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FACULTY OF LAW, UNIVERSITY OF LJUBLJANA

STUDY GUIDE

HUMAN RIGHTS COUNCIL

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MUNLawS 2023
Human Rights Council (HRC)

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1 TOPIC ONE: IRANI CRISIS

1.1 Introduction

1. The Islamic Republic of Iran has been in the grips of an ongoing crisis that spans political, economic, and social realms. Amidst this turmoil, another critical dimension emerges – the grave concern for human rights violations.
2. As the nation faces political unrest, economic hardships, and social tensions, the plight of human rights in Iran has taken a central role, drawing the attention of the global community. At the same time, the Iranian crisis has seen a disturbing pattern of political repression and restrictions on civil liberties, undermining fundamental human rights, especially those of freedom of expression, assembly, and association with a profound impact on the economic rights and well-being of its citizens. The series of international sanctions imposed on Iran in response to concerns over its nuclear program have resulted in severe economic hardships for ordinary Iranians. Access to essential goods, healthcare, and education has been compromised, disproportionately affecting vulnerable communities. The right to an adequate standard of living, enshrined in various human rights instruments, is at risk as economic instability exacerbates social inequalities. The deprivation of economic rights has engendered frustration and discontent, fueling the discontent and unrest that further compound the complexities of the Iranian crisis. An essential aspect of the human rights landscape in Iran is the struggle for gender equality and women's rights. The Iranian crisis has exposed the persistence of discriminatory laws and practices that curtail women's autonomy and participation in public life. Women's rights activists advocating for greater gender equality have faced repression and legal challenges, hindering progress towards a more equitable society. The imposition of dress codes and limitations on women's mobility and access to education and employment infringe upon their fundamental human rights. Recognizing and promoting women's rights and gender equality are pivotal not only for the advancement of women's rights but also for fostering a more just and stable Iran.
3. Taking into consideration the aforementioned, the Iranian crisis presents a complex and multifaceted challenge concerning human rights violations. The repression of political freedoms, economic hardships, and gender inequality are just a few of the pressing

issues that demand a comprehensive and collaborative approach from the international community, while at the same time, the Iranian authorities violate their obligation towards their citizens.

4. This essay delves into the complex interplay between the Iranian crisis and human rights, examining the patterns of violations, the challenges in addressing them, and the role of the international community in safeguarding the fundamental rights and freedoms of the Iranian people.

1.2 Historical Background:

1.2.1 Persia (rights during the ancient times, historical significance)

5. In order to understand deeply and fully the current unpleasant situation of the Irani Crisis in the sector of human rights, it is necessary to delve into Persia's history, shedding light on the country's longstanding struggle for the protection and promotion of fundamental rights.¹
6. Ancient Persia, dating back to the first millennium BCE, exhibited a remarkable awareness of human rights principles in its governance.² The Achaemenid Empire, established by Cyrus the Great in the 6th century BCE, is particularly noteworthy for its recognition of individual liberties and cultural tolerance. The Cyrus Cylinder, a significant historical artefact, provides evidence of Cyrus's benevolent approach towards his subjects, advocating for the return of displaced people to their homelands and the right to practice their respective religions freely. The empire's pioneering efforts in respecting the rights of conquered nations laid the groundwork for the subsequent development of human rights principles in the region.
7. During the Sasanian Empire (224-651 CE), Persia witnessed significant advancements in the codification of legal rights. King Khusro I implemented a just legal system that

¹ Kuhrt Amélie, *"The Persian Empire: A Corpus of Sources from the Achaemenid Period"* (Routledge: 2007).

² Brosius Maria, *"The Persians: An Introduction"* (Routledge, 2006).

emphasized principles of fairness, equality, and due process, which became a benchmark for many civilizations of the time. The Sasanian legal code, known as the *Shahrestanha-i Eranshahr*, encapsulated various rights, including property rights, the right to personal security, and equal protection under the law. Furthermore, Zoroastrianism, the dominant religion in the empire, emphasized the importance of human dignity and individual responsibility, contributing to the promotion of basic human rights during this period.

8. Upon the arrival of Islam in Persia, during the 7th century, CE brought about significant changes in the landscape of human rights.³ Islamic law, known as Sharia, introduced new principles, incorporating elements of social justice and charity. The Islamic governance in Persia during the Abbasid Caliphate (750-1258 CE) and subsequent periods, demonstrated a commitment to protect the rights of religious minorities, granting them autonomy and religious freedom. Additionally, Islamic law upheld the rights of individuals to a fair trial, protection from arbitrary detention, and the right to property, thereby contributing to the evolution of human rights norms in Persia.
9. A significant moment in the history of the Iranian civilization, marks the Mongol invasions of Persia in the 13th century, which brought about a turbulent period in the region's history. Despite the destructive consequences of the Mongol conquests, their rule under the Ilkhanate (1256-1335 CE) and Timurid Empire (1370-1507 CE) witnessed a continuation of some human rights principles. Notably, during the reign of Ghazan Khan, legal reforms were undertaken, encompassing the protection of property rights and the right to freedom of worship. However, the aftermath of Mongol rule also saw the fragmentation of Persia, leading to the rise of various regional powers, which impacted the uniform application of human rights principles.
10. In the early modern era, Persia became a battleground for foreign influences, with the Safavid Empire⁴ (1501-1736 CE) and Qajar Dynasty (1794-1925 CE) struggling to maintain

³ Pourjavady Nasrin, "The Law of Ancient Persia", *Journal of the American Oriental Society*, Vol. 119, No. 3, 1999, 439-448.

⁴ Ansari, Ali, "Law, State, and Society in Early Islamic Persia: A Study of Safavid Public and Private Law" (Bril, 2012).

autonomy amidst geopolitical pressures. This period witnessed both strides and setbacks in human rights. While the Safavid period saw the promotion of Persian culture and arts, it also faced religious intolerance towards Sunni Muslims. The Qajar era brought challenges such as the tobacco protests, which highlighted public demands for political and economic rights. The influence of colonial powers further complicated the human rights landscape in Persia, having serious influence on the current unstable social scene of the country.⁵

1.2.2 The Islamic Revolution of 1979 (Rise of Ayatollah Ruhollah Khomeini, transition to an Islamic republic)

11. The Irani Crisis in the sector of human rights is deeply rooted in the historical events surrounding the Islamic Revolution of 1979. This significant turning point in Iran's history marked the rise of Ayatollah Ruhollah Khomeini, and the subsequent transition from a monarchy to an Islamic Republic⁶.
12. Prior to the Islamic Revolution, Iran was ruled by Mohammad Reza Shah Pahlavi, whose monarchy faced growing discontent among the population. The Shah's regime was perceived as authoritarian, suppressing political opposition, and prioritizing the interests of the elite over the needs of the majority. Economic disparities, human rights abuses, and political repression fueled public dissatisfaction, creating a climate, ripe for revolutionary movements.
13. Ayatollah Ruhollah Khomeini emerged as the prominent figurehead of the Revolution, capturing the grievances of various segments of the Iranian society. As a respected Shia cleric and scholar, Khomeini vehemently criticized the Shah's secularization policies and advocated for an Islamic state based on the principles of Sharia law. His sermons and writings galvanized the masses and provided a unified voice against the Shah's rule. Khomeini's charismatic leadership, combined with a broad coalition of religious, political, and social groups, culminated in widespread protests and strikes that eventually brought the Shah's government to the brink of collapse.⁷

⁵ Arjomand, Said Amir, "Law, Society, and Culture in the Maghrib, 1300-1500", *Journal of the American Oriental Society*, Vol. 102, No. 2, 1982, 227-237.

⁶ Abrahamian, Ervand, "*Iran between Two Revolutions*", (Princeton University Press: 1982).

⁷ Fischer Michael M. J., "*Iran: From Religious Dispute to Revolution*", (Harvard University Press: 1980).

14. The Islamic Revolution reached its peak in early 1979 when mass demonstrations forced the Shah into exile. The establishment of an interim government, led by Prime Minister Mehdi Bazargan, set the stage for the transition to an Islamic republic. In a national referendum, held in April 1979, Iranians overwhelmingly voted in favour of becoming an Islamic republic, signaling a radical departure from the previous monarchical system. The new constitution, drafted under Khomeini's guidance, enshrined the principle of velayat-e faqih (guardianship of the jurist), granting religious clerics a significant authority in the governance of the state.
15. Despite promising to uphold human rights, the early years of the Islamic Republic were marked by tensions between the government's vision of an Islamic state and the aspirations of certain segments of the population for broader civil liberties. The revolutionary fervor resulted in the dissolution of various political parties and organizations, stifling freedom of expression and political pluralism. Furthermore, perceived opponents of the revolution were subjected to crackdowns, arbitrary arrests, and extrajudicial actions, raising concerns about due process and fair trial rights.
16. In the post-revolution era⁸, Iran faced numerous human rights challenges that shaped its international image. The implementation of strict Islamic laws, particularly those relating to women's rights and individual freedoms, sparked controversy and condemnation from human rights organizations. The contentious issue of capital punishment and its application for crimes, such as apostasy and drug offences which garnered global attention and criticism. Additionally, the lack of media freedom and restrictions on political dissent, continued to be key points of concern for advocates of human rights.
17. As it may be understandable, the Islamic Revolution of 1979 was a pivotal moment in Iran's history, that profoundly impacted the country's human rights landscape. The rise of Ayatollah Ruhollah Khomeini, and the establishment of an Islamic republic, set the stage for various human rights dilemmas that continue to challenge Iran today. It is imperative for policymakers and human rights advocates to consider this historical

⁸ Kurzman Charles, "*The Unthinkable Revolution in Iran*", (Harvard University Press: 2004). ⁹ Shaffer Brenda, "*The Limits of Culture: Islam and Foreign Policy*", (MIT Press: 2006).

backdrop while addressing the contemporary Irani Crisis, seeking solutions that uphold fundamental human rights principles in the pursuit of a just and equitable society.⁹

1.2.3 Today

18. Following the Islamic Revolution of 1979, Iran underwent a profound transformation, establishing an Islamic republic with Ayatollah Ruhollah Khomeini as its Supreme Leader. The new government initially pledged to uphold human rights, but over the years, significant concerns have arisen about the implementation of these rights. As the ruling clergy sought to consolidate their power, restrictions on freedom of expression, media freedom, and political pluralism became apparent. Additionally, women's rights and the rights of religious minorities have faced significant challenges due to the interpretation of Islamic law. The post-revolution era thus witnessed a complex interplay of religious, political, and social factors that impacted human rights in the country.⁹
19. The imposition of international sanctions on Iran, particularly since the early 2000s due to concerns about its nuclear program, has had far-reaching implications on the country's human rights situation. These sanctions have adversely affected the Iranian economy, leading to a decline in living standards for many citizens. The limitations on access to essential goods and services have exacerbated socio-economic inequalities, affecting vulnerable populations the most. The curtailment of financial resources has also impacted the government's ability to adequately address human rights issues, making it challenging to invest in social welfare programs and infrastructure.
20. Iran's domestic political landscape has been characterized by power struggles between various factions, each with different interpretations of the Islamic Republic's values and priorities. These internal divisions have had ramifications on human rights enforcement and protection. While certain reformist elements have advocated for progressive reforms, conservative forces have often resisted such changes, leading to a slow progress in enhancing human rights safeguards. The role of the judiciary and the Islamic

⁹ Amnesty International, "Iran: Human Rights Abuses under the New Administration", Amnesty International, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/> (accessed on July 24, 2023).

