Sanction Regime of The UN Security Council under International law

Amanj Ali Qadir
Assistant Lecturer, College of Law - Salahaddin University-Erbil - Iraq
Email: amanj.qadir@su.edu.krd

ABSTRACT
The United Nations Security Council (UNSC) is a unique institution. It exercises legislative and executive powers and it is the most active organ of the United Nations. The Security Council has primary responsibility to maintain international peace and security in line with objective and principles of UN Charter. Under Chapter VII of the UN Charter, the Security Council can adopt mandatory measures to maintain or restore international peace and security. Security Council can resort to imposing sanctions and its resolutions are binding for all UN member states. The sanctions contribute to the enforcement of international law since they have punitive nature and require states to respect human rights, to refrain from their wrongful acts and comply with international law through altering their policies and political behaviours by ceasing fire, ending hostilities and withdrawing from foreign territories. Accordingly, the actions of the Security Council have international law implications. Despite the fact that the Security Council empowered to impose sanctions, this does not mean that the Security Council has absolute power and free from any limits, there are many international law limits and constrains on Security Council power to impose sanctions.

Keywords: international law, Security Council, UN Charter, international peace and security, sanctions, Human Rights, Humanitarian Law, Proportionality.
I. Introduction
Under chapter VII of the UN Charter, the Security Council is empowered to maintain and restore international peace and security by adopting several measures. These measures are called sanctions and may involve the use of force through military intervention or measures not involving use of force. Non-forcible measures include *inter alia* economic embargo, armed embargo and the severe diplomatic relations. The rationale behind imposing a sanction is to compel the targeted state (or entities and individuals associated with terrorism) to change its policy and refrain from its wrongful behaviour and most importantly to comply with international law. Accordingly, the sanctions of the Security Council may have international law implications. It is noted that the Security Council sanction regime was not so active during the Cold War, with only few comprehensive sanctions being employed against Rhodesia and South Africa. While in the 1990s, a large number of sanctions had been adopted that led some scholars consider the period to be a sanction decade. The Security Council has applied sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation. However, there are limits and constraints that Security Council should take into consideration when resort to imposing sanctions.

The aim of this research is to examine the rationale behind imposing sanctions by the Security Council whether sanctions are imposed to tackle threats to the international peace and security only, or they are imposed to enforce international law. Further, it discusses whether international law place any constraint upon sanction regime of the Security Council.

In this research, the analytical method is adopted by analysing mainly the provisions of the United Nations Charter and the arguments made in the literature; this is also with reference to some Security Council resolutions and case law as well.

After a brief introduction the research examines legal basis of the power granted to the Security Council to impose sanctions, next it addresses the interpretations of the term ‘threat to the peace’. After that, sanctions and enforcement of international law is discussed. Then, the international constraints and limits of sanctions are critically analysed. Finally, the research concludes with some recommendations.

II. Legal Basis for Imposing Sanctions by the Security Council
The main responsibility of the Security Council is to maintain international peace and security, as outlined in article 24 of the Charter. The Council can exercise its responsibility in this regard by invoking chapter VII. The source of the powers of the Security Council to take actions is set forth in article 39 of the Charter. According to this, after the determination of the existence of threat to the peace, breach of the peace, or act of aggression, the Security Council shall decide on appropriate measures, either not involving the use of force under article 41, or measures involving the use of force under article 42 of the Charter. The Security Council may decide on
an appropriate measure under article 41, including ‘complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations’ and requires members of the UN to comply with its decision and apply such measures (Geusau, 1999, p1). It can be observed that the wording of article 41 indicates that the measures set forth in the article are not exhaustive. Therefore the Security Council is not only restricted to such measures, but it has broad power to decide on any measure not involving the use of force. As (Carver and Hulsman, 2000, P528) argue that when the Security Council decides on imposing a measure under article 41, its decision is binding on all members of the UN according to article 25 of the Charter, because all members agreed to be bound by the decisions of the Security Council and accepted to carry out its decisions. It would seem that article 2 (5) requires all members to assist the UN in its actions, especially the preventive or enforcement actions, and they must not assist or cooperate with the targeted state in order not to undermine the effectiveness of such actions.

