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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Negative impact of unilateral coercive measures on the enjoyment of human rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, submitted in accordance with Human Rights Council resolution [27/21](#) and Assembly resolution [73/167](#).

* [A/74/50](#).



Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

Summary

In the present report, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights addresses legal issues arising from the practice of using such measures, which effectively become blockades, during both peacetime and war. From that perspective, he considers the situation in a number of countries and recommends possible measures to address the human rights violations that arise in those situations.

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Contents

	<i>Page</i>
I. Introduction	4
II. Overview of the activities of the Special Rapporteur	4
III. Legal issues arising from the practice of actual blockades and economic sanctions amounting to de facto blockades	4
IV. Overview of selected actual cases of belligerent and de facto blockades	8
A. Blockades applied in connection with military operations	8
B. Blockade-like sanctions applied in peacetime situations	9
V. Conclusions and recommendations	15

I. Introduction

1. The present report is the fifth report submitted by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights to the General Assembly pursuant to Human Rights Council resolution [27/21](#) and Assembly resolution [73/167](#).

2. In the report, the Special Rapporteur presents: a brief overview of his activities since his previous report ([A/73/175](#)), focusing on what is arguably the most extreme aspect of the practice of unilateral sanctions – blockades and economic sanctions amounting to de facto blockades; an examination of the legal issues arising from the practice of actual blockades and economic sanctions amounting to de facto blockades; a review of some of the most problematic current cases of blockades in armed conflict and of some actual blockade-like sanctions regimes applied outside situations of armed conflict; and his conclusions and recommendations.

II. Overview of the activities of the Special Rapporteur

3. On 28 June 2018, the Special Rapporteur made a presentation to the Humanitarian Task Force for the Syrian Arab Republic to brief member States on the human rights concerns arising from the implementation of sanctions on that country.

4. On 17 July, the Special Rapporteur submitted a report to the General Assembly ([A/73/175](#)), in which he reviewed developments regarding unilateral sanctions applied to certain countries and addressed concerns arising from the use of unilateral sanctions in war and in peace.

5. On 7 March 2019, the Special Rapporteur participated in a panel discussion held by the Organization for Defending Victims of Violence. Participants highlighted the human rights violations suffered by Iranians as a result of unilateral actions taken by the United States of America, including violations of the rights to health and food and the right to protection from extreme poverty.

6. On 29 May, the Special Rapporteur led a panel discussion hosted by International Physicians for the Prevention of Nuclear War on whether economic sanctions against the Syrian Arab Republic might be holding civilians hostage. He also met with Government officials and parliamentarians.

7. On 27 June, the Special Rapporteur was the keynote speaker at an international seminar on unilateral coercive measures and their impact hosted by the Embassy of Cuba in Vienna. In his presentation, he highlighted the human rights concerns arising from the imposition of unilateral sanctions on Cuba, Iran (Islamic Republic of) and Venezuela (Bolivarian Republic of).

III. Legal issues arising from the practice of actual blockades and economic sanctions amounting to de facto blockades

8. The aim of the present report is to take a closer look at some of the most extreme cases of the use of unilateral coercive measures, that is, those which can be said to amount in practice to some form of blockade of the targeted country. In his previous report to the Human Rights Council, the Special Rapporteur described and denounced the escalation of sanctions measures witnessed in recent years. In particular, he deplored the now-recurrent use of measures that, in practice, affect the ability of target States to interact with the international community or, in the case of a blacklisted

central bank, its ability to interact with central banks of other States and the global financial system at large (see [A/HRC/39/54](#), paras. 44–46).

9. The Special Rapporteur also made the argument that comprehensive unilateral economic sanctions regimes which are intended to apply extraterritorially, that is, to coerce third parties not involved in the dispute to refrain from having economic or financial dealings with the targeted State (so-called “secondary sanctions”), and the effects of which are almost equivalent to those of a blockade on a foreign country, obviously qualify as economic warfare ([A/HRC/39/54](#), paras. 24–29).¹ In connection with that argument, it is worth noting that in recent months “economic warfare” has been used increasingly, in different forms, sometimes arguably more benign than actual, and labelled as “trade war”, even against commercial partners and allies of the targeting State. It may be that one of the factors driving such renewed large-scale recourse to economic coercion is the assumption that “trade wars are good and easy to win”.²

10. As the Special Rapporteur noted in his previous report to the Human Rights Council, comprehensive coercive measures with extraterritorial reach are almost universally rejected as unlawful under international law, as evidenced by General Assembly resolution [73/8](#), the latest in a long series of resolutions on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, adopted annually since 1992. The resolution was adopted on 1 November 2018 by a recorded vote of 189 in favour to 2 against. It includes a call upon all States, worded in general terms and as a general rule, to refrain from using unilateral coercive measures. The measures specifically concerned by this condemnation are those laws and regulations adopted by States, “the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation”. The wording of the resolution implies the existence of an actual obligation on States, based on the Charter of the United Nations and international law, including the freedom of trade and navigation, to refrain from using such measures and to terminate existing measures (Assembly resolution [73/8](#), para. 2).