Revolutionary Guard Corps (IRGC) has also been crucial in shaping human rights policies, sometimes leading to the curtailment of individual liberties and dissent.¹⁰

21. Amidst the challenges, Iran's civil society has played a pivotal role in advocating for human rights and promoting social change. Human rights defenders, activists, and nongovernmental organizations (NGOs) have been working tirelessly to shed light on human rights violations, to provide support to victims, and to demand accountability from the authorities. However, these actors have often faced significant risks, including harassment, arrests, and legal prosecution, which hinder their advocacy efforts. Despite such challenges, their perseverance has helped to keep human rights concerns in the public discourse both domestically and internationally.
22. From that moment, the Irani Crisis has drawn widespread international attention and elicited responses from the global community. International human rights organizations, including the United Nations Human Rights Council, have repeatedly expressed concerns about the human rights situation in Iran. Specifically, it has been expressed multiple times the restlessness about the deterioration of child and female abuse, the increase of the number of death penalty, the tortures, and the State police.¹¹ Diplomatic efforts and dialogues between Iran and other countries have sometimes focused on addressing human rights issues, alongside other geopolitical concerns. However, finding common ground has proved challenging due to diverging interests and approaches.¹³

1.3 Human Rights Concerns in Iran

23. This chapter will examine the situation in Iran and the lack of equality towards the female and LGBTQIA+ community, the violations against the freedom of expression and association, the religious matters and, mainly, the citizens' lack of human dignity.

¹⁰ United Nations Human Rights Council, "Universal Periodic Review - Iran", *United Nations Human Rights Council*, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/IRIndex.aspx> (accessed on July 24, 2023).

¹¹ OHCHR, "Iran update on human rights", *United Nations Human Rights*, <https://www.ohchr.org/en/statements/2023/06/iran-update-human-rights> (accessed on July 24, 2023).¹³ Keddi Nikki R, "*Modern Iran: Roots and Results of Revolution*", (Yale University Press: 2006).

1.3.1 Crimes against women

24. Iran's human rights landscape remains a subject of international concern, particularly regarding women's rights. Despite progress in some areas, women in Iran continue to face significant challenges and limitations that impede their full enjoyment of human rights.
25. One of the primary human rights concerns for women in Iran pertains to legal disparities and discrimination. The Iranian legal system is influenced by Islamic principles, which can lead to unequal treatment of women in various aspects of life. For instance, Iranian women face legal obstacles in areas such as marriage, divorce, child custody, and inheritance. The concept of "blood money" (diyah) in cases of accidental death, often values the life of a woman at half that of a man, perpetuating gender-based discrimination. Moreover, women's testimony in court is generally given less weight than that of men, further undermining their access to justice and the protection of their rights.
26. Women in Iran also encounter restrictions on their personal freedom and participation in public life. The mandatory veiling (hijab) laws, enforced since the Islamic Revolution, require women to cover their hair and bodies in public spaces. Failure to comply with these dress codes can lead to fines, arrests, or harassment by authorities. Such dress regulations curtail women's freedom of expression and their ability to make personal choices about their appearance. Additionally, women face limitations in educational opportunities and career advancement due to gender-based societal norms and practices. The lack of equal opportunities in various sectors, perpetuates gender disparities and limits women's contributions to the development of the nation.
27. Gender-based violence remains a significant human rights concern for women in Iran. Domestic violence, including physical, psychological, and emotional abuse, affects many women, and seeking justice and protection can be hindered by the prevailing patriarchal norms. Moreover, the absence of comprehensive laws specifically criminalizing domestic violence and marital rape leaves women vulnerable to further victimization. Honour killings, often perpetrated against women, who are deemed to have brought shame to their families, are another disturbing manifestation of gender based violence in the country. Addressing gender-based violence and ensuring the safety

and well-being of women, requires robust legal protections, awareness campaigns, and support services for survivors.¹²

1.3.2 LGBTQIA+

28. The Irani Crisis in the sector of human rights extends to the LGBTQIA+ community, which faces significant challenges and discrimination in Iran. Despite international human rights standards that emphasize equality and non-discrimination, LGBTQIA+ individuals in Iran encounter legal, social, and cultural barriers that infringe upon their basic human rights.
29. One of the most pressing human rights concerns for the LGBTQIA+ community in Iran is the criminalization of consensual same-sex relationships. Homosexuality is considered a crime under Iran's Islamic legal system, and individuals engaging in same-sex acts may face severe penalties, including imprisonment and even the death penalty. The enforcement of these laws perpetuates a climate of fear and persecution for LGBTQIA+ individuals, forcing them to conceal their identities and relationships to avoid punishment. Furthermore, these discriminatory laws deny LGBTQIA+ individuals their fundamental right to privacy, freedom of expression, and freedom of association, effectively suppressing their ability to live authentically.
30. Beyond criminalization, the LGBTQIA+ community in Iran also lacks legal protections against discrimination and violence based on sexual orientation and gender identity. There are no specific laws that address discrimination or hate crimes targeting LGBTQIA+ individuals, leaving them vulnerable to various forms of abuse and harassment. Moreover, societal attitudes and cultural norms often perpetuate discrimination and stigmatization, leading to societal exclusion, denial of healthcare services, and barriers to education and employment for LGBTQIA+ individuals. The absence of legal protections perpetuates a cycle of marginalization, hindering the community's ability to access basic human rights and live free from fear and prejudice.

¹² OHCHR, "Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran", *United Nations Human Rights Council*, https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_43_EN.pdf (accessed on July 24, 2023).

31. Societal stigma and persecution present significant human rights challenges for the LGBTQIA+ community in Iran. Traditional and conservative views on gender roles and sexual orientation perpetuate prejudice and discrimination against LGBTQIA+ individuals, leading to social ostracization and rejection from family and community. Public expressions of LGBTQIA+ identity is often met with hostility and violence, further threatening the safety and well-being of community members. The lack of public discourse and advocacy for LGBTQIA+ rights hinder progress toward social acceptance and perpetuates a hostile environment for the community.
32. The human rights concerns facing the LGBTQIA+ community in Iran, underscore the urgent need for comprehensive reforms to protect their rights and dignity. Criminalization, legal discrimination, and societal stigma impede the community's access to basic human rights, including privacy, freedom of expression, and protection from violence and discrimination. 6311 reports of violations against freedom of thought and expression, 2071 reports related to the rights of trade unions and other associations, 92 death penalties included he public executions and 199 reports of violations from religious minorities are only some of the thousands of cases that have been covered all these years by the Iranian government.¹³ To address these concerns, the Iranian government must repeal laws that criminalize same-sex relationships and enact comprehensive legislation prohibiting discrimination based on sexual orientation and gender identity. Additionally, public awareness campaigns and educational initiatives are vital to challenge societal stigma and foster an inclusive and respectful society that upholds the rights and dignity of all individuals, regardless of their sexual orientation or gender identity.¹⁶

1.3.3 Human dignity

33. The Irani Crisis, characterized by political upheaval, civil unrest, and suppression of dissent, has drawn significant attention to human rights violations within the country.

¹³ OHCHR. "Iran update on human rights", *United Nations Human Rights*, <https://www.ohchr.org/en/statements/2023/06/iran-update-human-rights> (accessed on July 24, 2023). ¹⁶ Outright International, "The Human Rights Situation of LGBTI People in Iran", *Outright International*, <https://outrightinternational.org/our-work/middle-east-and-north-africa/iran>.

34. Central to the discourse on human rights is the principle of human dignity, which constitutes the inherent value and worth of every individual. In the context of the Irani Crisis, the authorities resort to torture as a means of extracting information, stifling dissent, and exerting control over perceived threats has gravely undermined human dignity. Reports from credible human rights organizations have documented instances of arbitrary arrests, extrajudicial killings, and ill-treatment of detainees in detention centers, thereby violating the fundamental rights and dignity of individuals. These acts of torture are not only a direct breach of international human rights norms but also have far-reaching consequences on the mental and physical well-being of the victims, leading to enduring trauma and suffering.¹⁴
35. The Irani Crisis necessitates a robust examination of the international legal framework that safeguards human rights and dignity, particularly concerning torture. Iran is a signatory to several crucial international treaties, including the Universal Declaration of Human Rights (UDHR). These treaties unequivocally condemn torture and affirm the right to human dignity. Moreover, Iran's adherence to these treaties entails a legal obligation to prevent torture, conduct thorough investigations into alleged human rights abuses, and hold perpetrators accountable. Nevertheless, the Irani Crisis reflects a stark disconnect between the country's legal obligations and the recurring instances of torture, emphasizing the imperative for international scrutiny and pressure to uphold human rights.¹⁵

1.3.4 Freedom of expression and association

36. The Irani Crisis has cast a shadow on the fundamental principles of human rights, particularly concerning freedom of expression and association. The Iranian people have faced severe restrictions and suppression of their rights to freely express their opinions and peacefully assemble, which not only violates international human rights standards

¹⁴ United Nations General Assembly, Universal Declaration of Human Rights, 10 December 1948, available at: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf> (accessed on July 24, 2023).

¹⁵ United Nations General Assembly, Resolution 39/46 - Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-othercruel-inhuman-or-degrading>.

but also undermines the democratic principles that form the basis of a just and inclusive society.

1.3.5 Freedom of Expression¹⁶

37. In the context of the Irani Crisis, the freedom of expression is stifled through a combination of legal measures, censorship, and intimidation. The Iranian government has implemented laws and regulations that significantly curtail the right to free speech, most notably through the use of vague and broad provisions within the Penal Code that criminalize criticism of the state and its leaders. Journalists, bloggers, and activists who dare to express dissenting opinions often face severe consequences, including arbitrary arrest, detention, and unfair trials before revolutionary courts. Such actions have a chilling effect on the broader society, creating an atmosphere of fear and self-censorship, ultimately suppressing the free flow of information and diverse viewpoints that are essential for a thriving democracy.

1.3.6 Freedom of Association¹⁷

38. Equally alarming in the Irani Crisis is the restriction on the freedom of association. Human rights defenders, civil society organizations, and political groups face constant harassment and intrusive monitoring by the state's security apparatus. The government frequently targets these groups with arbitrary arrests, asset seizures, and forced closures, effectively hindering their ability to operate and advocate for the rights of the people. Furthermore, stringent regulations on gatherings and public demonstrations are enforced, making it exceedingly difficult for individuals to assemble peacefully and voice their concerns collectively. As a result, the Iranian government prevents its citizens from engaging in civic activities and meaningful dialogue, effectively silencing any attempts at mobilization for positive change.

¹⁶ United Nations General Assembly, International Covenant on Civil and Political Rights, Resolution 2200A (XXI), entered into force Mar. 23, 1976, available at: <https://www.ohchr.org/en/instrumentsmechanisms/instruments/international-covenant-civil-and-political-rights>.

¹⁷ Amnesty International, "Iran 2020", *Amnesty International*, <https://www.amnesty.org/en/countries/middleeast-and-north-africa/iran/report-iran/> (accessed on July 24, 2023).

39. The Irani Crisis presents an alarming situation concerning human rights, particularly freedom of expression and association. By restricting these fundamental liberties, the Iranian government effectively denies its citizens the opportunity to actively participate in public discourse and peacefully advocate for their rights and interests. As the international community, it is imperative to stand in solidarity with the Iranian people and address these human rights concerns with urgency, calling for the Iranian authorities to comply with international human rights standards, such as those outlined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the right to life, the freedom of expression and association, the freedom of religion, the right of dignity, the rights to express yourself. Only by upholding the principles of freedom of expression and association can Iran move towards a more just and inclusive society.

1.3.7 Freedom of religion

40. Iran's human rights record with respect to religious freedom is deeply concerning, particularly for religious minority communities. The primary victims of such violations include Baha'is, Christians, Jews, and Sunni Muslims. Discrimination against these religious groups is pervasive and manifests through unequal treatment before the law, limited access to education and employment opportunities, and various other restrictions that hinder their ability to fully practice their faith. One stark example is the Baha'i community, which faces systematic discrimination, arbitrary arrests, and the confiscation of their properties solely based on their religious beliefs. Similarly, converts from Islam to other religions also experience harsh penalties, including imprisonment, torture, and even execution, illustrating the gravity of the human rights concerns in Iran.¹⁸ The Irani Crisis has also witnessed an alarming curtailment of religious practices, both in private and public spheres. Iran's legal framework imposes severe limitations on religious activities outside of the state-sanctioned Shia Islam, effectively excluding religious diversity and pluralism. Places of worship for non-Shia religious groups are subjected to state surveillance and control, leading to an atmosphere of fear and

¹⁸ Ahmadi, A., "Discrimination and Persecution: The Experience of Religious Minorities in Iran", (Journal of International Human Rights Law: 2020), 143-158.

intimidation. Furthermore, the dissemination of religious materials and proselytization are restricted, leaving religious minorities with limited opportunities to express and share their beliefs freely. This encroachment on freedom of religion is not only detrimental to religious minorities' rights but also undermines the country's commitment to international human rights principles.

