

AAA ARCHIVES

# New Tools for Reform and Stability

Sanctions, Conditionalities and Conflict Resolution

Edited by Greg Mills & Elizabeth Sidiropoulos

**New Tools for  
Reform and Stability  
Sanctions, Conditionalities  
and Conflict Resolution**

edited by  
Greg Mills  
and  
Elizabeth Sidiropoulos

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## Introduction

At a time when Africa's vision of itself is encompassed in the New Partnership for Africa's Development (Nepad), a key challenge facing the continent is the effective and sustainable resolution of conflicts, both inter- and intra-state. There have been many attempts and processes to deal with these conflicts, but their outcome is by no means certain. Understanding the logic of this contemporary conflict is essential in identifying the most appropriate tools for resolving them. These tools may vary, depending on the country and the phase of any particular conflict. They also range from the softer forms of persuasion such as political and economic conditionalities to the more extreme forms of military involvement.

However, the general trend in international norms over the last century has been away from force to the use of other instruments to enforce compliance with acceptable international state practice.

Sanctions and conditionalities are two such tools, whose currency has grown in this debate, but whose impact on bringing about change of behaviour in the target state has had mixed outcomes.

The most striking example of the limits of sanctions is the case of Iraq. In March 2003, US and British troops invaded Iraq after the UN sanctions regime had not succeeded in ensuring the Iraqi regime's compliance with various Security Council resolutions. The US and British intervention was not mandated by a Security Council resolution, but the Iraqi case highlights the innate difficulties of successful sanctions regimes in an 'anarchical' international environment and the importance of political will and the making of credible threats, which can act as deterrents. This illustrates the in-built weakness of the UN to fulfil both of the above criteria. Sanctions did, however, contain Iraq both in terms of its regional ambitions and intentions to acquire weapons of mass destruction (WMD). Yet containment was controversially not seen by the US, the UK and their allies to be sufficient in the face of persistent violations of the sanctions regime.

In Southern Africa, the ongoing crisis in Zimbabwe has seen numerous attempts at constructive engagement by regional and other actors to resolve the political and economic impasse in that country. This has also raised the question of the efficacy of sanctions — but *even more critically, regional political will to ratchet up pressure when previous levels of engagement have failed*. Yet sanctions have failed against Zimbabwe, because apart from ‘targeted’ provisions of the European Union and the US, they have scarcely been applied.

Although consensus on certain key norms and values, such as good governance and democracy, has emerged — and in the African context this crystallised with the adoption of Nepad — the dichotomy between these norms and values and the long-standing principle of the sovereignty of states continue to plague the debate about sanctions and conditionalities. This partly explains the resistance of many states to the structural adjustment programme conditionalities imposed by the International Monetary Fund and World Bank, which is aggravated by the political costs of such measures in limiting the scope of domestic government patronage.

Nevertheless, developments over the last decade have pointed to a continuing relevance for sanctions and conditionalities globally. Apart from international attempts to refine sanctions (the Interlaken, Bonn-Berlin and Stockholm processes) and the ongoing discussions among donors for a more co-ordinated approach to aid as a tool for the evolution of systems and institutions of good governance, within Africa itself, Nepad’s African Peer Review Mechanism (APRM) is also about imposing voluntary conditionalities. The APRM, to which African countries can voluntarily accede, applies peer pressure on states to adopt principles and policies that minimise conflict, increase accountability and ensure responsible government.

When the South African Institute of International Affairs (SAIIA) originally conceived the project of which this book is the outcome, it based it on the need to identify more closely the logic of conflict in Southern Africa in the context of the region’s apparent lack of capacity and political will to end them. It was aimed at moving beyond the current slogans. The focus of the research was essentially to be in three areas:

- The logic of conflict and tension in key regional 'hot-spots' such as Angola and Zimbabwe.
- Lessons learnt from conflict mediation and resolution experiences in the region, including the cases of South Africa and Rhodesia.
- The impact of sanctions/conditionalities as a means of bringing about change, and the related role of civil society

SAIIA identified a number of areas of research in analysing the logic of conflict and the tools available for conflict resolution and reform. In doing so, SAIIA also sought to incorporate perspectives from other parts of the world, and especially from other countries of the South.

SAIIA staff undertook research trips to a number of countries during 2002 including the DRC, Angola, the UK (on the topic of conflict diamonds), and Kenya. In addition, eminent academics and practitioners in the field were commissioned to produce papers on other non-Southern African examples of sanctions and the global environment.

The commissioned papers were presented at a workshop entitled *New Tools for Reform and Stability? Sanctions, Conditionalities and Conflict Resolution*, held at SAIIA on 13 March 2003.

Subsequently, the presentations were revised in order to incorporate elements of the discussions at the workshop. The timing of the workshop, a few days before the outbreak of the war in Iraq and at a period of heightened interest regarding the efficacy of tools such as sanctions and conditionalities in the diplomatic armoury, provided the discussions with a substantial degree of currency and relevance focused on a pragmatic examination of the factors, constraints and opportunities influencing the sanctions debate.

The book begins with an analysis of the logic of conflict in Africa and then examines current thinking and UN practice on sanctions, the case of Iraq and those of India and Pakistan. The focus then shifts to Southern Africa, where the role of different forms of sanctions and of civil society in bringing about change are examined. The chapters discuss apartheid South Africa, Rhodesia, Angola's Unita and present-day Zimbabwe. The role of conditionalities imposed by donors on

African states are discussed in a separate chapter. The last chapter draws lessons and trends based on the earlier contributions.

This research and publication project was made possible through funding from the British Council in South Africa. SAIIA would like to thank Laaiqah Martin of the Council in particular. We would like to thank Annelize Schroeder and Katy de Villiers for their work in organising the workshop. Furthermore, we would like to express our appreciation to the contributors to this volume, for the quality of their papers and their professionalism. We are also grateful, as always, for the work of SAIIA's production team, Peter Farlam, who proofread the papers, liaised with authors and tried to keep everyone to schedule; Anne Katz, who typeset and corrected the manuscript; and Pippa Lange, SAIIA's external editor, for ensuring that very few language errors and unclear expressions slipped through.

*Greg Mills and Elizabeth Sidiropoulos*  
*Jan Smuts House, Johannesburg*  
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# New Conflicts, New Tools? The Logic of Conflict, Insurgency and Terrorism in Africa

Greg Mills<sup>1</sup>

*The events of September 11, 2001, taught us that weak states, like Afghanistan, can pose as great a danger to our national interests as strong states. Poverty does not make poor people into terrorists and murderers. Yet poverty, weak institutions, and corruption can make weak states vulnerable to terrorist networks and drug cartels within their borders.*

US National Security Strategy 2002<sup>2</sup>

## Introduction

Amidst the flurry of diplomatic and military activity over Iraq and against the backdrop of the 'war on terror', the collapse of Côte d'Ivoire and the ongoing civil strife in Zimbabwe have gone comparatively unnoticed. An estimated 400 people have been killed and more than 100,000 displaced since internal conflict between government and rebel supporters broke out in earnest in Côte d'Ivoire in late 2002, following an abortive coup that same September.<sup>3</sup> The Zimbabwe government's policies have not (yet) claimed many lives from violence, though the cost in economic terms has been catastrophic, with a 25% decline in GDP over the past three years. This could expose more than half of Zimbabwe's 12 million people to the risk of famine.

Yet President George W Bush's *National Security Strategy* released on 19 September 2002 does recognise, as the quotation above suggests, the danger posed by poverty, weak states and, most of all, global

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<sup>1</sup> DR GREG MILLS is the national director of the South African Institute of International Affairs (SAIIA). His most recent publications are *Poverty to Prosperity: Globalisation, Good Governance and African Recovery*, Cape Town: Tafelberg, 2002; and *The Wired Model: South Africa, Globalisation and Foreign Policy*, Cape Town: Tafelberg, 2000.

<sup>2</sup> For the full text, see <http://www.whitehouse.gov/nsc/nss.html>.

<sup>3</sup> See <http://www.observer.co.uk/worldview/story/0,11581,859795,00.html>.

indifference to these problems. As the document noted, 'shadowy networks of individuals can bring...chaos and suffering to our shores'. The *Strategy* proposes a number of ways of remedying this environment. These include, first, implementing regime change in rogue states, and second, the use of ad hoc 'coalitions of the willing' as the preferred means to address international security threats. Third are economic and political assistance programmes to boost failing states, and fourth, support for key allies, including (in Africa) Kenya, Ethiopia, South Africa and Nigeria. Fifth is the use of pre-emption as a tool to address situations perceived as posing a threat to US security.

However, implementing this strategy poses a number of immediate problems. Among them are the absence of the necessary shared basic values between partner states; and the limitations and the possible side-effects of pre-emption as a policy tool. The latter could 'precipitate the very attacks it seeks to prevent' turning 'force as an instrument of last resort into one of first resort'. Others are the importance of broader-based coalitions (than just those of 'the willing') to further US and Western interests over the longer term; the need for clarity on the types of arms control and disarmament regimes necessary, and on ways these might be implemented; and the absence of detailed strategies and programmes to rescue, or propose alternatives to, failing states.<sup>4</sup> What is the model for what the *Strategy* describes as 'national success', beyond the generalities of 'freedom, democracy and free enterprise'? How might this be encouraged (even grafted)? How does its pursuit reconcile with US support for undemocratic and sometimes repressive allies? Does the *Strategy* seek a balance of power to further freedom or to contain terrorism? And what is the relationship between states that are rogue, failed or simply have not modernised?

Nonetheless, the question remains: In the face of the September 11<sup>th</sup> attacks on the US, and given the possible proliferation of weapons of mass destruction (WMD) in countries unsympathetic to the West, what are the alternatives for the US?

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<sup>4</sup> For a critique of the *Strategy*, see Daadler IH, Lindsay JM & JB Steinberg, 'Hard choices: National security and the war on terrorism', *Current History*, 101, 659, December 2002, esp. p.409.

This in turn invites the raising of more general questions: What causes contemporary conflicts? Are there common threads? Put differently, is there a certain logic to them? Can one apply conventional military and diplomatic means to resolve these conflicts? What is the utility of using military means to solve conflict, particularly in Africa? And, as is suggested by the 2002 *US National Security Strategy*, is the trend towards external intervention a means of solving conflict? Lastly, What forms has intervention taken, and what forms might it take in the future?

This paper examines the contemporary nature of conflict, insurgency and terrorism within an African context.

