

TOOLS, TASKS AND TOUGH THINKING: SANCTIONS AND R2P

The cases where sanctions have been applied to protect populations experiencing on-going or impending mass atrocities are few and have produced mixed results. The UN Security Council imposed various targeted sanctions in 2005 in the case of Darfur, and in Côte d'Ivoire and Libya in 2011.

The Darfur case exemplifies all that can go wrong during the sanctions design process. A Security Council draft resolution aimed at sanctioning more than thirty persons responsible for killings in Darfur faced serious opposition and ultimately listed only four individuals when passed. The UN debate went on so long prior to sanctions imposition that whoever was to face financial sanctions almost surely avoided them.

If Darfur was too little, too late and unconnected to other diplomatic pressure, Côte d'Ivoire and Libya were the first direct Responsibility to Protect (R2P) sanctions measures. Each ultimately gave way to military means of stifling the killing power of a former ruler and a falling one. In 2013 Syria stands as an example where the failure of multilateral support for sanctions by the UN, steadfast enablers in the governments of Iran and Russia, and porous borders means declining ability to have sanctions exert the pressure on the Assad regime needed to deny him the means to kill his own citizens.

SANCTIONS AS PILLAR III R2P MEASURES

In an attempt to stem post-election violence and ethnically charged hate speech in Côte d'Ivoire, UN sanctions were stimulated by the release of a joint statement by the UN Secretary-General's special advisers on the prevention of genocide and R2P, Francis Deng and Edward Luck, respectively. They expressed grave concern about "the possibility of genocide, crimes

against humanity, war crimes and ethnic cleansing," and recommended that the Council take "urgent steps in line with the responsibility to protect." In response to these concerns and former President Gbagbo's continued refusal to accept his electoral defeat, the Security Council unanimously adopted Resolution 1975 which reaffirmed "the primary responsibility of each State to protect civilians."

In Libya, national sanctions imposed by the United States and the European Union in February 2011 resulted in an asset freeze on the Qaddafi regime. These bilateral measures preceded UN targeted financial sanctions, an asset freeze, travel ban and arms embargo resulting from Security Council resolution 1970. Certainly the fall of the Libyan regime would not have occurred without an armed rebellion and NATO's military intervention. But the combination of UN, EU and US targeted sanctions played a considerable role in degrading both the regime's firepower and its support among Libyan elites.

By cutting off nearly half of Qaddafi's usable monies - \$36 billion in Libyan funds were locked down in the first week of sanctions - the international community immediately denied Qaddafi the funds to import heavy weapons, to hire foot soldier mercenaries, or to contract with elite commando units. These constraints meant that the Libyan war would have been longer and deadlier had these sanctions not been successfully imposed and enforced. Tripoli, for example, was not destroyed in an all-out battle like that which has now engulfed Aleppo and Damascus.

SANCTIONS TOOLS

The particular items in the economic sanctions tool box for Pillar III use are varied. Also, they have different

applicability whether the target is a repressive national government, those who work for or support it as individuals - and are thus judged responsible for atrocities - or are non-state actors, like death squads or militias. Experience indicates that the latter can be either working with some connection to the government or engaged in killing those supporting the government, depending upon the nature of the dispute.

In terms of specific measures or tools, these below are most readily available to sanctions imposers and carry the potential to be implemented with sufficient timeliness as to make a difference in stifling mass atrocity crimes. They are:

- freezing financial assets held outside the country of [a] the national government, [b] regime members in their individual capacity, or [c] those persons designated as key supporters or enablers of the regime.
- suspension of credits, aid and loans available to the national government from international financial institutions.
- denying access to overseas financial markets and especially banks, both to the government and individual designees.
- controlling specific goods that provide power resources to the regime, most especially highly traded and income producing commodities, weapons, computers and communications technologies.
- flight and travel bans on individuals and specific air carriers.
- denial of visa, travel and educational opportunities to those individuals on the designee list.

With a success rate hovering just over 33% such sanctions are aimed at those individuals and entities primarily responsible for wrong-doing. These targeted sanctions are most effective when they involve coordinated efforts by the UN Security Council. Yet time may be of the essence in the case of unfolding mass atrocities, which makes some sanctions more appealing than others and quite possibly some imposers more versatile in targeting than others. This was certainly the case with regard to United States and European Union actions against Libya.

UN sanctions have the great advantage of requiring all member states in the international order to comply with the coercive action. But UNSC sanctions suffer from taking time to mobilize, legislate and implement. The very rumor of UN action may be enough to spark

potential targets to move or hide their assets or begin to produce false companies, passports and bank records.

MAKING SANCTIONS WORK

Sanctions work best when they are one of a number of diverse tools used to achieve a larger set of strategic policy goals. In short, sanctions need to be accompanied by good diplomacy to maximize their leverage. Their aims need to be clear, consistent and well-articulated so that they are fully understood by the target.

To halt mass atrocities, sanctions and those who impose them must be sufficiently nimble to adapt to changing circumstances, such as the emergence of new support or enabling systems, or changes in the targets. A situation that might actually lead to ending the atrocities would be the defection of high-ranking individuals who have been placed on the sanctions list. In this case, as happened in Libya, the sanction quickly acts as an incentive to changed behavior by those who will depart from functional roles in a repressive regime. To complete its relevance and incentive capability, the sanctions must be lifted quickly on defectors and imposers can hope that this sparks others to follow suit.

When sanctions fail, it is often because the policy goals they were meant to support as a tool have become muddled and ultimately overshadowed by the importance of enforcing the sanctions. Soon – as happened with US/UN sanctions on Iraq in the 1990s - sanctions become the policy, rather than serving as a tool of policy.

Finally, sanctions work when they not only enrage, but actually engage their targets and imposers. Sanctions must provide a framework for new bargaining opportunity between target and imposers so that they might resolve their dispute or disagreement. Sanctions which are excessively punitive and which aim to isolate the target, frequently fail to achieve this goal.

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