In addition, by virtue of the article 103 of the Charter, states’ obligations under the Charter prevail over other obligations that states may have under other international treaties. For instance, when the Security Council imposes economic sanction on a state, other states have to implement the sanction and avoid cooperate or deal with the targeted state, even if they have a commercial agreement or contract that requires them to cooperate accordingly. They cannot invoke such agreement to preclude themselves from their obligations under the Charter. Furthermore, non-member states of the UN are also bound by the decision of the Security Council according to article 2 (6) of the Charter. They are obliged to implement the Security Council’s Resolution regarding maintenance of international peace and security. Therefore, all states regardless of their status whether they are members of the UN or not are obliged to implement the sanctions employed by the Security Council under chapter VII of the Charter. As a result of the aforementioned, a state’s failure to implement the sanctions adopted by the Security Council will induce state’s responsibility. Moreover, the non-compliant state may subject to a sanction for violation of its obligations under the Charter according to (Carver and Hulsman, 2000,P528). Since the Chapter VII of the Charter is the source of the power of the Security Council’s actions, a threat or breach of the peace must be exist in order to invoke such Chapter. Accordingly, it is worth noting to consider what constitutes ‘threat to the peace’.

III. Sanctions in General and the Criteria of ‘Threat to the Peace’
Sanctions are specific measures usually taken when there is a threat to or breach of international peace and security; hence, they have a final—not temporary—punitive and exemplary character; they could also be taken due to other reasons such as non-compliance with SC resolutions. AS were imposed on Liberia since it had violated SC Resolution 1132 by helping the revolutionary movements there. Further, sanctions are coercive measures taken by organizations rather than states, as regards organizations, those which are entitled by law to act in the name of society, for instance, the UNSC. Sanctions seem to be taken collectively; therefore, they serve a useful function since they are stronger than diplomatic protest but are a stage before making recourse to armed force (White and Abass, 2010, P550).

However, it is debateable whether the SC has been granted broad discretion that is, whether its power to adapt sanctions is absolute. Under the (UN Charter, 1945, ch VII, art 41) the SC is allowed to impose such measures when it sees international peace and security is threatened. Article 41 of the Charter defines measures although not exhaustively which can be full or partial trade commercial, financial, and arms embargo or severance of diplomatic relations; however, there is a proviso which requires measures ‘not involving the use of armed force’. Further, Article 39 entitles the SC to determine if there is a ‘threat to, or breach of the peace or act of aggression’. If sanctions are taken, they bind all Member States; even further, Article 2(6) suggests that in order for the peace and security to be maintained, non-member states should also comply with UN directives.(O’Connell, 2002, P63).

The Security Council shall determine the existence of threat to the peace, breach of the peace or act of aggression before taking any action to restore international peace and security. Since there is no precise definition and the meaning of the term is ambiguous, it has been interpreted broadly by the Security Council. Furthermore, this view was supported by the presumption that organs of the UN determine their own jurisdiction (Koskenniemi, 1995, P325).

It has been noted that the SC, in many cases, has decided that there is a threat to or breach of the peace. For example, sanctions have been taken on those supporting terrorist organisations. In addition, sanctions on preventing international terrorism, violations of anti-proliferation treaty, proliferation of nuclear weapon, civil wars or conflicts and violations of human rights or humanitarian law or even massive assaults on the international environment have been deemed threat to the peace. A further example is illegal exploitation of natural resources was considered threat to the peace when it was felt that it has led to conflict in the Congo. These actions deemed to constitute threat to the peace and adopted Resolutions regarding them according to (Szasz, 2002, P901).

The Council determined that the acquisition of arms and weapons by the government constituted threat to peace and security and therefore called upon states to refrain from providing the South African government with military equipment as (Joyner, 1992, P1) points out. Although the above cases were considered internal
conflicts, the Security Council determined the existence of threat to the peace and addressed the situations under article 41.