### The logic of contemporary conflict<sup>5</sup>

Two types of conflict appear to be likely in the 21<sup>st</sup> century. The first of these is less concerned with rational, state actors and conventional military onslaughts. Instead it is about more insidious transnational operations that cut across countries; about small wars and insurgencies within states that define new borders. War is, according to this analysis, increasingly likely to be low-intensity, highly political and intra-state in nature. As Martin van Creveld, in his book *On Future War*, published in the early 1990s, argued:<sup>6</sup>

We are standing today, not at the end of history, but at a historic turning point...conventional war appears to be in the final stages of abolishing itself...this does not mean perpetual peace is on its way, much less that organised violence is coming to an end...Armies will be replaced by police-like security forces on the one hand, and bands of ruffians on the other.

At the end of the 20<sup>th</sup> century, there were 45 major wars in progress worldwide, with 35 of these occurring within states. To these figures should also be added a further 100 violent conflicts potentially capable of escalating into what might be better defined as wars.<sup>7</sup>

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<sup>5</sup> This section is based in part on Edmonds M, Mills G & D Williams, *The SANDF: Partner or Problem for NEPAD?* Johannesburg: SAIIA Report, 2003.

<sup>6</sup> Van Creveld M, *On Future War: The Most Radical Reinterpretation of Armed Conflict Since Clausewitz*. London: Brassey's, 1991, p.224.

<sup>7</sup> UK Defence Intelligence Briefing. Ashford: Kent, Spring 1995.

The causes of conflict in these areas are multifaceted, but relate to what Lord Beveridge identified as the frustration of five fundamental human needs, expressed in terms of five freedoms: freedom from want (that is, to have sufficient food); from disease (to have access to medical help and medicine); from squalor (to have a place of shelter); from ignorance (to have access to education); and from idleness (to have employment). In his *Pillars of Security*, Beveridge argued that if these conditions were met, the 'security dilemma' would be eliminated. He did not, however, make mention of the need for freedom from coercion; nor did he express his freedoms in positive terms, that is the freedom to act.<sup>8</sup>

However, scarce global resources, unchecked population growth, wide disparities in resources and income between different parts of the world (mainly between the countries of the so-called North and South) and corrupt, inefficient, distanced or weak regimes have undermined this solution to conflict. Few states have the size, natural resources, wealth or political commitment to satisfy Beveridge's minimum conditions.

In the second type, warfare takes more traditional forms. It occurs between states and involves clashes over geography, and, importantly, access to, and control over, resources. Such forms of warfare are less likely to occur among the richer states of the world, given their close economic and political ties. There would be little to gain, and much to lose. But the same does not apply to war between both middle-level and poorer states, and includes the involvement of the richer nations. While middle-power states that are neither rich nor poor have the resources to spend on conventional armed forces, they also have the opportunity to use them. Much of their attention remains focused on their neighbours, because these are most likely to threaten their territorial integrity. The willingness of developed states to become embroiled in such forms of 'geographical' conflict depends on the extent of their strategic interests (for example, whether the target country produces oil), the possible partnerships that may be formed (developed states are unlikely to consider intervention without the

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<sup>8</sup> For a wider discussion of these issues, see Edmonds M, 'Analysis on the nature of armed conflict to 2025', *Bairrigg Paper* 31. Lancaster: Centre for Defence and International Security Studies, 2002.

US), the likely duration of military intervention (the shorter, the more feasible), and the wider security threat posed (for example, the possession of weapons of mass destruction by the state under attack).

The poorer nations have for the most part neither the resources nor the opportunity to engage in inter-state wars, though there are exceptions, like the Democratic Republic of Congo (DRC). Again, the nature and extent of the involvement of the international community in settling these conflicts depends on the circumstances. Especially in the aftermath of the Rwandan genocide which took place in 1994, the prevention of ethnic massacres is likely to be a reason for military intervention. Generally, however, the involvement of external forces will be restricted to diplomacy and support for peacekeeping and peace building rather than military force.

Whether war is used as a form of conflict resolution (rather than the softer option of diplomacy) depends on a number of factors. One is the ability of the state to satisfy the basic needs of its citizens. Another is individual and group prejudices, where religion, leadership, ideology, racism and other forms of xenophobia become politically important. Other factors are the extent of the interests at stake; and the effectiveness of diplomacy or other forms of external intervention aimed at settling conflict. When a failure to satisfy fundamental human needs and discriminatory pathology combine, as they have done in many parts of Africa, then conflict is more likely to be prevalent. Arguably it is also less likely to be resolved through external military intervention, at least by forces from the developed world.

### **Understanding the nature of contemporary African conflict**

At the start of the 21<sup>st</sup> century, latent or open hostilities were affecting Angola, Burundi, Chad, Côte d'Ivoire, the DRC, Djibouti, Eritrea–Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Nigeria–Cameroon, Republic of Congo, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanzania–Zanzibar, Uganda and Zimbabwe.<sup>9</sup> More than 3.5 million of the more than 14 million refugees and asylum seekers in the world were in Africa. Of the estimated 21 million internally displaced people worldwide, more than ten million are Africans; and 120,000 minors,

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<sup>9</sup> See <http://www.state.gov/p/af/rls/fs/2001/index.cfm?docid=4004>.

out of a world-wide total of 300,000 are said to be participating in various African wars. The propensity towards war as a means of settling differences in Africa reflects, *inter alia*, weak, imperfect and mutating state formations; porous, unpatrolled and poorly-regulated borders; an absence of effective institutions; insufficient technical and human skills and capacity; and the easy availability of weapons. It also reflects Africa's inability — or lack of capability — to benefit from the advantages offered by globalisation. Also, wars have been prolonged by the use of resources, including diamonds and oil, to fund the opposing sides. Even peacekeeping has occasionally appropriated a financial dividend, as with the (at times) pernicious and 'self-helping' Economic Community of West Africa Ceasefire Monitoring Group (Ecomog) force.

The weaknesses of many African states are analogous to the failure of an immune system. Sub-Saharan Africa's insecurities have their origins in a compendium of historical, social, political and economic factors. These vary in type, combination and intensity from country to country and region to region. Problems of government legitimacy are related to weak political systems, characterised by insufficient checks and balances. A typology of regional conflicts suggests that conflict and insecurity exists where there are:

- weak, sometimes failing states;
- the presence of 'splitters' or 'aggressive aspects' (such as race, refugees, religious, political, ethnic, geographic, health, resource-based issues) within states and societies, and within regions;
- poor leadership, exacerbated by an absence of political authority;
- weak institutions of governance, exemplified by widespread corruption;
- an ill-defined, occasionally distorting and sometimes deliberately self-seeking and pernicious international involvement (or conversely, a lack of international engagement);
- the presence of greed and grievance, which drive conflicts and shape power relations;
- extraneous factors such as weather patterns, which can heighten transnational insecurities;

- close ties between political parties and the armed forces, particularly when accompanied by a failure to demobilise and reintegrate ex-combatants; and
- the presence of non-state actors, such as private security forces, involved occasionally in illegal economic practices.

In summary, Africa's wars have their origins in a complex of social, leadership, resource, personality, class, ideological, colonial, post-colonial, ethnic, territorial, religious and Cold War divisions. The end result is that in many cases, the inheritance of an already weak state has been further undermined or has collapsed, as a result of a vicious cycle originating in a shortage of skills, poor management, the abuse of leadership, and even war itself.

What about the forms of resistance — of insurgency? How have these been altered by contemporary political, economic and technological changes?

### The logic of insurgency under globalisation<sup>10</sup>

The movie *Black Hawk Down* depicts what went wrong with a Ranger-Delta Force mission aimed at capturing key aides of Somali warlord Mohammed Farah Aidid in the Bakar Market areas in Mogadishu in October 1993. This mission cost the lives of 18 US soldiers; another 100 were wounded. Its failure essentially killed off Operation Restore Hope, which had been intended to bring stability and humanitarian relief to the East African nation. The film presents an epitome of how the African guerrilla organisation is seen today — organised around tribal or clan structures; represented in urban as well as rural areas; heavily armed and operating alongside humanitarian and international organisations; and existing because of, and contributing to, the environment caused by a collapsed state.

But the African guerrilla — which represents the most likely form of violent anti-state activity — cannot be classified in this way alone. Christopher Clapham<sup>11</sup> identifies four broad groups of insurgencies:

<sup>10</sup> For an excellent discussion of this topic, see Mackinlay J, *Globalisation and Insurgency*. Oxford and London: OUP and IISS, Adelphi Paper 352, 2002.

<sup>11</sup> Clapham C (ed.), *African Guerrillas*. Oxford: James Currey, 1998, esp. pp.6–7.

those serving the aims of liberation groups, separatists, reformists (seeking radical reform of the national government) and warlords. The latter category would have to be further split into those who seek overall (national) control, those who seek only regional power, and those whose primary aim is to lay claim to sectors — or more particularly specific resources — of the economy.

The nature of modern insurgencies has, however, been altered by the emergence of the terrorism phenomenon, particularly after September 11<sup>th</sup> 2001. Although it is important to distinguish the operations of 'new' terrorists such as al-Qaeda, with its global reach, from those of insurgents, it is possible to identify a number of international trends which have had an impact on the nature of both insurgent and terrorist operations, which have consequences for the manner in which these phenomena might be addressed. Put simply, as John Mackinlay has argued, global changes have radically altered (and empowered) the activities and options facing the insurgent and greatly complicated (and weakened) the policy responses that governments have to make.

These international trends are commonly associated with globalisation, because they involve a projection of activities across frontiers and between regions. The following aspects have been influential in shaping insurgent and terrorist activities in the 21<sup>st</sup> century.

- *Improvements in transport*: These have taken a number of forms, including the proliferation of ex-Soviet aircraft capable of operating in remote areas; the widespread availability of reliable (mainly Japanese) trucks and minibuses; and the reduction in the cost of sea freight through containerisation (and the limitations this has imposed on customs checking procedures). Among the effects has been the improved ability of insurgent organisations to 'override the limitations imposed by terrain and poor technology' which previously only international corporations and state armed forces were able to do.<sup>12</sup> These developments have meant that communities have been brought into closer contact with the global economy without (or in spite of) the state's involvement, making it possible for

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<sup>12</sup> Mackinlay J, *op. cit.*, p.18.



groups to trade in portable resources including diamonds, gems, hardwoods, drugs, antiques and weapons.