41. The human rights concerns surrounding freedom of religion in Iran necessitate urgent attention and intervention from the international community. Iran is a party to various international treaties, including the International Covenant on Civil and Political Rights (ICCPR), which explicitly guarantees the right to freedom of religion. The international community, therefore, bears the responsibility to hold Iran accountable for its violations and to demand the protection and promotion of freedom of religion for all individuals within its borders. Diplomatic pressure, multilateral forums, and cooperation with relevant human rights organizations are essential to address the Irani Crisis and ensure that Iran upholds its international obligations concerning human rights, especially freedom of religion.¹⁹

1.3.8 Right to a fair trial

42. The Iranian judicial system has been marred by practices that systematically compromise the right to a fair trial.

43. One of the most concerning aspects is the routine use of closed-door trials, especially in cases involving political dissidents and human rights activists. These secretive proceedings not only obstruct transparency, but also deprive defendants of the right to a public hearing, denying them the opportunity to present their defense before an impartial audience. Additionally, Iran's judiciary has been criticized for its excessive reliance on forced confessions, often extracted under duress or torture. These coerced confessions are frequently used as primary evidence in court, undermining the presumption of innocence and compromising the integrity of the trial process.

¹⁹ United Nations General Assembly, International Covenant on Civil and Political Rights, Res. 2200A (XXI), entered into force Mar. 23, 1976, available at: <https://www.ohchr.org/en/instrumentsmechanisms/instruments/international-covenant-civil-and-political-rights>.

44. Another critical issue impacting the right to a fair trial in Iran is the inadequate legal representation afforded to defendants. In many cases, individuals facing serious charges do not have access to competent and independent legal counsel, leading to an imbalanced power dynamic between the accused and the state. Legal representation is a cornerstone of a fair trial, as it ensures that defendants can effectively exercise their rights, challenge evidence, and confront witnesses. Without proper legal assistance, individuals' risk being subjected to unjust and disproportionate sentences, eroding the principles of justice and equality before the law.
45. In conclusion, the use of closed-door trials, reliance on coerced confessions, and inadequate legal representation all contribute to the erosion of justice and due process in the country. Addressing these challenges and implementing comprehensive reforms that adhere to international fair trial standards are imperative steps towards upholding human rights and restoring the rule of law in Iran.²⁰

1.4 Mahsa Amini's Death: Catalyst for the Current Crisis

1.4.1 Background

46. Mahsa Amini²¹, an emblematic figure in the Iranian Crisis with regard to human rights, was born on September 21, 1999, in Kurdistan Province, in northwestern Iran. She was a young university student, known for her intellectual acumen and dedication to pursuing knowledge. However, in September 2022, Mahsa's life took a tragic turn when she became embroiled in a series of events that highlighted the widespread human rights violations in Iran.
47. Mahsa Amini was on September 13, 2022, arrested by the Guidance Patrol, saying that she would be taken to the detention center to undergo a "briefing class" and released an hour later. Her family was later informed that she had a heart attack and a brain seizure at the police station to which she had been taken. This incident sparked outrage

²⁰ Human Rights Watch, "World Report 2022: Iran", *Human Rights Watch*, <https://www.hrw.org/worldreport/2022> (accessed on July 24, 2023).

²¹ Amnesty International, "Iran: Deadly crackdown on protests against Masha Amini's in custody needs urgent global action", *Amnesty International*, <https://www.amnesty.org/en/latest/news/2022/09/iran-deadlycrackdown-on-protests-against-mahsa-aminis-death-in-custody-needs-urgent-global-action/> (accessed on July 24, 2023).

both within the country and internationally, as it shed light on the oppressive tactics used by the Iranian authorities to suppress peaceful protests and silence voices advocating for change. Following her arrest, reports emerged of Masha's mistreatment, including allegations of torture and unjust detention. Such treatment of a peaceful student, known for her dedication to education and intellectual pursuits, brought the Iranian government's human rights record under intense scrutiny.

48. The case of Mahsa Amini remains an emblematic symbol of the human rights crisis in Iran, drawing attention to the plight of individuals who dare to express their opinions and advocate for a more just and inclusive society. Her story has been documented by numerous human rights organizations, including Amnesty International and Human Rights Watch, who have called for her release and the prosecution of those responsible for her ill-treatment. The international community has also voiced concern over the broader human rights situation in Iran, urging the Iranian government to uphold its commitments to international human rights conventions.
49. The focus on Mahsa Amini's story underscores the importance of advocating for human rights protections, both within Iran and on the international stage, to ensure that individuals like Mahsa are not subject to undue suffering and are granted the rights and freedoms they are entitled to under international law.

1.4.2 Public Reaction and Protests

50. The Irani Crisis in the sector of human rights has witnessed a significant surge in protests and public reactions following the tragic death of Mahsa Amini.²² Mahsa Amini's death under mysterious circumstances sparked widespread outrage and demands for justice, highlighting the deep-rooted concerns surrounding human rights violations in Iran. The incident has prompted a series of large-scale demonstrations and public expressions of solidarity, both within the nation and across the international community.
51. The protests following Mahsa Amini's death have been characterized by their scale and intensity, with citizens from various backgrounds uniting to call for accountability and

²² Iran Human Rights Documentation Center, "Mahsa Amini: A Symbol of Oppression and Human Rights Violations in Iran", *Iran Human Rights Documentation Center*.

transparency. The demonstrators have taken to the streets, demanding a thorough investigation into the circumstances leading to Mahsa Amini's demise and urging authorities to uphold the principles of justice and human rights. These protests have brought together individuals from different walks of life, transcending political and ideological boundaries, to demand systemic reforms and the protection of basic human rights for all Iranians.

52. The public reactions to Mahsa Amini's death have not been limited to physical demonstrations alone. Social media has played a crucial role in amplifying the calls for justice and disseminating information about the ongoing crisis in Iran's human rights sector. The hashtag #JusticeForMahsa trended globally, drawing attention to the plight of not just one individual but the broader issues surrounding human rights in the nation. Celebrities, human rights activists, and international organizations have voiced their support for the cause, applying pressure on the Iranian government to address the concerns raised by its citizens and the international community.

1.4.3 Government Response and Crackdown

53. In the aftermath of her death, widespread protests and demonstrations swept the country, calling for justice and accountability.²³ Regrettably, the government's response to the public outcry was characterized by a harsh crackdown, which further exacerbated human rights abuses and stifled fundamental freedoms.

54. The Iranian government's initial reaction to the outcry over Mahsa Amini's death was marred by a significant use of force against peaceful protesters. Security forces were deployed in large numbers, and reports of excessive use of tear gas, batons, and even live ammunition against unarmed civilians emerged. These actions constitute grave violations of the right to freedom of assembly and expression, as enshrined in international human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

²³ Iran Human Rights Documentation Center, "Mahsa Amini: A Symbol of Oppression and Human Rights Violations in Iran".

55. Moreover, the government's response extended beyond the use of force and included a series of arbitrary arrests, targeting not only protesters but also journalists, human rights defenders, and political activists who spoke out against the government's handling of the situation. Many of those detained were subjected to ill-treatment, including torture and prolonged periods of detention without trial. Such practices blatantly violate the right to due process and fair trial, fundamental human rights guaranteed under the UDHR and the ICCPR.
56. In the aftermath of the crisis, the international community expressed grave concerns over the Iranian government's actions and called for an immediate end to the human rights abuses. The United Nations, human rights organizations, and various countries urged the Iranian authorities to conduct transparent investigations into Mahsa Amini's death and hold those responsible for human rights violations accountable. Furthermore, international sanctions were imposed on Iran to pressure the government into complying with its human rights obligations.
57. Mahsa Amini's background illustrates the deeply concerning human rights violations in Iran during the period of the crisis. The Irani Crisis and the governmental response following Amini's death highlighted the dire state of human rights in Iran. The excessive use of force, arbitrary arrests, and denial of due process underscored the government's disregard for fundamental human rights principles.

1.5 Current Challenges in Iran

58. Despite the multiple reactions both from the national and international world, NGOs and the UN, the Islamic Republic of Iran continues to grapple with significant challenges in the sector of human rights, eliciting growing concern from the international community. Iran's human rights record has been a subject of scrutiny, with numerous violations documented by international organizations and human rights advocates.
59. One of the primary challenges in Iran's human rights landscape is the systematic political repression, which stifles dissent and suppresses opposition voices. Activists, journalists, and human rights defenders are subjected to arbitrary arrests, detention, and unfair trials, violating their right to freedom of expression and association. The Iranian government's use of broad and vague laws to target peaceful activists creates an

environment of fear and intimidation, inhibiting citizens from exercising their fundamental rights and participating in civic life.

60. On the other hand, Iran faces criticism for its treatment of religious and ethnic minorities. The Bahá'í Faith, Christians, Sunni Muslims, and other minority groups have experienced discrimination, social exclusion, and limited access to education and employment opportunities. The Iranian authorities have also restricted the religious practices of minority communities, further infringing upon their rights to freedom of religion and belief. The marginalization and discrimination against minorities represent a significant challenge for Iran on the international stage, as it raises questions about the government's commitment to upholding human rights for all its citizens.
61. One of the most distinctive violations Iran has consistently maintained is the highest rates of executions globally, often employing the death penalty for a wide range of offences, including non-violent crimes. The application of capital punishment without adhering to international standards of fair trial and due process is a grave concern. The lack of transparency in the administration of the death penalty further exacerbates the challenges in Iran's human rights situation and draws criticism from the international community.
62. Addressing these challenges requires a concerted effort from the global community, engaging with Iran diplomatically while upholding the principles of human rights and justice. By advocating for meaningful reforms and holding Iran accountable for its actions, the international community can strive to foster a more rights-respecting and inclusive society in Iran.

1.6 Diplomatic Response and the United Nations²⁴

63. Prompted by the previous analysis, as the Irani Crisis stands as a significant contemporary issue with profound implications for human rights, it has raised concerns

²⁴ Amnesty International, "Iran 2020: Human Rights Situation", *Amnesty International*, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/> (accessed on July 24, 2023); Human Rights Watch, "World Report 2021: Iran", *Human Rights Watch*, <https://www.hrw.org/world-report/2021/country-chapters/iran> (accessed on July 24, 2023); United Nations Human Rights, "Human Rights in Iran", United Nations Human Rights, <https://www.ohchr.org/en/countries/asiaregion/pages/irindex.aspx> (accessed on July 24, 2023).

both within Iran and on the international stage, regarding the systematic violation of fundamental human rights.

64. In the wake of widespread reports of human rights abuses in Iran, the international community exhibited various responses to address the crisis. Several states and international organizations, appalled by the gravity of the situation, issued official statements condemning the human rights violations committed by the Irani authorities, for example the United States, Canada, the Member States of the European Union, the United Nations.²⁵ Diplomatic efforts were also initiated to urge Iran to respect human rights norms and uphold its international obligations under treaties and conventions it has ratified. In particular, many nations imposed economic sanctions on Iran as a means of exerting pressure to end the violations and hold the responsible parties accountable.
65. The United Nations, as a key international organization entrusted with promoting and protecting human rights, played a crucial role in responding to the Irani Crisis. The UN Human Rights Council (UNHRC) was at the forefront of the organization's efforts, engaging in monitoring, documenting, and reporting on human rights abuses in Iran. Through its Special Rapporteurs, the UNHRC conducted investigations and documented evidence of various violations, including arbitrary detentions, torture, and restrictions on freedom of expression and assembly. These reports, as it was aforementioned, have alarmed the international community multiple times about the abuses on the behalf of the Iranian government, the increase of the number of death penalty, the tortures and the State police and they served as essential tools in raising awareness and galvanizing the international community to take further action.
66. The UN General Assembly also played a significant role in addressing the Irani Crisis. During its sessions, various resolutions ²⁶were passed, condemning the human rights violations in Iran, and calling for immediate corrective measures. These resolutions have underscored the international community's collective concern and reaffirmed the universal nature of human rights. Additionally, the UN Security Council, though cautious

²⁵ OHCHR, "Iran update on human rights", *United Nations Human Rights*, <https://www.ohchr.org/en/statements/2023/06/iran-update-human-rights> (accessed on July 24, 2023).

