

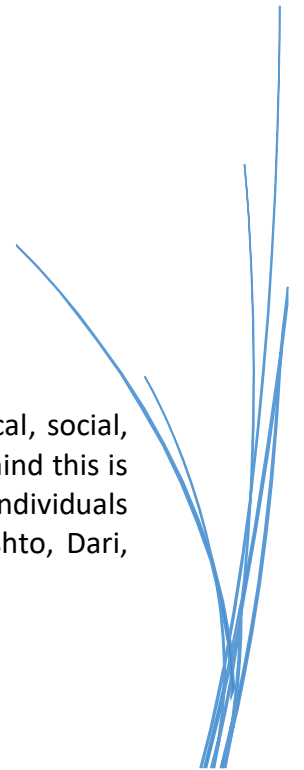
WEEKLY ANALYSIS

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CONTINUATION OF SANCTIONS ON THE ISLAMIC EMIRATE: LEGAL AND POLITICAL ASSESSMENT



Weekly Analysis is one of the CSRS publications analyzing significant weekly political, social, economic, and security events in Afghanistan and the region. The prime motive behind this is to provide strategic insights and policy solutions to decision-making institutions and individuals in order to help them design better policies. Weekly Analysis is published in Pashto, Dari, English and Arabic languages.



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Center for Strategic and Regional Studies (CSRS)



CONTINUATION OF SANCTIONS ON THE ISLAMIC EMIRATE: LEGAL AND POLITICAL ASSESSMENT

Introduction

International sanctions are the political and economic decisions of governments or organizations imposed on a country, group, or individuals to eliminate threats to international peace, prevent the violation of international rights, and protect countries' national interests.

Since the 1990s, the United States of America (USA) has imposed various restrictions on the Islamic Emirate of Afghanistan (IEA). In the 90s, the sanctions were because the Islamic Emirate had sheltered Osama bin Laden and other members of the Al-Qaeda network. From 2001 to 2021, they sanctioned the IEA for the reason that they were included in the list of terrorist groups. From 2021, the Islamic Emirate is yet once again under the sanction of the USA as, in their understanding, IEA has overthrown a republic government and replaced it with a government that has no legal or public legitimacy.¹

In these recent sanctions, in addition to the limitations on Afghanistan's banking and formal economy, the USA also freezes 9.4 billion dollars of Afghanistan's reserves in the US banks. Contrary to the past, sanctions are creating numerous challenges this time; as IEA is running the national government, any international sanctions on the government directly affect the country's ordinary citizens. And this is what happened; due to the strict sanctions in the initial days of the IEA 2.0, a severe economic crisis was reported in the country.

The international community, especially China and Russia, held the USA responsible for the economic crises and also used the situation to defame the United States, which forced the United States of America to relax some of the restrictions. In the initial stage, the US has facilitated the delivery of humanitarian aid, followed by some easing to the banking system and trade. It allowed MoneyGram and Western Union to resume their operations in Afghanistan. In addition, they allowed some of their contractors to cooperate in delivering humanitarian aid to the country.

In its current policy, the USA asks the IEA to respect human rights, form an inclusive government, prevent drugs, and address some security concerns in exchange for official recognition and removal of remaining sanctions. Hence, they sometimes, due to human



rights abuses, impose new personal sanctions on some of the IEA leadership. Recently, they levied sanctions on the President of the Afghanistan Academy of Sciences, Sheikh Fariduddin Mahmood, and the minister of the Ministry for the Propagation of Virtues and Prevention of Vice, Sheikh Khalid Hanafi. Bans have been imposed due to opposition to human rights and especially girls' education above the 6th grade.²

In this article, we will legally assess the sanctions on the Islamic Emirate. On the other hand, we will analyze from a political point of view, based on the reasons and motives the United States of America imposed sanctions on the IEA and whether these sanctions affect the Islamic Emirate.

