

**Economic sanctions of the Security
and Human Rights Council**

Ali Heydari

Master of International Law July 2022

Abstract

Economic sanctions are a kind of foreign policy tool and make it possible for governments to achieve their political goals and objectives by applying them; which has at least two goals in mind: (1) harming and destabilizing the target government (2) changing the political behavior of the country under sanctions before the formation of the League of Nations.

Without considering the destructive effects of economic sanctions, the countries were recklessly and widely interested in applying economic sanctions, which had no compatibility and proportionality with the stable rule of “natural rights” of humans.

The formation of the League of Nations and the United Nations was a step towards creating and maintaining international peace and security and organizing and controlling the way economic sanctions are applied.

From this period onward, the application of economic sanctions, which now had international legitimacy, especially the unprecedented nature of sanctions by the United Nations after the Cold War in terms of their number, quality, and the reasons for their actions, aroused International sensitivity regarding the sanctions regime and raised doubts regarding the legitimacy or illegitimacy of economic sanctions.

In this regard, a group relying on international regulations tried to prove that its actions are legitimate on behalf of the Security Council. And on the other hand, efforts were also made to prove that the application of economic sanctions contradicts the general goals of the United Nations Charter and human rights.

According to the rule of natural rights and the customary and written rules of “human rights”, any type of general punishment that endangers the life of a nation and deprives them of their natural rights is prohibited, and its application is considered a kind of international threat.

The present research will explain it in the continuation of its investigations.

Key words: economic sanctions, Security Council, United Nations Charter, human rights, international peace and security.

Chapter 1: Research overview

1-1-Introduction

Economic sanctions are, in fact, the adoption of individual or collective measures of limited or complete economic blockade in order to pressure a government to force it to accept the conditions desired by the sanctions enforcers. Although economic sanctions are now universally accepted in order to ensure international peace and security, and their application is legitimate in terms of international law. But this legitimacy is effective to the extent that exerting pressure on countries does not conflict with general international law, mandatory rules, specific provisions of the charter, and rules of human rights and humanitarian rights.

In such a situation, applying economic sanctions through the Security Council is acceptable and cooperation; of course, some experts believe that the Security Council did not have any restrictions in performing the duties stipulated in the seventh chapter of the charter and the decision of the council in applying the provisions of the seventh chapter of the charter is not bound by the standards of international law. They have based their claim on Clause (1) of Article 1 of the United Nations Charter and they admit that this clause leaves the hands of the Security Council completely free to apply the seventh chapter of the Charter.

And the basis of the non-limitation of the powers of the Security Council in the implementation of the duties arising from the seventh chapter of the charter and they argue that paragraph (1) of article 1 of the charter includes two components; the first part is related to maintaining peace and security through the adoption of effective collective measures, and the second part is related to the peaceful settlement of disputes; since the need to comply with the principles of justice and international law is mentioned only in the last part ,when the Security Council acts based on the seventh chapter of the charter, according to the charter, it is not legally bound to comply with the principles of international law.

The current research seeks to suggest a path to reformers and practitioners of international institutions and human rights by analyzing the evolution of economic sanctions and its effects on the life of societies, to avoid unbridled economic sanctions that can destroy the world. We must understand that the application of any unconventional and unilateral punishments does not cost the sanctioners as well as the sanctioned . Applying economic sanctions against human rights standards and without considering the strength and resistance of countries, in return, apart from challenging such sanctions, it can reduce its influential role or question the legitimacy of its application (law, 1994).

The next subject of this research is the study of the competence of those who apply economic sanctions, which should be done in a collective decision-making process free from the influence and domination of any powerful government. And its application should be based on the laws of the natural rights of nations and the principles of international law and based on the legal authority and consent of the overwhelming majority of governments in the United Nations General Assembly .Because as stated in the United Nations Charter and human rights regulations; The application of economic sanctions depends on the observance of human rights rules.

And if this council imposes such sanctions, it should act in such a way that international peace and security and the life and livelihood of the nation subject to economic sanctions are not endangered. (Shaygan, 2010) And based on the legal authority and consensus of the overwhelming majority of governments in the United Nations General Assembly. And finally, the current research wants to show that applying economic sanctions against countries, which is one of the strict recommendations of the Charter (Chapter Seven) as a non-coercive factor in order to ensure and maintain international peace and security. Can it satisfy the demands of the world community and realize this goal? (Khaduri, 2018)

1-2-Statement of the problem

Living in a world full of peace and free from poverty and violence is one of the natural rights of humans, which is the responsibility of governments, organizations and international

legal institutions. The unity of the world community against those who threaten international peace and security, which is done through the application of the penalties specified in the United Nations Charter, is only for the purpose of achieving the above goals.

International peace and security is a rational and worthy desire of humans, which God has granted to them as natural rights , and the provision of good life and proper livelihood is determined by creating and maintaining it and achieving these goals in the national and international society , it depends on the use of all the capacities and capabilities of nations and governments, observing the necessary accuracy regarding the transformation of potential international possibilities into actual ones.

This is what is referred to in paragraph (1) of Article 1, the objectives of the United Nations and it is stated:

“Maintaining international peace and security and for this purpose taking effective collective measures to prevent and remove threats against peace and suppression of acts of aggression or other breaches of the peace and adjustment or settlement of disputes or international situations which may lead to a breach of peace through peaceful means and in accordance with the principles of justice and international law.”

Creating world peace and a world free from poverty and violence requires requirements that are possible only in collective cooperation and positive and accepted tendencies and thoughts. And of course, until the spirit of the world community and especially the spirit of international organizations and institutions is not cleansed and especially the great powers do not give up their insatiable expectations, our current world will not reach the coast of peace and good destiny;

While the establishment of the United Nations and many non-governmental organizations (N.G.O.) was formed on this basis, so that peace and good life and a peaceful and prosperous world, not a fragmented one, could be seen, and people, blessed by the existence of such a world, achieve a healthy life. As mentioned in the Rio Declaration:

“Humans are the focus of sustainable development and humans have the right to a

healthy and productive life in harmony with nature.”

One of the components of strengthening world peace and international security is the targeted participation of governments under the supervision of international organizations and institutions (as representatives of the world community).

Since most of the world’s countries are located in southern conditions and their power and facilities are insignificant in realizing the goals of the Charter and the Rio Declaration and other international agreements, it’s necessary to put the implementation of the provisions of the charter in the economic sanctions section with more reflection and precision on the agenda by using appropriate and acceptable mechanisms, and neglecting this issue has provided the means to threaten collective security and world peace.

Of course, this issue has caused reformers and global elites and even some countries that are in the conditions of the North to be interested in strengthening this idea in the United Nations . And it is necessary for the United Nations bodies and the subjects of international law in fulfilling their duties to be bound by this principle of inquiring about it with full respect for the rights of the people and only for the love of science, education is covered. Their duties are bound by this principle and do not allow these actions to become a tool and a means to create poverty and hunger and deepen violence in other countries.

The experiences of economic sanctions in the last half century have shown that its implementation and application in many countries have faced serious geopolitical and geo-economics challenges in the world and have endangered international security. The Imposition of sanctions in Iraq, Afghanistan, North Korea, etc. has damaged the economic geography of the world and the international politics and economy are in turmoil. And stagnation and inactivity and productive activities have caused public poverty and hidden and open violence.

Terrible explosions, disturbing the peace and security of nations, even in the sensitive centers of the northern countries, fear and anxiety and dozens of other behavioral and suicidal crises are caused by neglecting the way sanctions and economic punishments are applied regardless of

geopolitical and geo-economics situations .The current International economy, which is caused by the development and completion of new technologies, has provided enormous wealth to the great powers and the North-North countries. But there is a tool in the hands of the agents of the South-South countries and some regimes to act as bandits of the past centuries and act as a shadow power .And to share with the big powers in obtaining illegitimate profits and interests and divide the world market among themselves.

That is why now smart and reformed politicians and many international organizations and institutions and even great powers have clearly understood that using requirements such as applying economic penalties is no longer a solution to problems. And this issue indicates that the United Nations should take action to restore the Security Council, which in the implementation of the provisions mentioned in the seventh chapter of the Charter, strictly observes the principles of general international law, mandatory rules, special provisions of the Charter, rules of human rights, humanitarian rights and Geopolitical and geo-economics situations should be the top of its duties. And not act beyond the framework of the general principles of natural rights and international law. And in case of violation by the enforcers of sanctions against general international law and human rights, take action in appropriate ways and prevent them from doing so ,Because applying all these restrictions is actually paying attention to the principle of human dignity and respect for human aspects and sustainable strengthening of natural rights, civil society and international peace .Heavenly religions also pay attention to the principle that the effects of punishment should not challenge the general improvement, instead of improving a village, we should destroy a city. The punishment for such a violation is the violation itself. The Holy Quran says in this context:

« و جزاء سيئه سيئه مثلها فمن عفا وأصلح فأجره على الله إنه لا يحب الظالمين »

1-3-The importance of research

The current research is necessary and important because:

1) with the progress of societies and civilizations and the development of politics, economy, technology and information on the one hand and the growth and expansion of official international institutions and non-governmental organizations (N.G.O.) and the emergence of new legal theories in the field of international law, human rights, humanitarian actions, the marginalization of geographical borders, the connection and approach of nations to each other, the transformation of the world to the global village, quick access to information and news and the sufferings and joys of nations, until now the application of the provisions of the seventh chapter of the United Nations Charter has not included a proper response to the behavior of the sanctioned government or governments. And the actions taken indicate that the losses resulting from the punishments are more than the benefits.