²⁶ United Nations Security Council, Resolution 598 S/RES/0598, adopted on 20 July, 1987, available at: <https://digitallibrary.un.org/record/137345> (accessed on July 24, 2023).

of avoiding interference in domestic affairs, discussed the situation in Iran, emphasizing the importance of resolving the crisis peacefully and in full respect of human rights.

67. Despite these efforts, the UN's role in addressing the Irani Crisis faced several challenges and limitations. The non-binding nature of many resolutions adopted by the UN General Assembly, for instance, hindered their enforceability. Furthermore, Iran's lack of cooperation and limited access granted to UN officials during investigations impeded the gathering of comprehensive data. These constraints weakened the UN's ability to effectively address the situation and ensure accountability for human rights violations.
68. The Irani Crisis has posed significant challenges to the international community and the United Nations in safeguarding human rights. Nevertheless, the international response, encompassing diplomatic pressure, economic sanctions, and UN involvement, has demonstrated the global commitment to addressing human rights violations in Iran. Despite certain limitations, the UN's role in monitoring, documenting, and condemning human rights abuses has contributed to shedding light on the ongoing crisis. As the situation unfolds, continued international cooperation and dedication to upholding human rights will remain essential to address the complexities of the Irani Crisis and promote a more just and secure world.

1.7 Solutions and Recommendations

69. The Iranian Crisis in the realm of human rights presents a pressing challenge that demands comprehensive and effective solutions at both national and international levels. The violation of human rights in Iran has been a longstanding issue, with concerns ranging from political repression, arbitrary arrests, unfair trials, and restrictions on freedom of expression and assembly. The solutions will be examined firstly nationally and then on an international level.

1.7.1 Nationally

70. Strengthening Legal Framework: The Iranian government should enact and enforce comprehensive human rights legislation aligned with international human rights norms, including the Universal Declaration of Human Rights (UDHR) and international treaties.

This will ensure that domestic laws and policies protect fundamental rights and freedoms, and grant individuals' access to legal recourse in cases of rights violations.

71. Independent Judiciary: Establishing an independent and impartial judiciary is imperative to safeguarding human rights. The Iranian government should take measures to separate the judiciary from political influence and interference, allowing for fair and transparent trials and due process.
72. Civil Society Empowerment: Fostering a vibrant civil society is crucial in advocating for human rights in Iran. The government should promote freedom of association and expression, enabling civil society organizations to operate freely, monitor human rights abuses, and provide support to victims.

1.7.2 Internationally

73. United Nations Intervention: The United Nations (UN) should actively engage with Iran to address the human rights crisis. The UN Human Rights Council (UNHRC) should establish a special rapporteur on Iran to investigate and report on ongoing human rights violations, which will increase international scrutiny and put pressure on the Iranian government to reform.
74. Economic Sanctions: The international community should consider targeted economic sanctions against Iranian officials responsible for human rights abuses. These sanctions can include asset freezes and travel bans to hold perpetrators accountable and deter future violations.
75. Diplomatic Pressure: Diplomatic channels should be utilized to engage with Iran and encourage compliance with international human rights standards. Bilateral and multilateral talks can facilitate dialogue and cooperation on human rights issues, promoting positive change.

1.8 Conclusion

76. The Irani Crisis in the realm of human rights has been a grave and concerning issue that demands urgent attention and comprehensive action from the international community.
77. The systematic violation of fundamental human rights in Iran, including but not limited to freedom of expression, peaceful assembly, and access to fair trials, has led to

widespread suffering and injustice for its citizens. The imposition of discriminatory laws and practices against minority groups, particularly women and religious minorities, further exacerbates the crisis and calls for an immediate response.

78. To address the Irani Crisis effectively, international human rights organizations, regional bodies, and diplomatic entities must collaborate closely to exert collective pressure on the Iranian government. A robust and sustained effort is required to monitor and document human rights abuses while advocating for the immediate release of political prisoners and the implementation of transparent, impartial, and fair judicial proceedings. Additionally, diplomatic engagement should prioritize human rights concerns, emphasizing that any resolution to regional conflicts must not come at the expense of the basic rights and dignity of the Iranian people. It is imperative for the global community to provide support and protection to Iranian human rights defenders and civil society organizations working tirelessly to promote human rights. This crisis cannot be tackled in isolation, and international actors should consider the broader geopolitical context while engaging in constructive dialogues aimed at encouraging Iran's adherence to international human rights standards. Only through collective action and unwavering commitment can we hope to bring about positive change and uphold the values enshrined in the Universal Declaration of Human Rights.

79. Amidst the tumultuous landscape, the pursuit of justice and respect for human rights stands as a beacon of hope for a more equitable and stable Iran.

1.9 Points to be addressed

1. What are the specific human rights violations reported in Iran during the crisis, and how do they align with international human rights standards and treaties?
2. How has the Iranian government responded to allegations of human rights abuses during the crisis, and what mechanisms exist for holding them accountable on the international stage?
3. How have civil society organizations and human rights activists in Iran been affected by the crisis, and what challenges do they face in documenting and reporting human rights violations?

4. What role has the international community played in addressing the Irani crisis and protecting human rights in the region? Have sanctions or diplomatic measures been employed?
5. How has the Irani crisis impacted vulnerable populations, such as women, religious minorities, refugees, and LGBTQ+ individuals, in terms of their human rights and access to justice?
6. What legal recourse do victims of human rights violations in Iran have, both domestically and through international bodies like the International Criminal Court (ICC)?
7. How has the media and digital communication been impacted during the crisis, and what implications does this have for freedom of speech and access to information in Iran?
8. To what extent have human rights considerations influenced foreign policy decisions of other nations in response to the Irani crisis, and how does this reflect on the effectiveness of human rights advocacy on a global scale?

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2 TOPIC TWO: HUMAN RIGHTS IMPACTS OF SANCTIONS

2.1 Introduction

80. When designing a new world order post the second world war the architects of the new UN system focused on two aspects, banning wars of aggression, and ensuring human rights. But when war is not an option on the table, how do you ensure that countries adhere to your new rules? States needed a new tool to enforce their new world order, which they found in sanctions. Sanctions are a complex tool that can be used in many circumstances for different reasons and by different actors. The debate about sanctions increased after the cold war as did the use of sanctions and is nowadays relevant as ever with the seemingly polarized world continuously experiencing new conflicts and human rights violations.
81. Human rights are closely intertwined with sanctions, with breaches of human rights sometimes being the justification for and the unintended consequence of sanctions. It is therefore that you as members of the Human Rights Council must take an informed and comprehensive look at this tool of the international community and see where you can improve it so that human rights will prosper around the world.
82. This study guide will serve as a starting point for your preparations for the upcoming MUNLawS conference. It aims to give a comprehensive overview of the topic, but it should not be the only resource used during your preparations. In the first part of the main body, some relevant concepts and institutions will be explained shortly, so that you may better understand the workings of sanctions inside the international community. The second chapter is a brief account of the development of sanctions through history, which will then be followed by the legal background for sanctions in public international law. Fourth will be the main chapter where the connection between sanctions and human rights will be addressed, which will then be complemented by 2 case studies. This will be followed by a conclusion with further reading recommendations and issues to consider.

2.2 Key concepts

2.2.1 Sanctions

83. Sanctions or as they are referred to inside the UN system “coercive measures” are ways of pressuring rogue states to fall back in line. A broad definition of sanctions would be: “All the mechanisms of enforcement, functioning as guarantees for compliance with the rule of law, /.../ In this broad acceptance the word ‘sanctions’ designates all types of consequences triggered by the violation of an international legal rule.”²⁷ This would mean that even soft reprisals such as public statements would count as sanctions. A broader definition of sanctions would then be “the persuasive force of coercion to bring the targeted State (or other international law subject) back to legality.”²⁸ Taking this definition into account, sanctions can range from diplomatic sanctions, sports sanctions, military sanctions, sanctions against individuals, and most prominent, economic sanctions.

2.2.2 Unilateral coercive measures

84. Unilateral coercive measures are a subtype of sanctions that require additional attention. In a thematic study prepared for the UN Human Rights Council (HRC), the Office of the United Nations High Commissioner for Human Rights described them as follows: “It is widely acknowledged that the term “unilateral coercive measures” is difficult to define. Unilateral coercive measures often refer to economic measures taken by one State to compel a change in the policy of another State. The most widely used forms of economic pressure are trade sanctions in the form of embargoes and/or boycotts, and the interruption of financial and investment flows between sender and target countries. While embargoes are often understood as trade sanctions aimed at preventing exports to a target country, boycotts are measures seeking to refuse imports from a target country. However, frequently the combination of import and export restrictions is also referred to as a trade embargo. More recently, so-called “smart” or

²⁷ Alain Pellet and Alina Miron, “Sanctions”, in *Max Planck Encyclopedia of Public International Law* (Oxford Public International Law, 2013).

²⁸ *Ibid.*

“targeted” sanctions, such as asset freezing and travel bans, have been employed by States in order to influence individuals who are perceived to be in a position to decide on political action in a particular State.”²⁹

85. In simple terms, unilateral coercive measures are some form of economic sanctions not explicitly permitted by the UNSC. As seen in recent general assembly resolutions,³⁰ the issue of unilateral coercive measures is the main issue still discussed in the UN system, which should be something you should keep in mind when preparing for the conference.

2.2.3 Special rapporteur on unilateral coercive measures

86. With resolution A/HRC/RES/27/21,³¹ the Human Rights Council established the mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights (further: rapporteur). The rapporteur is tasked with gathering information from governments, non-governmental organizations, and any other affected part, to study trends, developments, and challenges in relation to the negative impact of unilateral coercive measures on human rights, to make recommendations³² on ways to prevent, minimize and redress the negative impacts of unilateral coercive measures on human rights, to assess the situation and promote accountability, to work together with the office of the High Commissioner and with other relevant UN bodies to promote the safekeeping from the negative effects of unilateral coercive measures on human rights. The mandate is currently held by Prof. Alena Douhan.³³

²⁹ Human Rights Council, Resolution A/HRC/19/33, 11 January, 2012.

³⁰ United Nations General Assembly, Resolution A/RES/77/214, 16 December, 2021, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/590/30/PDF/N2259030.pdf?OpenElement>, and Resolution A/RES/76/161, 16 December, 2021, available at: <https://documents-ddsny.un.org/doc/UNDOC/GEN/N21/403/23/PDF/N2140323.pdf?OpenElement>.

³¹ Human Rights Council, Resolution A/HRC/RES/27/21, 3 October 2014, available at: <https://documents-ddsny.un.org/doc/UNDOC/GEN/G14/179/07/PDF/G1417907.pdf?OpenElement>.

³² The author recommends that delegates take a closer look to some of the publications of the Special Rapporteur, especially when these may concern the country they are representing.

³³ OHCHR, “Mandate of the Special Rapporteur”, OHCHR, <https://www.ohchr.org/en/special-procedures/srunilateral-coercive-measures/mandate-special-rapporteur> (accessed on July 19, 2023).