- *The communications revolution and the emergence of a global culture:* The development of cheaper and more powerful digitalised communications systems and networks has had a dual effect. First, it has opened up debates that are free from governmental control and supervision within countries thus exposing state failure and corruption and increasing pressure on government. Such debate has also created cause for government opposition. The communications revolution has also lowered the costs of starting up and globalising even small businesses, while the Internet has created a potential 'highway of evasion' for every type of illegal activity, from prostitution to trade in illegal commodities to tax evasion.<sup>13</sup> The passage of goods and capital across borders is also arguably accompanied by the dissemination of a new global consumer culture, what has been described, *inter alia*, as a 'McWorld' ethos. This, combined with the spread of communication and an awareness of what the world outside has to offer, has disturbed traditional ruling structures and values, providing alternative role models, especially for young people facing the hardships of unemployment or subsistence living.<sup>14</sup> Facilitated through the actions and technology of a global media, it is outsiders rather than local politicians and leaders who enjoy an elevated status in the eyes of the populace. As Mackinlay notes, 'Popular, democratically-elected leaders could cope with competition, but weak and unpopular governments had limited capacity to deal with a free media operating intrusively from another region'.<sup>15</sup>
- *The emergence of weak and collapsing states:* By the 1990s, one-third of sub-Saharan African states were reportedly unable to exercise control and authority over their rural regions, or extend control to their borders.<sup>16</sup> Many African states are small and comparatively

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<sup>13</sup> *Ibid.*, p.22.

<sup>14</sup> This is most notable in the emergence of the counter-cultures in West Africa modelled on the work of American rap artists such as Tupac Shakur.

<sup>15</sup> *Ibid.*, p.27.

<sup>16</sup> Forrest J, 'State inversion and non-state politics', in Villalon L & P Huxtable (eds), *The African State at a Critical Juncture*. Boulder: Lynne Rienner, 1998, p.45 cited in Mackinlay J, *ibid.*, p.109.

underpopulated: the continent covers 18% of the world's surface area, but is home to just 11% of its population. African countries frequently have low state capacity. Many cannot extend governmental authority over the entire territory nominally under their control, and possess only low, even rudimentary, levels of technological sophistication. Their boundaries, as Jeffrey Herbst reminds us, have not necessarily been determined in terms of how far these states can extend power. Instead they are a reflection of demarcations imposed by colonial powers which have been retained by African political leaders as key to state consolidation.<sup>17</sup>

The impact of the collapse of state functions is manifested in a number of inter-related ways. These include the alienation of sectors of society and the emergence of an alternative, anarchic counter culture; the related inability to provide basic security functions and extend other state functions to the majority of the country's citizens; and its vulnerability to external influences, both state and non-state. State weakness has been exacerbated by the end of the Cold War, which not only left client regimes unsupported but also released tensions that had previously been repressed within societies, as state repression declined but governments had limited means to satisfy the expectations of their people.

- *The spread of weaponry:* In Africa after the Cold War, the existence of large numbers of weapons; the continued involvement of the former colonial powers (notably France) in Africa; the creation of a new trend of resource wars (mostly over diamonds and oil); the emergence of patterns of unequal distribution of wealth between urban and rural areas; and the impact of new factors such as Aids and disputed access to water have led to instability both within and between states. Wars that had been sustained by external actors during the Cold War continued, partly because they could not simply be jettisoned, particularly when no serious attempts at conflict resolution were made. Belligerents were not reconciled, and continued to fight because resources were available to fund the fighting, and weapons could be easily obtained. Cold War surpluses meant arms were cheap. The supply of arms had been privatised,

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<sup>17</sup> See Herbst J, *States and Power in Africa*. Princeton: Princeton University Press, 2000, especially pp.252-3.

and governments were unable to control existing stocks. Mercenary contacts — guns for hire, often in exchange often for diamond and oil leases — also contributed to the continuation of war.

- *Deregulation of the global economy:* The political context of Africa's economies is a critical determinant both of their deterioration and, conversely, of their recovery. In many of Africa's states, politics could be described as 'clientelistic'. This condition is related to economic scarcity and the specific African environment of social (in)stability and stratification. As Patrick Chabal contends,<sup>18</sup> while the problems behind African conflicts are complex, at their heart rests the nature of the patrimonial system, according to which African politics functions and on which African leaders depend. He argues that such a patrimonial system is inimical to long-term economic growth and development, given its diversion of resources into non-productive sectors. Most African economies have collapsed since the 1970s. This factor, combined with the relationship between the state and ruling elites on the one hand, and the citizens of those states on the other, has led to increasing repression and violence, notwithstanding the emergence of some democratic systems.

It would appear that the ability of states to provide for their citizens has not improved with the spread of globalisation (in the form of increased capital and trade flows and debt reduction). In fact, on average, African states have become increasingly marginalised in the world economy. Their share of global trade and capital fell during the 1990s. In the 1960s, Africa received around 30% of investment made in developing countries; today it is under 10%. Paradoxically, the imposition of conditionalities might well have reduced the ability of states to provide for their citizens, as they have weakened the central government.

- *The link with organised crime:* Owing to the change in relationships brought about by the end of the Cold War, a number of guerrilla movements and regimes found themselves without external support. Some groups, state and non-state, turned to smuggling and other criminal activities to provide funding. In doing so they took

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<sup>18</sup> These comments were made at a conference on Africa organised by the Japan Institute of International Affairs (JIIA), Tokyo, February 2001.

advantage of the opportunities offered by improved communications, transport and people flows.

- *Migration*: This has taken two forms: first, an increase in urbanisation; and second, a flow of (usually skilled) migrants seeking greener pastures outside their own countries. In the case of the former, urban life can raise expectations with little obvious means of fulfilment. In the case of the latter, an influx of skilled workers can both weaken a country's economic capacity internally and create an energetic, motivated group of 'foreigners' in opposition to the state.

### **The logic of terrorism in Africa<sup>19</sup>**

Since September 11<sup>th</sup>, terrorism has expanded into a form of a global insurgency. What are the core characteristics of this category of violence? Terrorism today presents, in the words of the UN, a global threat to democracy, the rule of law, human rights and stability.<sup>20</sup> Globalisation has opened up opportunities for international terrorists as well as insurgents, which need to be combated at the domestic, regional and international levels.

Africa is by no means immune to terrorism. It is particularly vulnerable, given its combination of weak and failing states, porous borders, poverty, political frustration and repression. As former US Assistant Secretary of State Susan Rice said in testimony to the US Congress in November 2001, 'Africa is unfortunately the world's soft underbelly for global terrorism'.<sup>21</sup>

The term 'terrorism' is generally taken to mean 'premeditated, politically-motivated violence perpetrated against non-combatant

<sup>19</sup> For a detailed analysis of the nature of modern terrorist groups, see 'Confronting Terrorism', *Current History*, 101, 569, December 2002.

<sup>20</sup> See, for example, United Nations, *International Instruments Related to the Prevention and Suppression of Terrorism*. New York: UN, 2002.

<sup>21</sup> See her testimony to the Hearing on 'Africa and the war on global terrorism' before the Subcommittee on Africa of the Committee on International Relations House of Representatives, 107<sup>th</sup> Congress, 15 November 2001, Serial No. 107-46. This is available on [http://www.house.gov/international\\_relations/107/76191.pdf](http://www.house.gov/international_relations/107/76191.pdf).

targets by sub-national groups or clandestine agents, usually intended to influence an audience'.<sup>22</sup> However, it is debatable whether terrorism is more than just a tool of the insurgent, given that it cannot be a viable end in itself. But this argument presupposes the existence of viable choices. In the absence of support from the majority of a population, terrorism as such can become an end — the aim to destabilise society at large.

Is there a particular African dimension to this?

African states experienced one wave of political liberation during the transition from colonialism to independence. Yet given that Africans are today on average poorer than they were 30 years ago, this has in practice simply meant exchanging the colonial elite for an African one. Political liberation brought new freedoms and a measure of social justice, but apparently little in the way of economic justice or equality.

Algeria offers an illustration of the challenge facing liberation movements such as the *Front de Libération Nationale* (FLN) as they mature and have to adapt to a normalising, competitive political context. Before Algerian independence in 1962, national unity was derived from a combination of the struggle against the French, the central role of the FLN as an umbrella movement, and Islam. This inevitably unwound over time, particularly in the face of economic hardship. The monopoly of power enjoyed by the FLN created problems which exploded violently in the late 1980s. The FLN lost power in both the aborted election of 1991 and the 1997 parliamentary elections. Similar challenges face liberation movements elsewhere on the continent, notably in Southern Africa when they are required to transform themselves from institutions to political parties.

So it might be expected that, unless African states can deal proactively with these pressures for change, new revolutions might be expected. But what form might these attempts take, and around which themes, ideologies and prejudices might they be organised? It is not surprising that Islam offers an alternative. Islamic groups have been well-funded by Gulf states (notably Saudi Arabia) since the 1973 oil price increase.

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<sup>22</sup> This definition is taken from Title 22 of the US Code, Section 2656f(d), and is employed in the US Department of State's annual report, *Patterns of Global Terrorism*.

They are motivated by such factors as the incompetence, corruption and lack of democracy in African states. Another inflammatory factor is the apparently unchecked activities of Israel in the Middle East and the export of these troubles to African debates. As a result, the continent has been, in Rice's words, a 'veritable incubator' for terrorism and its foot-soldiers. The weak nature of the African state and the corruptibility of the African political class have, over time, made it a soft target for terrorist groups. This is complicated by an environment in which the liberation wars have left a residue of ambiguity about the distinction between 'terrorist' and 'freedom fighter', and a latent hostility towards the West over colonial and post-colonial policies.