2) The purpose of applying the provisions of the seventh chapter of the charter is to secure the interests of the people of the world and repel evil and oppression for the benefit of the international community.

3) Relying on the historical experiences of sanctions and international cooperation regarding the preparation of the Charter, one of the four objectives of Article (1) of the Charter is to control the disturbers of international peace. But in the direction of principled and logical implementation of this theory, it is not suitable to be used as a suitable model.

Regarding the application of the provisions of the seventh chapter of the charter, preconditions have been considered, the main of which are:

(1) The necessity of imposing sanctions (2) The objectives of imposing sanctions (3) The results of imposing sanctions (4) The appropriateness of imposing sanctions (5) The realization of positive effects towards world peace (4) The duration of economic sanctions are issues that have international agreement,

As the Economic and Social Council of the United Nations, in its Resolution No. 23 of 1997, regarding the appropriate standard and model in crime prevention, pointed out the principle of proportionality of punishment and says:

“When preventive measures are taken that do not harm the principles stated in clauses (4) and (5), but affect human rights, it is necessary to

implement these measures strictly in compliance with the legal rule and the principle of proportionality in the future.

Therefore, the principle of proportionality helps that the economic punishment or any type of sanction is appropriate to the objectives of the sanction (changing the illegitimate behavior of the sanctioned country to a legitimate behavior that is in line with human rights).

The reason for adopting such a position by the international forums is perhaps to ensure the objectives and results of the punishments, which should have reassuring aspects and positive effects.

Studying the views and opinions of lawyers and reformist politicians in the world confirms this issue.

For example, the interpretation of the International Law Commission regarding Article 1 (5) of the draft articles on the responsibility of governments states as follows

Due to the need to ensure that the adoption of countermeasures should not lead to unfair results, proportionality should be evaluated not only by taking into account the quantitative dimension of the harm, but also by qualitative factors such as the importance of the benefit protected by the violated rule and the severity of the violation.

1-4-Research objectives

Regarding the objectives of the research, it is possible to examine the application of economic sanctions of the Security Council from different aspects, including the aspect of international law, human rights and customary rules. Assuming that the Security Council complies with the rules and regulations in the application of economic sanctions, the current research aims to address the following goals:

The first speech to the main objectives:

(1) – Measuring the degree of enjoyment of international rights and human rights in the application of economic sanctions

(2) – Investigating the effective factors in nations’ enjoyment of international rights and human rights.

The second speech - sub-objectives:

(1) _ measuring the level of enjoyment of the aspects of human rights and international rights separately and comparing them with each other

- (in order to determine which of the above dimensions is stronger and which is weaker).
- (2)_ Measuring the impact of each of the factors affecting human rights in countries and comparing them with each other .
- (3)_ Providing suggestions and solutions in order to achieve as many nations and governments as possible to enjoy the benefits of the United Nations Charter.

Chapter Two: Economic Sanctions
2-1-Introduction

“Sanction” had created a process in human political history that was usually started in favor of great powers, but in terms of the resistance and effort of the nation under sanctions, it provided them with positive effects. This fact has been shown at different times in history. The British sanctions In the last quarter of the 17th century against the American people led to self-belief and the idea of independence, and the revolution of the American people against the British resulted in the establishment of an independent country with an independent political organization and an independent government in this region. (1934, Sons,) The British sanction against Iran during the prime minister ship of Dr. Mossadegh, the origin of which was the nationalization of oil, except that it started a new movement in Iran, and the result was the explanation of the strategy of independence and the return of national sovereignty to the people of Iran, which then After 25 years, it gave results and the Islamic state was created by the people.

The sanctions imposed by the United States on the Islamic Republic of Iran since 1980, apart from imposing additional costs on this country, have resulted in independence and scientific, technical and industrial prosperity and new technologies, the effects of which are completely can be seen. The fact is that basically the “economic sanctions” applied by some powers, in terms of the one-sidedness of these powers, apart from temporarily having detrimental effects on the country under sanctions, it caused hostilities that affected the process of social and international life of the two sanctioning and sanctioned nations. And the reason for that was the lack of attention to the rules and systems that have been institutionalized in human life,

including communication with others, mutual cooperation, etc. (Tajabadi, 2019).

This issue created conditions for lawyers to put proposals on the table of the heads of countries by studying the psychological, economic and biological effects of “sanctions” in order to use them to legalize the process of applying sanctions. The formation of the United Nations, which is one of the lofty human ideals, was able to implement this part of the lawyers’ suggestions. In order to prevent the imposition of unilateral sanctions, the United Nations should set rules and regulations, which, in any case, were much better than the previous situation. Especially, in Article 1 of the Charter, four paragraphs mentioned the issues that the world was waiting for after the two bloody wars, these issues are:

- (1) Maintaining international peace and security and for this purpose taking effective collective measures to prevent and remove threats against peace. And stopping any acts of aggression or other actions that violate the peace and providing reasons for adjustment .And settling international disputes or a situation that may lead to a breach of peace by peaceful means and according to the principles of justice and international law.
- (2) Development of friendly relations among nations based on respect for the principle of equal rights and autonomy of nations and taking other necessary measures to consolidate world peace.
- (3)- Obtaining international cooperation in solving international issues that have economic, social, cultural or humanitarian aspects . And in promoting and encouraging respect for human rights and basic freedoms for everyone without discrimination in terms of race, gender, language or religion. (Mousavi, 1998)
- (4)- The existence of a center to coordinate the actions that nations take to achieve these common goals. Therefore, the establishment of the United Nations is considered a glimmer of hope for a peaceful life at the international level.

Because the imposition of sanctions on countries led to the continuation of wars and disputes and the use of violence in the world and the formation of the Security Council, the subject of the fifth chapter of the charter, was somehow controlling these violences at the international level. It seems that the expression of Article 41 of the seventh

chapter of the Charter is actually a means of controlling the unilateral sanctions of the governments and preventing irreparable material and spiritual damage to other nations. This article states:

The Security Council can decide what measures that do not involve the use of armed force are necessary to implement the decisions of that Council and can ask the members of the United Nations to take such measures. These measures may include stopping all or part of economic relations and railway-sea-air-post-telegraph-radio communications and other means of communication and cutting off political relations. (Mirzaei, 1993) Article 41 was able to prevent the arbitrary application of economic sanctions by the great powers. And turn this decision into a collective action with the participation of the members of the nations, which was a good and desirable method considering the conditions of applying sanctions in the past.

But with the passage of time and developments in the United Nations and the role and influence of the powerful actors of the United Nations Security Council, who usually resort to arbitrary actions with a one-sided interpretation of the provisions of the seventh chapter of the Charter, due to the effectiveness of these powers in applying economic sanctions against countries, the aforementioned council deviated from its main goals and acted like the 17th century. The imposition of unfair sanctions by this council, towards different countries, provided the grounds for prominent scholars and lawyers to take a position on the methods of applying economic sanctions to other countries.

And the result of this stance is the authoring of books and treatises and various conferences and lectures at the world level ,who have protested against unilateral economic sanctions. Some of them that are contemporary with these sanctions are mentioned (Bavand, 1990):

George Laizva and David Cartwright; These two thinkers, by compiling an article entitled the era of sanctions, an alternative to military intervention, evaluate its diplomatic skills over the centuries and introduce and emphasize its goals to change the political and social behavior of the target country:

“Sanctions give nations with different foreign policies an opportunity to find a common political response in critical situations and give the leaders of nations the ability to do the work. At the same time, they are freed from the high risk of conflicts that may arise if other foreign policy measures are used, such as military intervention”. (Momtaz, 1998)

Gil Marum, citing other thinkers of international political science, believes that sanctions are a form of manipulation of economic relations in order to achieve political goals, which punishes it economically in order to force the society to change its policy or government. He adds that the breadth of this definition may lead to confusion, so it is better to distinguish between coercive and manipulative economic sanctions. Anthony D’Amato writes that the main purpose of sanctions in inter-state relations is to impose heavy consequences and costs on these governments if the sanctioning government does not accept the demands of the sanctioned government.

Then they conclude that sanctions should be applied in very rare cases and only in situations where a government has violated international law. And he defends the exclusive authority to impose sanctions (the United Nations) and not arbitrary and discriminatory measures

In this regard, professors of Iranian international law and politics such as Dr. Jamshid Momtaz, Dr. Ziyai Beg Deli, Dr. Dawood Hermidas Bavand, Dr. Hoshang Moqtader, Dr. Farideh Shaygan, Dr. Mohammad Sharif and others have written books and articles in this regard. And have pointed out issues such as the evolution of economic sanctions and its effects on the political-economic process of the country and how it is applied (Bigdeli, 2016).

2-2- The history of economic sanctions

Economic sanction has its roots in the history of the formation of states, that is, since when the states found a desire to dominate other countries in order to secure national interests and gain superior transnational power and wealth. And war and aggression were the main basis of this demand, and economic sanction was used as a punishment for the third country.