11. It is reasonable to assert that States should be considered as being under a legal obligation not to recognize as lawful such unilateral coercive measures, especially extraterritorial, secondary economic sanctions. Such an obligation, which is related to the general legal principle *ex injuria jus non oritur*, meaning that legal rights cannot derive from an illegal act,³ is set out in particular in article 41 (2) of the articles on responsibility of States for internationally wrongful acts, according to which:

No State shall recognize as lawful a situation created by a serious breach [by a State of an obligation arising under a peremptory norm of general international law], nor render aid or assistance in maintaining that situation.

12. It is plausible that breaches of peremptory norms of international law, such as (a) the right to self-determination, (b) the prohibition of racial discrimination, and (c) basic principles of international humanitarian law, could give rise to the obligation

¹ See also Vaughan Lowe and Antonios Tzanakopoulos, “Economic warfare”, in Wolfrum Rüdiger, ed., *Max Planck Encyclopedia of Public International Law* (Oxford, United Kingdom of Great Britain and Northern Ireland, Oxford University Press, 2012); Stephen C. Neff, “Boycott and the law of nations: economic warfare and modern international law in historical perspective”, *British Yearbook of International Law*, vol. 59, No. 1 (1988).

² Twitter message by President Trump, 2 March 2018, available at <https://twitter.com/realDonaldTrump/status/969525362580484098>.

³ Martin Dawidowicz, “The obligation of non-recognition of an unlawful situation”, in James Crawford, Alain Pellet and Simon Olleson, eds., *The Law of International Responsibility* (Oxford, United Kingdom, Oxford University Press, 2010), p. 677.

of non-recognition.⁴ In his previous report to the Human Rights Council, the Special Rapporteur argued that all three sets of peremptory norms could be breached through the imposition of (at least certain forms of) economic sanctions. In that regard, he has suggested that the International Law Commission could be called upon to include in its programme of work the issue of the obligation not to recognize unlawful situations, with a view to further clarifying certain aspects of this rule, in particular its plausible status as customary law in situations where economic coercion infringes on the principle of self-determination, the prohibition of racial discrimination or core rules of international humanitarian law.⁵

13. The Special Rapporteur has also requested that the General Assembly be called upon to affirm solemnly, through a resolution, that, as a consequence of the above-mentioned obligation of non-recognition, States are expected to take appropriate measures (including under their national legislation) to deny any effect, recognition or enforcement in any manner of extraterritorial secondary sanctions in their respective jurisdictions. That would reinforce the call, made time and again in the Assembly, upon all Member States “neither to recognize these measures nor to apply them, and to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures” (Human Rights Council resolution 34/13, para. 3).

14. The above request of the Special Rapporteur is reinforced through the enactment by the European Union of European Council Regulation (EC) No 2271/96 in 1996, in reaction to the adoption by the United States of restrictive measures concerning Cuba, Iran (Islamic Republic of) and Libya, which were intended to impact European Union businesses engaging with those countries in trade or investment relations that were legitimate under European law. The regulation, which was updated in 2018 to cover the sanctions on the Islamic Republic of Iran re-introduced by the United States, was designed to protect European Union entities against the effects of the extraterritorial application of the sanctions measures “where such application affects the interests of persons ... engaging in international trade and/or the movement of capital and related commercial activities between the Community and third countries”.⁶ Under the regulation, European Union persons and entities shall not comply, “whether directly or through a subsidiary or other intermediary person, actively or by deliberate omission, with any requirement or prohibition, including requests of foreign courts, based on or resulting, directly or indirectly, from the [sanctions covered] or from actions based thereon or resulting therefrom”.⁷ The regulation also provided that “no judgment of a court or tribunal and no decision of an administrative authority located outside the Community giving effect, directly or indirectly, to the [sanctions covered] or to actions based thereon or resulting therefrom, shall be recognized or be enforceable in any manner”.⁸

⁴ Dawidowicz, “The obligation of non-recognition of an unlawful situation”, p. 679.

⁵ On the contents of the obligation in general, see for example, Stefan Talmon, “The duty not to ‘recognize as lawful’ a situation created by the illegal use of force or other serious breaches of a jus cogens obligation: an obligation without real substance?”, in Christian Tomuschat and Jean-Marc Thouvenin, eds., *The Fundamental Rules of the International Legal Order* (Leiden, The Netherlands and Boston, Massachusetts, Martinus Nijhoff, 2006). See also Djamchid Momtaz, “L’obligation de ne pas prêter aide ou assistance au maintien d’une situation créée par la violation d’une norme impérative du droit international général”, *Anuario Colombiano de Derecho Internacional*, vol. 10 (2017).