Considering that more than one-third of Africa's 700 million people are Muslim, and given the links between Islamic groups and terrorism on the continent, African states are at risk. Particular causes for concern are the establishment of *Shar'ia* law in 12 of Nigeria's northern states and the alleged existence of al-Qaeda cells in Cape Town.<sup>23</sup> The US has identified Sudan's self-proclaimed Islamic government as a state sponsor of terrorism, citing among other reasons Sudan's having provided a home to Osama bin-Laden between 1991-96. Fears that African states were supporting terrorists were heightened by the August 1998 bombings of the US embassies in Kenya and Tanzania, which cost more than 200 lives, and the bomb and missile attacks on Israeli tourists in Kenya in late 2002. As Rice has noted, 'the fact that some of Islam's most radical and anti-American adherents are increasingly active from South Africa to Sudan, from Nigeria to Algeria should be of great concern to us'.<sup>24</sup>

Paradoxically, Bush administration officials have asserted that Africa, with such a large Muslim population, could play a 'pivotal role' in solidifying support for the war against terror. In October 2001, the national security adviser, Condoleezza Rice, urged 'African nations,

<sup>23</sup> See the testimony by Morrison SJ, 'Africa and the war on global terrorism', *ibid.* Morrison contends that 'al-Qaeda cells exist in Cape Town and Durban. Al-Qaeda has been affiliated with two Cape Town movements, People Against Gangsterism and Drugs (PAGAD) and its associate, Qibla ... The South African government has been too ill-informed, and ill-equipped, to bring effective controls upon radical Islam within its borders'.

<sup>24</sup> 'Africa and the War on Global Terrorism', *ibid.*

particularly with large Muslim populations, to speak out at every opportunity to make clear that this is not a war of civilisations, that this is a war of civilisation against those who would be uncivilised in their approach to us'.<sup>25</sup>

A number of critical observations can be made about terrorism and its current manifestations. These apply especially to the proponents of so-called 'new terrorism' such as al-Qaeda.

- *Organisation*: Terrorist groupings generally have cell-like structures which are difficult to penetrate and destroy.
- *Financing*: Terrorist groups are intimately tied in with drug and other organised crime networks, including those involved in credit card fraud. They are also closely allied to Islamic non-governmental organisations (NGOs), which provide a comparatively legitimate and wide-reaching means of generating support. According to Central Intelligence Agency (CIA) estimates, one-fifth of all humanitarian NGOs operating internationally are Islamic, and command a total budget of more than \$1 billion annually. There is thus a nexus between oil, conflict and terrorism in three respects. First, petro-states in the Middle East and Gulf directly or indirectly (through donations to charities) support terror groups financially. Second, the nature of many of these regimes, which are viewed as largely undemocratic and extravagant, generates sentiment in favour of more ascetic alternatives such as al-Qaeda. Oil regimes have a history of profligate spending on bureaucratic instruments, including the army and internal security apparatus, 'usually at the expense of representative institutions and individual liberties'.<sup>26</sup> Third, given the dependency of the US economy on external sources of oil and thus its support for a number of authoritarian regimes, Washington has placed the Gulf at the centre of its strategic concerns. In so doing it has placed itself in the sights of terror groups.

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<sup>25</sup> Remarks delivered during the second African Growth and Opportunity Act (AGOA) Economic Forum in Washington, 30 October 2002, cited in Range T, 'Africa and the war on terrorism', *CRS Report for Congress*. Washington DC: Congressional Research Service, 17 January 2002.

<sup>26</sup> Klare MT, 'The deadly nexus: Oil, terrorism, and America's national security', *Current History*, 101, 659, December 2002, p.419.

To put the financial aspect of terrorist operations into perspective, attacks similar to those of September 11<sup>th</sup> are estimated to cost around \$200,000 each.<sup>27</sup> As noted above, the advances made in communication technology have made 'the three Fs' — finding, freezing and forfeiting — of criminal income much more difficult for law enforcers.

- *Networking*: The organisation, objectives and recruitment of terrorist movements have expanded from a local to a global scale. (For example the September 11<sup>th</sup> hijackers were of multinational origin.) Al-Qaeda is today reportedly supported by social groups in more than 60 countries. It remains concentrated around the Islamic faith, though the origins of the operatives and supporters vary in terms of country, race, professional background and culture. Al-Qaeda is highly dependent on media opportunities, such as al-Jazeera, even after September 11<sup>th</sup>, and on media coverage of its terrorist activities. Above all, it is global in its reach, which extends from Sudan to Yemen, and Indonesia to New York City. In 1999, 12 of 30 groups deemed by the US State Department to be terrorist had their own websites. By December 2002, a majority of the 33 groups on the list had websites.<sup>28</sup>
- *Seduction*: Support for terrorist movements, whether they be al-Qaeda, the Red Brigade or the Bader-Meinhof gang, is linked to their appeal to the disaffected, particularly when they have apparently visionary leadership. This has particular relevance to the increasing number of Saudi Arabians who are anti-royalist and to the largely undemocratic and backward nature (at least in democratic terms) of the 22 Arab regimes.

What might the new wars look like? Will Algeria's recent past represent the future for many African countries? How might states address the current environment to prevent destabilisation? And what are the implications of this new environment for armed forces?

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<sup>27</sup> Cited in Mackinlay J, *op. cit.*, pp.88–89.

<sup>28</sup> See Conway M, 'What is cyberterrorism?', *Current History*, 101, 659, December 2002, p.436.



## Assessing the implications

The globalisation of insurgency and terrorism carries a number of implications.

- *Revising sovereignty*: The impact of globalisation, the collapse of state functions in certain areas (including, but not only present in Africa), the war on terror, the Security Council-led arms inspections in Iraq and the threat of US-led military action in the latter have called into question basic concepts and expectations concerning sovereign responsibility and the related respect for sovereignty. South Africa's foreign minister, for example, has resisted the idea of military intervention in Iraq by the US and its allies on the grounds that any action should be taken as the result of a collective decision of the UN. She noted that, 'If the UN decided to go to war, it would be to protect or secure the collective security of all its members. South Africa did also not agree with an enforced regime change, as it believed that the citizens should decide who should govern them.'<sup>29</sup>

Yet a revision of the doctrine that external interference in the affairs of a sovereign state should not be permitted is not new. Iraq, after all, as Rosemary Hollis reminds us,<sup>30</sup> was essentially an artificial, imperial construct under an imported monarchy 'in the aftermath of the First World War and the collapse of the Ottoman empire'. In addition, Iraq's ability to survive its eight-year war with Iran owed much to the support of the international community, particularly France, Russia, the US and Britain. As she notes, 'Iraq has already lost much of its sovereign integrity as a result of years of war, sanctions and other forms of interventions'.

A similar commentary could be made on many African states, given not only the disintegration of state capacity, but the degree to which they have already been penetrated by external state and non-state actors (ranging from peacekeeping forces and humanitarian agencies to the representatives of multinational companies). Indeed, President Thabo Mbeki would appear to have been making the

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<sup>29</sup> See the Parliamentary Monitoring Group, 12 February 2003 on <http://www.pmg.org.za>.

<sup>30</sup> See 'Getting out of the Iraq trap', *International Affairs*, 79, 1, January 2003, p.23 and p.27.

opposite point to his foreign minister's when he noted earlier that the political and economic integration of Africa would raise the question of the sovereignty of states:<sup>31</sup>

[B]ecause we share a common destiny and need all of us to succeed...national sovereignty should be impacted on by the things that we do...[and it is]...in the process of implementing the integration of the African continent that this matter of boundaries will arise.

Sovereignty may no longer afford protection to abusive governments and leaders. Instead the debate has shifted to the means to ensure compliance with international norms and the protection of citizens in the face of repressive leadership.

Indeed, contemporary events raise the question of new forms of intervention, and establish a discourse on the role of sanctions, conditionalities and even direct military and humanitarian action. The rise of al-Qaeda and the acts associated with it have led to a dramatic increase in pressure on those states apparently offering refuge status or even support for Bin-Laden's organisation. In the case of Afghanistan, it has led to outright military intervention. Much greater co-operation among armed forces, customs officials and intelligence agencies has resulted, both within and between states.

- *Armed forces*: It has become increasingly likely that armed forces will be involved in longer-term, out-of-area operations, often in a coercive role relative to non-state actors in particular. This would mainly apply to those states which take on a leadership role, whether globally or regionally. David Hackworth has noted:<sup>32</sup> '[Y]ou must never go to war unless you clearly intend to win. War is like a marriage. It's unconditional.' However, combating asymmetric warfare and amorphous, non-state international organisations such as al-Qaeda requires intelligence capacity, wide support from allies, and, above all, sustained long-term action. This has implications for military spending and its focus. It demands nurturing and supporting allies beyond the claims of traditional alliances, increasing the human intelligence ('humint') capacity of the armed

<sup>31</sup> 'Africa could redraw map — Mbeki', *The Citizen*, 30 May 2002.

<sup>32</sup> Hackworth Colonel DH (retd.), *Hazardous Duty*. New York: Post Road Press, 1996, p.86.

forces, and probably strengthening further the expeditionary force capacity of the West. It also poses military questions last debated during the 1980s, as to how to 'win' wars against terrorism; and how to strike the right balance between a 'hard' military aspect (to which the old counter-insurgency truism ('if you are in a fair fight, you have not planned properly' applies even more than it did when it was first coined) and persuasion — 'winning hearts and minds'. There is also a need to attract, train and retain high-calibre, skilled personnel.

As for the impact of technology, the Revolution in Military Affairs (RMA) involves more than just the esoterics of the US developments in information technology, genomics, nano-technology and so on. The next generation of information and sensor technology will have a major impact on both inter-state and intra-state conflict. Digitisation should mean that in the future not only will commanders have a better view of the enemy and their own forces, but they should be able to link this information with their attack systems, enabling them to link air, land and sea assets to use their fire-power with greater precision.<sup>33</sup> Topography and geography become less important, though it will probably mean that the enemy will seek to reverse such informational advantages by moving its operations to the more complex terrain provided by mountain regions or urban centres. C<sup>4</sup>ISTAR technologies will also help to simplify command, make it more flexible and reduce the logistical baggage. However, the need for boldness and decisiveness of leadership has not changed.

- *The role and operations of government:* Many transnational issues cannot be tackled by either the military or by individual states acting alone. Combined and/or multilateral-led operations are likely to be the norm in the future. There is thus a need to integrate the response of military forces, not just between nations but in terms of joint operations between national sectors — army, navy and air force. There is also a need to ensure that any response to security challenges of the type identified above involves a variety of government departments. Peace support operations, for example, have policing, development, foreign

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<sup>33</sup> See Grant Brigadier CS, 'The 2025 battlefield', *Bairrigg Paper 31*. Lancaster: Centre for Defence and International Security Studies, 2002, pp.22–28.

policy and defence dimensions. In the UK, peace support, especially peace building operations, involve the Foreign and Commonwealth Office, the Department of Defence and the Department for International Development (DFID) working together, under a newly-formed National Security Council. This demands a clear-cut decisionmaking process and an international relations strategy. The South African government is trying to achieve just such an integration with the development of its 'cluster' approach to government.