Since the first city government showed itself in ancient Greece, the most obvious example in this

regard is the knight worshiper of the ruler of Athens in relation to the empire of Megara (5th century BC), which was a kind of economic punishment against this empire, which by his own actions had encroached on the territory of Athens And secondly, its soldiers, who physically abused some citizens of Athens. According to Purcell's decree, the entry of trade goods and other products of the Megara Empire into Athens was prohibited. And its purpose was to change Megara's aggressive behavior towards the government of Athens. (Tarazkahi, 1997)

Also, the application of the Boston Port Act by England against the American people in 1774, which is considered a form of economic punishment, is one of these. According to this law, no cargo or commercial ship had the right to use the port of Boston, and this situation continued until the losses caused to the British East India Company due to the Boston Tea Party (mentioned earlier) were compensated. (Abdul Karim, 1995)

It should be noted that before the First World War, according to the legitimacy of resorting to war, the governments used their discretion to punish the offending countries .And according to the violation of the aggressor country, measures such as diplomatic protest, severance of diplomatic relations or compensation should be paid to the fact that before the First World War, due to the legitimacy of resorting to war, governments at their own discretion punished the offending countries.

And considering the aggressor country's wrongdoing, they took measures such as diplomatic protest, severing diplomatic or commercial relations, unilaterally canceling the agreement, and finally resorting to war, which was considered one of the basic elements of the sovereignty of countries in the international scene. (Jean Marc, 1997)

For the first time after the end of the First World War, within the framework of the Covenant of the League of Nations, the issue of resorting to economic sanctions, including the termination of trade relations against a government that violated the peace, was foreseen, regardless of the obligations arising from the Covenant of the League of Nations.

In the United Nations Charter, the ability to impose sanctions was prepared as one of the central tools by which the United Nations can react to military aggression or other violations of the provisions of the Charter .According to the seventh chapter of the United Nations Charter, in case of threats against peace, violations of peace and acts of aggression by the member states, the Security Council of this organization can resort to executive operations in order to guarantee international peace and security.

The actions of the Security Council include stopping all or part of economic relations, etc., and if the measures taken are not sufficient, the Council can resort to the armed forces provided for in the charter. In both cases, the actions of the Security Council will be binding for all members of the United Nations (Dowy, 1994) .Thus, contrary to the League of Nations, the UN Charter assigns the responsibility of resorting to economic punishment, including economic and military sanctions, to the Security Council. And no executive and coercive operations will be carried out even according to regional agreements without the permission of the Security Council. (Nikkhah, Sarnaqi)

2-3-Definition of economic sanctions

2-3-1-lexicography

The word sanction has different meanings in different dictionaries. In the culture of Arianpur, this word has meanings such as: “decree, church fatwa, official and binding oath, approval of Shariah permission, confirmation, Shariah and official permission, official approval, moral principle, guarantee of execution, punishment determined for violation of an order.” (law, 2015)

Haim's great English-Persian dictionary gives the meanings of the words: “compensation, reward, prescription, permission, confirmation, approval, executive guarantee, fine”. Wilde believes that sanctions is a deceptive word that is used in the sciences of philosophy, sociology, and law, and has special meanings in each of these sciences. Wilde's general opinion is that the current word sanction was related to the word “sanctus”.

And the latter word is the object noun of a religious word that was derived by priests and judges to condemn wrongdoers and especially because of “Sancer”. And “Sancer” is that this

verb itself is used from the word “Sancire” to violate the sacred thing. Therefore, the Latin origin of the word sanction is that sanctions; The punishment for violation of the regulations is included, the punishment for the wrong action is against morals and moral conscience, or the interests of the society. So, this punishment is not only a deprivation of a valuable right, but also a general symbol of the moral disapproval of the act done by the society. (Aghaei,1995)

2-3-2- Legal definition of sanctions

Punishments are defined as means of persuasion and enforcement of legal regulations and include several types of moral, religious and social, all of which may be called legal punishments. Domestic laws rely on punishments set by the legislature, in the sense that punishments guarantee the implementation of domestic laws. But international law cannot have punishments of the type of domestic punishments. (Haidari, 1996)

Duties:

According to Article 24 of the United Nations Charter, the basic responsibility for maintaining global peace and security rests with the Security Council. The Security Council acts as a reformer within the framework of the provisions of chapter six of the charter and as an enforcer of international order within the framework of the provisions of chapter seven. According to the first paragraph of Article 24 of the Charter, the primary responsibility for maintaining international peace and security is assigned to the Security Council .And the members of the United Nations, while granting this responsibility, have agreed that the Security Council will act on their behalf.

But on the other hand, the members of the United Nations have limited the Security Council to adhere to the “purposes and principles of the United Nations” and as a result, the Council is not able to take arbitrary actions free from any restrictions. (Steghan, 1996) The Security Council, as an enforcer of order, must first make sure that peace has been threatened, or its standards have been violated, or an act of aggression has been realized .Based on the reasons it has obtained, the Security Council can adopt temporary measures or take coercive or precautionary measures ;with these

interpretations, the Security Council has a very difficult road ahead in performing this task. According to Article 39 of the charter, it must be ensured before any action that the criteria stipulated in this article have really been achieved.

And this is not possible unless the dispute or crisis is carefully examined. Therefore, before announcing its final opinion, the Security Council should carefully consider the issues related to the case and prove its correctness, just like a judicial authority. The investigation carried out by the Council in this regard should be based on Article 34 of the charter, which is considered to be the connecting link of the sixth and seventh chapters of the charter .However, it should not be overlooked that the Security Council has taken this authority from the sixth chapter of the charter.

This means that the Council’s decisions in this framework have a recommendation form, therefore the involvement of the Security Council in such cases is only limited to encouraging countries to fulfill their obligations and recommending them to resolve their differences through peaceful means. (Biegzadeh, 1997)

The third chapter: economic sanctions of the Security Council and fundamental human rights

3-1- The authority of the Security Council regarding economic sanctions

As explained further, the powers of the Security Council, as a result of the expanded interpretation of the Charter, will lead to the evolution of the concept of international security and the development of international law. In the last years of the 20th century, following the collapse of the Eastern Bloc, the international system has undergone a dramatic transformation. These developments in the international scene have had positive and negative effects, among its positive effects, we can mention the activation of the United Nations in dealing with issues related to international peace and security in the period after the end of the Cold War. (Vafi, 1993)

The Security Council, in line with its main task, which is to establish and maintain international

peace and security, based on the progressive and extensive interpretation of Article 39 of the Charter, and it has expanded the concept of peace and security so much that its scope has exceeded the scope of military threats. And in many cases, the violation of human and humanitarian rights, including hunger and poverty caused by them, has been considered as a threat to international peace and security.

And as the main guardian of international peace and security, it has intervened and imposed partial and general sanctions on several countries, including Somalia, Haiti, Rwanda, Yugoslavia, Iraq, Afghanistan, and finally Iran. The main reference of the Security Council in these interventions is to preserve and protect human rights and restore international peace and security, and they are referred to as humanitarian interventions. Now we need to know what is the competence of the Security Council regarding the application of economic sanctions in cases of widespread violation of humanitarian rights? (Barati, 1997)

3-1-1- The basis of the competence of the Security Council

In general, when discussing the basis of the competence of the Security Council, several questions may come to mind in this regard, including:

- What is the basis for the mandatory decisions of the Security Council regarding the imposition of economic sanctions on countries?
- On what basis is the legitimacy of the decisions made by the Security Council regarding the imposition of sanctions based?

The answer to the above questions after finding an answer to this preliminary question, which is the basis of the requirement of legal rules, both domestic and international? obtained.

First of all, it should be said that the topic of the basics of law is actually about examining the origin of the binding force of legal rules. Regarding the nature and basis of international law and the reason for the binding nature of these laws, various opinions and theories have been proposed by the jurists of different countries since the past.

In addition to determining the foundations of international law, these views and opinions have

also contributed greatly to its progress and development. As Article 38 of the Statute of the International Court of Justice has considered the mentioned doctrines as sources of knowledge of legal rules.

But in general, the study and examination of different viewpoints in the field of the foundations of international law has led to the emergence of two important and fundamental schools: the school of originality of will and the school of originality of nobles. (Janmark, 1997) Proponents of the originality of will school consider rights to be the result of the will of countries, which cannot be established but can be discovered. In this way, the will of the countries can be considered as one of the bases of the obligation of legal rules, which is manifested in the form of treaties or custom.

Therefore, based on the unity of the criterion, it can be said that the first basis of the Security Council's competence regarding the application of economic sanctions is the will of the countries and members of the international community. In other words, it can be claimed that in reality, the will of the international community, which is manifested in the form of the United Nations Charter, is based on the important responsibility of maintaining international peace and security to members consisting of representatives of the international community, i.e. the Council hand over security.

Also, in order to achieve this goal, according to Article 25 of the Charter, "the members of the United Nations agree to accept and implement the decisions of the Council in accordance with the Charter." Undoubtedly, according to Article 25 of the Charter, the Security Council will consider the implementation of every rule of law, including the rules of human rights, to ensure the goals stated in its constitution. (Firouzabadi, 1990)

As the second basis of the competence of the Security Council regarding the application of economic sanctions, we can refer to the seventh chapter of the United Nations Charter. This means that when the Security Council, according to Article 39 of the Charter, determines the factors that threaten or violate the peace, it can issue recommendations to the parties in dispute (Article 40).