⁶ European Union, Regulation (EC) No. 2271/96 of 22 November 1996 on protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, *Official Journal of the European Communities*, vol. 39, No. L 309 (29 November 1996), art. 1.

⁷ Ibid., art. 5.

⁸ Ibid., art. 4.

15. From a human rights perspective, economic sanctions having practical effects closely comparable to those of a wartime blockade raise a number of concerns. These may entail restrictions on the enjoyment by the targeted population of a range of human rights, including the right to food, health and freedom of movement, and on economic and social rights in general (A/71/364, para. 28, and A/HRC/31/44, para. 4).

16. The Special Rapporteur is aware that comprehensive embargoes coupled with secondary sanctions do not fit within the precise concept of a “wartime” blockade in the meaning of the law of armed conflict (international humanitarian law). Under that technical definition, a blockade is a belligerent operation to prevent vessels and/or aircraft of all nations, enemy and neutral, from entering or exiting specified ports, airports or coastal areas belonging to, occupied by or under the control of an enemy nation.⁹ It should also be clear that, in the present context, a “de facto blockade” does not necessarily, or does not always, involve the use of maritime economic embargo operations (including maritime interdiction), as was used, for example, by the British off the coast of Mozambique between 1966 and 1975 to enforce the economic sanctions against Rhodesia authorized by Security Council resolution 217 (1965).¹⁰ If comprehensive secondary sanctions with blockade-like effects are not blockades *stricto sensu*, an argument may be made that such sanctions are not covered by the limitations on the use of blockades set by the law of armed conflict and commonly accepted and considered to be binding on all States.

17. Such legal technicalities should not, however, overshadow the basic similarity between the effects of de jure blockades used in wartime and de facto blockades used in peacetime as the civilian populations of targeted countries suffer from the latter in the same manner as they would suffer from the former. This similarity of effects calls for the application to de facto blockades of the same rules as those found in the law of armed conflict (international humanitarian law) as regards wartime blockades, including the prohibition of collective punishment and the principles of necessity, proportionality and discrimination.¹¹

18. Reference may also be made to the concept of a “pacific blockade”, a legal concept developed in the nineteenth century as an alternative measure of coercion, short of war, that is now widely considered to be obsolete.¹² “What is generally known under the name of a pacific blockade consists of the closure of a foreign harbour or the barring of access to a foreign coast for shipping in peace time”.¹³ While the legality of such an action has been widely discussed and was controversial in legal doctrine,¹⁴ what is noticeable is that a major difference was considered to exist between a pacific blockade and a belligerent (wartime) blockade, in that a belligerent blockading State was within its rights to bar all shipping between the blockaded State

⁹ See Wolff Heintschel von Heinegg, “Blockade”, in *Max Planck Encyclopedia of Public International Law* (updated October 2015); Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3rd ed. (Cambridge, United Kingdom, Cambridge University Press, 2016), pp. 257–259.

¹⁰ See Steven Haines, “War at sea: nineteenth-century laws for twenty-first century wars?”, *International Review of the Red Cross*, vol. 98, No. 2 (2016), p. 424, which emphasizes the legal distinction between wartime blockades and “constabulary” maritime economic embargo operations, whether United Nations-mandated or applied unilaterally.

¹¹ See W. Michael Reisman and Douglas L. Stevick, “The applicability of international law standards to United Nations economic sanctions programmes”, *European Journal of International Law*, vol. 9, No. 1 (1998).

¹² See Herbert Arthur Smith, *The Law and Custom of the Sea*, 3rd ed. (London, Stevens, 1959), p. 144.

¹³ Jan Hendrik Willem Verzijl, *International Law in Historical Perspective: Part VIII – Inter-State Disputes and their Settlement* (Leiden, The Netherlands, A.W. Sijthoff, 1976), p. 43.

¹⁴ *Ibid.*, pp. 43–48.

and the external world, whereas a pacific blockade was not supposed to restrict the shipping of third-party States.¹⁵

IV. Overview of selected actual cases of belligerent and de facto blockades

19. A naval blockade in the precise, proper meaning of the term as understood in the law of armed conflict is currently being applied against the State of Palestine (Gaza) and has also arguably been imposed on the port of Hudaydah in Yemen in the recent past, while blockade-like measures have been applied (and remain in force at the time of writing) against Cuba, Iran (Islamic Republic of), the Syrian Arab Republic and Venezuela (Bolivarian Republic of). While the Special Rapporteur cannot delve into these cases in depth in the present report, they are discussed in overview below.