The Security Council employed several Resolutions regarding Iraq in the 1990s. When Iraq invaded Kuwait in 1990, the Council under Resolution 660 determined that Iraq had breached international peace and security and called for immediate withdrawal of its military forces. The Iraqi government did not comply with the Resolution therefore the Council adopted another Resolution and imposed a comprehensive economic sanction in order to bring Iraq with compliance with the Resolution 660 (O'Connell, 2002, P63). Furthermore, the Resolution 688 was adopted in response to the repression of the Kurdish people that resulted in huge losses of life and millions flows of refugees to the neighbouring countries. The Council considered the situation as a widespread violation of human rights constituting threat to international peace and security (Serna Galvan, 2011, P168).

The Security Council also considered the crisis in the Federal Republic of Yugoslavia as a threat to international peace and adopted Resolution 713 that imposed military sanction and subsequently comprehensive economic sanction, as the conflict casos losses of many human lives as stated by (Carver and Hulsmann, 2000, P526).

Moreover, according to (Serna Galvan, 2011, P169) Somalia was subject to a large number of Resolutions in less than two years. The conflict caused human disaster, massive death of civilians and flow of refugees that threatened the stability and the international peace. As a response of the gigantic significant of the situation and violation of human rights, the Security Council imposed armed embargo by Resolution 733. The civil war in Liberia was interpreted by the Security Council as threat to the peace and international security and therefore it was subjected to a military embargo (UNSC Res, 1992). Similarly, for the same reasons the Council addressed sanctions in response to the conflict in Cote d'Ivoire and Sierra Leone. More importantly, the Council condemned the civil war in Rwanda and adopted Resolution 918 in response to the massive killing and huge displacement of population that resulted in violation of the International Humanitarian Law and the right to life and property, which determined as a threat to the peace and international security (UNSC Res, 1994).

When it comes to terrorism, (Serna Galvan, 2011, P10) states that it is highly regarded as one of the most crucial factors resulting in threat to the peace; therefore the Security Council adopted several Resolutions and imposed sanctions to the states that support terrorism, such as Libya, Sudan and Afghanistan. The Security Council strongly condemned the Lockerby bombing and imposed sanctions on Libya after refusing to comply with Resolution 731 to hand over the defendants. For the same reason, Afghanistan was subject to several Resolutions and sanctions. The Security Council determined that Afghanistan did not comply with previous Resolutions to extradite and prosecute the terrorists that made Afghanistan a terrorist safe haven and a major threat of international peace and security. Similarly, the Security Council employed Resolution 1050 regarding Sudan, because of the failure of the Sudanese
government to comply with previous Resolutions but instead supported and sheltered terrorists amounting to threatening peace and security.

It has been observed that in order to discharge its duty in maintaining international peace and security, the Security Council not only has imposed sanctions on states, but also addressed sanctions on entities and individuals, especially after the attacks of 11 September 2001. The Council strongly condemned the attacks and determined them as threat to international peace and security. The Resolution 1373 was adopted and sanctions were imposed on entities and individuals involved in the attacks. The sanctions included inter alia the freezing of assets, traveling ban and prohibition of selling arms. Sanctions were imposed on the Al Qaeda, Osama Ben Laden and individuals or groups associated with them (Giumelli, 2007). It would appear that the sanction approach has shifted from comprehensive sanctions towards smart and targeted sanctions against specific individuals and entities.

Moreover, in recent years the proliferation of nuclear weapons has raised debates. As a response to the Iran and North Korean nuclear programmes, the Security Council imposed sanctions on them under article 41 of the Chapter VII, as it considered their programmes treat to international peace. The sanctions were imposed on individuals and entities. For instance, in Iran 10 entities and 12 individuals were targeted as indicated by (Giumelli, 2007). Therefore, it can be concluded that the Security Council has a broad power to interpret different situations and determine the existence of threat to the peace and act accordingly to discharge its duty to restore international peace and security. It would seem that the above Resolutions illustrate the rationale behind the imposition of sanctions is to deal with threat to the peace or breach of the peace. Meanwhile, commentators argue that the enforcement of international law is also considered legitimate reason for imposing sanctions by the Security Council.