2.2.4 Sanctions commissions

87. It has become standard practice that when the UNSC establishes new sanctions they also establish a sanctions committee to monitor the implementation and effects of embargoes or sanctions it has decided to impose, which is in line with Article 28 of the Provisional Rules of Procedure of the Security Council. Sanctions Committees are generally referred to by the number of the UNSC resolution that imposed the sanction. They are also important as they are the main body tasked with considering requests for exemptions in their sanction regimes. These requests are examined on a case-by-case basis and can only be requested by governments and intergovernmental humanitarian organizations. This can be problematic as non-governmental organizations must lobby their ministries to secure exemptions that they deem relevant.³⁴

2.2.5 The Focal Point for De-listing

88. When sanctions moved from broad, country-wide embargoes to smart, targeted sanctions, a need arose for individuals to be able to request The Focal Point for De-listing as established with S/RES/1730. The purpose of the Focal Point is to receive delisting requests and forward them to the relevant government of the individual, which should then approach the sanctioning committee with a request to de-list this individual. The focal point is also charged with keeping the individual informed about the status of their request.³⁵ In 2015 with resolution S/RES/2255, the work of the Focal Point expanded so that they may send a de-listing request directly to the relevant committee if they consult the relevant government first.³⁹

2.2.6 The Office of the Ombudsperson

89. The office of the Ombudsperson was created with UNSC resolution S/RES/1904 in 2009 together with reaffirming the sanctions regime against Al-Qaida, Osama Bin Laden, the

³⁴ Doctors without borders, "The Practical Guide to Humanitarian Law: Sanctions Committees", *Medcins Sans Frontiers*, <https://guide-humanitarian-law.org/content/article/3/sanctions-committees/> (accessed on July 19, 2023).

³⁵ United Nations Security Council, "Focal Point for De-Listing", *United Nations*, <https://www.un.org/securitycouncil/sanctions/delisting>, (accessed on August 2, 2023).³⁹ United Nations Security Council, Resolution /RES/2255, 21 December, 2015, available at: <https://www.un.org/securitycouncil/s/res/2255-%282015%29>.

Taliban, and any other cell affiliated with them, which was established 10 years prior. The original sanctions regime could be paired up with its own sanctions commission, but as the sanctions regime was expanded, to include not only the Taliban, who were the leaders of Afghanistan at the time, but also Osama bin Laden and other members of Al-Qaida, there was suddenly a problem – there was no way for humanitarian exceptions to be requested by these individuals as they did not have the backing of a sovereign state. All these individuals were stuck in a legal limbo where they were unable to do anything about their position. This is why the UNSC created the office of the Ombudsperson, which is tasked to fill the role of an intergovernmental humanitarian organization with the aim of accepting and processing delisting requests by individuals who feel that they have been wrongly placed on the sanction list. If the Ombudsperson agrees with the request, they shall submit a delisting proposal to the committee.³⁶

2.3 History of sanctions

90. Although the use of sanctions has risen dramatically after the end of the Cold War,³⁷ the usage of economic warfare can be traced all the way back to ancient Greece.³⁸ During most conflicts, between antiquity and the First World War, sanctions were employed hand in hand with armed conflict to increase pressure on the opposing side. Starting with the seven years' war, the Kingdom of Great Britain unilaterally decreed that neutral states could not benefit from trade during wartime if that trade did not occur in peacetime.³⁹ Later, during the Napoleonic Wars, the future potential of sanctions was unlocked with the imposition of continent-wide blockades. After the First World War, efforts were made to separate economic sanctions from warfare. This was considered when drafting the Covenant of the League of Nations in Article 16, where it was stated that: “Should any Member of the League resort to war in disregard of its covenants /.../ it shall ipso facto

³⁶ United Nations Security Council, “Ombudsperson to the ISIL (Da’esh) and Al-Qaida Sanctions Committee”, *United Nations*, <https://www.un.org/securitycouncil/ombudsperson> (accessed on July 19, 2023).

³⁷ T. Clifton Morgan, Constantinos Syropoulos, and Yoto V. Yotov, “Economic Sanctions: Evolution, Consequences, and Challenges”, *JSTOR*, <https://www.jstor.org/stable/27192407>, 3–29, (accessed on July 19, 2023).

³⁸ Iryna Bogdanova, “*Unilateral Sanctions in International Law and the Enforcement of Human Rights: The Impact of the Principle of Common Concern of Humankind*”, (Boston: Brill Nijhoff, 2022), 15.

³⁹ *Ibid*, 17.

be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State.”⁴⁰

91. The then US President Woodrow Wilson believed that for any liberal economy, economic sanctions would be a fate worse than war.⁴¹ It was the hope of the writers of the covenant that the threat of sanctions could prevent wars in the future, as the consequences of any such actions would be devastating to the aggressor country. With this, the use of sanctions was institutionalized for the first time. In the interwar period, sanctions were commonly used, but not in the context of Article 16, as the League of Nations was plagued with inefficiency. The first use of institutionalized sanctions was when the members of the The League of Nations agreed on economic sanctions against the Kingdom of Italy in response to the invasion of Abyssinia which, despite the hopes of the founders of the League of Nations, failed to prevent another major conflict⁴².
92. After the Second World War, the Charter of the United Nations (UN) strictly forbade the use of military coercion to settle disputes so the need for economic and other forms of coercion increased. The cold war was characterized by the use of embargoes against countries from the other side of the ideological rift, or against countries of the same ideology who failed to fall in line with the major powers. In the 1970s, the US started to use sanctions in an effort to promote human rights abroad, with them imposing trade restrictions on non-market states if they did not allow free emigration and respect other human rights, while also terminating military aid to South American countries if they did not respect human rights.⁴³ During the Cold War, the UN Security Council only authorized

⁴⁰ Yale Law School, “The Covenant of the League of Nations”, art. 16, *League of Nations*, https://avalon.law.yale.edu/20th_century/leagcov.asp#art16 (accessed on July 19, 2023).

⁴¹ Bogdanova, “*Unilateral Sanctions in International Law and the Enforcement of Human Rights*”, 21.

⁴² *Ibid*, 19-23.

⁴³ Gary Clyde Hufbauer et al., “*Economic Sanctions Reconsidered: History and Current Policy*” (Washington D. C.: Peterson Institute, 1990), 5-9.

economic sanctions against two states: (then) Rhodesia in 1965 and South Africa in 1977.⁴⁴

93. After the end of the Cold War, the use of sanctions authorized by the UNSC increased drastically. One of the first and most notorious cases was the use of a complete embargo against Iraq after it invaded Kuwait. The sanctions regime did not achieve its goals, leading to the start of the first Gulf War. Not only did sanctions not end the war, but the embargo also created a humanitarian disaster in Iraq. This case study of how not to use sanctions will also be examined in detail later. Another two prominent cases post-Cold War were the embargo levied against Serbia for the wars of independence of the former Yugoslav republics, and the sanctions against Haiti after its president was overthrown in a coup d'état. Although the sanctions against Serbia did help to stop the war, they did not manage to prevent the genocide in Srebrenica, while the sanctions against Haiti lead to nothing but more poverty and political instability. In all three cases, sanctions came in the form of a full embargo, which had unintended side consequences for the civilian population⁴⁵. Because of this, the preference of UNSC diplomats shifted from comprehensive country-wide sanctions to specific targeted sanctions. Targeted sanctions came in the form of trade restrictions on specific sectors of the economy that were deemed vital to the war which the country was waging or to the atrocities the country was committing.⁴⁶

94. The next step in the evolution of sanctions came when the international community needed a tool to combat international terrorism. Due to the decentralized nature of terrorist organizations, it was suddenly impossible to place sanctions against a single country. This led to the development of sanctions against individuals.⁴⁷ At first glance, this would seem to solve the issue of sanctions violating human rights, as was the case with Iraq, but as it would later turn out this approach would violate human rights from a

⁴⁴ Bogdanova, "Unilateral Sanctions in International Law and the Enforcement of Human Rights".

⁴⁵ Kimberly Ann Elliott, "Assessing UN Sanctions after the Cold War: New and Evolving Standards of Measurement", (International Journal 65, no. 1: 2009), 91–92.

⁴⁶ Francesco Giumelli, "Understanding United Nations Targeted Sanctions: An Empirical Analysis", (International Affairs 91, no. 6: 2015), 1351–53.

⁴⁷ Oldrich Bures, "Private Actors in the Fight Against Terrorist Financing: Efficiency Versus Effectiveness", (*Studies in Conflict & Terrorism* 35, no. 10: 2012), 714.

different side. As the years moved into the late 2000s and 2010s, international cooperation which came with the end of the Cold War started to cool down as Russia and China began to assert themselves more as global powers. This also resulted in a decrease in UNSC-mandated sanctions, which led to the evolution of sanctions into its current iteration of unilateral economic sanctions.⁴⁸ The legality and effectiveness of these sanctions is a debate that still remains open and will be discussed further in the following chapter.

2.4 Legal basis for sanctions

95. The International Law Commission has prepared two documents on the matter. The first is the 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA)⁴⁹ and the second is the 2011 Draft Articles on the Responsibility of International Organizations (DARIO)⁵⁰. Even though 22 years have passed since the first introduction of ARSIWA, the recommended Draft Articles have not yet been turned into a convention⁵¹. Even still these remain a useful source of recommendations on how to place sanctions into international law. The future consideration of this item is planned for 2025.⁵² When looking at the legal basis for sanctions, a distinction needs to be made between multilateral and unilateral sanctions.

2.5 Multilateral sanctions

96. Multilateral sanctions are sanctions that have been approved by the UNSC.⁵³ The legal basis for this lies in the UN Charter Article 41, which states: “The Security Council may

⁴⁸ Bogdanova, “*Unilateral Sanctions in International Law and the Enforcement of Human Rights*”, 36.

⁴⁹ United Nations General Assembly, Resolution A/RES/56/83, 28 January, 2002, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/477/97/PDF/N0147797.pdf?OpenElement>.

⁵⁰ International Law Commission report A/66/10, 2011, available at: https://legal.un.org/ilc/documentation/english/reports/a_66_10.pdf.

⁵¹ United Nations General Assembly, Resolution A/RES/77/97, 7 December 2022, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/741/22/PDF/N2274122.pdf?OpenElement>.

⁵² United Nations, Sixth Committee UN General Assembly, “Responsibility of States for Internationally Wrongful Acts - Seventy-Seventh Session - Sixth Committee (Legal)”, United Nations, https://www.un.org/en/ga/sixth/77/resp_of_states.shtml (accessed July 21, 2023).

⁵³ Ljupcho Stojkovski, “*Non-UN Sanctions and the “Responsibility To Protect”: Legality, Legitimacy and Their Significance for R2P*”, in *The Limits of Responsibility to Protect*, ed. Vasilka Sancin and Maša. Kovič Dine, 1st ed (Ljubljana: Faculty of Law, 2023), 24.

decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”⁵⁴ Considering that sanctions approved by the UNSC require no votes against by the 5 permanent members, the legality of these sanctions is rarely placed under question and is generally observed by all member states. The UNSC can approve sanctions in the case of a threat to peace, a breach of peace, or an act of aggression. These are all violations of international law, but not all violations of international law necessarily fall under these three violations. For example, a country torturing a single individual from a different country is a violation of international law, yet it is not a threat to peace. This difference, together with the ineffectiveness of the UNSC due to the political interests of its members, leaves a need for unilateral sanctions, which are a much more contentious topic in international law.⁵⁵

2.6 Unilateral sanctions

97. Unilateral sanctions are a grey area of international law, where the legality of these measures is dependent on the specific circumstances of the issued measures and on the legal documents which one is consulting. Firstly, there are sanctions that are deemed as not being coercive. Such sanctions may include the severing of diplomatic ties or the withdrawal of voluntary aid programs. As long as these actions are not forbidden by a treaty that the sanctioning country has signed, they breach no international norm.⁵⁶ Other coercive sanctions are considered illegal, as they break the norm of nonintervention in the workings of other states, as set out in the 1970 UN General Assembly Friendly Relations Declaration.⁵⁷ Unilateral coercive measures are further explicitly forbidden by recent UNGA resolutions, which call on all states to eliminate the

⁵⁴ United Nations Charter, Article 41, available at: <https://www.un.org/en/about-us/un-charter/full-text>.