A. Blockades applied in connection with military operations

1. State of Palestine (Gaza)

20. The blockade imposed on the Gaza Strip and its 2 million residents by Israeli authorities has been in force for more than a decade. The mass protests in the Gaza Strip in the spring of 2019, which left at least 135 Palestinians killed and over 14,000 injured (relying on a health-care infrastructure that is on the verge of collapse), have brought renewed international focus to the untenable situation that results from the blockade. The Special Rapporteur noted with alarm the report issued in May 2019 by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), in which it was stated that, as the result of the blockade, more than 1 million people in Gaza – half of the population of the territory – might not have enough food for the following month. Such food insecurity is coupled with other factors, such as successive conflicts that have razed entire neighbourhoods and public infrastructure to the ground.¹⁶ Dozens of humanitarian organizations have jointly drawn attention to the collapse of the economy in Gaza, which has drastically affected the living standards of the population.

21. The ongoing restrictions in the West Bank, along with the decade-long blockade in Gaza, have continued to hollow out the productive sector and have prevented the economy from achieving its potential. With transfers to Gaza declining over the course of 2018, the economy is in a free fall, suffering a 6 per cent contraction in the first quarter of 2018, and an unemployment rate of 53 per cent (over 70 per cent for young people). Given that every second person in Gaza was living below the poverty line before these latest developments, such marked deterioration is alarming.¹⁷

22. United Nations agencies and the Office of the United Nations High Commissioner for Human Rights have repeatedly stressed that the Israeli blockade is unlawful under international law and international humanitarian law, especially to the extent that it constitutes a form of collective punishment, and have found that it entailed continuous restrictions on the enjoyment by Gazans of a range of human

¹⁵ See Jeremy Matam Farrall, *United Nations Sanctions and the Rule of Law* (Cambridge, United Kingdom, Cambridge University Press, 2007), p. 51.

¹⁶ See United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), “More than one million people in Gaza – half of the population of the territory – may not have enough food by June”, 13 May 2019.

¹⁷ World Bank, “Economic monitoring report to the Ad Hoc Liaison Committee”, 27 September 2018, p. 5.

rights, including their right to freedom of movement and their economic and social rights (A/71/364, para. 28, and A/HRC/31/44, para. 40). The blockade is and remains a key driver of Gaza's humanitarian crisis (A/HRC/34/36, para. 36).

23. The 2 million people living in Gaza are exposed to a largely unsafe water supply, limited electricity and expansive restrictions on freedom of movement. Israel often denies or delays permits to those seeking vital medical care outside Gaza, while hospitals lack adequate resources and face chronic shortages of medical supplies. Furthermore, Gaza is labouring under prolonged cuts in its electricity supply and in the payment of salaries of civil servants. It is feared that this situation will worsen in view of the expected reduction or suspension of essential UNRWA emergency services, as two thirds of the overall population of Gaza are Palestine refugees.¹⁸

24. The international community should be called upon once again to recognize Israel's primary responsibility for the unlawful closure and blockade of the Gaza Strip, which is the root cause of its continuous impoverishment, and which amounts to a form of collective punishment prohibited by international law. In particular, it is time for the European Union to take effective measures to ensure the implementation of European Parliament resolution 2018/2663(RSP), in which the Parliament called for an immediate and unconditional end to the blockade and closure of the Gaza Strip.

2. Yemen

25. The past blockade of the port of Hudaydah during the conflict in Yemen has been a major cause of concern. One positive development is that, at the time of writing, the Stockholm Agreement reached on 13 December 2018, including the Agreement on the City of Hudaydah and the Ports of Hudaydah, Salif and Ra's Issa, is designed to allow for the gradual recovery of economic activity and increased levels of imports to the country. According to a briefing to the Security Council by the Special Envoy of the Secretary-General for Yemen in May 2019, it seems that the agreement is being implemented on the ground thanks to the commitment of all parties to the conflict.¹⁹

26. Furthermore, in a briefing to the Security Council on 17 June 2019, the Special Envoy highlighted the economic aspects of the Hudaydah Agreement regarding the revenues of the ports and expressed the hope that achieving consensus on the above aspects would enable the payment of public sector salaries in Hudaydah Governorate and subsequently throughout Yemen. That would be a significant step forward for the Yemeni people.²⁰

B. Blockade-like sanctions applied in peacetime situations

1. Venezuela (Bolivarian Republic of)

27. The previous report of the Special Rapporteur to the Human Rights Council contains a comprehensive description of the economic sanctions imposed on the Bolivarian Republic of Venezuela by the Government of the United States in recent years, and in particular since August 2017, and their consequences on the enjoyment

¹⁸ According to UNRWA, the Gaza Strip is home to a population of approximately 1.9 million people, including some 1.4 million Palestine refugees. See www.unrwa.org/where-we-work/gaza-strip.