And if these recommendations are not effective, it can impose sanctions based on Article 41 of the charter, Article 41 declares in this regard: (Safaei, 1990) As the second basis for the competence of the Security Council regarding the application of economic sanctions, we can refer to the seventh chapter of the United Nations Charter.

This means that when the Security Council determines the threats or breach of peace based on Article 39 of the Charter, it can make recommendations to the parties in dispute (Article 40), and if these recommendations are not effective, it can make recommendations based on Article 41 to apply sanctions, Article 41 declares in this regard: (Bigdeli, 2013) The Security Council can decide what measures that do not involve the use of armed forces are necessary to implement the decisions of that Council and can ask the members of the United Nations to take such measures. These measures may include stopping all or part of economic relations and communications by rail, sea, air, postal, telegraph, radio and other means of communication and cutting off political relations. Now, another question that is raised is whether outside the framework of threats and violations of international peace and security contained in Article 39 of the Charter, the Security Council has the authority to deal with and apply economic sanctions in cases of extensive violations of human rights and humanitarian rights.

As mentioned before, one of the most important competences of the Security Council that has undergone transformation is the progressive interpretation of the concepts of “international peace and security”. That this evolution has led to the expansion of the concept of peace in a way that has expanded its territory to the violation of human rights and humanitarian rights.

So, in this regard, it seems that several factors can be mentioned as the basis of the competence of the Security Council. According to which the Security Council can impose sanctions against the violators of these regulations after establishing widespread violations of human rights and humanitarian rights. Promoting and encouraging respect for human rights and basic human freedoms is one of the goals mentioned in the United Nations Charter as one of the purposes of the United Nations and the principles of the

United Nations, and its preservation and protection is assigned to the pillars of this organization.

Thus, one of the competent pillars in the field of human rights is the Security Council. But in most cases, the performance of UN member and non-member countries has shown that they do not adhere to the contractual provisions and obligations arising from the observance of human rights. Therefore, in many cases, non-compliance with human rights and their serious violations have reached a level that has endangered international peace and security.

Accordingly, the need for the intervention of the Security Council as a protector of international peace and security has been felt. To point out one of those cases, we can point to the deplorable situation of the Iraqi dissidents and their inhumane treatment and the widespread violation of human rights in Afghanistan by the Taliban group, which has forced the Security Council to take decisions against them.

In Article 8 of the Genocide Convention (1948), it is stated that: “Each of the contracting parties can refer to the authority of the Charter, Clause 3 of Article 1 of Article 59 of the Charter, among the cases that have mentioned this duty.” Genocide is an act committed with the intention of destroying all or part of a national, ethnic or religious group. In the first article of the Genocide Convention, this act is considered an international crime and deserves punishment. (Tarazkahi, 1997)

3-1-2-The doctrine of the unlimited competence of the Security Council

The brevity and ambiguity in Article 39 of the Charter, on the one hand, and the indefinability of the concepts of Article 39 of the Charter, on the other hand, have caused the great powers, whose interests and ambitions are secured due to the creation of crises in all parts of the world,

While using this fundamental weakness of the Charter and using the influence they have in the Security Council, they will propose the doctrine of the unlimited competence of the Security Council. This doctrine is based on the expanded interpretation of Article 39 of the charter, and the declaration issued by the first summit of the Security Council on January 31, 1992 is considered the beginning of such a development .

This declaration states that: the absence of war and conflict between states does not guarantee international peace and security by itself.

Civilian interests, lack of stability in the fields of education, pre-transfer of theses and dissertations for graduate studies and the protection of the rights of authors on them to the Ministry of Economic, Social, Human and Environmental Affairs, are now considered a threat to international peace and security. (Saber, 1998)

3-1-3-Limitations of the Security Council's competence

In contrast to some people who have tried to make the Security Council's competence appear unlimited by proposing the doctrine of the unlimited competence of the Security Council. Some people have tried to counter this theory and have raised the issue of limiting the competence of the Security Council by raising several questions. And basically, they have raised the question whether the Security Council, in verifying the three cases listed in Article 39 of the Charter, i.e. "threat to peace", "violation of peace" and "act of aggression"

Can it use any means and methods to maintain peace and restore international peace and security and adjust the behavior of the leaders of a country without considering the effects of its misdeeds, including sanctions?

Is the Security Council required to comply with rules and regulations or not? Is it basically necessary to monitor the actions of the Security Council or not?

Therefore, in order to find an answer to these questions in this topic, we decided to examine some of the limitations of the Security Council that are prescribed for it according to the charter and outside the charter. (Astghan, 1996)

3-2-1-Restrictions stipulated in the United Nations Charter

Before taking any action, the limitations of the Security Council should first be found in the organization's founding treaty, i.e. the United Nations Charter. As we know, promoting and encouraging respect for human rights and humanitarian interests and ensuring international peace and security are important goals and objectives of the United Nations.

Paragraph (1) of Article 24 of the United Nations Charter indicates that the members of the

organization have delegated some of their original responsibilities to the Security Council. And the Security Council, on behalf of all the members of the organization, has assumed the serious responsibility of maintaining international peace and security.

However, according to the last part of Clause (1) of Article 24, the Security Council has been obliged to act according to the principles of justice and international law. (Abdul Karim, 1995) In the first summit of the Security Council, it was emphasized that "the members of the Security Council declare their commitment to international law and the United Nations Charter.

»

In his theory in the case of Namibia, the Judge of the Court, Gerrard FitzMaurice, says: "It is an indisputable principle of international law that just as each of the member states of the United Nations are subject to international law, the United Nations itself is also one of the subjects of international law.

Judge FitzMaurice concludes from this statement that when the United Nations, like the governments, is obliged to comply with international law, the Security Council, as one of the pillars of that organization, will also be required to comply with the rules and regulations of international law.

As a result, it can be said that the first restriction of the Security Council is the obligation to comply with international law according to the United Nations Charter. (Janmark, 1997) Another thing is the duty assigned to the Security Council according to paragraph (3) of Article 24.

It means presenting annual reports and, if necessary, special reports that must be submitted to the General Assembly for consideration. It can be said that the duty assigned to the Security Council according to this article is in fact a type of monitoring restriction that takes place through the General Assembly on the actions of the Security Council. (Shaygan, 2001)

Also, according to paragraph (7) of Article 2 of the Charter, the Security Council cannot intervene in matters that are inherently within the internal jurisdiction of countries. Of course, it is necessary to remember that the last part of paragraph (7) of Article 52 of the Charter has

prescribed coercive measures under the seventh chapter regarding the guilty country. (Feiz, 2002) Even when the Security Council acts based on Chapter 7 of the charter, before taking definitive measures, it is necessary to verify the existence of threats and violations of peace or acts of aggression, and after this step, consider recommendations for the parties. And if the recommendation is not effective, then it can apply non-coercive measures, and if they fail, coercive measures that include military measures according to Article 42 of the Charter.

Therefore, in general, it can be said that according to the United Nations Charter, the actions of the Security Council must be in accordance with the principles of justice and international law. The purposes and principles of the United Nations and most importantly the Charter of the United Nations should be fulfilled or at least not against the spirit and context of the Charter.(Karami 1990)

3-2-2-Restrictions outside the United Nations Charter

As we said before, although the limitations of the Security Council in any action should be first sought in the organization’s founding treaty, i.e. the United Nations Charter, However, the development and evolution of general international law since 1945 has imposed other restrictions on the performance of the Security Council regarding the application of economic sanctions, which we will examine in this article under the title of restrictions outside the United Nations Charter. (Maqtadar, 1978)

3-2-3-Restrictions of the Security Council according to human rights regulations

Article 25 of the Universal Declaration of Human Rights states: “Everyone has the right to ensure the standard of living, health and well-being of himself and his family in terms of food, housing, medical care and necessary social services, and he also has the right to receive medical care in case of illness, disability members, widowhood, old age, etc., to enjoy dignified living conditions.

The statute of the World Health Organization considers the enjoyment of the highest level of health (health care) as one of the fundamental rights of every human being, regardless of race, religion etc .In the World Declaration on

Nutrition at the 1992 International Conference, held by the World Health Organization, FAO, it is stated: “Food should not be used as a tool of political pressure” (Mommataz, 1981).

Also, Article 13 of the Human Rights Declaration and Article 6 of the International Covenant on Civil and Political Rights as well as Clause (2) of Article 1 of the International Covenant on Economic, Social and Cultural Rights have declared with the same wording that: Under no circumstances can a nation be deprived of its livelihood. It is obvious that this ban was intended to protect people from famine and starvation. This protection is described as a “vital human right” according to paragraph (2) of Article 11 of the International Covenant on Economic, Social and Cultural Rights.

Article 4 of the Covenant of Civil and Political Rights, the existence of any situation, even if it is exceptional, serious and extraordinary. Article 4 of the Covenant of Civil and Political Rights does not justify the existence of any circumstances, even if they are exceptional, serious and extraordinary, for governments to deviate from some rights mentioned in this Covenant, including the right to life and protection, which is stated in Article 4 of the Covenant. (Mousavi, 2007)

According to the human rights regulations, the purpose of all of which is to support the regulations related to the fundamental rights of human beings. And considering that many provisions related to human rights, including the right to life, prohibition of slavery, prohibition of racial discrimination, genocide, etc., have acquired the characteristic of peremptory norm.