⁵⁵ Tom Ruys, “Sanctions, Retorsions and Countermeasures: Concepts and International Legal Framework”, in *Research Handbook on UN Sanctions and International Law*, ed. Larissa van den Herik (Edward Elgar Publishing, 2016), 15-18.

⁵⁶ *Ibid*, 5.

⁵⁷ United Nations General Assembly, Resolution A/RES/2625 (XXV), available at: https://treaties.un.org/doc/source/docs/A_RES_2625-Eng.pdf.

use of unilateral coercive economic measures. Another legal source prohibiting economic sanctions is the General Agreement on Tariffs and Trade (GATT), now a part of the WTO, where a principle of non-discrimination has been asserted, with which economic sanctions are incompatible. However, the GATT does include a provision that allows States to break this principle for national security reasons.⁵⁸ Financial sanctions are further restricted by the treaty of the International Monetary Fund.⁵⁹ There are also legal restrictions on targeted sanctions that stem from human rights law. This is by no means an exhaustive list of sources of international law that prohibit the use of sanctions but should serve as a good starting point. There are, however, exceptions to these rules.

98. Even when not mandated by the UNSC, coercive sanctions issued by individual states, a group of states, or regional international organizations, are not necessarily in violation of international law.⁶⁰ There are cases where unilateral sanctions are considered legal. When an injured state uses sanctions against another state that has committed an unlawful act against it, as long as the sanctions are proportionate to the original infraction. This means that states are not allowed to impose a complete economic embargo simply because some of its individuals have been illegally detained in another country, as these measures would be considered unproportionate.⁶¹ The second case where unilateral coercive measures are permitted is a non-forcible measure put in place by a regional international organization and its members against one of its members which has violated the treaty of the international organization, for example, the European Union (EU) or the African Union (AU). The third is sanctions in accordance with the norm of *lex specialis* within self-contained regimes such as the World Trade Organisation.⁶² This basically means that if specific regimes have laws that are more detailed than the general norms of the international community, those laws take precedence.

99. There are also other norms of international law that support the use of sanctions. The first of these is that states are in principle free to choose with whom they conduct trade

⁵⁸ Johan Holst, "The Legality of Unilateral Economic Sanctions", (Lund University, 2023), 12-13.

⁵⁹ Ruys, 'Sanctions, Retorsions and Countermeasures: Concepts and International Legal Framework,' 10.

⁶⁰ Ibid, 11-12.

⁶¹ Bogdanova, "Unilateral Sanctions in International Law and the Enforcement of Human Rights", 60-61.

⁶² Ruys, "Sanctions, Retorsions and Countermeasures: Concepts and International Legal Framework" 11-12.

or not. It has also been further argued that the norm of non-intervention has been eroded as a result of states not adhering to it. In 1993 a UN panel of experts did not find sufficient consensus in international law to form an instrument to deal with the legality of coercive measures.⁶³

2.7 Third-party Sanctions and the Responsibility to Protect

100. Another currently relevant type of sanction is third-party sanctions. Third-party sanctions are sanctions that are introduced by countries that have no direct involvement in the conflict against states breaking international law, without the authorization of the UNSC.⁶⁴ An example of this is the current Western sanctions regime against Russia for its invasion of Ukraine,⁶⁵ or the sanctions against Myanmar for its genocide of the Rohingya.⁶⁶ Many states and intergovernmental organizations, such as the USA, Australia, the UK, and the EU, have adopted national laws or articles in their treaties allowing them to impose such sanctions.⁶⁷ This does not, of course, mean that these sanctions are allowed under international law. Whether third-party sanctions are legal or not differs based on which country one is to consult. Most Western countries would argue that third-party measures are legal, while non-Western states would not consider them legal. Western states would argue that certain crimes do not harm one particular state, but the international community as a whole, which gives them legal and legitimate

⁶³ Ibid, 20.

⁶⁴ Ibid, 22-23.

⁶⁵ Jorge Liboreiro and Efi Koutsokosta, "EU Agrees New Sanctions against Russia, Targeting Chinese Companies", *Euronews*, <https://www.euronews.com/my-europe/2023/06/21/eu-agrees-new-sanctionsagainst-russia-targeting-companies-suspected-of-circumvention> (accessed on July 19, 2023).

⁶⁶ Reuters, "US Imposes Sanctions on Myanmar's Military Leaders over Rohingya Abuses", *The Guardian*, <https://www.theguardian.com/world/2019/jul/17/us-imposes-sanctions-on-myanmars-military-leaders-over-rohingya-abuses> (accessed on July 19, 2023).

⁶⁷ Ruys, "Sanctions, Retorsions and Countermeasures: Concepts and International Legal Framework", 9.

reasons to impose sanctions on the country breaking these laws. Such laws can be found in the Responsibility to Protect norms.⁶⁸

101. The Responsibility to Protect is the idea that state sovereignty is not a right of states but a duty to its people. From this stem the idea that states are not only required to punish human rights violations but to also prevent them in the first place.⁶⁹ This responsibility was first discussed in the International Commission on Intervention and State Sovereignty and later adopted in the UNGA Resolution A/RES/60/1⁷⁰ under Articles 138-140, but the version actually adopted was much more limited than what was originally envisioned. Today the responsibility to protect is understood as a responsibility to encourage and help states prevent human rights violations, but it would be a far stretch to interpret the responsibility as meaning that states breaking their obligations to their people would lose their sovereignty.⁷¹

102. The legality of third-party sanctions remains a legal grey zone and with how the world is currently polarized it is doubtful if the issue will be solved in the near future.⁷²

2.8 Legality of extraterritorial sanctions

103. Another highly contentious issue is the legality of extraterritorial sanctions. Extraterritorial sanctions are sanctions that states impose on entities operating outside of their jurisdictions when they conduct business with actors who have already been sanctioned. An example of this is the recent EU ban on trading with foreign companies which are expected to be used as intermediaries to circumvent sanctions against Russia.⁷⁷ Both the USA and the EU were at first critical of such sanctions but have more

⁶⁸ Stojkovski, “Non-UN Sanctions and the “Responsibility To Protect: Legality, Legitimacy and Their Significance for R2P”, 29.

⁶⁹ United Nations, “Office on Genocide Prevention and the Responsibility to Protect”, United Nations, <https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml> (accessed on July 19 2023).

⁷⁰ United Nations General Assembly, Resolution A/RES/60/1, 16 September, 2005, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.

⁷¹ United Nations, “United Nations Office on Genocide Prevention and the Responsibility to Protect”, United Nations, <https://www.un.org/en/genocideprevention/member-states.shtml> (accessed on July 22, 2023).

⁷² Ruys, “Sanctions, Retorsions and Countermeasures: Concepts and International Legal Framework”, 26.

⁷⁷ Liboreiro and Koutsokosta, “EU Agrees New Sanctions against Russia, Targeting Chinese Companies”, *euronews*, <https://www.euronews.com/my-europe/2023/06/21/eu-agrees-new-sanctions-against-russiatargeting-companies-suspected-of-circumvention> (accessed on July 22, 2023). ⁷⁸ Holst, “The Legality of Unilateral Economic Sanctions”.

recently started to use them to make their sanctions more effective. Most countries agree that such measures break international law and have adopted blocking statutes to prevent such sanctions from taking effect within their jurisdictions.⁷⁸

2.9 Human rights impact and the effectiveness of sanctions

104. Now that the legality of sanctions of different kinds has been addressed it is time to take a look at how sanctions actually work in practice, specifically concerning human rights. When addressing the effects of sanctions on human rights it is also crucial to consider the effectiveness of sanctions, as this can greatly impact the end result of the effect on human rights.

105. When looking at the effectiveness of sanctions one must first ask oneself what effective sanctions actually are. An economist might say that effective sanctions are the ones that inflict the most economic damage, while a political scientist might consider sanctions effective when they reach the desired goal with which they were introduced in the first place. Drawing this line is even more difficult when considering that some publicly stated objectives could just be facades for another secret agenda.⁷³ Another problem could be that political objectives can shift over time, as was the case with the sanctions on Iraq.⁷⁴

106. Considering that sanctions were developed as an alternative to war, and that a common justification for sanctions is the prevention of human rights abuses, one would expect that sanctions would have a net positive impact on the state of human rights in the sanctioned countries, at least that was the idea when sanctions were originally envisioned, nowadays referred to as naïve sanctions.⁷⁵ The logic behind the naïve theory of sanctions was that through economic blockade, oppressive regimes would reduce their ability to sustain the *status quo*, forcing them to bring positive change if they wished

⁷³ Morgan, Syropoulos, and Yotov, “Economic Sanctions”.

⁷⁴ See case study on Iraq.

⁷⁵ Ryan Yu-Lin Liou, Amanda Murdie, and Dursun Peksen, “Revisiting the Causal Links between Economic Sanctions and Human Rights Violations”, (*Political Research Quarterly* 74, no. 4: 2021), 808–21.

to stay in power.⁷⁶ The reality though, was completely different, with sanctions having unintended side effects.

107. When it comes to broad economic coercive measures targeting the whole country through a blockade, economic coercive measures have shown to have an overall net negative impact on human rights.⁷⁷ Beyond the primary goals, sanctions have been shown to inflict significant socio-economic and political damage in target countries. Literature shows that sanctions worsen government respect for physical integrity rights, including freedom from enforced disappearances, extra-judicial killings, torture, and political imprisonment.⁷⁸ Further, sanctioned states have shown a deterioration of public health availability and quality, a deterioration of education, worsened development of civil society, with sanctions generally destabilizing the affected country as well.⁷⁹

108. There are four reasons for this. The first is that sanctions in practice enhance the ability of the regime to repress its people. When sanctions are set in place, economic resources become scarce and the government is the one with the largest supply. This gives the government more power over its political institutions, as it has more to offer them than it did before, on account of the scarcity of resources. The second reason is that due to economic blockades, basic resources such as food and medicine become increasingly scarce, leading to a rise in poverty and unemployment. The third reason is that the targeted regimes will exploit these sanctions to make a “rally around the flag” effect, with which they garner more public support, which gives them more leeway in dealing with anti-government forces. Fourth, the economic coercion isolates the country from the rest of the globe, which makes it nearly impossible for outside aid and investment to enter the country, which leads to a further deterioration in human rights enjoyment.⁸⁶ The negative consequences of sanctions boil down to state repression capacity. If sanctions increase the possibilities with which the state can repress its

⁷⁶ Ryan Yu-Lin Liou, Amanda Murdie, and Dursun Peksen, “Revisiting the Causal Links between Economic Sanctions and Human Rights Violations”, (*Political Research Quarterly* 74, no. 4: 2021), 808.

⁷⁷ Dursun Peksen, “Better or Worse? The Effect of Economic Sanctions on Human Rights”, (*Journal of Peace Research* 46, no. 1: 2009), 59–77.

⁷⁸ *Ibid*, 59.

⁷⁹ *Ibid*, 60. ⁸⁶

Ibid, 63.

population, then sanctions will lead to a negative human rights impact, and vice versa.⁸⁰ Considering the economic aspect of the effectiveness of sanctions, it is questionable if, from the viewpoint of human rights, effective sanctions are even wanted. A complete economic blockade can have a wide array of negative effects on human rights and at the same time does not achieve its political goal. It is as such then best to look for sanctions with minimal economic impact and the most political impact.