**IV. Sanctions and International Law**

Sanctions can serve in achieving the aims and objectives of international law. Sometimes sanctions are adopted as a preventative instrument in order to prevent the continuation or commission of further unlawful acts. While often, sanctions have punitive nature and require states to refrain from their wrongful acts and comply with international law through altering their policies and political behaviours by ceasing fire, ending hostilities and withdrawing from foreign territories (Chesterman and Pouligny, 2003, P503). The best example to illustrate that is the invasion of Kuwait by Iraq in 1990. Iraq breached international peace and was subjected to a series of sanctions to compel Iraq to cease fire and withdraw from Kuwait and comply with international law.

Furthermore, it could be argued that article 94 (2) of the Charter provides opportunity to the Security Council to enforce international law. The article illustrates that the decisions of the International Court of Justice (ICJ) are binding on parties to a case. If a party refuses to comply with the judgment of the court, the other party can
resort to the Security Council in order to bring that party to compliance with the ICJ decision. The Security Council may address recommendations or if necessary take other appropriate measures, such as sanctions. Since the decisions of international courts constitute sources of international law, the enforcement of such decisions means the enforcement of international law. Moreover, the main responsibility of the Security Council is to maintain international peace and security which is the main purpose and principle of the UN Charter. When Security Council takes actions to discharge its duties, it enforces the UN Charter. The UN Charter is a treaty and treaties are sources of international law. Accordingly, the enforcement of the UN Charter is considered enforcement of international law.

As (Gupalan and Fuller, 2007) point out, in Lockerbie case Libyan officials’ bombed American airplanes over Lockerbie in Scotland. Libya violated the international law by breaching its international obligation through the transgression of the Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation. The affected states resorted to Security Council to bring Libya in compliance with international law. Several Resolutions were adopted which led to reconciliation and Libya accepted its responsibilities and paid compensations to victims. Accordingly, the Security Council enforced international law by bringing Libya to account for violation of the Montreal Convention.

Moreover, the Council in Resolution 1456 obliged the states to comply with their international obligations under international law when taking measures to combat terrorism, especially in terms of international human rights, as well as humanitarian and refugee law. In Resolution 1373 the Security Council called upon states to refrain from supporting terrorism. This Resolution is having the same provisions as those recognised in international convention for the suppression of the financial terrorism (Debbas, 2010, P119). As illustrated above it would seem that Security Council contributes actively in the enforcement of international law by imposing sanctions.

V. International law Constraints on Imposing Sanctions by The SC
As it has been discussed, SC sanctions have not only become smart and targeted, but also they should be taken in line with principles and purposes of the Charter. Further, sanctions taken by the SC have been blamed as they should be bound by constraints of international law that is, they should be imposed in line with other objectives. Thus, instead of abandoning sanctions, the SC has endeavoured to make them less comprehensive in a sense that they should meet some standards. Commentators have argued whether sanctions imposed by the SC should be limited. It is widely accepted that the UN generally and the SC specifically must be acting within the general principles of international law and its contemporary standards. Article 24(2) of the Charter illustrates that in
order to maintain international peace and security, the Security Council shall act in accordance to the purposes and principles of the United Nations which set forth in articles 1 and 2 of the Charter respectively. However, there are some who argue that the Security Council is not bound by this limitation when acting under Chapter VII (Craven, 2002, P43).

There are, however, arguments that the SC is to be free from any constraints as far as it restores the international peace and security; this is due to some reasons. First, although Article 1 of the Charter requires the SC to maintain peace and security in line “with international law”, it is not the reference for the SC how to conduct its business, rather it is a reference to the basis of any peaceful settlement. Secondly, if the SC is bound by international law, it will be an obstacle to the SC that it should determine international legality before tackling the threat to the peace (Reinsch, 2001, P851). After addressing the arguments, it could be said that despite compliance with the purposes and principles of the United Nations, Security Council sanctions are subject to various limits and constraints under international law.