And especially considering the universal feature of the obligations related to human rights and the judgment of the court in the case of Barcelona Traction, which confirms this feature .Also, considering the relationship between compliance with human rights regulations and international peace and security, it cannot be denied that the violation of human rights regulations can put international peace and security at serious risk.

In this way, it will be very logical that the Security Council, as the guardian of international peace and security and the guardian of the fundamental rights of the international community, is also required to comply with these

rules and regulations, just like other subjects of international law. Because ignoring these regulations can question the legitimacy of its actions. (Weibach, 1992)

3-2-4-Restrictions of the Security Council according to international humanitarian regulations

Article 23 of the four Geneva Conventions of 1949 regarding the protection of civilians during war is a very important article. which was included in the Fourth Geneva Convention at the insistence of the International Committee of the Red Cross and completed the annexation protocols to the 1997 geo-historical conventions. According to Article 23 of the Fourth Geneva Convention, the member states are obliged to ensure the free passage of all medical shipments and sanitary materials that are transported to the civilian population of the enemy .The same recommendation applies to food, essential food and clothing, fortified food for children under 15 years old, pregnant women and women who have just given birth.

The scope of this article includes only vulnerable people in the society, but Article 54 of Protocol No. 1 annexed to the GEO Conventions of 1949 states that “the use of famine tactics as a war method against civilians is prohibited .It extends this protection to the entire civilian population living in the occupied territory .Clause (1) of Article 9 of this protocol considers the provision of food and medicine as well as the provision of clothing, rest and shelter necessary for the survival of the population.

According to these provisions, it is the duty of the member states of the Fourth Geneva Convention with the additional protocol to provide free passage, provided that these aids reach the groups of civilians who have the right. There is no doubt that the purpose of the commitment to ensure the provision of food and medicine for civilian residents is the continuation of their right to life. (Tajabadi, 2000)

Now, the question that is raised here is, what is the basis of the rules of the law of armed conflict and the granting of such important privileges included in the 1949 Convention? It seems that the basis of these rules is rooted in the Universal Declaration of Human Rights.

The right to life is considered as a basic and inherent human right in the Universal Declaration of Human Rights, and Article 4 of the Covenant does not allow any violation of it .However, what is mentioned in the Universal Declaration of Human Rights as an inherent human right is not an innovation, but this declaration at that point has merely formulated a series of customary rules that have been accepted by the international community, and one of those rights is the right to life. (Nikkhah, 2015)

3-3-Enforceability of resolutions for members of the United Nations

Without a doubt, Article 25 of the Charter is one of the key articles in the international security system and plays a superior role in the executive power of Security Council resolutions. This means that when the Security Council makes a decision in line with the provisions of the charter, based on this article, the members of the organization should accept this decision.

Therefore, the logical result Is that all the members of the organization should accept the results of the Implementation of the charter and approve the decisions of the Security Council. But there Is no consensus on whether the decisions of the Security Council are binding or not. (sons, 1934) The text of Article 25 of the charter and especially the term of decisions used In it, has provoked many debates and controversies. And many interpretations around this article continue. Meanwhile, the question that arises is whether the scope of Article 25 is only limited to the seventh chapter of the Charter or it includes other chapters of the Charter as well. (Bavand, 1990)

3-4- Legitimacy of economic sanctions from the point of view of general international law

The unprecedented nature of UN sanctions in the post-Cold War era in terms of the number, quality and reasons for their application, on the one hand, and the possibility of the Security Council repeatedly resorting to this tool in the future, on the other hand, have raised the sensitivity of countries regarding the sanctions regime. And raised doubts about the legitimacy or illegitimacy of economic sanctions in general international law.

In this regard, some have tried to prove that multilateral economic sanctions, which are

mostly applied by the Security Council, have the necessary legitimacy by emphasizing some international law provisions. And in spite of countless efforts, it has been made to prove that economic sanctions are contrary to the general goals of the United Nations Charter (Mousavi, 1998).

Therefore, here, by proposing two separate topics, one considers economic sanctions as legitimate and legal regardless of some exceptions, and the other considers economic sanctions as illegitimate and illegal regardless of some exceptions. We are trying to find an answer to each of these questions. (Mirzaei, 1993)

3-4-1- Are economic sanctions on the principles legitimate?

Due to the Increasing dependence of countries in the economic field and the importance of commercial exchanges, the drafters of the United Nations Charter considered economic sanctions as a weapon to force governments to comply with the provisions of this Charter, and the conditions for resorting to it were specified precisely in the seventh chapter of the Charter. (Mehrpur, 2016)
Considering the weaknesses of the community of nations In cases of sanctions, the founders of the United Nations tried to hand over the decision-making power regarding the maintenance of international peace and security and the application of economic sanctions to the Security Council. According to the seventh chapter of the Charter, in case of threats against peace, violation of peace and acts of aggression, the Security Council of this organization can resort to applying economic sanctions in order to guarantee peace by using the powers listed in Article 41 of the United Nations Charter.

Article 41 of the Charter stipulates in this regard: (Tajabadi, 2000)

The Security Council can decide what measures, which do not Involve the use of armed force, are necessary to implement the decisions of this Council, and it can ask the members of the United Nations to take such measures.

These measures may include stopping all or part of economic relations and railway, sea, air, postal, telegraph, radio and other means of communication and cutting off political relations. (Mehrpour, 1997)

It should be noted carefully in the composition of Article 41 of the Charter and other articles of the Charter that although economic sanctions like military action can be considered an unfriendly or unfair act, It cannot be said that It is generally prohibited by the United Nations Charter. However, it cannot be claimed that the Charter completely prescribes sanctions. (Tajabadi, 2000)

3-4-2-Prohibition of economic sanctions in various resolutions

The General Assembly (in the various resolutions it has issued) has repeatedly condemned coercive economic measures as a means to achieve political goals. In Resolution 290 of December 1991 under the title “Economic measures as a means of political and economic coercion against developing countries, industrialized countries are strongly requested not to use their superior position as a means of exerting economic pressure with the aim of changing the economic, political, commercial and social policies of other countries. (Bavand, 1990)

In Resolution (291) 3281 approved In 1974 under the title ”Charter of Economic Rights and Duties of Countries” It is mentioned that economic sanctions are prohibited. Article 1 of the above-mentioned Charter stipulates: “Every country has the undeniable and absolute right to develop its economic system as well as Its political, social and cultural systems according to the will of Its people without foreign interference and away from any coercion or choose a threat himself.” (Nikkhah, 1995)

The economic freedom considered in this article is also described In some of the following articles of this charter. For example, the article of this charter says:

“Countries are obliged to refuse to take economic and political measures that limit the right to form organizations that produce raw materials. This resolution declares that all developed countries should refrain from applying trade restrictions, sanctions, trade bans and other economic sanctions contrary to the provisions of the United Nations Charter against developing countries, as a form of political coercion that affects the economic, political and social development of these countries. (Mirzaei, 1993)”

3-4-3- Legitimacy of economic sanctions from the point of view of human rights regulations

As mentioned before, the mutual relationship between the results of enjoying human rights and the goals of maintaining international peace and security is very close, and the interdependence of these issues with each other is an inherent matter. Because, on the one hand, serious and extensive violations of human rights affect international peace and security, and on the other hand, it is only in conditions of peace and security that all people can enjoy their rights and freedoms as they should. In order to implement its decisions in the field of maintaining international peace and security, the United Nations Security Council has broad powers.

These decisions, which include the determination of punishment for violation of human rights regulations, allow the Security Council to limit the limits of the sovereignty of countries according to international law. A clear example of such measures is the humanitarian interventions of the Security Council and the application of economic sanctions in cases of extensive human rights violations

However, in spite of the aforementioned assumptions, which are mentioned as the duties of the council by the founders of the charter and referred to as "life events".

It cannot be Inferred that the Council's decisions in such cases are applied without any restrictions according to the seventh chapter of the Charter in response to the violation of the human rights standards by the guilty country.

Therefore, even though the legality and legitimacy of applying some restrictions on public rights and freedoms during emergency situations and international security that is at risk has been accepted. But these restrictions can only be applied to comply with the principles and rules that are considered fundamental and binding.

That is, because the principle is that emergency situations are exceptional and temporary, there are necessities that must be taken into account within the framework of fundamental rules and principles.

On the other hand, the main reason for causing damage or restricting the rights and freedoms of countries and individuals can only be justified in the light of international law and regulations and through it. (Weibach, 1992)

3-5-Human rights

The category of human rights and fundamental freedoms, which was explicitly determined by the United Nations as a basic international priority 50 years ago through the Universal Declaration of Human Rights dated December 1948 . It has gained special importance as a set of globally accepted norms and standards.

And now it is almost universally accepted that respecting human rights and observing his basic freedoms is necessary to achieve global peace and security. In this regard, significant achievements have been made in the past half century as a result of activities related to human rights.

Today, a wide range of vulnerable groups are under the protective umbrella of human laws and standards, now apartheid is consigned to history and the era of human slavery is almost a masterpiece, or at least expressed with a different and modern definition and appearance.