109. This has been shown in a report by the Thematic study of the Office of the United Nations High Commissioner for Human Rights on the impact of unilateral coercive measures on the enjoyment of human rights, where the High Commissioner highlights the following problems: “Primary victims of these measures are often the most vulnerable classes, including women, children, the infirm and older persons, as well as the poor. These groups suffer more acutely as a result of the denial of access to lifesaving equipment and medications, basic food products, and educational equipment. Others are prevented from joining the job market.”⁸¹

110. Thus, if broad embargoes are a blunt tool that fails to discriminate between the intended targets and innocent civilians, how do targeted sanctions fare up? There seems to be a lack of a clear answer, as once again, the scope of “smart” targeted sanctions differs. One study has found that sanctions with a broad scope are less effective and result in more human rights violations, while narrow sanctions, when implemented effectively, do not hurt civilians.⁸² This is because broad sanctions threaten the whole regime more, which means that the leader is more likely to use oppression to stay in power, while more effective sanctions, which tend to be more narrow, limit the tools which a leader can use to oppress.

111. A subtype of targeted sanctions is arms embargoes. Arms embargoes at first glance seem like the most obvious sanctions to ensure human rights, as fewer weapons inside

⁸⁰ Sinjae Kang, Sangmin Lee, and Taehee Whang, “Economic Sanctions, Repression Capacity, and Human Rights”, *Taylor&Francis Online*, 174–97, <https://doi.org/10.1080/14754835.2022.2096404> (accessed on July 22, 2023).

⁸¹ United Nations General Assembly, Resolution A/HRC/19/33, 11 January 2012, available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC19-33_en.pdf.

⁸² Jiyoun Park and Hyun Jin Choi, “Are Smart Sanctions Smart Enough? An Inquiry into When Leaders Oppress Civilians under UN Targeted Sanctions”, *Sage Journals*, <https://journals.sagepub.com/doi/abs/10.1177/0192512120931957>, 433–49 (accessed on July 22, 2023).

a conflict zone diminish the state's ability to repress. But there are also issues with this line of thinking. The first one is that, as with other targeted sanctions, the state may increase repression at the onset of the arms embargo, as to compensate for its diminishing ability to do so in the future. The second is that sometimes embargoes can lead to states being undersupplied and as such unable to defend their citizens from organized crime or terrorist groups. Thirdly, arms embargoes could even increase arms proliferation in a given state, as smugglers will exploit a susceptible target to secure more sales through the black market. And fourth, by limiting the sales of arms into a country, the sender of the embargo could hamper the ability of resistance groups to overthrow an oppressive government.⁸³ In addition, the original premise is not necessarily correct, as cases such as the genocide in Rwanda, where most of the killings were performed with machetes, show that less sophisticated weapons do not mean an end to the killings.⁹¹ Despite this, there have been studies that show that arms embargoes still do lead to a net positive impact when observing human rights,⁹² although this does depend on how close these states are to other sources of weapons such as Russia.⁸⁴

112. Next to these concerns, there is also the issue of the effectiveness of the embargoes. As it turns out, they are usually quite ineffective. Countries have three ways of getting around them.⁸⁵ The first one is replacing the imports of weapons with local production, the second one is to foster sales of weapons through middlemen, so that they can still purchase their weapons from the same origin countries, and the third is switching their whole weapons arsenals to weapon systems produced by an alternative country, most commonly from Western systems to either Russian or Chinese produced ones.⁸⁶ The effectiveness of embargoes is also influenced by other factors, such as their objectives,

⁸³ Raymond C Kuo and Jennifer Spindel, "The Unintended Consequences of Arms Embargoes", *Foreign Policy Analysis*, *Sage Journals*, <https://doi.org/10.1093/fpa/orac030> (accessed on July 31, 2023). ⁹¹ Wilson Center, "The Humanitarian Impact of Arms Embargoes", *Wilson Center*, <https://www.wilsoncenter.org/event/the-humanitarian-impact-arms-embargoes> (accessed on July 31, 2023). ⁹² Karina Shyrokykh, "Human Rights Sanctions and the Role of Black Knights: Evidence from the EU's Post-Soviet Neighbours", (*Journal of European Integration* 44: 2022), 438.

⁸⁴ *Ibid.*

⁸⁵ Raymond C. Kuo and Jennifer Spindel, "The Unintended Consequences of Arms Embargoes", *Oxford Academic*, <https://academic.oup.com/fpa/article-abstract/19/1/orac030/6887208?redirectedFrom=fulltext> (accessed on July 31, 2023).

⁸⁶ *Ibid.*, 17.

who imposed them, whom they targeted when they were imposed, and for how long they were imposed.⁸⁷ For arms embargoes to actually be effective, all countries would need to be on board, but the past has shown that, for example, Russia frequently violated both EU and UN embargoes.⁸⁸

113. A study of targeted sanctions imposed against African States illuminated that targeted sanctions do unintentionally harm the local population by triggering conflict between local groups.⁸⁹ It also found that targeted sanctions do not differ from countrywide sanctions in the sense that both types lead to human rights violations,⁹⁰ although the study fails to mention the difference between which human rights are violated in which case, as it only analyses the rights to physical integrity.⁹¹

114. To summarise the previous paragraphs, economic sanctions imposed against a state or a part of a state's economy can lead to the infringement of the following rights: the right to life, the right to health, the right to food, the right to education, the right to access clean water and sanitation, the right to work and fair wages, the right to physical integrity, the rights of women, the right to political freedom, and others.⁹²

115. To focus away from states and onto individuals, a whole new array of human rights violations appears. By imposing sanctions against persons or companies, the UNSC or states introducing unilateral sanctions are infringing on the right to due process. By introducing travel bans their right to the freedom of movement is infringed, and asset seizures infringe on the right to private property as well as the whole process impeding on the right to private life.⁹³ These individuals do have a way to appeal these sanctions

⁸⁷ Michael Brzoska, "Measuring the Effectiveness of Arms Embargoes" *Ideas*, <https://ideas.repec.org/a/bpj/pepspp/v14y2008i2n2.html>, 6 (accessed on July 31, 2023).

⁸⁸ Kuo and Spindel, "The Unintended Consequences of Arms Embargoes", 17.

⁸⁹ Cristiane Lucena Carneiro and Laerte Apolinário, "Targeted Versus Conventional Economic Sanctions: What Is at Stake for Human Rights?", *Taylor&Francis Online*, <https://www.tandfonline.com/doi/abs/10.1080/03050629.2015.1036989> 582 (accessed on July 31, 2023).

⁹⁰ Ibid.

⁹¹ Ibid, 581.

⁹² S.P. Marks, "Economic Sanctions as Human Rights Violations: Reconciling Political and Public Health Imperatives", *National Library of Medicine*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1508798/> (accessed on July 31, 2023).

⁹³ Nadeshda Jayakody, "Refining United Nations Security Council Targeted Sanctions: Proportionality as a Way Forward for Human Rights Protection", *Security and Human Rights*,

with the Ombudsperson and the Focal Point for Delisting, but these remain flawed.¹⁰³ Out of the 934 individuals sanctioned by the UNSC in 2021, only 350 fell under the terrorist sanctions regimes, for which the Ombudsperson is mandated, meaning that the remaining 584 could not make an appeal without the intervention of their government.⁹⁴ Once these individuals are placed on a sanctions regime without due process, there is no mechanism in place that would review the status of these individuals after a certain amount of time has passed,⁹⁵ meaning that unless a government interferes, the individuals are stuck there forever.

116. All of this considered, what is the effect of sanctions with the goal of bettering human rights on the actual state of human rights? The literature remains divided, with some claiming that human rights sanctions, on average, negatively impact human rights,⁹⁶ some say that this depends on the proximity of states hostile to the states imposing these sanctions,⁹⁷ while others say that they do not worsen human rights.⁹⁸ Although most of these rights are already protected to some extent by the treaties in which they were established, the enforcement mechanisms of these treaties leave much to be desired, so a need for human rights sanctions does still exist.⁹⁹

117. It is also important to look at the difference in effectiveness between multilateral and unilateral sanctions. The logic would be: the more states impose sanctions, the more effective they are. . This is partially true. When imposing sanctions with one simple primary goal, effectiveness may be increased, but when imposing sanctions with multiple objectives, the coalition of states commonly crumbles, and the sanctions

<https://www.shrmonitor.org/refiningunited-nations-security-council-targeted-sanctions/>, 90–119 (accessed on July 31, 2023).¹⁰³ Ibid, 92.

⁹⁴ Thomas Biersteker, “Enhancing Due Process in UN Security Council Targeted Sanctions Regimes”, Graduate Institute, https://www.graduateinstitute.ch/sites/internet/files/2021-09/report_enhancing_due_process_March2021_FINAL%20%281%29.pdf (accessed on July 31, 2023).

⁹⁵ Jayakody, “*Refining United Nations Security Council Targeted Sanctions*”, 112.

⁹⁶ Peksen, “*Better or Worse?*”.

⁹⁷ Shyrokykh, “*Human Rights Sanctions and the Role of Black Knights*”.

⁹⁸ Kang, Lee, and Whang, “*Economic Sanctions, Repression Capacity, and Human Rights*”, 174.

⁹⁹ Bogdanova, “*Unilateral Sanctions in International Law and the Enforcement of Human Rights*”, 162. ¹¹⁰ Anne Miers and T. Morgan, “Multilateral Sanctions and Foreign Policy Success: Can Too Many Cooks Spoil the Broth?”, *Taylor and Francis Online*, <https://www.tandfonline.com/doi/abs/10.1080/03050620212099>, 117– 36 (accessed on July 31, 2023).

regime becomes less effective than if it were imposed by any state by itself,¹¹⁰ although this study was created before targeted sanctions started to be implemented.

118. Another thing worth considering is the effect that sanctions have on other neighboring countries in the region. There is empirical evidence that sanctions against certain countries in Latin America have improved human rights in non-sanctioned states in the region.¹⁰⁰

119. As alluded to in the second paragraph, one major weakness of the current sanction making process is the lack of a clear exit strategy to end the sanctions regime. Usually, the sanctions are broad, general ideas, without specific circumstances in mind when they should end. For example, the current sanctions against Russia, which were implemented to keep Russia from invading Ukraine, despite having failed, are still in effect, with their goals changing.¹⁰¹ It is also partially because of this that sanctions have such a low success rate, because it is hard to measure success if you do not even know what you were aiming to achieve.

120. This broad, but by no means exhaustive overview of the interplay between sanctions and human rights, aims to illustrate the wide scope and complexity of sanctions regimes, while highlighting some of their flaws. By doing so the hope is that the reader has received just enough information to get started with thinking of ideas for solutions for these problems, keeping their country's stance in mind, of course. In the following chapters, a few case studies are presented with the hope of expanding a wider picture even further with concrete cases to supplement the theoretical concepts.

¹⁰⁰ Cristiane De Andrade Lucena Carneiro, "Economic Sanctions and Human Rights: An Analysis of Competing Enforcement Strategies in Latin America", *SciELO - Brasil*, <https://www.scielo.br/j/rbpi/a/4dYMyZCppyrtSn9Tnn7L8BM/?lang=en&format=pdf>, 197–215 (accessed on July 31, 2023).

¹⁰¹ Morgan, Syropoulos, and Yotov, "Economic Sanctions".

2.10 Case studies

2.10.1 UNSC sanctions on Iraq

121. On the second of August 1990, Saddam Hussein, the leader of Iraq, launched an invasion into neighbouring Kuwait.¹⁰² Four days later, the UNSC issued Resolution S/RES/661, in which in Article 3 the UNSC mandated through multiple points a total embargo on Iraq and occupied Kuwait.¹⁰³ The goal of this was to pressure Iraq into withdrawing from Kuwait. It soon became clear that Iraq had no intention of doing so, and in January of the following year, a UNSC-sponsored coalition invaded Iraq. Saddam Hussein agreed to a ceasefire on the 28th of February¹⁰⁴, but sanctions did not stop. In Resolution S/RES/661, the UNSC did not prescribe the required conditions for the sanctions regime to be lifted. Another resolution was required, but all attempts were vetoed by the UK and the US governments, claiming that the sanctions were an effective tool to pressure Saddam into adhering to the treaty. The vetoes and excuses prolonged, with the US and UK claiming that Iraq was hiding weapons of mass destruction. The sanctions regime only ended in 2003 after the second invasion of Iraq was concluded and Saddam Hussein was deposed from power.¹⁰⁵ According to the expert Sub Commission of the UN Commission on Human Rights: “The sanctions on Iraq were not only “the most comprehensive, total sanctions that have ever been imposed on a country.”¹⁰⁶ Before the embargo, Iraq imported 70% of its food.¹⁰⁷ With the complete embargo, this was going to lead to a disaster, and it did. After the first war, multiple reports came out that there was a severe risk of hunger and a general lack of medical supplies. Food became so scarce that the average caloric intake for an Iraqi person dropped from 3300 to 1300 per

¹⁰² The Editors of Encyclopaedia Britannica, “Persian Gulf War” in *Encyclopaedia Britannica*, <https://www.britannica.com/event/Persian-Gulf-War> (accessed on July 31, 2023).