A. General Principles of International Law

International law serves as a supplementary source in international courts. When a new issue arises where no specific rule or customary norm can be applied with regard to it, courts apply the general principles of international law. The ICJ relies on these general principles in its practice which set forth in article 38 (1) (c) of its Statute. The general principles of international law consist of various principles including inter alia the principles consent, equality of states, the legal validity of agreements, good faith, domestic jurisdiction and the freedom of the sea, as well as the obligation to repair a breach and non-discrimination. These principles can be found in the majority of national legal systems, such as the French Civil Code 1804, the Egyptian Mixed Civil Code of 1875 and the Iraqi Civil Code of 1951. Apparently, the Security Council must not violate the general international law, unless otherwise stated in the Charter that the Security Council is allowed to do so. Judge Weeramantry stated in Lockerbie case that the Security Council must act in accordance with the general principles of international law (Davidsson, 2003, P11).

Furthermore, one of the pillars of the general principles of international law is the concept of jus cogens. It is a peremptory norms of international law recognized by international community. Such norms are fundamental and extremely important for maintaining international legal order that cannot be derogated. The concept was found in article 53 of the Vienna Convention on the law of treaties. The article outlines that if any treaty found to be in contrary to a jus cogens norm, it is void. Since such norms are so significant in international law, it could be assumed that the Security Council is obliged to respect and apply them. Accordingly, if the Security Council exercises its power in contradiction to a peremptory norm, its action is considered null and void according to (Farrall, 2007, P71). It is believed that fundamental human rights such as the right to life is considered jus cogens norm.
B. Principle of Proportionality
It has been widely accepted that the principle of proportionality limits Security Council sanctions. The enforcement measures of the Security Council are bound by the principle of proportionality. According to this principle, two conditions must be met. First, the adopted measures must be necessary. Second, the adopted measures must be adequate respond to the behaviour of the targeted state. The Security Council shall take measures under article 41 or 42 of the charter only when other measures have been exhausted. Therefore, before taking any enforcement measure it has to inform the targeted state of the consequence of its wrongdoing. Proportionality requires that the measures shall be adopted in a manner that the purpose expected is to be achieved. Moreover, the measure shall be directed against leaders who are responsible for the wrongful act and constituted instability to the international peace and security. It also must be sufficient and create a degree of compulsion in order to induce the targeted state to change its behaviour (Jacoiste, 2010, P273).

C. Human Rights Norms
When Security Council imposes sanctions it has to respect the norms of human rights. Those rights are found in international instruments such as the United Nations Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights (‘ICCPR’) and the International Covenant on Economic, Social and Cultural Rights (‘ICESCR’) as (de Wet, 2001, 277) indicates. Then, one can argue that since the UN is an international organization not being a member of neither of the above mentioned treaties and covenants, it is not bound by such instruments. The answer can be found in the provision of the Charter. Article 24(2) states that in discharging its responsibility, the Security Council shall act in accordance with the purposes and principles of the Charter. One of the purposes of the Charter is to respect human rights and fundamental freedoms, as outlined in article1 (3). Therefore, the Council must respect human rights in order to fulfil its purposes.

Furthermore, according to (UN Doc, CESCR, n.d) the applicability of human rights’ norms as affirmed by the UN Committee of Economic, Social and Cultural Rights the residents of a specific country do not lose their economic, social and cultural rights because their governmental policies and officials constitute a threat to international peace and security. The International Amnesty also shared the same view. It would seem, therefore, that the basic rights of the population must not be violated in order to compel the government to change its behaviour. The UN General Assembly in Resolution 2675 (XXV) of 1970 stated that fundamental human rights guaranteed under the in international instruments continue to apply in situation of armed conflict. This indicates that the obligation to respect human rights is a customary norm of international law. If it is applicable in armed conflict then there is doubt that it is also applicable to non-forcible measures taken by the Security Council as mentioned by (Davidsson, 2003, P 18).
Moreover, article 4(2) of the International Covenant on Civil and Political Rights (ICCPR) listed several non-derogable human rights, such as the right to life and the prohibition of torture and slavery, that should be respected at all times. It is accepted that these rights are considered as *jus cogens* norms, therefore must be respected by the Security Council. The most important non-derogable right that could be affected by sanction is the right to life. It is a fundamental right considered a crucial source for other human rights. It is found in several international instruments such as the ICCPR according to article 6 states must take measures to increase life expectancy. Similarly, the Convention on the Rights of the Child (CRC) calls upon state to child mortality. The CRC is ratified by almost all states, including permanent members of the Security Council therefore those who adopt Resolutions are under obligation to consider the right to life as (De Wet, 2001, 277) points out.