¹⁹ See briefing of the Security Council by Mr. Martin Griffiths, Special Envoy of the Secretary-General for Yemen, 15 May 2019, available at <https://osesgy.unmissions.org/briefing-martin-griffiths-un-special-envoy-yemen-security-council-1>.

²⁰ See briefing of the open session of the Security Council by the Special Envoy of the Secretary-General for Yemen, 17 June 2019, available at <https://osesgy.unmissions.org/briefing-un-special-envoy-secretary-general-yemen-open-session-un-security-council>.

of human rights. In a recent, detailed report, a credible Washington think tank found that, in the main, the impact of those sanctions had not been borne by the Government but rather by the civilian population. In that report, it is stressed that:

The sanctions reduced the public's caloric intake, increased disease and mortality (for both adults and infants), and displaced millions of Venezuelans who fled the country as a result of the worsening economic depression and hyperinflation. They exacerbated Venezuela's economic crisis and made it nearly impossible to stabilize the economy, contributing further to excess deaths. All of these impacts disproportionately harmed the poorest and most vulnerable Venezuelans. Even more severe and destructive than the broad economic sanctions of August 2017 were the sanctions imposed by executive order on January 28, 2019 and subsequent executive orders this year; and the recognition of a parallel government, which as shown below, created a whole new set of financial and trade sanctions that are even more constricting than the executive orders themselves.²¹

28. In the same study, findings are presented that the sanctions have inflicted, and are likely to increasingly inflict, very serious harm on human life and health, including more than 40,000 deaths during the period 2017–2018.²²

29. The Special Rapporteur is of the view that, given the gravity of the allegations made in the report regarding mass deaths induced by sanctions, and substantiated by credible prima facie evidence, the General Assembly should immediately call for an international independent investigation to evaluate the validity and materiality of those claims.

30. Arguably, as the authors of the report indicated, the sanctions imposed on the Bolivarian Republic of Venezuela fit the definition of collective punishment of the civilian population, as described both in the Geneva Convention relating to the protection of victims of international armed conflicts of 1949 and the Hague Convention with Respect to the Laws and Customs of War on Land of 1899, to which the targeting State is a signatory, and violate other relevant rules of international law.²³

2. Cuba

31. On 30 April 2019, the President of the United States threatened to impose a “full and complete embargo” and further sanctions on Cuba if its leadership did not immediately end its military support for the current Government of the Bolivarian Republic of Venezuela.²⁴

32. That was the latest in a series of moves made by the United States after its leadership decided to reverse previous openings initiated under the previous administration and to return to a hard-line policy of the comprehensive economic isolation of Cuba (A/72/370, paras. 7–8, and A/73/175, para. 6). The embargo continued to cause major harm to the Cuban economy and consequently to the human rights of Cubans, as documented in the previous reports of the Special Rapporteur. One noteworthy source of concern was the decision of the United States to reactivate, as of May 2019, the provisions of title III of the Helms-Burton Act of 1996, thus extending the embargo imposed by the United States to apply to foreign companies trading with Cuba. From a legal viewpoint, the legislation allows civil litigation to be initiated in

²¹ Mark Weisbrot and Jeffrey Sachs, “Economic sanctions as collective punishment: the case of Venezuela”, April 2019.

²² Ibid.

²³ Ibid.

²⁴ Reuters, “Trump threatens ‘full’ embargo on Cuba over Venezuela security support”, 30 April 2019.

United States courts against foreign companies on the grounds of “trafficking” in Cuban properties expropriated from their previous United States owners.²⁵

33. That move put an end to the long-standing *modus vivendi* between the European Union and the United States, based on a bilateral agreement reached in London in 1998, under which the United States had agreed to grant waivers to titles III and IV of the Helms-Burton Act and had made a commitment to resist future extraterritorial legislation of that kind,²⁶ with a view to alleviating the transatlantic dispute caused by the adoption of the Act.²⁷ The leadership of the European Union has “firmly and continuously opposed any such measures, due to their extraterritorial impact on the European Union, in violation of commonly accepted rules of international trade”,²⁸ but it remains to be seen what actual steps the European Union is prepared to take to curb those claims to extraterritorial jurisdiction.

34. Nearly universal consensus was reached by the international community in its condemnation of the embargo against Cuba in General Assembly resolution 73/8, the most recent Assembly resolution on the necessity of ending the economic, commercial and financial embargo imposed by the United States against Cuba. The resolution was intended to lead to practical steps to alleviate the sufferings of the people of Cuba and to secure the termination of the application of unlawful measures that impede the realization of the country’s right to development.