At the same time, guaranteeing the observance of human rights for all people Is still considered a formidable challenge. Because these rights are violated in most parts of the world without the main and high level perpetrators being punished. In this section, while expressing the concept of human rights and fundamental freedoms, it has been tried to discuss its position In the international system and related international documents in this field. Also, due to the close connection between human rights and international peace and security, the relationship between these two categories has also been explained (Mousavi, 1998).

Human rights are called "Droits do homme" In French, "Human Rights" in English, and "Hawq al-Insan" in Arabic. According to the libertarian schools, human rights are the rights that are required by human nature. The rights that existed before the creation of the state and are superior to it, and therefore the states must respect it. From a historical point of view, human rights have mostly included civil and political rights.

But in the contemporary era, with the development it has found, it also Includes economic, social and cultural rights. Therefore, according to its nature, human rights are not limited to time and place. Here you can discuss the history of human rights during the Achaemenid and Cyrus eras. (Karami, 1995)

From another point of view, it can be said that human rights have a completely relative concept, because the rights that were not considered part of human rights are now considered part of human rights. The Ideas of founding the foundations of human rights are as old as human social history and human thinking, and traces of It can be found in every human civilization.

Rights that do not depend on time with a specific land, wherever a group of people have been together, these rights and issues have also existed. Human rights, In fact, entered the stage of life with mankind and will leave the world with mankind. It has nothing to do with the United Nations today, nor with the French Revolution of yesterday, (like the right to life), and If one day these rights are Ignored, of course the thread of life will not end, but like an infected tree, It will produce a withered society. (Moqtadar, 1978)

Human natural rights have no meaning other than that observing them will enable a more moderate human life and bring more security, prosperity, prosperity and prosperity to mankind. Therefore, from this point of view, It can be said that human rights are a series of increasing human ideas and aspirations that provide human beings with the possibility of enjoying respect and satisfaction for a decent and worthy life. That these hopes and dreams are not limited only to comfort and well-being, but are beyond them, and the meaning of that Is to provide conditions that allow people to develop their religion, wisdom, knowledge, ingenuity and talents and benefit from them, In order to satisfy his spiritual needs and develop his personality. Therefore, human rights are naturally a summary of general privileges that every free human being has. Some international organizations, especially the United Nations, have addressed it. (Momtaz, 1981)

3-5-1-The position of human rights in the international system

In traditional international law, an individual's relationship with his/her government was a domestic matter, and each government had full jurisdiction over its nationals. But from the beginning of the 20th century, the individual was gradually raised at the international level and an international support was formed for individuals simply because they are human.

The entry of rights into the international scene has its roots In the 1648 Nabrook and Berlin 1878 treaties and other major agreements after the First World War.

One of the Initial movements for the formulation of human rights and in other words its inclusion In multilateral treaties can be seen in 1919 by the Covenant of the League of Nations. The Covenant of the League of Nations, by compiling regulations regarding minorities, the guardianship system, and regulations related to labor rights, brought the issue of human rights into the international arena and the issue of human rights.

Of course, In a limited form of what It is today, it gained global importance and spread beyond the domestic borders. Although this stage is not considered as universal protection of human rights, but with this work, the basic foundations of human rights protection were established. (Faiz, 2012)

In fact, It can be claimed that the new international human rights system is a phenomenon after World War II. Because several factors, including terrible killings and human tragedies and the lack of Interest in repeating such a situation, raised the issue of international attention to basic human rights issues.

Roosevelt, the President of the United States at the time, in his famous speech known as the "Four Freedoms", freedom of speech, freedom of religion, freedom from poverty and need, and freedom from fear.

He called everyone to create these freedoms and this eventually led to the establishment of the United Nations and the drafting of Its charter.(Momtaz, 1981).

3-5-2-Human rights and related issues in the United Nations Charter

Human rights are mentioned in the United Nations Charter as a document of the new world order. In its Introduction, the United Nations Charter emphasizes and recognizes human rights in Article 1, Paragraph (3) and Articles 55, 56 and 62 (Paragraphs 1 and 2), and Articles 68 and 76 also contain information in this regard.

Therefore, the United Nations was created with the aim of faith and belief in basic human rights, human dignity and value, equal rights of men and women, and the rights of small and large nations.

And one of Its purposes and goals is to achieve cooperation in solving international problems that have economic, social, cultural or humanitarian aspects. And in the development and encouragement of respect for human rights and basic freedoms for everyone without distinction in terms of race, gender, language or religion.

According to Article 55 of the Charter, based on respect for the principle of equality and the rights and autonomy of nations, the United Nations will encourage the following:

A- Raising the standard of living, providing work to achieve the conditions for advancement and development in the cultural and educational system and...

B – Universal and effective respect for human rights and basic freedoms for everyone without discrimination in terms of race, gender, language and religion. (Alikhani, 2014)

3-6-Economic sanctions and violation of basic human rights

Contrary to the opinion of those who believe that economic sanctions are an effective and harmless tool to change and modify the government’s behavior that endangers international peace and security, the experience of recent years has proved the opposite of this claim.

And it clarified the fact that, unfortunately, economic sanctions have always been accompanied by unwanted effects and have severely affected the health of the residents of the target country and have caused the violation of the fundamental rights of the residents of those countries.

Effects that are Imposed without any discrimination on civilian residents and especially vulnerable groups including women and children. As a concrete example of the economic sanctions regime of the Security Council, it Is possible to mention the imposition of economic sanctions on the countries of Iraq, Yugoslavia, Somalia, Angola, Liberia, Haiti, Sudan, Afghanistan, North Korea, Iran, etc. (Fosfi, 2008)

Among the countries sanctioned by the Security Council, the case of Iraq Is fundamentally different from other cases In many ways. The speed of sanctions and the comprehensiveness of the Iraqi sanctions regime have been

unprecedented in the history of the United Nations.

The most comprehensive analysis of economic sanctions since the First World War shows that the approximate effect of sanctions against Iraq was 20 times the average effect of successful sanctions and 3 times the most severe type of sanctions. Therefore, since dealing with each and every sanction imposed against different countries will prolong the speech, and on the other hand, in terms of the many similarities In the effects of these sanctions, therefore, in this article, the harmful effects of economic sanctions on basic human rights, emphasizing the case Iraq will be examined. (Zarif, 2004)

Economic sanctions of the Security Council and threats against international peace and security in recent years, which have occurred In the structure and activities of the United Nations. One of the most important competences of the United Nations, which has undergone a dramatic transformation, is the competence In the realm of global peace and security, which is considered one of the most important goals of the United Nations. This development has actually led to the expansion of the concept of peace (Emadzadeh, 1990).

If only one day, the occurrence of armed conflicts was a threat to international peace and security, today other factors such as: threats to economic well-being, political stability and social justice, environmental health, violation of human rights and a huge flood of refugees, in turn, are among serious threats that can be considered ”threats about to develop against peace”

Also, the International community has witnessed humanitarian interventions by the Security Council in cases such as widespread violations of human rights, displacement, hunger and extreme poverty, etc.

In these cases, according to the sixth and seventh chapters of the United Nations Charter, the Security Council has taken decisions to impose economic sanctions.

Now, according to the bad effects of sanctions that were mentioned earlier, the main question is whether the application of economic sanctions by the Security Council can be a threatening factor and ultimately a violation of international peace and security. In this part, we will explain the

concepts of international peace and security, its violation, fundamental human rights and displacement caused by sanctions as threats to international peace and security. (Farokh Siri, 2007)

3-6-1international peace and security

The most Important and main goal stated In the United Nations Charter is “maintaining international peace and security”. But these words are not defined anywhere and the different dimensions of these words are still shrouded in ambiguity. The traditional view of the United Nations has considered threatening military issues as encroachment on the territory of governments. (Safaei, 1990)

Therefore, the organization has always tried to identify the real aggressor and react quickly to the causes of the conflict. Anyway, this point of view has been suitable for dealing with issues that have a military nature.

Today, many efforts have been made to create new thinking In the field of the meaning of security, and there are different reasons for the failure and inefficiency of the old security models. The proliferation of nuclear weapons and the failure of arms limitation negotiations, environmental risks and the weakness of international organizations and regimes are all reasons that make the revision of the concept of security inevitable

In such a way that from the current point of view of the international community, various issues are defined as "security issues" and security has in nature different dimensions. Because in addition to military threats, threats to prosperity and economic interests, political stability and social justice, citizens' health, environment and such things are considered serious threats.

Therefore, if we define security in a wide and wide range; "Security issues" can be whatever the international community imagines. Therefore, if It is considered, security is a concept that has been exposed to different interpretations and has not been mentioned internationally. However, by analyzing the resolutions of the Security Council in this field, it is possible to determine the main lines of these concepts and provide a definition of the above concepts. (Bigdali, 1997)

3-6-2-International peace

Encyclopedia of International Law has defined: "International peace is a state in which governments observe order and justice, resolve the problems of other governments with their participation, and deal with international violations. It Is in this situation that all governments respect the sovereignty of all other governments with any characteristics and refrain from interfering and threatening other countries. Therefore, international peace is the basis of the independence of one country from another country. (Sabeti, 2017)Almost three specific schools have emerged in the field of peace research, and each of these schools has provided a specific definition of peace.