- *A changing legal, moral and media environment:* While constraints of morality and legality might not encumber terrorist organisations in their search for asymmetric advantage in the 21<sup>st</sup> century battlefield, they do apply to commanders of Western-linked coalitions. Such issues are likely to alter and arguably limit the operational options available. For example, the Ottawa Convention on Land Mines will reduce the choices available to its nation-state adherents, even if they are not applied by non-state actors. The war on terror also raises questions about the nature of the 'open society' we live in today, and whether this will be constrained because of the increased security and the consequent limitation of personal freedoms that followed the events of September 11th.
- *The need for new doctrine:* In the period immediately after the end of the Cold War, military forces engaged in peacekeeping in Cambodia, Angola and elsewhere acted as even-handed keepers of the peace or as providers of humanitarian relief. However, it became apparent — particularly after Somalia — that either there was no peace to keep and/or that the central government was too weak to perform its functions. An important doctrinal change emerged, in terms of which the use of a 'more muscular approach' was adopted, to 'restore the monopoly of violence'.<sup>34</sup> This increasingly involved regional forces, such as Ecomog in West Africa.

Today, however, a new doctrine is necessary to deal with the specific challenges posed by the combination of globalisation, global terrorism, weak or dysfunctional states and insurgency. This has to take into account the differences between insurgent forces and their *modi operandi*. It requires, also, an understanding of the distinction

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<sup>34</sup> Mackinlay J, *op. cit.*, p.10.

between peacekeeping and the conflict environment which might require altogether different 'forces for courses'. This would have implications for doctrine, the quantity and quality of forces, and logistics. As Richard Connaughton observes, it requires a recognition of the limitations of traditional peacekeeping and the posing and answering of the difficult but key question, not whether a mission is justified, but whether it can succeed.<sup>35</sup> As Mackinlay observes, 'The globalisation of insurgency leads inexorably to the globalisation of counter-insurgency'.<sup>36</sup> The doctrinal response has to be 'internationally recognised, interdisciplinary in its approach, and multi-layered, addressing the local situation as well as related activities at sub-regional and international level[s]'.

- *The exercise of soft power*: Finally, fighting terrorism will, by definition, cost billions of dollars and take a long time. As Joseph Nye has argued, 'To win the fight against terrorism, the United States has to learn better to combine its soft and hard power'.<sup>37</sup> As he notes, 'the current war on terrorism is not a clash of civilisations, it is a civil war inside Islamic civilisation between moderates and extremists'. To win this war, the West needs to attract and support moderates. Its ability to do so will depend on broad international support for its cause, its approach to key areas such as Afghanistan and Iraq after the end of military hostilities, and 'the development of policies that align the United States with the aspirations of ordinary citizens outside the immediate zone of conflict'.

Put differently, the conditions that breed terrorism cannot be dealt with by the battle that was Afghanistan or might be Iraq. If despair lies behind the terrorism and the growth of radical Islam, meeting that challenge demands giving people hope through improved education and justice, and better conditions of life and work. It also means addressing the catalysts that could bring about regional conflagration, notably the Iraq–Palestine impasse.

This task places responsibilities on international partners and African nations alike. In the case of the former the contributions

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<sup>35</sup> See Connaughton R, *Military Intervention and Peacekeeping: The Reality*. Aldershot: Ashgate, 2001, esp. pp.263–4.

<sup>36</sup> *Ibid.*, p.100.

<sup>37</sup> Nye JS, 'Bombs can't do it all', *International Herald Tribune*, 14 February 2003.

made should range from improved strategies of public diplomacy; an enlarged commitment to fighting poverty-related issues such as HIV/Aids; a reaching out to Islamic leaders; a cracking down on smuggling; and an improvement in conditions of corporate governance by Western firms operating in Africa. Above all they should include detailed strategies of engagement with those states, including Sudan, Liberia and Somalia, that pose an immediate risk. For African states in particular, countering the conditions that give rise to terrorism demands the pursuit of liberal economic and political reforms.

### **Conclusion: A new template for engagement?**

It is likely that war between states will in the future be fought by medium powers, using conventional weapons, to resolve latent or current disputes over sovereignty. Conflicts are also possible in cases where vital strategic resources, such as oil or water, are threatened. Rich nations are unlikely to enter into conflict with one another, but they may intervene elsewhere when their interests are threatened.

At a lower level, non-state actors — including terrorist groups, bandits, members of organised crime cartels and guerrilla organisations — will continue to use violence, especially as the power and influence of the traditional state diminishes. War will be more likely where there is a predicament for which there is no negotiable compromise or room for voluntary agreement. While there is always more scope for agreement of this sort between states, given the international institutional mechanisms available, it is much more difficult between non-state actors. Their agendas are varied, often difficult to identify, and often premised on fundamental beliefs that allow no room for manoeuvre.

Wars will also probably be fought with conventional weaponry. The richer states will rely more heavily on precision weaponry and information warfare as a means of reducing casualties. To counter the advantage enjoyed by wealthy countries, some poorer states and non-state actors will continue to seek WMD capacity. Overall, however, while non-state organisations may intensify violence against state functions, institutions and actors on the premise that states are increasingly interdependent and governments operate on the

principle of enlightened self-interest, war as an instrument of (state) policy becomes a less and less attractive option.

The roles of state and non-state actors raise other questions. These include debating whether these two different categories should be addressed within a new, interventionist discourse. Intervention to check terrorist threats is likely to operate at two levels at present. At one level, dealing with the security threat in the short term requires a military response (defence and the use of force) on one hand, and the creation of stability in the host state through the promotion of democracy on the other. In the longer term, it requires the establishment of a different value system in that country through the creation of state structures that serve the population, the reduction of poverty, and improved, enlightened education.

Dealing with contemporary security problems demands simultaneous engagement at the domestic, regional and global levels. It also emphasises the need for other options, including how to modernise the state in Africa (as elsewhere, including the Arab world) and divorce it from 'the forms of patrimonialism which have sustained it as an organisation of power and which have played so crucial a part in the calculations and strategies of diverse elites'.<sup>38</sup> It has to take previous policy attempts into consideration rather than reject them outright. This includes assessing the reasons for the failure of the first Bush administration to create a new collective security regime in the Gulf, control WMD, end the Arab-Israeli conflict, and foster economic freedom and prosperity. Addressing today's security problems also means understanding the relationship between current international regimes and contemporary problems (for example, seeing Saddam Hussein's political position as a product of external assistance), and taking responsibility on this basis rather than leaving it to others.

In summary, the contemporary conflict environment calls for three types of remedy. These are 're-jigging' militaries for the task; removing pathologies of leadership; and creating new or strengthening existing state structures. It is on the question of removing or altering

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<sup>38</sup> Tripp C, 'States, elites and the management of change', in Hakimian H & Z Moshaver (eds.), *The state and global change: The political economy of transition in the Middle East and North Africa*. London: Curzon, 2001, p.222.

pathologies within a new, interventionist discourse that most of the novel and detailed work on the use of new measures to bring about reform and stability should be focused.



# **The Global Environment and the Use of Sanctions: Current International Thinking and UN Practice**

Mohamed Ezzeldine Abdel-Moneim<sup>1</sup>

## **Introduction**

The purpose of this paper is to identify some of the major problems related to the application of UN sanctions, and to assess how some countries overcome these problems. We also consider the impact of sanctions on our globalised environment.

Sanctions are nothing new in international relations, the organisation of which has always entailed the use of boycotts, enforcement, embargoes and reprisals. However, the advent of global institutions like the League of Nations and later the UN introduced the concept of collective sanctions. The 1990s witnessed an unprecedented application of UN sanctions, some of them still in force, which led to an abundance of literature on the subject.<sup>2</sup> In this paper we need to consider the dilemma of how to create a safer global environment by maintaining international peace and security, while simultaneously striving to alleviate any human suffering that might be caused by sanctions.

## **The influence of the political on the global environment**

The term 'global environment' is so broad that it encompasses everything taking place in international relations. Opinions on the

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<sup>2</sup> Cortright D & GA Lopez (eds), *The Sanctions Decade: Assessing UN Strategies in the 1990s*, Boulder: Lynne Rienner, 2000; Doxey M, *International Sanctions in Contemporary Perspective*, 2<sup>nd</sup> edition, New York: St Martin's Press, 1996; and Klein E, 'Sanctions by International Organisations and Economic Communities', *Archiv des Völkerrechts* (AVR) 30, 1992, pp.101–113.

condition of our global environment differ according to the standpoint of each nation. The debate over the pros and cons of globalisation is a clear example. Nevertheless, there are some points on which we should agree. One is that we live with the problem of sanctions. Almost every nation seems liable to punishment, whether rightly or wrongly. New standards of conduct for governments are introduced by international bodies, and more conditionalities are imposed. These may increase the likelihood that countries that do not (or cannot) conform may expect sanctions, adding to the human suffering of their populations.

A humanitarian approach to the problem of sanctions should not ignore the political realities of the world balance of power. This is particularly evident in the sanctions applied by the UN. Any member, with the exception of the five permanent members of the Security Council, could be subject to the application of sanctions at any moment. The Charter of the UN, it is true, does not provide for any such exception, but the veto powers of each permanent member effectively ensure such immunity. No resolution on sanctions and any other non-procedural resolution can be adopted by the Security Council if a permanent member votes against it, even if it is supported by the remaining four. The current regime of UN sanctions can be modified only if the existing balance of power is altered.

### **UN sanctions**

The current regime of world sanctions is not confined to the UN. For example, sanctions are applied in trade disputes between members of the World Trade Organisation (WTO), with far-reaching implications for the international trading system. They can also be applied unilaterally by a state without the consent of the UN, and independent of any regional organisation. Current examples are the Helms-Burton and D'Amato Acts adopted by the Congress of the US and applied to Cuba, Libya and Iran. These two forms of sanctions fall outside the scope of this paper, which focuses on UN sanctions, because these bans have global implications.

Unless the Security Council adopts a recommendation to impose sanctions on a certain state, a resolution prescribing sanctions to be

applied to one single state should be passed by all UN members in the General Assembly. Current UN practice and the general provisions in Chapter VII of the UN Charter indicate the mandatory character of sanctions. Humanitarian exceptions can be made only by the Security Council, which alone has the power to determine what is to be done where other states have been affected by the application of sanctions.

