

The Right to Health and Unilateral Sanctions During the COVID-19 Pandemic: The Case of Iran

Soheil Golchin*

Abstract

The COVID-19 pandemic constitutes a global challenge to the world community and the whole system of human rights, in particular, the right to life and access to the health care. Negative humanitarian effects of unilateral sanctions in the course of the pandemic have been repeatedly proclaimed by the United Nations and World Health Organization. In light of the UN literature and several international legal instruments, particularly, the International Covenant on Economic, Social, and Cultural Rights and the Constitution of the World Health Organization; we conclude that those coercive measures which can prevent financial transactions for the purchase of medicine, medical equipment, food and other essential goods will result in the violation of the right to life and the right to health of the Iranian population. This article attempts to analyze two main frameworks of the international human rights law and the rules of the international health law in order to assess the legality and legitimacy of unilateral sanctions during the COVID-19 pandemic

1. Introduction

Unilateral economic sanctions continue to be a challenging issue in international law mainly due to the lack of any consensus on their legality. However, during the COVID-19 pandemic, there are more challenges before international lawyers. The COVID-19 pandemic has been a colossal challenge for all countries, with diverse consequences not only for human health, but also for the economy, trade and social relations in general. In this context, while the international community is concentrating its efforts to overcome the pandemic, some countries have been obliged to continue to bear the serious impacts of sanctions, or more specifically unilateral coercive measures, which aggravate the negative effects of the COVID-19 pandemic.

Recent years, the introduction of new U.S sanctions on Iran gave rise to concerns that the Iranian people have had difficult days as their country continues to be targeted by the stringent punitive measures and their livelihoods have been, and continue to be, affected directly. The humanitarian consequences of unilateral and secondary sanctions imposed against people are the saddest outcome of the decision of the U.S.

* PhD Candidate in Public International Law, University of Tehran, Tehran, Islamic Republic of Iran

administration in 2018 to re-impose unlawful sanctions against Iran by unilaterally withdrawing from the Joint Comprehensive Plan of Action (JCPOA). The “maximum pressure” sanctions have undermined the ability of Iran’s public and private sectors to deal with the pandemic. Besides the adverse effects of such sanctions on peoples’ basic necessities such as access to certain medicines, for example, broader sanctions targeting Iran’s oil exports also have a potentially destabilizing effect on the economy, adversely affecting citizens through increased inflation, and complications in securing international finance.

The Islamic Republic of Iran has, on diverse occasions, called for the lifting of illegal sanctions by the United States in order to protect human rights and cooperate effectively in disease control. The legal position of the Iranian government is based on the necessity of lifting all forms of sanctions within the framework of the JCPOA, UN Security Council Resolution 2231, and also the 1955 Treaty of Amity, Economic Relations, and Consular Rights between the two States. Recent UN literature is full of references to strongly urging States to refrain from promulgating and applying any unilateral economic, financial or trade measures inconsistent with international law and the Charter of the United Nations, mindful of numerous calls for the waiver of the sanctions that undermine countries’ capacities to respond to COVID-19 pandemic.¹ Despite multiple calls from the UN Secretary General, the Special Rapporteur for Human Rights and the international community to lift these sanctions in this difficult situation, the U.S. continues to impose these measures and has decided to ignore those claims. Given the serious humanitarian crisis Iranians face, the most feasible improvements would probably involve removal of some restrictions on oil exports and international banking and allowance of financial assistance from international financial institutions for purposes related to COVID-19.

The present article looks at the recent challenges from the perspective beyond any claim to the legitimacy or legality of unilateral economic sanctions under international law in general. It simply evaluate the question that does the U.S., in the present circumstances, have any legal commitment (even a dual responsibility) to lift its sanctions and restrictive measures on Iran or not? In this respect, we will answer this question from two perspectives and within the frameworks of the international human rights law and under the rules of the international health law.

¹ See, UNHRC, ‘Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights’ (30 August 2018) UN Doc A/HRC/39/54, paras 7, 11, 25, 35–37; ‘UN rights expert urges Governments to save lives by lifting all economic sanctions amid COVID-19 pandemic’ (3 April 2020) <www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID%425769&LangID%4E>(drawing attention to the adverse impact of sanctions on targeted countries’ efforts to confront the COVID-19 pandemic).