According to (at least the seekers), peace is the absence of international war, this school offers the narrowest definition of peace. Of course, with the existence of weapons of mass destruction, such a definition of peace does not seem logical. (Tarazkahi, 1997)According to the supporters of the "intermediate" school, peace is not only the absence of war, but also the threat system should not exist. Anatol Rapoport" is one of the main supporters of this opinion. The third school says that peace is the absence of any kind of violence, whether actual or potential, whether directly applied or embedded in social structures. The requirement of such peace is "complete social reconstruction through the coordination of interests at all levels, both In the international context and in the domestic context. (Bigdali, 1997)

Carefully defined in the definitions, it can be said that according to all three schools, peace means the absence of violence. The International Encyclopedia of Social Sciences considers peace to have two concepts. Negative peace Nations do not participate In the matter, and only the absence of violence leads to the realization of negative peace. Therefore, it can be said that international peace is the positive peace that is realized with the participation and cooperation of governments in the world arena, and If violence and armed conflict is created, or Is about to be created, the governments will rise up against it." (Sabri, 2007)

3-6-3-International security

The most important and comprehensive definition of international security at hand

expresses it as follows: "International security" is a state in which countries are in a state of balance and peace. And respect each other's territory and do not threaten It in any way. Kelsen, an international lawyer, believes In relation to the two concepts of peace and international security: (Abolhasani, 1995)

"International security is guaranteed when International peace is maintained, and wherever there is talk of international security, there Is definitely international peace, and wherever peace Is achieved, international security is also guaranteed".

According to Kelsen's statement, it can be concluded that international peace and international security complement each other; So that international security Is the result of International peace and international peace plays a leading role, and with its realization, international security is also realized. (Arfai,"1992)

Regarding the concept of "threat against peace", first of all, two important points should be noted: The first point is that the word "peace" used in the text of Article 39 Is ambiguous. Because the boundaries of this word are not clear and it Is not mentioned what are considered threats against peace. The second point Is that the concepts contained in Article 39 of the charter, I.e. "threat against peace" and "violation of peace" are not clearly defined, and this has doubled the problem, making It difficult to match the elements of objective cases with these concepts.

It seems that the authors of the Charter did not define the limits of the concepts mentioned in Article 39, which is fundamental. Considering Kelson's statement, it can be concluded that international peace and international security complement each other.

So that International security is the result of International peace and international peace plays a leading role, and with its realization, international security is also realized. (Abolhasani, 1995).Regarding the concept of "threat against peace", first of all, two important points should be noted. The first point is that the word "peace" used in the text of Article 39 Is ambiguous, because the boundaries of this word are not clearly defined and It is not mentioned

what cases are considered "threats against peace".

The second point is that the concepts contained in Article 39 of the Charter, I.e. "threat against peace" and "violation of peace" are not clearly defined, and this has doubled the problem, making It difficult to match the elements of objective cases with these concepts. It seems that the authors of the Charter did not define the limits of the concepts mentioned in Article 39 consciously . Because defining the limits of these concepts has taken on a political aspect, and the Security Council, with Its extensive interpretation of this article, can thereby justify Its basic actions in the shadow of it.Nevertheless, from the resolutions issued by the Security Council, this problem can be overcome to some extent and the main lines of these concepts can be clarified. Basically, in examining the concept of threat, the Security Council defines the material and spiritual elements of the threat according to the objective facts. (Baut, 1993)

Chapter 4: Conclusion and references

Conclusion

The United Nations Charter says in its final passage: We the people of the United Nations (to be friendly and tolerant and live in peace with each other with a spirit of good neighborliness and to unite our forces, to maintain international peace and security and to accept the principles and create methods that prevent the use of armed forces except in the way of common interests guarantee) and are determined to resort to international means and channels to advance the economic and social development of all nations....

And in Article 1 and Its following paragraphs, it pursues the following: (1) maintaining international peace and security (2) collective actions to prevent and remove threats against peace. (3) Stopping any acts of aggression and other acts that violate the peace. (4) Resolving international disputes by peaceful means. The experience of the League of Nations, which was a product of the First World War and its failure to ensure global peace and collective life, became the main foundation of the United Nations, which became the foundation of the United Nations

after the Second World War in October 1945. And this organization sought to achieve the above goals by using stronger institutions and elements. This organization wanted to compensate for the inadequacy of the League of Nations in guaranteeing peace and national security, therefore, from the very beginning of its establishment, it took positive steps In this field through the creation of a powerful structure, the most important institution in this regard was the "Security Council". The reason for creating that charter was explained as follows:

- 1-Fast and effective action to maintain international peace and security.
- 2-Legitimacy and formality of the decisions of this council in achieving the goals

It assigned the mandate to the Council for any dispute with a situation that may lead to international friction or create a dispute. And in the seventh chapter, In order to achieve the goal of the United Nations and to prevent any threat to peace and breach of peace or act of aggression through the application of articles 41 and 42, assign to this council as follows:

- (1) Stopping all or part of economic relations, railway, sea, air, postal, telegraphic, radio and other means of communication.
- (2) Severing political relations.
- (3) Using military power by air, sea and land forces, therefore imposing economic sanctions on the country or countries that endanger international peace and security.

Or they violate international peace and security, it is authorized through the Security Council and the United Nations recognizes and considers this action legitimate and acknowledges in Article 25 of the Charter that The members of the United Nations agree to accept and implement the decisions of the Security Council according to this charter. Therefore, one of the actions of the Security Council in fulfilling the goals of the United Nations Charter, which is to maintain international peace and security, is to apply economic sanctions.

But the main point is whether this council has unlimited authority in performing its duties. The points mentioned In the twelfth chapter under the title "International Guardianship System" and refer to the following topics: (1) - Encouraging

respect for human rights (2) - Ensuring equal treatment in social, economic and commercial affairs (3) - Equal treatment in the implementation of justice in the performance of one's duties has unlimited authority.

The same behavior in the implementation of justice gives the security council responsibilities that it must pay attention to In the performance of its duties. Otherwise, the legitimacy of this council's action will be questioned. So, applying economic sanctions is acceptable when it Is compatible with human rights standards and international rules.

This issue is stated in the positions of international lawyers and other laws and regulations, such as: the Universal Declaration of Human Rights, the International Covenant on Economic-Social, Cultural Rights, the Optional Protocol of the International Covenant on Civil and Political Rights, and the main part of it is as follows:

- (1)- The commitment of the Security Council in applying economic sanctions to comply with the principle of humanity of economic sanctions, the necessity of economic sanctions, and appropriateness in applying economic sanctions.
- (2)- Complying with the obligations arising from the general rules of international law and humanitarian laws and regulations.
- (3)- Compliance with human rights standards in applying economic sanctions and avoiding methods that violate these standards.
- (4)- Avoiding the use of methods that threaten international peace and security.
- (5)- Coordinating the cooperation of the United Nations in the application of economic sanctions.
- (6) - Avoiding selective behavior and arbitrary actions in applying economic sanctions.
- (7)- Non-discrimination in applying economic sanctions.
- (8) - Paying attention to the effects of sanctions on the basic economic, social and cultural rights of the people of the country under sanctions, that they should not be deprived of these rights.

The above items are among the basic instructions, the implementation of which guarantees the legitimacy of the actions of the

Security Council in order to maintain peace and ensure international security. And not paying attention to them can strengthen the suspicion that the Security Council, with its arbitrary and discriminatory actions in applying economic sanctions, apart from providing threats to international peace and security. It acts Instrumentally to secure the interests of some countries and great powers. Now the public opinion of the world is more inclined towards the latter issue and believes that the Security Council is actually the executive body of the United Nations in ensuring international peace and security. It should not become an executive tool of some big powers and act as a suppressor of nations and governments that are against the unjust domination and occupation of these countries.

4-2 References list

Persian

۱- آریانپور- عباس، ۱۳ فرهنگ دانشگاهی دو جلدی تهران ، مؤسسه چاپ و انتشارات امیرکبیر ، جلد دوم.
۲- آقایی - سید داود، ۱۳۷۵، «قضیه لاکربی و اختیارات شورای امنیت»، فصلنامه راهبرد مرکز تحقیقات استراتژیک، شماره ۱۲.
۳- ارفعی - عالییه و دیگران، ۱۳۷۲، حقوق بشر از دیدگاه مجامع بین المللی ، تهران، دفتر مطالعات سیاسی.
۴- اسپورن ایده ۱۳۵۳ «پژوهش درباره صلح، شیوه ها، مسائل، انتخاب ارزشها، تهران، ترجمه محمدرضا جلیلی، نشریه مرکز مطالعات عالی بین المللی، در روابط بین الملل، شماره ۴، پاییز ۱۳۵۳.
۵- ابو الحسنی شهرضا - علی، ۱۳۷۵ «رژیم تحریم های سازمان ملل، بررسی سیر تحول و دلایل موفقیت و شکست»، فصلنامه مطالعات سازمان ملل متحد، تهران سال اول، شماره یک.
۶- اشرفی - محسن، «سه دهه توسعه انسانی و چشم انداز آن در دهه ۱۹۹۰»، مجله سیاسی - اقتصادی، شماره ۳۷.
۷- بیگ زاده - ابراهیم، ۱۳۷۷، «بررسی جنایت نسل کشی و جنایت بر ضد بشریت در اساسنامه دیوان کیفری بین المللی تهران مجله تحقیقات حقوقی دانشکده حقوق و علوم سیاسی شهید بهشتی، شماره ۲۲-۲۱.
۸- باوت - دی . وفی ۱۳۷۳، حقوق نهادهای بین الملل، ترجمه هومن اعرابی؛ انتشارات کیهان، تهران.
۹- براتی دارانی - علی اکبر ، پیشین.
۱۰- تف . استغن، ۱۳۷۶، «جنگ اقتصادی در حقوق بین الملل معاصر، تهران - دفتر مطالعات سیاسی و بین المللی.
11. حاجی حیدر - حیدری - حمید، ۱۳۷۶، توسل به زور در روابط بین الملل - تهران - روزنامه اطلاعات.