The UN, unlike the League of Nations, has applied sanctions extensively. The League applied sanctions only once in two decades, on Italy for its invasion of Ethiopia.<sup>3</sup> These sanctions, which lasted hardly a year, applied to imports, although oil was not banned. Therefore they were not comprehensive sanctions. Again, the enforcement of these controls by members of the League of Nations was not mandatory: compliance was left to the discretion of member states.

The UN, it is interesting to note, did not apply sanctions in the 21 years following its creation in 1945. The first sanctions resolution by the UN was adopted in 1966 with regard to Rhodesia. Since then, UN sanctions have been applied to 16 countries: Southern Rhodesia,<sup>4</sup> South Africa,<sup>5</sup> Iraq,<sup>6</sup> the former Socialist Republic of Yugoslavia, the Federal Republic of Yugoslavia,<sup>7</sup> Somalia,<sup>8</sup> Libya,<sup>9</sup> Liberia,<sup>10</sup> Haiti,<sup>11</sup>

<sup>3</sup> Walters FP, *A History of the League of Nations*, ii. New York: Oxford University Press, 1952, pp.623-91.

<sup>4</sup> SC.Res.232, 1966; SC.Res.253, 1968; SC.Res.460, 1979.

<sup>5</sup> SC.Res.418, 1977; SC.Res. 421,(1977; SC.Res.919, 1994.

<sup>6</sup> Most immediate resolutions on Iraq sanction are: SC.Res.661, 1990; SC.Res.687, 1991; SC.Res.712, 1991; SC.Res.986, 1995; SC.Res.1051, 1996; SC.Res.1111, 1997; SC.Res.1115, 1997; SC.Res.1129, 1997; SC.Res.1134, 1997; SC.Res.1137, 1997; SC.Res.1143, 1997; SC.Res.1153, 1998; SC.Res.1158, 1998; SC.Res.1175, 1998; SC.Res.1194, 1998; SC.Res.1210, 1998; SC.Res.1242, 1999; SC.Res.1166, 1999; SC.Res.1281, 1999; SC.Res.1302, 2000; SC.Res.1409, 2002; SC.Res.1441, 2002; SC.Res.1472, 2002.

<sup>7</sup> SC.Res.713, 1991; SC.Res.724, 1991; SC.Res.757, 1992; SC.Res.820, 1993; SC.Res.942, 1994; SC.Res.943, 1994; SC.Res.1021, 1993; SC.Res.1022, 1995; SC.Res.1160, 1998; SC.Res.1199, 1998; SC.Res.1203, 1998; SC.Res.1244, 1999; SC.Res.1367, 2001.

<sup>8</sup> SC.Res.733, 1992; SC.Res.1407, 2002.

<sup>9</sup> SC.Res.748, 1993; SC.Res.883, 1993; SC.Res.1193, 1998.

<sup>10</sup> SC.Res.788, 1992; SC.Res.985, 1995; SC.Res.1343, 2001.

<sup>11</sup> SC.Res.841, 1993; SC.Res.861, 1993; SC.Res.917, 1994; SC.Res.944, 1994.

Angola,<sup>12</sup> Rwanda,<sup>13</sup> Sudan,<sup>14</sup> Sierra Leone,<sup>15</sup> Afghanistan,<sup>16</sup> Ethiopia and Eritrea.<sup>17</sup>

The duration of the sanctions varied from one case to another. South Africa heads the list, with about 17 years of sanctions (1977–94). Rhodesia and Iraq were subject to UN sanctions for about 13 years each, the former from 1966–79. UN sanctions have been applied to Iraq since 1990. UN sanctions have been applied to Somalia and Liberia for 11 years so far; and to Angola for nine years (1993–2002). In the case of Libya, UN sanctions were applied for seven years from 1992, and suspended in 1999. For Sudan and Sierra Leone, UN sanctions were applied for five years each, Sudan from 1996 until terminated in 2001, and Sierra Leone from 1997 onwards. In the case of Yugoslavia, UN sanctions were applied for four years (1991–95), and later re-imposed for about three years (1998–2001). They were applied in Afghanistan, starting in 1999. Three years later they were partially lifted, with some sanctions still applicable to the Taliban. In the case of Haiti, UN sanctions were applied for less than two years from 1993, and enforced on Ethiopia–Eritrea for about a year. From Africa to Europe, from Asia and the Middle East to Latin America, the cumulative number of years during which UN sanctions have been applied amounts to over 100. That represents a century of UN sanctions.

The ambit of UN sanctions varied from one case to another. The UN introduced comprehensive sanctions against Iraq (1990–96) and the Federal Republic of Yugoslavia for a limited duration. In the case of Iraq, an exception to the application of comprehensive sanctions, the famous ‘oil for food’ programme, was introduced after 1996. This operated within strictly defined limits that were modified every few months. Other UN sanctions included restriction of airline facilities,

<sup>12</sup> SC.Res.864, 1993; SC.Res.1127, 1997; SC.Res.1130, 1997; SC.Res.1135, 1997; SC.Res.1149, 1998; SC.Res.1157, 1998; SC.Res.1164, 1998; SC.Res.1173, 1998; SC.Res.1176, 1998; SC.Res.1202, 1998; SC.Res.1221, 1999; SC.Res.1229, 1999; SC.Res.1237, 1999; SC.Res.1295, 2000; SC.Res.1412, 2002; SC.Res.1439, 2002; SC.Res.1448, 2002;

<sup>13</sup> SC.Res.1918, 1994; SC.Res.997, 1995; SC.Res.1005, 1995; SC.Res.101, 1995.

<sup>14</sup> SC.Res.1054, 1996; DC.Res.1070, 1996; SC.Res.1372, 2001.

<sup>15</sup> SC.Res.1132, 1997; SC.Res.1156, 1998; SC.Res.1171, 1998; SC.Res.1306, 2000.

<sup>16</sup> SC.Res.1267, 1999; SC.Res.1333, 2000; SC.Res.1363, 2001; SC.Res.1388, 2002.

<sup>17</sup> SC.Res.1298, 2000.

diplomatic missions and financial services, and embargoes on the sale of arms, oil and diamonds. Arms embargoes are the common denominator in UN sanctions, since resolutions to enforce such bans are usually taken in cases of armed conflict, whether internal or not.

Not all sanctions are imposed on the government of a state. Some are applied to rebel groups. A recent tendency is to abandon the concept of comprehensive sanctions in favour of selective sanctions directed towards parts of the population of certain nations. This has applied to almost all UN sanctions since the late 1990s, with the possible exception of Iraq.

The UN Security Council has adopted 143 resolutions on sanctions and related matters since 1966. Sixty-six of these relate to Iraq, and all remain in force at the time of writing. Angola ranks second, with 21 resolutions. Yugoslavia was the subject of 15; Afghanistan of seven; Sierra Leone of six, Haiti of five; Libya of four (the last of them suspending sanctions); Rwanda of four; and Southern Rhodesia, South Africa, Somalia, Liberia and Sudan of three each. In the case of Ethiopia and Eritrea, a single resolution was adopted by the Security Council.

The total number of Security Council resolutions imposing sanctions, though representing only a small fraction of the overall number of resolutions passed on all issues since 1966, remains significant. Resolutions under Chapter VII of the UN Charter require intensive diplomatic effort in both drafting and adoption, in cases where the exercise of the veto by any of the five permanent members needs to be avoided. A sanctions resolution also entails the establishment of committees and mechanisms necessary for monitoring and observing compliance.

World opinion, led by the media, has become particularly sensitive to UN sanctions resolutions, especially as regards Iraq. The number of Security Council resolutions applying UN sanctions is considerably less in the 21<sup>st</sup> century than was the case during the 1990s, which deserved to be called 'the sanctions decade'. Fifteen UN sanctions resolutions were imposed during that time, as compared with five since then. Security Council sanctions resolutions currently in force are

about half of the total number of such resolutions current during the 1990s.

Because the conduct of the UN in applying sanctions varied from one case to another, no uniform pattern for all cases can be identified. Measures prescribed by Security Council resolutions were applied with variable success. Also, the Security Council's handling of a case varied from one phase to another. In some instances, the adoption of a UN resolution on sanctions was one thing, but its application was another. The UN was accused of double standards and the uneven application of sanctions. Another criticism concerned whether the limited resources available to the UN enabled it to apply its sanctions effectively.

In all cases where sanctions were prescribed by the Security Council, a sanctions committee was established to consider the situation of third parties specially affected by the application of sanctions pursuant to Article 50 of the UN Charter. This committee, drawn only from members of the Security Council, could be a government in its own right. It had supervisory functions which included the evaluation of the behaviour of states and international organisations in applying the relevant sanctions worldwide. The sanctions committee could also determine and grant exceptions (which are allowed for in the sanctions resolutions). These are basically related to humanitarian considerations and include such matters as famine relief, medical supplies and educational and religious needs.

In spite of the exceptions, the humanitarian crises resulting from the application of UN sanctions made them notorious in the eyes of the public. Humanitarian exceptions were allegedly used as a means to evade sanctions; or, the UN's critics claimed, the humanitarian emergencies created by sanctions continued in spite of such exceptions. The UN, while seeking to fulfil one aim of its Charter through the imposition of sanctions, had in effect jeopardised another, which is to protect the wellbeing of all peoples.

## **Movement towards the reform of the UN sanctions regime**

Since the middle of the 1990s, international thinking was dominated by the intention to 'rationalise' the use of UN sanctions. All of the countries to which UN sanctions were being applied were members of the Non-Aligned Movement (NAM), which is the political association representing most of the developing countries. (South Africa was not a member until 1994, when sanctions against it were lifted. The South African president became the chairman of the Movement from 1998–2003.) Yugoslavia, whose membership of the Movement was suspended in 1992, has become merely an observer, although it was one of the founding members of NAM in 1961.

UN sanctions, being mostly of an economic nature, can dramatically affect international trade and finance. This is especially the case where the importation or exportation of a vital or strategic commodity is concerned. Energy-importing countries are particularly vulnerable to oil embargoes if they are strictly applied against oil-exporting states. The world market could be adversely affected if the export of a single vital commodity were prohibited by a UN resolution. The famous 'oil for food' programme, which allowed Iraq to export one million barrels of crude oil every 90 days (an exception allowed while maintaining all other sanctions) was designed to meet the basic needs of the Iraqi population, but also had a significant impact on the world oil market.

