more easily formulate

the desired provisions. Regulators can see these potential factors as opportunities for problems that require safety locks. It makes it easier for policymakers to minimize the chances of non-compliance from users of these provisions. However, the makers of these provisions must guide that the provisions made do not cause multiple interpretations in their implementation, which leads to difficulties in being obeyed by the parties. This stage also cannot discharge from diagnosing the causes of different behavior outside the norm; the point is that the makers of the provisions must also consider other factors that can lead to different behavior towards the emergence or enforcement of a provision. It also needs to be done to form provisions with comprehensive and sustainable output results. Indeed, the author knows that the formation of provisions cannot be separated from the many political interests of each country involved. However, this does not mean that countries' political interests are higher than the law itself. It will cause the provisions formed to more or less deviate from legal principles in general for sure. This stage is one of the important stages to be carried out in making a legal provision itself. The limitation in the formation of international provisions lies at this stage, with the hope that the provisions of international law that will occur in the future have sustainable results and that every country that binds itself to these international provisions can implement it.

c. *The post-development stage.*

This stage includes five essential things that are mutually sustainable and cannot be separated from each other, first testing the parties' ability, both obedient and disobedient to the agreement, to fulfill their obligations (aligning the parties/equality). It is done to review or evaluate the implementation of international provisions that have been made by examining the ability of the parties, both compliant and non-compliant, with these provisions, reviewing the constraints of parties who cannot comply, and also studying parties who can comply with these provisions, whether indeed these provisions have been able to answer the interests of countries in general. By evaluating, we can take an inventory of the obstacles when these provisions apply. With provisions made in a balanced or impartial manner, the provisions of international law can provide a tool to offer technical assistance to parties unable to carry out their obligations (under-capacity), which is the second step. It should also be taken to equalize the parties' points of view or balance the positions of the parties in the international provisions so that they have the same rights and obligations before the provisions of international law. If later in the analysis of the implementation of

the international provisions, it turns out that one of the parties still cannot follow or does not comply with the legal provisions that have been agreed upon, then the last option falls to the third step. It is a dispute resolution mechanism that appears in the stages of threats or use of dispute resolution mechanisms. As a bridge to strengthen the position of the legal provisions that have been made, note that the sanctions rules or dispute resolution mechanisms in the provisions themselves have been balanced and absorb the general principles of law related to sanctions and do not leave the principle of measurable justice. The principle of justice that is measured here is that it is more proportional, not excessive, and can be carried out if the guilty or non-compliant party is proven to have violated the provisions of international law that they have agreed upon. Put forward the fourth step solution, namely using dispute resolution mechanisms, leading to the implementation of results that satisfy both parties in a proportionate portion, which is the main thing in resolving disputes arising from non-compliance with these provisions so that the parties involved in the dispute get the best answer and feel that their interests are well represented through these provisions. Justice that benefits all parties in the provisions of international law that have been made is the best justice. With the four stages results, in the end, all these stages must be concluded, then suggestions are given for modification of the agreement to accommodate the aspirations and interests of the parties. It is the ultimate step for the existing legal provisions to always be open to evaluations and new ideas that continue to refresh the legal provisions. It will also make the provisions last and renewable. The sustainable concept will form legal provisions that are directed and sustainable and can be used along with the times. As for the record, we can use The Post Development Stage when reviewing existing provisions. Because this section is the evaluation stage of the implementation of a provision.

With these three main keys, we can analyze the provisions that we think need to be studied more deeply so that from the results of the analysis, we can get an idea of whether these provisions are feasible to be maintained using their initial conditions or maintained by changing the whole or partially repaired, or deleted because it is not relevant to the conditions of the times. It applies to a provision that already exists and has been applied before. Meanwhile, the three main keys can be used sequentially if you want to formulate new legal provisions.

Apart from that, by applying the concept, it is hoped that the international community will adhere to the rules of international law especially economic sanction itself, which is to stimulate awareness and a common need for the rule of law. This need for awareness and order is crucial in providing justice, and legal certainty as to what can be done, and what cannot be done in international relations practice legal context. Obedience that arises internally results in far better results than obedience triggered only by the fear of punishment.

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## Regulations

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