۱۲- حاجی فیروزآبادی - محمد حسین، ۱۳۷۰، مبانی انسان شناختی، حقوقی و اجتماعی بشر، تهران مجله کانون وکلا شماره ۱۵۵ - ۱۴۵، دوره جدید: شماره ۵.
۱۳- خدوری - مجید و حیدر آبادی - حمیدالله، ۱۳۸۸، جنگ و صلح در قانون اسلام - ترجمه سید هادی خسروشاهی، تهران - انتشارات روزنامه اطلاعات.
۱۴- زهرانی - مصطفی، (۱۳۷۶) نظریه های تحریم اقتصادی، تهران - دفتر مطالعات سیاسی و بین المللی.
۱۵- سروش - عبدالکریم، ۱۳۷۵، فربه تراز ایدئولوژی، تهران مؤسسه فرهنگی صراط.
۱۶- سورل - ژان مارک ، ۱۳۷۷، «سازمان ملل متحد و حل بحرانهای بین المللی» ترجمه ابراهیم بیگ زاده، مجله کانون وکلا، شماره ۱۶۹ - ۱۶۸.
۱۷- شایگان - فریده ، (۱۳۸۰) شورای امنیت سازمان ملل متحد و مفهوم صلح و امنیت بین المللی - دانشگاه تهران.
۱۹- صفایی - سیدحسین، ۱۳۷۰، حقوق بشر در اسلام و اعلامیه جهانی حقوق بشر تهران، نشریه دانشکده حقوق و علوم سیاسی دانشگاه تهران، شماره ۲۷.
۲۰- صابری - هنگامه، ۱۳۷۸، ضمانت اجرا در حقوق بشر دوستانه و تعهد دولتها در ترغیب یکدیگر به رعایت حقوق بشر دوستانه تهران مرکز چاپ و انتشارات وزارت خارجه.
۲۱- شریفی طراز کوهی - حسین ۱۳۷۷، حقوق بشر در پرتو تحولات بین المللی تهران نشر دادگستر.
۲۲- ضیایی بیگدلی - محمدرضا ۱۳۷۳، حقوق بین الملل عمومی، تهران - انتشارات گنج دانش.
۲۳- ضیایی بیگدلی - محمدرضا، ۱۳۷۶، بررسی تفصیلی حقوق بین الملل ، جزوه.
۲۲- ضیایی بیگدلی - محمدرضا ۱۳۷۳، حقوق بین الملل عمومی، تهران - انتشارات گنج دانش.
۲۳- ضیایی بیگدلی - محمدرضا، ۱۳۷۶، بررسی تفصیلی حقوق بین الملل ، جزوه کارشناسی ارشد حقوق بین الملل دانشگاه علامه طباطبایی.
۲۴- ضیایی بیگدلی - محمدرضا، ۱۳۷۹، «حقوق بین الملل بشر در قرن بیست و یکم» مجموع سخنرانی های علمی گروه حقوق بین الملل دانشکده حقوق و علوم سیاسی دانشگاه علامه طباطبایی، شماره اول.
۲۵- ظریف - محمدجواد و میرزایی ینگجه - سعید، ۱۳۷۴، تحریم های یک جانبه علیه ایران و آمریکا» مجله سیاست خارجی، سال ۱۱، شماره ۱ .
۲۶- عمازاده - محمدکاظم، ۱۳۷۰، حقوق بین الملل عمومی، تهران انتشارات یکتا، شماره ۱۱.
۲۷- علیخانی - خیس، ۱۳۸۴، تحریم ایران، شکست یک سیاست تهران، دفتر مطالعات سیاسی و بین المللی.
۲۸- فرخ سیری - منصور (۱۳۸۷) محدودیت های حقوقی شورای امنیت در اعمال تحریم های اقتصادی، تهران، مجله حقوق بین الملل شماره ۳۹.
۲۹- فلسفی - هدایت الله ، شورای امنیت و صلح جهانی، مجله تحقیقات حقوقی، دانشکده حقوق دانشگاه شهید بهشتی.
۳۰- فیص - رضا. (۱۳۸۲)، مفهوم کیفر در عرفان ابن عربی، مجله تخصصی دانشگاه علوم اسلامی، مشهد شماره نهم و دهم.

۳۱- کرمی - جهانگیر، ۱۳۷۵، شورای امنیت سازمان ملل و مداخله بشر دوستانه، دفتر مطالعات سیاسی و بین المللی، تهران.

۳۲- مقتدر. هوشنگ، ۱۳۵۷ (۲۵۳۷)، تحولات سازمان ملل متحد، انتشارات مدرسه عالی بیمه، چاپ دوم.

۳۳- ممتاز - جمشید ۱۳۶۰، تحریم های اقتصادی و حقوق بین الملل عمومی، تهران نشریه دانشکده حقوق و علوم سیاسی دانشگاه تهران. ش ۲۲ ۳۴- ممتاز. جمشید، ۱۳۷۸، تحریم های اقتصادی و حقوق بشر دوستانه، سخنرانی تهران.

۳۲- مقتدر. هوشنگ، ۱۳۵۷ (۲۵۳۷)، تحولات سازمان ملل متحد، انتشارات مدرسه عالی بیمه، چاپ دوم.

۳۳- ممتاز - جمشید ۱۳۶۰، تحریم های اقتصادی و حقوق بین الملل عمومی، تهران نشریه دانشکده حقوق و علوم سیاسی دانشگاه تهران. ش ۲۲.

۳۴- ممتاز - جمشید، ۱۳۷۸، تحریم های اقتصادی و حقوق بشر دوستانه، سخنرانی تهران مرکز مطالعات عالی بین الملل.

۳۵- موسوی - سید علی، «حق توسعه: جدال بین شمال و جنوب»، بولتن دیدگاهها و تحلیل های شماره ۱۴، دفتر مطالعات سیاسی و بین المللی، وزارت امور خارجه.

۳۶- موسوی - سید علی، ۱۳۷۸، حق توسعه: بررسی ابعاد حقوقی یشری توسعه « مجله سیاست خارجی، سال سیزدهم، شماره ۲.

۳۷- میراک و بیخ - موریل، ۱۳۷۲، «عراق سه سال پس از جنگ: نسل کشی تدریجی» ترجمه سیما حاج حریری، تهران بولتن ماهنامه دیدگاهها و تحلیلها دفتر مطالعات سیاسی و بین المللی وزارت امور خارجه، سال هفتم، شماره ۷۴.

۳۸- میرزایی ینگجه - سعید، ۱۳۷۳، تحول مفهوم حاکمیت در سازمان ملل متحد، تهران دفتر مطالعات سیاسی و بین المللی تهران.

۳۹- میرزایی ینگجه - سعید، ۱۳۷۲-۷۳، نظام امنیت دسته جمعی در میدان آزمایش، تهران ماهنامه اطلاعات سیاسی - اقتصادی، سال نهم، ش ۸۵-۱۶.

۴۰- مهر پور- حسین، ۱۳۷۷، نظام بین المللی حقوق بشر، تهران انتشارات روزنامه اطلاعات.

۴۱- مهر پور. حسین ۱۳۸۶، حقوق بشر در اسناد بین المللی تهران، روزنامه اطلاعات.

۴۲- سوالایین - الیوسف، ۱۳۷۶، «قدرت اجرایی قطعنامه های شورای امنیت»، مجله دانشکده حقوق و علوم سیاسی دانشگاه تهران، شماره ۳۳.

۴۳- نظری تاج آبادی - حمید، (۱۳۷۹)، بررسی جنبه های مختلف پناهندگی، دفتر مطالعات سیاسی و بین المللی وزارت امور خارجه.

۴۴- هرمیداس باوند - داود، ۱۳۷۰، تهران تغییر مفهوم مسئولیت بین المللی، مجموعه مقالات اولین سمینار بررسی تحول مفاهیم، به اهتمام سید علی قادری، دفتر مطالعات سیاسی و بین.

۴۵- نیکخواه سرنقی - رضا، ۷۶- ۱۳۷۵، تحول جدید در مفهوم بین المللی حقوق بشر با تأکید بر حق توسعه، پایان نامه کارشناسی ارشد رشته حقوق بین الملل، تهران دانشگاه حقوق و علوم سایسی علامه طباطبایی.

Reference

- [1]Alan Dowy, "sanctioing Irag. The limit of the new world order, the Washington quartery summer1994, p.182.
- [2]BOWETT.P.W.United Nation forces. London.1964. VOL I. p.288.
- [3]Pay sons, wild, sauction and treaty enforcement, Cambridge: Harvard University, press 1934.
- [4]Law (Virginia iournal International law) Christopher, Goyrer, sanctions Complinanceand international
- [5]deputrment of information U.IV, Humman Rights today VN rullcation Order1998, p.23.