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The Use of Economic Sanctions: An Enforcement Tool to Fight Terrorism

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ABSTRACT

Military actions alone would not suffice the war against terrorism. One of the important parts of this effort would be Economic Sanctions not only on those who conduct these terrorist activities but also against those who support terror. In the late 20th and early 21st century, 'Sanctions' have played a very important part in combating terrorism. United Nations has also described the year of 1990 as "the sanction decade " Winning the war against terrorism with the use of sanctions as a weapon however needs various policy tools such as financial stability in the country, prudent assessment of the power of the sanctioned state, relations with super-powers and different obstacles and risks.

The author in this research article titled, "The use of Economic Sanctions- An enforcement tool to fight terrorism" have studied thoroughly as to how economic sanctions are an emerging way for combating terrorism. Not only this, the paper also deals with the nature of Economic Sanctions and its effects on the sanctioned state. The paper further studies about the rationale behind the usage of economic sanctions to fight against terrorism and the factors which determine whether Economic Sanctions should be imposed on a particular state or not. The paper ends with a detailed case study about "Financial war on Terrorism" started by United States of America after an unfortunate incidence of 2001 Terrorist attack took place.

The author has dealt with the most important aspects of economic sanction and it is believed that the paper will be a contribution to National Security Law of the country.

Keywords: *Economic Sanctions, Terrorism, United Nations, National Security, Financial War on Terrorism, USA.*

I. ECONOMIC SANCTIONS: AN EMERGING WAY FOR COMBATING TERRORISM

To start with, Terrorism as defined by The United States Congress is one, "which is violent or dangerous to human life and that is a violation of the criminal laws of the United States ... and which appears to be intended to intimidate or coerce a civilian population; to influence

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the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping."³ While Economic Sanctions is defined as, "coercive measures taken against one or more countries to force a change in policies, or at least to demonstrate a country's opinion about the other's policies."⁴ Economic Sanctions are imposed on a country by means of restricting Imports and Exports, Freezing of the assets of the country, denial of finance transactions with the sanctioned country, restricting investments, denying access to the financial markets or even destabilizing their currency are some means of achieving economic sanctions.

With the objective of analyzing the great "Financial War on Terrorism" along with other aspects of Economic s Sanctions this research will be valuable resource for researching in Terrorism Studies, Finance and Criminal Justice.

(A) Literature Review

Scholarly book, "**The Financial War on Terrorism**" by **Nicolas Ryder** has been thoroughly studied. The book provides an exceptional critical review about 9/11 incidence and defines and identifies the "Financial War on terrorism". It highlights various strategies planned by United Nation, which also includes the UN Sanctions against terrorists and operations of its anti-terrorists sanction committees. Not only this, the book is a great study anti-terrorists financing measures introduced by USA, European Union and Australia.

Secondly, "**The new tools of Economic Warfare: Effects and Effectiveness of Contemporary U.S. Financial Sanctions**" by **Elizabeth Rosenberg and Zachary K. Goldman**, has been referred by the author to study about the means by which economic sanctions can be imposed on the state and also about the effects of sanctions on the sanctioned state. The book has also covered a portion in giving recommendations to US about its strategy in future sanctioning.

Apart from these books, author has thoroughly studied various scholarly articles. The most important of them being, Understanding the 'War on Terrorism': Responses to 11 September 2001 by Jacqueline M. Gray and Margaret A. Wilson and Economic and Financial Sanctions in U.S. National Security Strategy by Jill Jermano Source. Both these articles are great works for gaining an understanding about the nature of economic sanctions and rationale behind the same.

³ The International Emergency Economic Powers Act, Article 14, 50 U.S.C.A. 1701 (1991).

⁴ Foreign affairs and National Defense Division, Congressional Research Service, Economic Sanctions to achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law (1997).

(B) Methodology

The research is partially doctrinal and partially empirical. It is written in Blue Book Citation Format (20th Edition). The author has researched about various modes of financing terrorism to gain a deep understanding about the initial point of the issue. As a primary source of research, author has studied and cited various books and articles. Various news articles have also been collected and cited as a primary source of research. Various global surveys, magazines and interviews of US president etc, were studied and are cited as a secondary source of research.