Regarding the situation in Iraq, the Security Council imposed comprehensive economic sanctions to compel Saddam’s regime to alter its policy. The sanction caused losses of hundreds of thousands of innocent people. The shortage of food, medicine and contribution of epidemic diseases, such as cholera and diarrhoea, deteriorated the situation and increased the rate of death. According to survey by the United Nation’s International Children's Emergency Fund (UNICEF), approximately 5,000 to 6,000 children died each month. In 1998 Denis J. Halliday, the UN Humanitarian Coordinator for Iraq, stated that the sanctions are ‘killing innocent people and children’ and condemned their continuation and resigned (Kondoch, 2010). It can be observed that considering the effect of the sanction, the Security Council has violated human rights such as the right to life and the right to medicine. Furthermore, it infringed the principle of proportionality because the adopted measure was severe and was not directed to the leaders. The leaders and elites become richer by manipulating the black market, while the rest of the population were deprived of their basic human rights (Ku, 2001, P851)

In order to avoid the undesirable effects of comprehensive sanctions, the Security Council moved towards the adoption of targeted sanctions. They are directed against individuals and entities and are less expensive compared to the comprehensive sanctions in terms of politics and financial cost. In Resolution 1279 the Security Council imposed targeted sanctions on individuals, groups and entities associated with Al-Qaeda and Taliban. Those individuals were placed in a list and subjected to various sanctions such, as freezing assets and travel ban. Apparently, the targeted sanction has violated individuals’ basic rights. There have been cases before of similar nature appeared before national and regional courts. For example, in Kadi case (Kadi and Al Barakaat Intenntional Foundation v Council and Commission, 2008) concerned a petition from applicants who were subject to travel ban and asset freezing by the European Council (EC) in accordance to the Security Council Resolution 1267. Therefore, they brought proceedings and argued that the EC is not competent to adopt
a regulation which breaches fundamental rights, in particular the right to property and the right of the defence.

However, the Court of First Instance held to dismiss their argument and then appealed before European Court of Justice (ECJ) for violations of their fundamental rights, particularly the rights of the defence, to be heard and the right to respect for property.

The ECJ held that since the adopted measures are in contradiction with the objectives of the European community (EC) under Article 308 of EC, their fundamental rights have been violated and they were remedied as well. Apparently, the Court treated in a way that there is no primacy of SC resolutions over the EU law, regarding its core fundamental rights. Accordingly, the European bodies were directed to redesign the regulation in a manner that considers the human rights (Wight and Abass, 2010, P554). However, regardless of the decision of the Court, Mr. Kadi is still in the sanction list because the Court cannot challenge the Security Council’s Resolution.

A further recent (Nada v Switzerland, 2012) Nada was compensated due to the actions taken against him such as placing restrictions on his movement for six years and did not having a right of hearing. After his name was de-listed, he was compensated by the European Court of Human Rights (ECHR) under the provision of Articles 8 and 13 (rights to family and private life) of the ECHR. These were deemed to be violations of the claimant’s human rights and also violations of principles of proportionality. As (White and Abass, 2010 P554) argue that the above mentioned cases show the tendency of increasing judicial recognition that taking such measures against those listed, without any safeguards, will violate human rights. It could therefore be said that SC sanctions should be limited and respect human rights in all times regardless of the nature of the sanction imposed.

D. Humanitarian Law

In the essence international humanitarian law is applicable in armed conflict situation based on the principles of necessity, proportionality and distinction between belligerent and civilians. Therefore, the question arises whether humanitarian standards are applied in peace time especially in the context of none-forcible measures such as economic sanctions. It is argued that although humanitarian law regulates warfare and protect victims of armed conflict, it should be applied in peace time in situations where economic sanctions are imposed. The Red Cross statement supported this view that general humanitarian rules are applied to assess the legality of measures taken in armed conflict and those rules are more important and need to be applied in peace time where there is no armed conflict (Ku, 2001, P853).