Disruptions caused by sanctions not only affected markets but encouraged smugglers and 'black-market lords', who profited considerably. In the 1990s, when over 180 states members of the UN had to comply with economic sanctions imposed upon 15 states, international economic relations were considerably disturbed. The economies of the developing nations, most of them members of NAM, were particularly vulnerable to UN sanctions.

The views of NAM on sanctions were recently reiterated by the heads of state or government at their 13<sup>th</sup> summit conference in Kuala Lumpur in February, 2003.<sup>18</sup> They reaffirmed that the imposition of

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<sup>18</sup> *Final Document of the Thirteenth Conference of the Heads of State or Government of the Members of the Non-Aligned Movement, Kuala Lumpur, 25 February 2003, p.7, pass.33.*

sanctions should be considered only after all other means of peaceful settlement under Chapter VI of the UN Charter have been exhausted, and after careful analysis of the likely effects of sanctions, in both the short and long terms. They described sanctions as 'a blunt instrument' the use of which raises fundamental ethical questions. For example, is the suffering inflicted on vulnerable groups in the target country a legitimate means of exerting pressure on its government? They also stated that the objectives of sanctions regimes should be clearly defined, and that punishment or retribution should not be either aim. The heads of state or government of NAM proposed a further five conditions that should be met when sanctions are imposed: that they should be limited to a specified time frame; be based on tenable legal grounds; be lifted as soon as their objectives had been achieved; be specific as to the conditions demanded of the sanctioned country or party; and be reviewed periodically. Finally, the leaders of NAM censured attempts to prolong the application of sanctions on political grounds.

It is interesting to note that sanctions were called 'a blunt instrument' in the Supplement to the Agenda for Peace and in the Millennium Declaration of the UN in 2000.<sup>19</sup> Again, the views expressed in Kuala Lumpur in 2003 had been aired in several NAM fora prior to both the Millennium and Kuala Lumpur summits. The non-aligned nations represent two-thirds of the members of the UN, but these concerns were not restricted to the NAM group: they were already being expressed by some of the five permanent members of the Security Council, the developed industrial nations and the UN Secretariat.<sup>20</sup>

Important steps to rationalise UN sanctions have been taking place since 1989. The 'Interlaken Process', named after a beautiful Swiss region, represented the first comprehensive attempt to examine the feasibility of 'targeted financial sanctions'<sup>21</sup> in response to a call from the secretary-general of the UN. As a result, standardised texts and the

<sup>19</sup> Supplement to Agenda for Peace, UN Doc. A/50/60-s/1995/1, 3 January 1995, para.70; *Millennium Report*, UN Doc. A/54/2000, Gpr.3, 2000, p.50.

<sup>20</sup> See UN Doc. E/C.12/1997/8, 12 December 1997; S/1998/147, 29 December 1997; A/51/306, 26 August 1996.

<sup>21</sup> *Targeted Financial Sanctions: a Manual for Design and Implementation*, Contributions from the Interlaken Process, the Swiss Confederation and UN Secretariat. Thomas W Watson Institute, 2001, p.x.



selection of 'building blocks' of language were developed for future UN Security Council resolutions on sanctions. These included formulae for prohibitions and exemptions, which were later drawn upon by the UN Security Council sanctions committee on Afghanistan. Another process, the Bonn–Berlin Process, dealt with the term 'targeted sanctions'. These relate to aviation and travel bans, arms embargoes and so on, and aim to have narrow or targeted effects. These were used in the UN Security Council resolutions on Angola.<sup>22</sup> A third process, the 'Stockholm Process', also contributed to the improvement of the application of sanctions in international relations.<sup>23</sup>

### **Current inadequacies in the legal basis of sanctions**

The processes mentioned above represented major steps forward, but some fundamental problems remained. The most important of these is the legal basis of UN sanctions. Sanctions are founded upon a sentence in Article 41 of the UN Charter, which stipulates that 'the Security Council may decide what measures not involving the use of armed forces are to be employed to give effect to its decisions, and it may call upon the members of the UN to apply such measures'. The Charter tells us that the Security Council may decide 'what measures', without describing what such measures entail. The words amount to 'whatever' measures, in that the Charter authorises the Security Council to resort to whatever sanctions it sees fit, with only one limitation: they should not involve the use of armed force. This limitation should be taken in a rather broad sense, because Article 41 does not use the word 'enforcement' usually associated with the use of military force, but instead 'to give effect to its decisions' to indicate the purpose of sanctions.

Ironically, the word 'sanctions' is not mentioned in Article 41, nor anywhere in the Charter of the UN. It is not mere coincidence that the article providing the very legal grounds for what we call 'sanctions' does not use that word. The omission must have been intended by the leading diplomats, lawyers and experts who drafted the Charter of the UN in San Francisco in 1945. Perhaps some among them believed that

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<sup>22</sup> *Ibid.*, p.24.

<sup>23</sup> Stockholm Process Findings, *UN Press Release SC/7672*, 25 February 2003.

previous attempts at applying sanctions had been ineffective and even counter-productive. The wording of the Charter had to express a philosophy which sought to balance the penal approach of criminal justice on the one hand and the softer approach of the social reformer on the other hand. This balance was not achieved in practice, partly because of adverse factors in the global environment (especially the role of major powers), and partly because of the lack of precision in the legal basis of UN sanctions, as identified in Article 41.

The second sentence of the article stipulates that enforcement measures (that is, sanctions) '...may include complete or partial interruption of economic relations, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic relations'. This wording suggests that the Security Council is under no obligation to limit sanctions to those specified in this article. When the UN Charter was drafted in 1945, some delegations wanted a comprehensive list of the measures to be adopted by the Security Council to be provided. However, the view prevailed that these should be left entirely to the discretion of the Security Council.

More than half a century since the San Francisco Conference, the Interlaken, Bonn-Berlin and Stockholm processes mentioned earlier sought to limit the range of sanctions that could be justified in terms of Article 41 of the UN Charter. But the fact remains that the content of sanctions, their breadth of application and their duration rest with the exclusive discretion of the Security Council. Indeed, the balance implied in the cautious wording of the first sentence of Article 41 was impossible to achieve because of the vast range of enforcement actions described in the second sentence of the same article. The imbalance in UN practice in the area of sanctions was inherent in its Charter.

The only plausible explanation for this imbalance in Article 41 is that the drafters of the Charter wanted to exhaust all means to give effect to the Security Council's decisions without resorting to armed force. The implication is that Article 41's provisions were intended to ensure that sanctions should not be a prelude to the use of armed force, but a means to avoid their use.

Nevertheless, the wording of Article 42 of the UN Charter does not suggest that this would always be the case. For this article reads:

... should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

The adequacy or inadequacy of sanctions, as the article shows, is a matter left entirely to the discretion of the Security Council, whether adequacy was proven or not. Actions carried out by the armed forces as mentioned in Article 42 are not exhaustive and *other* actions involving the use of armed forces are at the discretion of the Security Council. It is important to note that the article referred to 'blockade' as one of the actions within the Council's discretion. Blockade is a means of applying an embargo, and it is difficult in this case to define the borderlines between the provisions of Articles 41 and 42. Furthermore, Article 42 does not define the conditions applying to the use of armed force short of combat as distinct from those relevant to the use of force involving combat. There is no provision in the UN Charter establishing a threshold or transition from Article 41 on applying sanctions and Article 42 on enforcing sanctions by military means. One should recall, in this respect, that from 1990–94, a relatively short period, the Security Council used its discretion to authorise the military enforcement of sanctions five times: on Iraq, Yugoslavia, Somalia, Haiti and Rwanda.

In short, the wording of Article 42 contradicts the spirit of Article 41 and the Charter of UN. The issue is not simply whether there is 'automaticity' in the progression of Security Council action between the application of sanctions (Article 41) and the use of armed force (Article 42). The more serious issue is the unlimited authority of the Council to apply either article and to shift from one article to another.

### **Conclusion: How the UN sanctions regime can be improved**

Substantial modifications are required in the current regime of UN sanctions. Loopholes and imbalances in the text of the Charter, which allow for the misuse of sanctions when applied and the non-application of sanctions when badly needed, should be addressed. Also, the Security Council should not remain the sole custodian of UN

sanctions. A police station cannot act against offenders without their being tried in a court of law (and being able to access a court of appeal). True legitimacy requires that both the UN General Assembly and the International Court of Justice should play an increasing, if not mandatory, role in the regime of UN sanctions.

The grim experience of the humanitarian disasters caused by sanctions in the 1990s and early 2000s can be avoided, and our global environment made more secure if a structural and comprehensive reform of the whole of the UN system were to be carried out. Such an ambitious task, though difficult, should not be impossible. *International peace and security can best be maintained when human suffering is alleviated and when the dignity of mankind is preserved.*

## The Efficacy of Sanctions Regimes: Experience From Asia

Swaran Singh<sup>1</sup>

Sanctions were originally conceived as a potent tool for tackling difficult inter-state relations. Sanctions have, therefore, also come to be a potent barometer for gauging the health of international relations. Of over 170 cases of inter-state sanctions imposed since the First World War, nearly 50 of them were initiated during the 1990s.<sup>2</sup> But the rise in the number of cases has gradually eroded their credibility and made them less effective. Of the sanctions imposed by the United Nations, for example, there had been only two cases during the Cold War years — that of Rhodesia (now Zimbabwe) during 1966–79 and South Africa during 1977–94. However, after the collapse of the Soviet Union in 1990, the UN Security Council initiated 15 cases of sanctions, making the 1990s a ‘sanctions decade’. This has since revived the debate on

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<sup>2</sup> The most comprehensive reports on sanctions were produced by the Washington DC-based Institute for International Economic Relations (IIER) and were published during 1990 and 1998. These cover the period since the First World War and show that amongst 115 multilateral sanctions imposed between 1914–98, 66% have failed outright whilst the remainder have been successful, but only partially. The Heritage Foundation and Carnegie Commission also published studies that came to very similar conclusions, stressing the need for unanimity and more effective monitoring. See Hufbouere GC, Elliot KA & JJ Schott, *Economic Sanctions Reconsidered: History and Current Policy*, Washington DC: Institute for International Economic Relations, December 2000; A Guide to Economic Sanctions, Washington DC: The Heritage Foundation, April 2000; Strelau JJ, *International Sanctions: Towards a Stronger Role of the United Nations*, New York: Carnegie Commission on Preventing Deadly Conflict, November 1996.

whether sanctions can still be used as a tool for bringing about stability and reform in international politics.<sup>3</sup> However, going by the way in which sanctions have been applied since the late 1990s and especially during the early years of the 21<sup>st</sup> century, the focus of this debate has apparently shifted from stability and reform to the question of the very 'efficacy' of sanctions regimes.