¹⁰³ United Nations Security Council Resolution S/RES/661, 6 August, 1990, available at: <https://documentsdds-ny.un.org/doc/RESOLUTION/GEN/NR0/575/11/PDF/NR057511.pdf?OpenElement>.

¹⁰⁴ The Editors of Encyclopaedia Britannica, “Persian Gulf War”.

¹⁰⁵ Sheila Zurbrigg, “Economic Sanctions on Iraq: Tool for Peace, or Travesty?”, *DeGruyter*, <https://www.degruyter.com/document/doi/10.2202/1554-4419.1108/pdf> (accessed on July 31, 2023).

¹⁰⁶ Sheila Zurbrigg, “Economic Sanctions on Iraq: Tool for Peace, or Travesty?”.

¹⁰⁷ Geneva International Centre for Justice, “Razing the Truth About Sanctions Against Iraq”, Geneva International Centre for Justice, <https://www.gicj.org/positions-opinions/gicj-positions-and-opinions/1188razing-the-truth-about-sanctions-against-iraq> (accessed on July 31, 2023).

person,¹⁰⁸ with most of these calories coming in the form of grains, which lacked the needed nutrients for children to grow.¹⁰⁹ The effects of malnutrition are difficult to measure, with conflicting reports from different authors, but all things considered, the number of deaths that could be prescribed to malnutrition could be as high as 1 million in a country of 22 million people during the period of 1991-2003.¹¹⁰ Access to medicine such as insulin also dropped,¹¹¹ and due to the ban on imports of chlorine, which was used to purify drinking water, a spread of typhoid fever, dysentery, and cholera occurred.¹¹²

122. It soon became clear that a need for a humanitarian exemption was required. Exemptions were made, but these products could only be paid for in cash, as taking credit was not allowed for Iraq. By 1995 it became clear that this system was not working, as Iraq had run out of foreign reserves. So, with S/RES/986, the “Oil for Food” program was established.¹¹³ The aim of the Oil for Food program was that Iraq would be allowed to export oil, which could then be traded for humanitarian goods such as food and medicine.¹¹⁴ The first food packages arrived in 1997.¹²⁶ However, this program included a clause that one-quarter of the profit of the oil sales was to be used as war reparations, meaning that even less money would go to the people, while the amount of oil Iraq could sell was also capped.¹¹⁵ What was even worse was that the program was ridden with

¹⁰⁸ Ibid.

¹⁰⁹ Zurbrigg, “Economic Sanctions on Iraq”, 22.

¹¹⁰ Ibid, 34.

¹¹¹ Ibid, 21.

¹¹² Park and Choi, “Are Smart Sanctions Smart Enough?”.

¹¹³ United Nations Security Council, Resolution S/RES/986, 14 April 1995, available at: <https://documents-ddsny.un.org/doc/UNDOC/GEN/N95/109/88/PDF/N9510988.pdf?OpenElement>.

¹¹⁴ Linda Courtenay Botterill, “Doing It for the Growers in Iraq?”, Wiley Online Library, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-8500.2007.00522.x> (accessed on July 24, 2023). ¹²⁶ UN Office of the Iraq Programme Oil-for-Food, ‘Background Brief - Food’, accessed 24 July 2023, <https://www.un.org/depts/oip/sector-food.html>

¹¹⁵ UN Office of the Iraq Program, “Oil-for-Food”, *Office for the Iraq Program*, <https://www.un.org/depts/oip/sector-food.html>, (accessed on July 24, 2023).

corruption.¹¹⁶ The program worked to an extent, as the daily calorie intake rose to 2200 calories per person,¹¹⁷ but many argued that it was too little, and too late.

2.10.2 US Targeted sanctions against the Democratic Republic of Congo

123. The Democratic Republic of Congo has had a troubled and violent past, while still being unable to get rid of it. From 1965 to 1997, the former Belgian colony was ruled by Mobutu and renamed to Zaire. In 1997, he was overthrown by the forces of Kabila. With Kabila, a civil war immediately broke out in the east of the country, for which peace accords were signed in 2008. Just a year later the government broke the peace and attacked the rebels together with Rwandan support.¹¹⁸ In 2011, presidential elections were held during which opposition party members and supporters, as well as human rights activists and journalists, were threatened, arbitrarily arrested, and killed.¹¹⁹ A new militia named M23 was formed in the east and fighting resumed as if it had never stopped. During the conflict, both rebels and government forces committed war crimes.¹²⁰

124. The Democratic Republic of Congo contains large deposits of tin, tantalum, and tungsten, which are required to produce smartphones and other electronic devices. During the conflict, these mines became key sources of income for rebel groups fighting in the east of the Congo. As a result, the US Congress passed a revision to Section 1502 of the Dodd-Frank Act. Section 1502 was designed to discourage large manufacturers from purchasing conflict minerals.¹²¹ This led to decreasing exports from the east of the

¹¹⁶ Ryan Yu-Lin Liou, Amanda Murdie and Dursun Peksen, "Revisiting the Causal Links between Economic Sanctions and Human Rights Violations", *Sage Journals*, <https://journals.sagepub.com/doi/abs/10.1177/1065912920941596?journalCode=prqb>, 817 (accessed on July 24, 2023).

¹¹⁷ UN Office of the Iraq Program "Oil-for-Food".

¹¹⁸ Bernd Michael Wiese, Dennis D. Cordel and Rene Lemrhand, "Democratic Republic of the Congo (DRC)", *Encyclopaedia Britannica*, <https://www.britannica.com/place/Democratic-Republic-of-the-Congo> (accessed on July 23, 2023).

¹¹⁹ Human Rights Watch, "World Report 2013: Democratic Republic of Congo", *Human Rights Watch*, <https://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo> (accessed on July 24, 2023).

¹²⁰ Ibid.

¹²¹ Dominic P. Parker, Jeremy D. Foltz and David Elsea, "Unintended Consequences of Sanctions for Human Rights: Conflict Minerals and Infant Mortality", *UNU Wider*, <https://www.wider.unu.edu/publication/unintended-consequences-economic-sanctions-human-rights> (accessed on July 24, 2023).

DRC while world prices increased.¹²² The US also withdrew its military financing of the Congolese army due to its use of child soldiers.¹²³ The effects on the local population were overall negative. Firstly, the policies may have caused more conflicts in mining areas. Secondly, the policies decreased income streams for families and communities which were dependent on mining. Thirdly, the policies may have reduced availability and access to medical care. All of this combined led to an increased infant mortality rate not only in areas where conflict minerals were mined, but also in areas where no conflict minerals were mined. Due to the sanctions migration also increased as people who were previously employed by the mining sector migrated elsewhere for better work opportunities.¹²⁴

125. The sanctions regime targeted 36 individuals, either for their status or their specific conduct, including violating the arms embargo, impeding disarmament and reparations, and the use of child soldiers, as well as more recently, sexual violence. Most of these sanctioned individuals were members of non-state militia groups. Alongside these individuals were five companies which were put on the sanctions regime due to either arms trafficking or trading in gold that provided conflict financing. Representatives of two of these companies met with the 1533 Sanctions Committee Chair in 2015. During the meeting, the representatives argued that they had taken corrective actions after unknowingly finding themselves out of compliance with sanctions measures. They opened their accounting books to the committee together with all required information. Despite this, their names have remained on the list. They also attempted to use the Focal Point process but without success.¹²⁵

2.11 Conclusion

126. As we have seen, sanctions are a continuously evolving tool waiting for the final version that will make sure to punish oppressors while safeguarding human rights. On the other

¹²² Ibid., 739.

¹²³ Human Rights Watch, "World Report 2013: Democratic Republic of Congo".

¹²⁴ Parker, Foltz, and Elsea, "Unintended Consequences of Sanctions for Human Rights", 756-769.

¹²⁵ Biersteker, "Enhancing Due Process in UN Security Council Targeted Sanctions Regimes", *Graduate Institute*, https://www.graduateinstitute.ch/sites/internet/files/2021-09/report_enhancing_due_process_March2021_FINAL%20%281%29.pdf 19, (accessed on July 23, 2023).

hand, the literature regarding the legality of sanctions could swing in the way of banning the use of sanctions, turning them into an outdated concept. When trying to facilitate peace and respect for human rights, it may sometimes be better to use the carrot rather than the stick.¹²⁶ It is now in the hands of you, dear delegate, to shift the expert opinion of the HRC into the wanted direction for the future, so that its opinion can also influence other branches of the UN system.

2.12 Further reading

1. Relevant resolutions of the General Assembly:

- Resolution A/RES/77/214 on Human rights and unilateral coercive measures, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/724/03/PDF/N2272403.pdf?OpenElement> (page 40)
- Resolution A/RES/76/161 on Human rights and unilateral coercive measures, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/403/23/PDF/N2140323.pdf?OpenElement>

2. Relevant resolutions of the Human Rights Council:

- Resolution A/HRC/77/53 subsection 49/6 on The negative impact of unilateral coercive measures on the enjoyment of human rights available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/468/91/PDF/G2246891.pdf?OpenElement> (page 45)

3. Annual thematic reports of the Special Rapporteur on unilateral coercive measures available at: <https://www.ohchr.org/en/special-procedures/sr-unilateral-coercivemeasures/annual-thematic-reports>

4. Academic Literature:

¹²⁶ Boris Brekhov, “Rewards versus Sanctions in International Relations: A Game-Theoretic Analysis of Bluffing”, *Taylor and Francis Online*, <https://www.tandfonline.com/doi/abs/10.1080/03050629.2021.1983565?journalCode=gini20> (accessed on July 24, 2023).

- Biersteker: Enhancing Due Process in UN Security Council Targeted Sanctions Regimes. Available at: https://www.graduateinstitute.ch/sites/internet/files/2021-09/report_enhancing_due_process_March2021_FINAL%20%281%29.pdf
- Jayakody: Refining United Nations Security Council Targeted Sanctions: 'Proportionality' as a Way Forward for Human Rights Protection. Available at: https://brill.com/view/journals/shrs/29/1-4/articlep90_90.xml?language=en
- Morgan: Economic Sanctions: Evolution, Consequences, and Challenges, Available at: <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.37.1.3>

5. Books:

- Bogdanova: Unilateral Sanctions in International Law and the Enforcement of Human Rights: The Impact of the Principle of Common Concern of Humankind. Available at: https://www.researchgate.net/publication/362067663_Unilateral_Sanctions_in_International_Law_and_the_Enforcement_of_Human_Rights

2.13 Questions to address

1. What is your country's relation to sanctions?
2. What can your country do in regard to sanctions when operating inside the mandate of the HRC?
3. How can the international community assure that sanctions do not harm human rights?
4. How can sanctions be improved at the implementation stage?
5. How can the working of Sanctions Committees be improved?
6. How can the delisting process be improved?
7. Should unilateral coercive measures be permitted?
8. What could be effective alternatives to unilateral coercive measures?
9. If your country opposes unilateral coercive measures, what should be done to stop them?

2.14 Bibliography

UN Resolutions:

1. A/HRC/19/33
2. A/RES/77/214
3. A/RES/76/161
4. S/RES/986
5. S/RES/661
6. A/RES/56/83
7. A/RES/77/97
8. A/HRC/RES/27/21

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