3. Syrian Arab Republic

35. Considered as a whole, the comprehensive economic sanctions that continue to be imposed on the Syrian Arab Republic by a number of States and regional organizations arguably amount to a situation that effectively constitutes a severe *de facto* blockade of the country. Those sanctions have been described by experts as inhumane and destructive,²⁹ and as the “most complicated and far-reaching sanctions regimes ever imposed”.³⁰ The complexity and the number of targeted, financial and sectoral sanctions have exacerbated the suffering of the Syrian civilian population caused by years of armed conflict. In recent months, while the Government of the Syrian Arab Republic has continued to reassert control over large parts of the country’s territory and has sought to boost efforts towards reconstruction and economic recovery, the imposition of a new range of stringent sanctions has worsened the plight of ordinary people.³¹

36. This is especially the case in the tightening of measures prohibiting oil exports to the Syrian Arab Republic through targeted sanctions on foreign (including Russian and Iranian) entities accused of “facilitating” transactions relating to oil deliveries to

²⁵ See Stephen Wicary, “Trump nears key Cuba sanctions decision over support for Maduro”, Bloomberg, 27 February 2019.

²⁶ Stefaan Smis and Kim van der Borcht, “The EU-U.S. compromise on the Helms-Burton and D’Amato acts”, *American Journal of International Law*, vol. 93, No. 1 (January 1999).

²⁷ See Brigitte Stern, “Vers la mondialisation juridique?: les lois Helms-Burton et d’Amato-Kennedy”, *Revue générale de droit international public*, vol. 100 (1996).

²⁸ See Delegation of the European Union to the United Nations in New York, “EU explanation of vote: United Nations General Assembly – ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”, 1 November 2018.

²⁹ Nour Samaha, “The economic war on Syria: why Europe risks losing”, European Council on Foreign Relations, 11 February 2019.

³⁰ Justine Walker, “Study on humanitarian impact of Syria-related unilateral restrictive measures”, 16 May 2016, p. 6.

³¹ For a detailed account of the impact of economic sanctions on the civilian population of the Syrian Arab Republic in 2019, see Donna Abu-Nasr, “Waiting 19 hours for gas in a lifeless city”, Bloomberg, 26 April 2019; Angus McDowall, “Iran sent oil shipment to Syria, easing fuel crisis”, Reuters, 10 May 2019.

the country.³² The same applies to the issuance by the Office of Foreign Assets Control of an advisory to the maritime petroleum shipping community to alert persons globally to the significant United States sanctions risks for parties involved in petroleum shipments to the Syrian Arab Republic.³³ This has led, at the height of winter, to the most serious gas crisis in the country in recent years.³⁴ It was reported that:

Within 48 hours of its issue, insurance companies cut their ties with vessels going to Syria, ships stopped sending their cargo, and the gas all but dried up. In an effort to deal with the crisis, the Syrian government asked prominent businessmen to buy vessels and transport gas from Iran and Russia, uninsured, which is highly risky and expensive. The cost of shipping has now soared due to the risk.³⁵

37. These measures appear all the more questionable since their stated objectives include “preventing the normalization of economic and diplomatic relations and reconstruction funding”,³⁶ raising the question of whether it is acceptable that the people of the Syrian Arab Republic, after years of deadly conflict, should be denied the right to proceed with reconstruction. The measures appear to be in clear contradiction to the right to development.

38. Such measures are having a severe impact on the economy of the Syrian Arab Republic and have forced the Government to enact rationing measures on gasoline.³⁷ Ordinary Syrians are the victims of the resulting situation:

Inside the country today, ordinary Syrians are queueing for hours to buy a canister of gas to heat and cook with. Electricity cuts are plaguing the country. There is growing and very public discontent among the population. The situation has become so dire that government officials are acknowledging it and warning the population to brace themselves for “storms ahead”. As one Syrian official pointed out to [the] author, “the economic war is far worse than the military one, as the economic one enters into every single household and no one is untouched by it.”³⁸

39. Furthermore, it has also been reported that sanctions prevent Syrians from gaining access to critical medical equipment and pharmaceuticals, including life-saving cancer medication and hospital equipment, because of the terms stipulated in the sanctions.³⁹

4. Iran (Islamic Republic of)

40. The reimposition of comprehensive unilateral sanctions has already translated into adverse consequences for the enjoyment of human rights by ordinary Iranians.

³² See United States of America, Department of the Treasury, “Treasury designates illicit Russia-Iran oil network supporting the Assad regime, Hizballah, and Hamas”, press release, 20 November 2018; see also Alex Wayne, “U.S. sanctions Russian companies to choke off oil for Syria”, Bloomberg, 20 November 2018.