TYPES OF SANCTIONS

Sanctions are classified into two categories:

First: From the point of view of the affected parties

In this regard, the sanctions are three types:

1- Sanctions on States: States are members of the United Nations (UN), and all member states are obliged to accept and respect the Charter of this organization. The United Nations Charter is an important source of international law, and when a state violates these rights, opposes the United Nations Charter, or does not fulfill its obligations at the international level. Then, based on the seventh chapter of the UN Charter, the Security Council can impose sanctions on that state. It is vital to mention that sometimes, a state can impose sanctions on another to secure its national interests. Therefore, it can be said that international organizations and governments can impose sanctions on other governments.

2- Sanctions on groups: Some groups/organizations in the world have been included in the UN's list of terrorist groups. Initially, the UN Security Council thoroughly investigates a group, and after the investigation and if it is proven that the group/organization is a threat to international peace, then they add that group to the list of terrorist groups, and hence they impose sanctions on that specific group/organization.

3- Sanctions on individuals: The third type of sanctions is imposing limitations on specific individuals. The UN Security Council can impose sanctions on some political leaders and prominent business people due to threats to international peace, violation



of human rights, corruption, terrorist activities, and weapons proliferation, and also, a state can impose sanctions on specific individuals to protect its national interests.

Here are some examples of individuals who are facing international sanctions from the United Nations, the European Union, and the United States of America:

A- **Kim Jong-un:** He is the leader of North Korea, who the United Nations has sanctioned due to the development of chemical weapons and violation of human rights.

B- **Vladimir Putin:** He is the President of Russia; in 2014, the European Union (EU) imposed sanctions on him for his role in the occupation of Crimea and later on due to the Russian war on Ukraine.

C- **Khamenei:** This is the spiritual leader of Iran, who is under sanctions due to the development of nuclear weapons and human rights violations from the United States of America.

D- **Bashar al-Assad:** He is the leader of Syria and is under sanctions due to human rights violations by the European Union and the United States of America. He has been accused of killing thousands of his fellow citizens in the recent civil war in Syria.³

E- **Mir Rahman Rahmani and his son:** They were members of the parliament in the last 20 years of Afghanistan's republic era. The United States of America sanctions them for their alleged involvement in corrupt practices.

F- **Some of the leaders of the Islamic Emirate:** Some of the leaders of the Islamic Emirate, especially the President of the Academy of Sciences, Sheikh Farid al-Din Mahmoud, and the Ministry for the Propagation of Virtues and Prevention of Vice, Sheikh Khalid Hanafi, are facing sanctions from the United States for the violation of human rights, especially their role in the prevention of girls education beyond class 6.

From the above discussion, we can conclude that the imposition of sanctions is an essential aspect of international law. International and regional organizations and governments can impose sanctions on some other governments, and this does not have any legal prohibition. However, it is vital to state that the mandatory aspect of international law is weak, and its application has only a moral aspect. Recently, we saw that the absolute majority of the 150 countries in the United Nations General Assembly requested a ceasefire in the war between Hamas and Israel, and only ten countries opposed the ceasefire. However, still, there is no ceasefire, and the war has not stopped.



Therefore, it can be said that the great powers emphasize the application of international law when it benefits them; otherwise, they oppose it, do not care about it, and violate all human principles.

Second: Issue base Sanctions

From this point of view, the sanctions are divided into three parts:

1- Economic sanctions: The imposition of economic sanctions on another country or individuals by a country or an international organization is called economic sanctions. Economic sanctions have different types, such as travel bans on citizens, politicians, and business leaders of a country, prevention and restrictions on foreign investment in a country, restrictions on the shipment and delivery of commercial goods, increase in customs tariffs, and suspension of economic aid, and limiting or freezing capital in foreign banks.⁴

2- Diplomatic sanctions: These are the embargoes that an international or regional organization or a state imposes on another state by closing embassies or banning the travel of diplomats and high-ranking government officials. Some leaders of the Islamic Emirate, including ministers, are facing travel bans from the United States of America.

3- Military sanctions: In this type of sanctions, a state is prohibited from producing, distributing, using, buying, and selling weapons, such as the sanctions of the United Nations and the United States of America on North Korea and Iran.

