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The Invisibility of Human Harm: How Smart Sanctions Consumed All the Oxygen in the Room

IT WOULD SEEM THAT, ACCORDING TO CONVENTIONAL WISDOM, SMART sanctions have for the most part been a great success. Their defenders would admit that they are not perfect; but of course no policy is ever perfect, and practitioners and institutional bodies are constantly developing new tools to improve them. What more can we reasonably ask?

For the most part, the conversation stops there. We don't really notice that there are sanctions regimes that do not even purport to be smart, generally those imposed by nations against other nations. The US sanctions against Cuba, for example, are deliberately overbroad in every aspect: they have compromised all shipping to and from Cuba; undermined all its major exports; interfered in foreign investment, family remittances, family travel, telecommunications, and all of Cuba's international financial transactions; and blocked Cuba's access to everything from scientific conferences to international aid to Microsoft Word and Adobe Acrobat. These sanctions are as thoroughgoing and indiscriminate as it is possible to be, and that has not changed significantly with the reopening of diplomatic relations. So the view that "smart sanctions have worked" tells us nothing about sanctions regimes such as these.

But there is another issue as well: for sanctions that claim to be targeted, particularly those imposed by the UN Security Council, the

fundamental question, in the context of humanitarian damage—are smart sanctions really any smarter?—gets short shrift. It seems to be a dusty artifact from the past, rendered moot by sophisticated new developments. But it is not moot at all.

THE QUESTION OF WHETHER ECONOMIC SANCTIONS ARE DEVASTATING OR peaceful has had a long and varied history. The idea that sanctions would be devastating to an entire population was apparent in the early writings on the League of Nations. The League envisioned that sanctions, the “boycott,” would be powerful enough to stop an aggressor in its tracks. In making the case for joining the League, Woodrow Wilson envisioned that the “absolute isolation” of the boycott would bring a nation to a standstill:

No goods can be shipped in or out, no telegraphic messages can be exchanged . . . there shall be no communication of any kind between the peoples of the other nations and the people of that nation. . . . It is the most complete boycott ever conceived in a public document, and I want to say with confident prediction that there will be no more fighting after that. There is not a nation that can stand that for six months (Foley 1923, 69).

The boycott was intended to provide an alternative to the violence of warfare. Yet at the same time, with the devastation from the British blockade of Germany in the background, Dulles, then an attorney in New York specializing in international finance, argued that sanctions would be so destructive that they would never be used (Dulles 1932, 20). In his view, the boycott presented a kind of nuclear option: it was so extreme that no one would be able to bring themselves to actually use it. But the League dissolved before comprehensive sanctions were imposed, and the issue would not emerge again until many years later.

The United Nations Charter gave the UN Security Council the option of using economic measures in responding to aggression,

breaches of the peace, and threats to peace (Ch. VII, Art. 42). But for the duration of the Cold War, there was little occasion to test the limits of economic sanctions in global governance. The veto power of the permanent members meant that the Council was generally paralyzed for the first four decades of its operation: Western countries could not impose punitive measures on the Soviet Union, China, or their allies without being vetoed, and vice versa. There were, of course, sanctions imposed by nations against each other. The United States was the predominant “sender” in this period:

Of 104 sanctions episodes from World War II through the UN embargo of Iraq, the United States was a key player in two-thirds. In 80 percent of US-imposed sanctions, the policy was pursued with no more than minor cooperation from its allies or international organizations (Elliott 1995, 51).

Yet, during the Cold War, sanctions were never devastating. If the United States sanctioned a country, such as Cuba, that country could simply trade with the Eastern bloc. Perhaps it could not get particular goods manufactured only in the United States, but there was still considerable trade involving a broad range of imported goods.

Thus, for many years, sanctions raised few humanitarian concerns, even if there was not much confidence in their effectiveness at securing political change. Then, in the 1980s, sanctions and the divestment movement came to be seen as a tool for effective, nonviolent political change in South Africa. Even the superpowers were in agreement when the UN Security Council imposed sanctions against South Africa—one of the very few occasions there was agreement on security measures in the first four decades of the Council’s operation. Outside the Council, there was broad support from the international community. That sanctions and divestment affected black South Africans did not, for the most part, emerge as a significant moral objection, given that there seemed to be explicit or implicit consent by

those who were most harmed. Black leaders in South Africa, speaking for trade unions, political organizations, and churches, called on the international community to support the anti-apartheid movement by divesting. With the end of apartheid and the peaceful transition to democracy, economic sanctions were hailed as a promising and humane way to respond to aggression and human rights violations.