Moreover, to support the idea of applicability of humanitarian law outside of the context of armed conflict, it is important to refer to the view of the ICJ in the Corfu Channel Case. The court decided on the applicability of the law of war in time
of peace that ‘elementary consideration of humanity, is even more exacting in peace time than in war’ according to (Sassoli, 2001, 244).

Considering the costly effect of the economic sanctions in terms of the human disaster of large loss of innocent lives and the collateral damage that those sanctions left behind, the economic sanctions should be treated as a destruction weapon as indicated by (Owen, 2012, P103).

Another example of applicability of humanitarian law outside of the context of armed conflict, is economic sanctions on Iraq. Sometimes the effects of sanctions are by far more fatal than the use of force in armed conflicts. For instance, sanction in Iraq, which is the most horrific incident documented in the history of the UN. The rate of death and children mortality was greater than the death resulted during the civil war in Yugoslavia and the atomic bombing in Hiroshima, Japan (Normand, 1999, P33). However, the comprehensive sanctions were in contradiction with the principle of proportionality and distinction. Such kinds of sanctions are considered as attack on civilians therefore the humanitarian law standards must be respected when sanctions are imposed.

To this end, (Burci, 2001, P144) states that the Security Council has exempted the humanitarian standards from economic sanctions. For instance, the sanction imposed against Iraq by Resolution 661 excluded foodstuffs and medical items. Most importantly, in Resolution 986 ‘oil for food’ programme was recognized and Iraq was allowed to sell oil in order to by foods, medicine and necessary goods for the population. Similarly, in Yugoslavia and Haiti such humanitarian exemptions have been followed (Burci, 2001, P144). Although such exemptions are not necessarily sufficient, the Security Council should directly admits the applicability of humanitarian law and serve it as limit and constraint on its sanction regime.

VI. Conclusion
The UN Charter under article 39 granted Security Council with broad discretion power to determine the existence of threat to the peace and security and take appropriate measures under articles 41 and 42 of the Charter. The Security Council is empowered to impose sanctions in order to fulfil its duty of maintaining and restoring international peace and security. By imposing sanctions, not only maintains and restores international peace and security but also contributes to the indirect enforcement of the international law when requiring states to refrain from their wrongful acts and comply with international law through altering their policies and political behaviours by ceasing fire, ending hostilities and withdrawing from foreign territories. Further, to respect human rights through the implementation of its Resolutions.

However, the Security Council sanction regime has brought several terrible tragedies to the humanity, considering the situation in Iraq and Haiti. Therefore, in
order to avoid such unintended consequences, it is widely accepted that the power of the Security Council to adopt sanctions must be constrained by several international law rules and norms. Although the Council has adopted different approaches in recent years, such as targeted sanctions, smart sanctions and to some extent humanitarian exemptions, these attempts proved not to be sufficient.

Accordingly, it is recommended that the Security Council should respect all the limitations and constraints discussed in this research. More importantly, a judicial or review body should be established, since there is not such body, to review the legality of the Security Council Resolutions. In addition, sanctions should be designed in a way that achieves their purposes without any fatal consequences. As they should be directed to the responsible actors and not the population as a whole to prevent massive human catastrophes. More importantly, sanctions should be controlled and monitored by impartial committee in order to establish clear strategy of imposition and lifting sanctions within a specific timeframe.

References
Books

Journal articles
19. UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights, 4. Retrieved June 21, 2018 from https://www.refworld.org/docid/47a7079e0.html.

Cases
2. Nada v Switzerland, ECHR Grand Chamber Decision, 12 September 2012 before the European Court of Human Rights.

UNSC Resolutions
1. UNSC Res 217 (12 November 1965) UN Doc S/RES/217
3. UNSC Res 918 (17 May1994) UN Doc S/RES/918.