II. THE NATURE AND EFFECT OF ECONOMIC SANCTION

The use of economic sanctions backed by coercive threat involves the demand from targeting state which the targeted state fulfils. The major goal of the economic sanctions is that the targeting state causes disturbance in the financial equilibrium of the targeted state. The sanctions that are put upon have an ability to reverse or manipulate the decision of the target state by having a major impact on its financial transactions and economic stability. Sanctioning the imports and exports will, “*deprive a target country of revenue, increase unemployment in export sectors, and erode domestic firms’ competitive advantage in overseas markets.*”⁵ Whereas economic sanction by means of restricting state will make consumer goods expensive and difficult to obtain this in turn will increase the inflation and reduce the productivity of the state.⁶

In achieving the goals of financial sanctions, cooperation from banks and financial institution is needed as they restrict the targeted state from raising any capital and obtaining any financial assistance. Not only this but, “*Freezing elites’ overseas assets or blocking their transactions can prevent them from accessing their wealth or doing business.*”⁷

Sanctions not only destabilize the financial equilibrium of the target state but also but also hamper its treaties and business relations with other foreign entities. Global Banks, Multi National Companies and other Foreign entities fear from incurring penalties and jeopardizing their reputation by doing business with the sanctioned state. For example, U.S. sanctions against Iranian banks in 2006 which was followed by European Union (EU) sanctions and financial restrictions upon Iran in a number of UN Security Council Resolutions motivated many global banks and multinational firms to stop doing business with Iran which

⁵ Economic and Financial Sanctions in U.S. National Security Strategy, Author(s): Jill Jermano Source, Vol. 7, No. 4 (2018), pp. 64-73, Published by: Institute for National Strategic Security, National Defense University.

⁶ Ibid.

⁷ Economic and Financial Sanctions in U.S. National Security Strategy, Author(s): Jill Jermano Source, Vol. 7, No. 4 (2018), pp. 64-73, Published by: Institute for National Strategic Security, National Defense University.

significantly diminished its ability to trade and attract foreign investment.⁸ Some banks and financial institutions may even make profits out of the situations of the sanctioned state if the sanction seems manageable. A very famous example is of a Turkish Bank who helped Iran to come out of the Sanctions imposed on it by US⁹. This bank was also convicted in U.S. Federal District Court in January 2018. Therefore, the effects of the economic sanctions imposed on a state depend upon the sanctioning state's ability to disrupt and exploit the business of the sanctioned state and equally depends on the sanctioned state's ability and its resources which helps it to come out of those circumstances.

III. THE RATIONALE BEHIND THE USAGE OF ECONOMIC SANCTIONS

The most basic reason behind the usage of economic sanctions is for compelling costs on the sanctioned state. It is for making the Sanctioned state agree with either the policies of the sanctioning state or for modifying the particular behavior of the Sanctioned State. If the state agrees with the terms and condition, the peaceful relationship between two countries continues whereas, if the country acts in a way different from the terms of Sanctioning Country, they are made to levy high costs.

Economic Sanctions are considered as peaceful means of modifying the behavior of another state. It is said that, Economic Sanctions are more successful in producing desired results than any other means for example spoken words or wars. In a 1986 report, the U.S. State Department, called sanctions "*an integral part of peaceful measures that can be used to deter states from supporting terrorism and they may also be used to pressure targeted states to change their policies.*"¹⁰ On the other hand, some also argue that there are only very few state supported Terrorist groups and major terrorism groups are self-reliant therefore, economic sanctions do very little to curb terrorism.

Factors determining whether "Economic Sanctions should be imposed on a particular state or not."

There are many factors which determine the use of Economic Sanctions on the particular state. Among which, the most important ones are: "*geographic proximity, trade volume, a country's wealth, and whether the country is a member of a common trading block.*"¹¹

⁸ Rachael L. Loeffler, "Bank Shots: How the Financial System Can Isolate Rogues," *Foreign Affairs* 88, no. 2 (March/ April 2009).