³³ See United States, Department of the Treasury, Office of Foreign Assets Control, “Sanctions risks related to shipping petroleum to Syria”, advisory to the maritime petroleum shipping community, 20 November 2018.

³⁴ Samaha, “The economic war on Syria”.

³⁵ Ibid.

³⁶ United States, Department of the Treasury, Office of Foreign Assets Control, “Sanctions risks related to shipping petroleum to Syria”.

³⁷ See Donna Abu-Nasr, “U.S. sanctions on Iran mean Damascus drivers queue for gas”, Bloomberg, 14 April 2019.

³⁸ Samaha, “The economic war on Syria”.

³⁹ Ibid.

The right to health appears to be the human right that has probably been most widely and severely affected by the sanctions, as shown by multiple credible sources that refer to numerous cases of undue suffering and even death resulting from a lack of access to medicine caused by the sanctions.⁴⁰ These adverse effects had already been documented under the sanctions in force before the conclusion of the nuclear agreement (Joint Comprehensive Programme of Action) in 2015. In a recent study, it was reported that while the United States had nominally exempted humanitarian goods from its economic sanctions, in reality “limitations on trade, the unwillingness of financial institutions to process transactions related to Iran, as well as the Iranian government’s misguided policies, have resulted in staggering prices and shortages of medicine”.⁴¹ There have been cases where the United States Treasury has prosecuted medical companies for selling small amounts of medical supplies to the Islamic Republic of Iran, which, in turn, has had a deterring effect on other companies doing business with the country.⁴² The same study also found that:

Sanctions can further limit access to medicine and proper health care by making them financially less accessible. Dursun Peksen’s study on the impact of economic sanctions on public health⁴³ indicates that sanctions exacerbate the situation by inflicting damage on the target country’s economy. In the case of Iran, reports indicate that during 2012–2013, the price of medicine increased by 50–75 per cent. Coupled with an economic downturn and an increase in unemployment, medicine became less affordable to Iranian patients.⁴⁴

According to field research conducted in Iran during 2013, asthma, cancer, and multiple sclerosis patients struggled with either shortages of medicine or skyrocketing prices. This research further found that many cancer patients had stopped treatment because of an increase in the prices of medicine. It is also noteworthy to mention that while Iran produces nearly 90 per cent of its own drugs, as a result of sanctions, Iranian pharmaceutical companies have faced many difficulties in procuring active ingredients necessary to manufacture locally produced medicine.⁴⁵

41. From a macroeconomic perspective, a report issued by the World Bank in October 2018, just before the reintroduction of the sanctions, forecast the adverse economic effects of the unilateral economic sanctions as follows:

In the medium term, the economy is set to experience a downward trajectory as oil exports are expected to fall to half of their 2017/18 levels following the phased reintroduction of US sanctions culminating in November 2018 ... The economy is expected to contract by 1.4 percent on average between 2017/18–2020/21, experiencing a fall in exports and consumption on the demand side and a contraction of the industry sector on the supply side. Government balances are also expected to deteriorate as oil revenues account for more than 40 percent of central government revenues. With exports disrupted, the demand for the U.S. dollar to finance imports and savings is expected to rise and the parallel premium is likely to increase further than the current 150 percent gap between

⁴⁰ See, for example, Tamara Qiblawi, Frederik Pletigen and Claudia Otti, “Iranians are paying for US sanctions with their health”, CNN, 22 February 2019.

⁴¹ Sina Azodi, “How US Sanctions hinder Iranians’ access to medicine”, Atlantic Council, 31 May 2019.

⁴² Ibid.

⁴³ Dursun Peksen, “Economic sanctions and human security: the public health effect of economic sanctions”, *Foreign Policy Analysis*, vol. 7, No. 3 (July 2011).

⁴⁴ Fatemeh Kokabisaghi, “Assessment of the effects of economic sanctions on Iranians’ right to health by using human rights impact assessment tool: a systematic review”, *International Journal of Health Policy Management*, vol. 7, No. 5 (2018).