MOTIVES BEHIND THE UNITED STATES OF AMERICA SANCTIONS ON THE ISLAMIC EMIRATE

Sanctions are imposed to pressure a country, prohibit it from doing something, or punish it. Sanctions are a tool of foreign policy enforcement. When national interests are not achieved through negotiations and diplomacy, sanctions before military conflict are used to attain national interests and implement foreign policy. The USA is the country that uses this tool the most to achieve its goals at the international level. The US imposed sanctions on IEA based on the following reasons:

1- Sanctions to protect democratic values: After the Second World War, the United States of America started protecting democratic values and democratizing the world, which was further expedited after the collapse of the USSR towards the end of the Cold War. Whenever a country established a regime that violated democratic values, the



United States of America imposed sanctions on that country. For example, in 1999, when General Pervez Musharraf (Head of Armed Forces) staged a coup against Nawaz Sharif (Prime Minister) and declared an undemocratic system, i.e., a military government, so the United States imposed sanctions on the newly formed military government.

One of the reasons for imposing restrictions on the Islamic Emirate is that the Islamic Emirate overthrew a democratic government and has not yet established another democratic government. Therefore, the United States of America wants to convince the Islamic Emirate through sanctions to establish a democratic government via elections. On the contrary, we believe that the United States of America uses democracy as a means to achieve its national interests, and we have examples in the world of a democratic government that does not benefit the United States of America. Then, they tried to overthrow it, like in Egypt. Muhammad Morsi came to power through elections and a democratic process. Still, within a year, his government was toppled by a military dictator with the help of the USA and its allies in the region. Contrary to its so-called values, the USA has recognized the government of the dictator Abdul Fatah Al-Sisi and started cooperating with him.

Also, most of the Arab countries do not have democratic systems. Still, the Americans have close relations with them, and they have not imposed sanctions on them, so we can say that the motives behind sanctions for democratic values are only an excuse of the Americans.

2- Sanctions to combat armed groups: Similarly, the United States of America uses sanctions to fight against illegal armed groups; for example, in 1992, The United States of America and the United Nations Security Council together imposed sanctions on Libya for the handover of two persons who were accused of shooting down the Pan American Airlines airplane in 1988. Libya accepted the responsibility of being involved in the said incident and handed over the accused persons to the United States of America. Also, it paid 2.7 billion dollars in damages to Pan American Airlines.⁵

The United States claims that one of the sanctions reasons is that the Islamic Emirate still has ties with al-Qaeda and other armed groups, and they want to put pressure on the Islamic Emirate through sanctions to not only cut ties with these groups but also to fight against them. The Islamic Emirate has consistently denied these accusations and



said that they have no ties with armed groups and their territory will not be used against any country.

3- Sanctions due to human rights violations :On the 10th of December 2023, on the occasion of International Human Rights Day and the 75th anniversary of the Universal Declaration of Human Rights, the United States of America sanctioned the two leaders of the Islamic Emirate, the President of the Academy of Sciences, Sheikh Fariduddin Mahmood and the Ministry for the Propagation of Virtues and Prevention of Vice Sheikh Khalid Hanafi. Sanctions were imposed due to human rights violations.⁶. The Ministry of Foreign Affairs of the USA, through an official statement, said that they imposed these sanctions because these two Taliban leaders were involved in preventing the education of girls above the sixth grade. Previously, the US also imposed sanctions on the Taliban for banning women from work and other human rights violations.

Taliban spokesman Zabiullah Mujahid condemned this action of the United States of America and said that the United States of America is the most violator of human rights. In the ongoing war between Israel and Palestine, in which nearly 18,000 Palestinians have been martyred, and more than 30,000 have been injured, and most of them are children and women, the US is supporting Israel and the war, which is support for worse human rights violator and its self it the violations of human rights. Mujahid added that instead of solving problems, restrictions and pressures create more problems, and the United States of America should stop the failed policy of pressure.

4- Sanctions as a means of pressure: Through sanctions, the US wants to pressure the IEA so the IEA accepts some security and political demands that suit the national interests of the United States of America. Recently, Trump also said, "If I become the president, I will get the Bagram airbase." This indicates that one of the USA's demands from the IEA is to give them access to the airbases, which is unacceptable to the IEA. And that is why the USA is using restrictions as a means of pressure to impose some of its demands on the IEA.