⁹ Benjamin Weiserjan and Carlotta Gall, "Banker from Turkey is Convicted in U.S. Over Plot to Evade Iran Sanctions," *The New York Times*, January 3, 2018.

¹⁰ Kenneth W. Abbott, *Economic Sanctions and International Terrorism*, 20 *VAND. J. TRANSNAT'L L.* 289, 304 (1987).

¹¹ Foreign affairs and National Defense Division, Congressional Research Service, *Economic Sanctions to*

The very famous example of Geographical closeness is the way United States keeps a close watch on Cuba. It is very easy for US to put sanctions of a country such as Cuba, which is very close to US in distance, than to put economic sanctions on any country which is farer in distance.

Secondly, Trade volume is another very important factor. For an example, if a sanctioning country is a good importer from a sanctioned country, imposing of Economic Sanction would affect the country itself and the public which consumers the imported goods. Whereas, if the sanctioning country is an exporter to the sanctioned country, the Sanctions will have harsh effects on the market of the sanctioning country. On the other hand, it can also be looked in a different way, that is, sanctioned country will be at huge loss if it is an importer of goods and services from the sanctioning country as its market will have shortage of the imported goods and services.

Thirdly, Sanctioning by a country having richness and wealth is very effective whereas, poor countries do not opt to be a Sanctioning country due to lack of richness as it will lead to financial crises in the country itself.

Last but not the least, if the sanctioning country and the country sanctioned are the members of common trade block, the sanctioning country may find consequences of the Sanctions in its trade if those sanctions are violative of the trade agreement.

IV. ECONOMIC SANCTIONS: THE WAR AGAINST TERRORISM

On the day of 11th of September, 2001, United States of America faced the largest and the deadliest terrorist attack in the history of this world where a total of 19 Terrorists, belonging to Al-Qaeda, hijacked four commercial planes. Two of these planes, namely, American Airlines 11 and United Airlines 175, were made to flow into Northern and Southern towers of World Trade Centre in New York. The third one was flown into the US Parliament house, Pentagon and the fourth was made to crash in Pennsylvania¹². An accurate number of 2977 died in this incidence.¹³ American President, George Bush, called this incident as “Global War on Terror” on date 20th September, 2001.¹⁴ This name was changed after four days and President called it as “Financial War on Terrorism” on 24th September, 2001.¹⁵

achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law (1997), *Supra* Note 2.

¹² The 9/11 Commission Report (Norton and Company: New York, 2004) at Pg. 1-46.

¹³ CNN ‘11th September Anniversary fast facts’, 11th September, 2013.

¹⁴ Lehto, ‘War on Terror Armed Conflict with Al-Qaida’, (2009) *Nordiac Journal on International Law*, 78(4), 499-511.

¹⁵ Duffy, ‘The war on Terror’ and the Frame work of International Law (Cambridge University Press: Cambridge, 2005).

It was estimated that the approximate finance that was spent on 9/11 attack was of \$400,000-\$500,000 and the approximate damage that was done in United States of America was of \$135 Billion. However, some sources also noted that the approximate damage went up to \$3Tn. After this attack, the National Security of the home land became the top priority of the US President, George Bush. The President, on 24th September, 2001 declared,

*“We will starve terrorists of funding, turn them against each other, rout them of their safe hiding places, and bring them to justice.”*¹⁶ Many other declarations were made after this. The President also made an announcement for freezing the assets of major terrorist groups and imposing high economic sanctions on the countries supporting Terrorism. This was popularly called as a *“Rose Garden Strategy”*¹⁷

As correctly stated, there are three major purposes on which the focus is to be made in fighting war against terrorism through economic sanctions. Firstly, the terrorists and the terrorist funding states should be in destitute of the resources and finance. Secondly, their activities and operations should be traced down and actions should be taken accordingly. Lastly, Individuals and states should be deterred from supporting terrorist organizations. Also, to achieve these goals, two key elements should be taken care of. Firstly, in order to protect the draining of finance, the financial institutions should act as watch-dogs and secondly, an *“Inter-National Coalition”* should be formed by the international community to freeze the assets and finance not only of the terrorist groups but also of the states funding them. Thus concluding the above mentioned contentions, the financial war on terrorism can be defined as,

*“attacking, whether via Criminalization, confiscation, forfeiture, freezing or sanctions, the financial assets of the known or suspected terrorists.”*¹⁸

In addition to the above cited measures, the economic sanctions also include limiting the availability of resources to the terrorists and terrorists funding states and a number of preventive policies by various financial institutions all around the world.