⁴⁵ Azodi, “How US Sanctions hinder Iranians’ access to medicine”.

the official rate and parallel rate. Higher import prices from the devaluation are expected to push inflation back above 30 percent in the coming years as inflationary expectations spiral and consumer sentiment falls leading to once again a period of stagflation for Iran ... Despite the depreciation and drop in imports, the reduction in oil exports is estimated to almost eliminate the current account surplus, which is lower than the earlier UN sanctions episode as oil prices are almost half of the levels they were in 2012–2013. The economy's downward trajectory is also likely to put further pressure on the labor market and reverse recent job creation gains ... The falling real value of cash transfers due to inflation may counterbalance the positive impact on wellbeing from economic growth in 2016 and 2017 and exacerbate the impact of predicted negative growth after 2017.⁴⁶

42. At that time, the World Bank expressed the view that there was some measure of uncertainty with regard to the impact of United States sanctions on the external economic relations of the Islamic Republic of Iran, depending on how other trade partners adapted.⁴⁷ Evidence now points to the growing economic isolation of the country, with, in particular, a virtual collapse in trade between the European Union and the Islamic Republic of Iran in recent months.⁴⁸ Most transnational corporations have been coerced into withdrawing from the country and some have even overcomplied with measures imposed by the United States. Firms are not prepared to risk losing access to the markets in the United States or facing huge financial or criminal penalties in the United States if they continue to do business with the Islamic Republic of Iran. This situation shows that the mechanisms designed by the European Union to shield their businesses from the effects of unilateral, secondary sanctions have so far proven largely ineffective, including the updated "Blocking Regulation" of the European Union. In addition, payments and financial flows are affected by de facto bans on the use of international wire transfer payment systems (exclusion from the SWIFT system), thereby rendering even humanitarian exemptions ineffective.⁴⁹ This, again, is a blockade-like situation that calls for the application of the rule prohibiting collective punishment and prescribing the free access of humanitarian supplies and essential goods and foodstuffs.

43. In turn, the blockade of the Islamic Republic of Iran has also affected third countries, including Afghanistan, whose 2.5 million to 3 million nationals reportedly living as foreign workers in Iran in 2017 have been deeply impacted by the economic crisis precipitated by the sanctions. Many of them have already been forced to leave the country as a result of cuts in salaries or job losses.⁵⁰

44. At the time of writing, the most recent sanctions applied by the United States, that is, the executive order issued on 24 June 2019 sanctioning the office of the Supreme Leader of the Islamic Republic of Iran and authorizing further sanctions on those associated with it, represent a new escalation that is likely to only further fuel tensions and jeopardize the prospects of a peaceful settlement of the dispute between the two countries. The same outcome is likely to result from the announced "blacklisting" of the Minister for Foreign Affairs of the Islamic Republic of Iran and

⁴⁶ World Bank, "Iran's economic outlook", 3 October 2018.

⁴⁷ Ibid.

⁴⁸ Statistics show that trade between Iran and European Union member States during the first month of 2019 stood at €343.38 million, representing a decline of 82.72 per cent compared with the corresponding period in 2018. See "Iran trade with EU plunges", *Financial Tribune*, 13 April 2019.

⁴⁹ See, for example, Babak Dehghanpisheh, "Flood-hit Iran getting no financial aid from abroad due to U.S. sanctions: statement", Reuters, 7 April 2019.

⁵⁰ See Babak Dehghanpisheh and Hamid Shalizi, "Afghanistan feels impact of Iran's economic isolation", Reuters, 25 April 2019.

to the repeated threats to use armed force, including the threat of the “obliteration” of the country.⁵¹

V. Conclusions and recommendations

45. The Special Rapporteur stresses that the widespread use of unilateral coercive measures, especially those of a comprehensive nature and of a blockade-like character, reinforce the pressing need to establish a United Nations procurement office to deal with the deleterious effects of overcompliance by banks and financial intermediaries, which prevent even exempted goods, such as food and medicines, from reaching people in need. Following the suggestion of the Special Rapporteur, this model was applied with success in the Sudan, and he believes it would be effective in addressing the needs of the people of Iran (Islamic Republic of), the Syrian Arab Republic and Venezuela (Bolivarian Republic of) in particular.

46. Another suggestion that has already been formulated by the Special Rapporteur is to task a special representative of the Secretary-General with addressing the root causes that led to sanctions and facilitating a policy dialogue between the source and target countries while also working to minimize the human rights implications of the sanctions.

47. The third recommendation is for the international community to come together to adopt an international declaration on unilateral coercive measures and the rule of law. The Special Rapporteur first proposed this idea in 2017 and continues to work with States to build a consensus around the idea of agreeing to minimum standards of behaviour when resorting to unilateral coercive measures, until such time as the international community can agree to eliminate them altogether.

48. The phrase “never again” has been used to galvanize the international community around the idea that total war, global war, has no place in civilized society. The Special Rapporteur believes the time has come to say the same about the use of unilateral sanctions, at least for the purpose of achieving political objectives and regime change. For unilateral sanctions are no longer an alternative to war; they are becoming a preamble thereto, or may amount to war by another name: they kill.

⁵¹ See Zamira Rahim, “Trump says war with Iran would cause ‘obliteration like you’ve never seen before’”, *Independent*, 22 June 2019.