WHEN IRAQ INVADED KUWAIT IN AUGUST 1990, THERE WAS WIDE SUPPORT for sanctions on all sides. The Security Council sanctions, however, were unprecedented in their scope and severity. They prohibited the sale of any goods to Iraq, except medicine; even food shipments were allowed only with the approval of the Security Council, and that approval was denied for the first several months. The sanctions prohibited the purchase or sale of any goods to or from Iraq. But Iraq's economy relied heavily on income from oil sales, and the infrastructure and population as a whole were highly dependent on imports for everything from basic grains to spare parts for water treatment plants. And, most significantly, under the UN Charter, when the Security Council imposes measures under its mandate to address security concerns, those measures are binding on every member state of the UN. This was, in effect, a state of siege, brought about not by an army encircling a city but by the machinery of global governance.

The initial impact was not severe. Iraq immediately implemented food rations and increased agricultural production. There were sufficient stores of water treatment chemicals to last a few months, and Iraq's infrastructure was in good condition. But the Persian Gulf War of early 1991 decimated that infrastructure. Every major road, bridge, and dam was destroyed. Every single water and sewage treatment plant was bombed, as were all major electrical generating plants and telecommunications towers. A UN envoy reported that Iraq had been reduced overnight to a pre-industrial country. He described the situation as "near-apocalyptic" (Report to the Secretary-General 1991, 5).

If sanctions alone had been imposed, Iraq would likely have been able to manage, increasing its domestic production to at least

partly make up for the loss of imports. On the other hand, if only the bombing had occurred, then Iraq had sufficient wealth that it could have rebuilt. But once both industrial and agricultural capacity had been largely destroyed, the sanctions then prevented Iraq from rebuilding or even meeting basic needs. Without water treatment, epidemics of cholera and typhoid followed in short order. Without electricity, hospitals and pharmaceutical plants could not operate. Without irrigation or refrigeration, food security was compromised, and there was widespread malnutrition among children that continued for over a decade.

The crisis created considerable pressure on the UN Security Council: in the name of peace and security, it seemed that the Council had created a humanitarian disaster. However, at least on the part of the Security Council, there was far more attention paid to damage control in the face of public pressure than to actually meeting the urgent needs of the Iraqi population. For example, the Council agreed to “humanitarian exemptions”: in principle, if a company wanted to sell Iraq humanitarian goods, its representative to the UN need only present documentation to the committee of the Security Council charged with oversight of the sanctions, and a humanitarian exemption could be granted. In practice, however, this was nearly useless. Any member of the Council could veto any exemption, for any reason or for no reason. Further, as a matter of policy, the committee refused to inform the applicant of the reason for the denial. It might be that the fax was blurred, and resending it would resolve the problem; or it might be that someone on the Council considered the goods to have military uses and would never approve them. In any case, the outcome was that most requests were denied, and that fewer and fewer companies were willing to invest the time and effort in an arbitrary and opaque process, with such an uncertain outcome. But the Security Council, in particular the United States and Britain, were vocal in maintaining that the crisis was not due to their policies, since they allowed for humanitarian exemptions.

Once the Oil for Food Program was established, allowing Iraq to sell oil and use the proceeds for humanitarian goods, it was expected that this would alleviate the ongoing crisis in Iraq. But the program was not nearly as effective as many had hoped. This was in significant part because, behind the scenes, the Security Council members—specifically, the United States and Britain—blocked everything needed to rebuild Iraq’s infrastructure. The United States would, for example, agree to allow Iraq to build a badly needed water treatment plant but then block the electrical generator needed to run it. The United States (and to a lesser extent the United Kingdom) also blocked the equipment necessary to repair and maintain Iraq’s oil production, and then imposed pricing restrictions on oil sales that were so draconian that the Oil for Food Program was nearly bankrupted. Throughout this time, the United States and Britain repeatedly maintained that if there continued to be a humanitarian crisis in Iraq, it was only because Saddam Hussein was unwilling to import the goods needed.