THE US SANCTIONS EFFECTS ON THE ISLAMIC EMIRATE OF AFGHANISTAN (IEA)

The question is whether these restrictions and pressures will work or not. Almost two and a half years have passed since the rule of the IEA, and during this entire period, the IEA was under the sanctions of the USA. However, it seems that the USA has not yet



gained anything from these sanctions. In our understanding, there are several reasons for that:

1- The IEA is not just a group anymore. IEA runs the government and rules over the entire territory of Afghanistan, and any ban on the IEA directly affects the ordinary citizens of the country; that's why the strict restrictions that were in the early years of the IEA have now been relaxed, and that's why the sanctions have been somewhat unaffected.

2- The second reason is that the IEA follows the Islamic ideology, and every demand that seems to be against this ideology to the Islamic Emirate, no matter how strict restrictions are imposed, does not affect the IEA. The Islamic Emirate does not surrender to anyone against Islam teaching, and that is why the supreme leader of IEA said to a large gathering of Islamic scholars in Kabul: "I will not accept anyone's unlawful demands even if they threaten us with the atomic bomb." The Foreign Policy mentioned on their website that only 13 percent of US sanctions might have been affected, which has a very nominal effect.⁷

3- In the form of China, Russia, and Iran, the IEA has alternatives to the USA; therefore, the USA's sanctions are not very effective.

American diplomat Richard Haas wrote, * "Sometimes sanctions do not work, and a country is unable to achieve national interest through them, especially when the sanctions are unilateral." ** Because of unilateral sanctions, a country can refer to other countries and compensate for the losses from the economic sanctions through relations with other countries. For example, in 1993, the USA imposed economic sanctions on Pakistan due to its purchase of M-11 missiles from China. However, these sanctions were unilateral and were only imposed by the USA. To combat these sanctions, Pakistan received economic assistance from China.

One year after its rule, the IEA signed an oil and wheat agreement with Russia and signed energy and other project agreements with China, which practically made the US sanctions ineffective.⁸

4- Similarly, the other reason for the ineffectiveness of sanctions is the type of political system. In countries where non-democratic and militarily strong governments rule, sanctions do not have much effect on these countries either. For example, the economic



sanctions of the United States of America on Iraq during Saddam Hussein's government did not affect Saddam Hussein much. Currently, Afghanistan is ruled by the IEA military and non-democratic, so the US sanctions do not have much effect on them.

CONCLUSION

Legally, the imposition of sanctions is permissible in the light of the seventh chapter of the United Nations Charter. These sanctions are imposed on individuals and states that violate human rights, have taken over a government by force, pose a threat to international peace, are involved in high-level corruption, or are involved in weapons proliferation.

The second thing is that a state can impose unilateral sanctions on some other states or individuals for the purpose of achieving its national interests. In this sense, the USA is a pioneer, and we have mentioned some examples in this analysis. Through recent sanctions on some leaders of the IEA, the US wants to put pressure on the government of the IEA to comply with some of the demands of the USA. These demands are primarily about human rights, the formation of an inclusive government, and some security concerns that the US considers essential for its national interests.

Furthermore, the US sanctions do not have much impact on the IEA because, on the one hand, there are alternatives to the Islamic Emirate of the United States of America, such as Russia, China, and Iran, that are willing to solve their economic and some other problems. On the other hand, there is no democratic government in Afghanistan, and the US can pressure them if they do not give what the US is looking for so their government can be changed in the coming election.

SUGGESTIONS

1- It is suggested to the Islamic Emirate that in the field of human rights, it should ease the ban on girls' education beyond grade six as soon as possible, and this is not because to ease the US sanctions. Still, it is a public need and the one primary vehicle in the nation's development, which will help open a door for positive interaction with the international community.

2- The United States of America should also leave the path of sanctions and bullying. On one hand, it does not affect the Islamic Emirate; on the other hand, this is not a solution



for restoring the relationships. Instead, interaction and negotiations are good ways forward for problem solutions.

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Contact Us:

Email: info@csrskabul.com - csrskabul@gmail.com

Website: www.csrskabul.com - www.csrskabul.net

Phone & WhatsApp: +93780618000