V. CONCLUSION

The war against terrorism will not be won by military and nuclear actions alone. Economic sanctions and finance controls towards those who are related to terrorist activities and are funding terrorists will be a major part of this war. But again these economic sanctions must

¹⁶ The White House ‘Fact sheet on terrorist financing executive order’, 24th September, 2001.

¹⁷ Suskind R, *The One Percent Doctrine* (Simon and Schuster: New York 2006) Page 142.

¹⁸ Nicolas Ryder, *the Financial War on Terrorism, A review of Counter-terrorists financing strategies since 2001*, page 11.

be very carefully designed to have a substantial impact on these terrorist groups and terror supporting states. To get a double result out of these efforts, the finance institutions and auditing ministries of every nation should stand together. This will also keep a check and will serve as an effecting tool in their “Financial war against terrorism.”

Talking in particular about the economic war against terrorism in USA, the nation became successful in preventing Al-Qaeda from launching terrorist attacks in many nations. However, it may be said that, al-Qaeda nonetheless pose a primary risk to the national security of many nations and its citizens. As illustrated in the *Global Terrorism Index 2014*, which noted that “the majority of claimed deaths from terrorist attacks, 66% in 2013, are claimed by only four terrorist groups; Islamic terrorists, Boko Haran, the Taliban and al-Qaeda and its affiliates.”¹⁹

At this juncture, talking about Islamic terrorists organizations of Iran, Baiji and Kirkuk is likewise important when the discussions about economic sanctions are up. Islamic terrorist organizations are capable of preserving their investment from the various oil fields. It was stated in the *Wall Street Journal*, that “Islamic states is able to produce 47000 barrels of oil which amounts to a revenue of almost \$1.65 Million a day.”²⁰ Therefore, it is extremely unlikely to presume that the measures of the “Financial War on Terrorism” will have an impact on the growth of terrorist organization.

One of the major terrorist organizations that need to be considered in this research article is Boko Haran, which like the previous two, have ample of funding sources. It has nearly similar funding techniques as Al-Qaeda and the Islamic States.

VI. AUTHOR’S VIEW

The “Financial war on terrorism” as defined earlier in this research, is dependent on wide variety of mechanisms together with the criminalization of terrorist financing, freezing the assets of the terrorists etc. But according to the author, it is exceptionally unlikely that a terrorist organization works or is depending on a country for its funding. Therefore, it’ll be fairly not possible for a nation to prosecute a terrorist financier. In the history, only one person is convicted for attempting to provide funding for Islamic states in UK²¹, one person has been indicted in the US²² and some people have been arrested in Australia²³. The US has

¹⁹ Ibid.

²⁰ Abi-Habib, ‘U.N. Team backs new Sanctions on Islamic States, November 18, 2014.’

²¹ R v. Amal El-Wahabi T20147025, November 13, 2014. Also see, BBC News, “Women Jailed for funding Syria Jihad, November 13, 2014.”

²² Federal Bureau of Investigation, “Rochester Man Indicated on charges of attempting to provide support to ISIS, Attempting to kill USA Soldiers and the possession of Firearms and silencers”, September 16, 2014.

also imposed number of economic sanctions and travel restrictions on number of named individuals.

However, the impact of these sanctions on the terrorist groups is still in question as these groups have large variety of sources of funding. The author ends this research with the question: What benefit will the suspicious activities reports have which are presented to law enforcement agencies against what are essentially self financing terrorist groups?²⁴

²³ Akerman P, “Alleged Funder for Jihadist fighters Hasan El Sabsabi granted Bail”, November 12, 2014.

²⁴ Supra Note 17.