IN RESPONSE TO THE SITUATION IN IRAQ (AND TO SOME DEGREE IN HAITI and elsewhere), the UN, as well as scholars and practitioners, began discussing the need for humanitarian monitoring, as well as targeted sanctions.

In 1995, UN Secretary-General Boutros-Ghali proposed to establish a mechanism to assess the potential impact of sanctions prior to imposing them and to then monitor the sanctions in order to minimize the collateral damage (Boutros-Ghali 1995, para. 75). In 1996, the Organization for Security and Cooperation in Europe held a review of the various sanctions that had been imposed by the Security Council on the former Yugoslavia, which “gave considerable attention to the need to reduce the negative humanitarian effect of sanctions on the civilian population” and proposed that the Council incorporate measures that would allow humanitarian goods to reach the civilian population (“Letter Dated” 1996, 16, para. 95). UN consultants based at the Watson Institute at Brown University and at the Kroc Institute at the University of Notre Dame undertook a study of

how to better minimize the humanitarian impact of sanctions. Their report, published in 1998, recommended a process that would monitor public health indicators, such as malnutrition and child mortality; economic indicators, such as the availability of essential goods; population impacts, such as refugees; and the impact on governance and civil society, such as increased crime or political repression (Minear et al. 1998, vi).

Meanwhile, the “smart sanctions” movement was gaining considerable momentum. In 1998, a conference on Banking, Crime, and Economic Sanctions brought together key academics, government and banking officials, and UN practitioners for an initial discussion of the feasibility of targeted financial sanctions; and a second was held the following month (Minear et al. 1998, vi). In December 1998, there was a Symposium on Targeted Sanctions, sponsored by eight nongovernmental organizations, held in New York, as well as a conference in London sponsored by Overseas Development Institute (Department of Political Affairs 2001, 46). In 1998 and 1999, the Swiss government facilitated a series of discussions on targeted financial sanctions, known as the “Interlaken Process.” The meetings produced a manual for practitioners and a white paper by the Watson Institute’s Targeted Financial Sanctions Project (Watson Institute 2001). In 1999 and 2000, there was a series of expert seminars and working groups, sponsored by the German foreign office, the UN Secretariat, and the Bonn International Center for Conversion, known as the Bonn-Berlin Process, which focused on arms embargoes and sanctions related to travel.

The International Peace Academy held a policy forum in October 2001 on “Targeted Sanctions: New Initiatives,” in conjunction with a special session of the Security Council regarding sanctions (see The Targeted Financial Sanctions Project at the Watson Institute). This in turn was followed by the Stockholm Process, an initiative of the Swedish Ministry for Foreign Affairs and Uppsala University (<http://pccr.uu.se/research/smartsanctions/>), whose findings were presented to the Security Council in February 2003. The Stockholm Process was followed by the creation of the Special Program on the Implementa-

tion of Targeted Sanctions, which continues to operate, sponsored by Uppsala University. In 2007, the Greek mission to the United Nations sponsored a symposium concerning targeted sanctions, focusing primarily on Security Council measures (“Enhancing the Implementation,” 2007).

Thus, enormous effort has gone into the development of targeted sanctions; and that has very much influenced at least the sanctions imposed by the UN Security Council. Every sanctions regime imposed by the Council in the past two decades has been, at least on its face, an instance of targeted sanctions.

There has also been some ongoing discussion of the need for humanitarian assessment and monitoring, but that discussion has been much less visible, and there has been much less effort put into implementation. The Stockholm process in 2003 recommended periodic humanitarian assessments to determine the impact of the sanctions and distinguish the harm caused by the sanctions from that caused by other factors (Bessler, Garfield, and McHugh 2004). A United Nations handbook published in 2004 (and updated in 2006) provided an outline and methodology for conducting humanitarian assessments with rigor and methodological integrity. In 2005, the Security Council set up a working group on sanctions issues, which made recommendations on the effectiveness of sanctions, including the design of sanctions regimes, the use of expert panels, and monitoring mechanisms (Informal Working Group 2006). The 2006 report of a Security Council working group on sanctions addressed some of the issues that were most problematic in the case of the Iraq sanctions, such as the arbitrariness and lack of transparency regarding humanitarian exemptions (Informal Working Group 2006, 4, 9). Humanitarian impact is mentioned briefly in the discussion of the initial design of the sanctions regime: “If it is feasible and appropriate to prepare pre-assessment or early assessment report, they should be clear regarding . . . the possible humanitarian, political, and economic impacts” (Informal Working Group 2006, II.A.3.(a), p. 4).

Some of the recommendations for monitoring and preliminary assessments were implemented. For example, the Department of Humanitarian Affairs conducted a preliminary review in February 1997 of the possible humanitarian effects of imposing a flight ban on Sudan (Minear et al. 1998, v). But the discussion of monitoring and assessment of humanitarian impact subsided considerably as “smart sanctions” gained broad recognition and momentum.

George Lopez argues that in the case of sanctions imposed by the UN Security Council, while there may not be pre-sanctions assessments of the possible humanitarian impact, there are nevertheless extensive monitoring mechanisms: “UN missions, the special representatives of the secretary-general, and the panels of experts for each UN sanctions case all focus on monitoring in ways that did not exist a decade ago” (Lopez 2012, 142). With such extensive systems of monitoring, the expectation is that if the sanctions were triggering humanitarian problems, this would be quickly apparent. However, the resolutions establishing the sanctions committees and monitoring groups typically focus on sanctions violations, and thus do not include humanitarian monitoring in the mandates. If they do mandate humanitarian monitoring, it concerns other issues, such as whether militia groups are interfering with humanitarian assistance. In many cases, there is no one on the panels of experts with expertise in humanitarian issues. Where there is a clear humanitarian crisis taking place, neither the Security Council resolutions nor the oversight committees have mandated an analysis of whether the sanctions themselves are a contributing factor. Where there are other factors that contribute to the target state’s economic problems, such as the target state’s economic policies, or additional sanctions imposed unilaterally by various nations, the monitoring groups and sanctions committees have no mandate, and show no interest, in seeking to disentangle the damage done by the various actors.

CERTAINLY IT IS THE CASE THAT, FOR THOSE IMPOSING SANCTIONS, “SMART sanctions” are much more attractive than humanitarian monitoring.

The imposition of sanctions is often highly politicized, and sanctions are often intended to show strength or moral leadership to a domestic or international audience. If it becomes apparent that the sanctions are inhumane, or themselves constitute human rights violations, the credibility of the “sender” is compromised. Humanitarian monitoring, in the context of sanctions, has generally been conducted by humanitarian agencies, academics, or experts in areas such as public health, and their work is often highly respected for its independence and credibility. It would clearly be far more difficult for the “sender” to shape the narrative that its sanctions are protecting a population’s human rights in the face of systematic, credible evidence that the sanctions themselves cause harm to women, children, and the elderly.

By contrast, the language of “smart sanctions,” like “smart bombs,” is a powerful rhetorical tool that suggests care and precision. If measures are “smart,” and only harm dictators and terrorists, then it would seem that there is no need for oversight. It is clearly in the interest of “senders” to have their actions described in these terms, and to sidestep the embarrassment that comes when international agencies document that the sender’s actions are actually causing more human damage than are rogue nations or terrorists. In the case of the Iraq sanctions, the United States was rarely willing to allow the flow of humanitarian goods to increase. One of the infrequent occasions on which it did so was when the press reported that the United States had prevented Iraq from importing child vaccines. The story was widely reported, causing the United States considerable embarrassment, and Washington responded immediately (if only briefly) by allowing more humanitarian goods to be sent to Iraq.

For senders, the rhetoric of “smart sanctions” serves a critical function: if we believe that smart sanctions, by definition, cause no harm to the innocent, then there is no need for monitoring. And without monitoring or systematic documentation by credible sources, then even if the sanctions are not so smart after all, there will be no accountability, and the human harm will be made invisible to all. Except, of course, those who are harmed.

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