This chapter begins by underlining some of the salient features of the current Asian debate on sanctions. Then, in view of the gradual unfolding of new developments in the international politics of sanctions, it seeks to examine the recent Asian experience with sanctions regimes. How far and where have they been effective, and why do they fall short of achieving their desired objectives? Are they still a necessity of inter-state relations? These questions are answered within the following conceptual framework of recent practice.

- *First*, sanctions have been used excessively. Debate has moved towards reforming the traditional sanctions, or even towards seeking alternatives.<sup>4</sup> While the sanctions-imposing regimes have since formulated 'smart sanctions' and 'secondary sanctions', the target states have evolved new countermeasures to bypass sanctions, which are seen as symbolising hegemonic tendencies in the sanctioning body.
- *Second*, despite new enthusiasm amongst their proponents, sanctions remain a reflection of prevailing trends in international politics. Invariably, they have been imposed by powerful states against the weak Third World countries of Asia, Africa and Latin America. Even in the case of multilateral sanctions, the initiative has always come from the US, which prides itself on having the most detailed national legislation on unilateral sanctions.
- *Third*, the panic felt by the US in particular during the early 1990s about Soviet nuclear weapons, materials, and scientists, which had

<sup>3</sup> Baldwin DA, 'The sanctions debate and the logic of choice', in *International Security* (MIT), 24, 3, Winter 1999/2000, p.80.

<sup>4</sup> See, for example, Cortright D & GA Lopez GA (eds), *The Sanctions Decade: Assessing UN Strategies in the 1990s*, Boulder, Colorado: Lynne Rienner, 2000; Preeg EH, *Feeling Good or Doing Good with Sanctions: Unilateral Economic Sanctions and the U.S. National Interest*, Washington DC: CSIS Press, 1999; Kunz DB, *Butter and Guns: America's Cold War Economic Diplomacy*, New York: Free Press, 1997.

not been accounted for, has been a determinant of their sanctions policy ever since. Preventing the proliferation of weapons of mass destruction (WMD) has become the most critical element of both stability and reform in international politics, and consequently the single most important reason to impose sanctions.

- *Fourth*, Asia is home to the largest number of states that have repeatedly challenged all the non-proliferation regimes, and is now seen as the hub of international terrorism. Asia in general and Iraq in particular have since come to hold centre-stage in the debate on the practice of international sanctions, as well as on their growing ineffectiveness in ensuring stability and peace in inter-state ties.

### **Sanctions: Politics by other means**

Sanctions have long had legitimacy as a tool for controlling difficult inter-state relations that fall short of war, which remains the ultimate arbiter of all inter-state problems since ancient times. Indeed, scholars have compared sanctions with a siege and described it as a kind of war by other means.<sup>5</sup> The US, which is a military superpower, has had the longest record of using this tool. The first economic sanctions were successfully used by American colonies against the British Empire in response to the Stamp and Townsend Acts of 1765 and 1767, forcing their repeal in both cases.<sup>6</sup> Later, Presidents Jefferson, Madison and Wilson were to advocate sanctions as potent means of conducting inter-state relations, because sanctions were the most effective measure available between sending protest notes or recalling ambassadors on the one hand, and naval blockades and military action on the other. The age of nuclear deterrence was to provide a further boost for sanctions as integral to coercive diplomacy, particularly against the danger of the proliferation of WMD.

A whole spectrum of sanctions from threats-of-boycott to actual boycotts — ranging from exclusion from, and suspension of, cultural or sports interactions and trade and technology embargoes — have today been legitimised and codified as a tool to obtain compliance

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<sup>5</sup> Babic J & A Jokic, 'Economic sanctions, morality and escalation of demands on Yugoslavia', in *International Peacekeeping*, London, 9, 4, Winter 2002, p.120.

<sup>6</sup> Helms J, 'What sanctions epidemic?', *Foreign Affairs* (New York), 78, 1, January/February 1999, p.4.

with international norms. Sanctions were codified into the charters of both the League of Nations and the UN, recognising them as a tool of foreign policy for nation-states as well as other multilateral organisations.<sup>7</sup> In practice, however, sanctions have remained at best merely strategic weapons in the arsenals of foreign policy, because their primary impact is invariably confined to the general population and not the elite responsible for decision-making. Accordingly, sanctions are now justified when targeted at the rulers of the sanctioned country, and on their high-technology sectors, though it is still the general population that suffers their effects. Even the recent introduction of 'smart sanctions', which target the ruler's foreign travel and foreign assets and include a whole range of discreet exceptions to provide relief to the masses, has proved ineffective against determined defiance. If earlier it was Cold War politics that exempted clients, allies and friends of the two superpowers from sanctions regimes, in recent years exponents of globalisation have increasingly described sanctions as 'hegemonic' while the mushrooming new non-state actors are able to facilitate the bypassing of sanctions.<sup>8</sup> At the other extreme, the UN Security Council has turned itself into a US-led cartel: even some of the permanent members (P-5) feel neglected or ineffective, and have to resort to fora outside of the UN to air their differences. The same remains true of the middle-powers that have been critical of the 'double standards' of the P-5.<sup>9</sup> In practice, therefore, even if one side imposes sanctions, the other side remains ready to mitigate their impact, thereby undermining their integrity.<sup>10</sup>

Also, as long as sanctions remain premised only on inflicting delays and increasing the costs of weapons programmes of the target states, they are bound to remain ineffective against most Third World countries where these limitations remain integral to most of their

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<sup>7</sup> To apply non-violent sanctions, the Security Council needs nine affirmative votes with no vetoes from any of the five permanent members. The General Assembly needs a two-thirds majority to recommend such measures to the Security Council.

<sup>8</sup> Haas R (ed.), *Economic Sanctions and American Diplomacy*. New York: Council on Foreign Relations, 1998, p.6.

<sup>9</sup> Doxey M, 'United Nations sanctions: Lessons of experience', *Diplomacy & Statecraft* (London), 11, 1, March 2000, pp.5-6.

<sup>10</sup> Mueller J & K Mueller, 'Sanctions of mass destruction', *Foreign Affairs* (New York), 78, 3, May/June 1999, p.49.



projects and therefore to their cost calculations. Moreover, regimes in weaker states often tend to use sanctions to explain their inefficiency and to rouse national sentiment and thereby achieve greater national unity and increased political stability. Authoritarian regimes use sanctions to deflect popular anger created by their own faults to external forces and factors. Thus sanctions often achieve the opposite. The case of South Africa, often cited as the most successful example of sanctions, can be used to illustrate how politics continues to intervene and undermine sanctions.

- First, it took 25 years of UN arms embargo, including 11 years of wider economic sanctions by the US and the EU (though Britain came in only during the last few years after 1988), for apartheid to end in South Africa.
- Second, throughout apartheid, the sanctions covered only agricultural and manufactured goods, causing hardship for the general population, while they did not affect South Africa's trade in strategic minerals like gold and uranium. These loopholes may have enabled South Africa to become a nuclear weapons-capable state.
- Third, even in this extended example of the exercise of sanctions, the strongest force was not the sanction regimes themselves, but the international outrage over apartheid which inspired many non-governmental and private initiatives to punish the white regime.
- Last, the impact on countries participating in the imposition of these sanctions was fairly negative domestically and counterproductive in some cases.

Nevertheless, the imposition of sanctions has mushroomed both in intensity and magnitude since the 1990s and, this time they have been focused on issues of non-proliferation of WMD and have been imposed most extensively amongst Asian countries.

### **Sanctions and US non-proliferation policy**

The debates about the 21<sup>st</sup> century being the century of the Asia-Pacific that preceded the collapse of the Soviet Union shifted the global focus away from Europe after the mid-1980s. Also, the rise of China as a potential great power and America's earlier experiences of the Asian oil cartels had already made it anxious about its stakes amongst various Asian regimes. However, the current debate on

sanctions was to unfold after the Iraqi invasion and occupation of Kuwait on 2 August 1990. Since then the boom in sanctions has engulfed many Asian states suspected of having WMD programmes and missiles. These include countries like China, India, Iran, Iraq, Libya, Myanmar, North Korea and Pakistan, which have become the target of repeated sanctions since the 1990s. In fact, despite its being a nuclear-weapons state (NWS) under the Non-Proliferation Treaty (NPT) and also one of the P-5, even China has been the target of US sanctions. China's veto power, of course, has allowed it to evade UN sanctions: yet other countries like India and Pakistan have had sanctions imposed by the UN Security Council. Once again, the progression of these sanctions remains guided by US intent and capabilities, although there are instances where the UN mandate has been exceeded, overlooked and even undermined.

The US has domestic legislation that empowers it to impose sanctions unilaterally. But the increasing frequency and also the growing centrality of sanctions in US non-proliferation policies have not only made them less and less effective but also more costly and even counterproductive.<sup>11</sup> However, the US has not given up. Instead, to compel other states not to interfere with US sanctions, the US Congress has lately begun threatening potential violators with secondary sanctions to bolster the effectiveness of its unilateral norm-building. These secondary sanctions include punitive measures directed mainly against third party defaulters who may help the target state to skirt sanctions. In the cases of Cuba, Iran and Libya, for example, such secondary sanctions apply to all overseas firms that may violate the *Iran-Libya Sanctions and Helms-Burton Acts* and conduct any transactions whatsoever with countries under US unilateral sanctions.

The US focus on 'smart' and 'secondary' sanctions in Asia has, indeed, deterred both the target states and their friends to some degree. Various multinational companies have refrained from doing business in US-sanctioned countries. Yet this has increased anti-American sentiment in general and often deflected the focus away from the target state by making secondary sanctions an issue in itself. Members

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<sup>11</sup> Haas R, 'Sanctioning madness', *Foreign Affairs* (New York), 76, 6, November/December 1997, pp.74-75.

of US-led alliances have begun to feel sufficiently suffocated to seek alternatives as is seen in occasional European initiatives. In Asia, US sanctions in particular have been counterproductive, and resulted in a strengthened search for alternatives and a sense of unity within the target nation. This has helped the ruling regimes to obtain greater control, and to demonise the sanctioning state for causing deprivation amongst the target state's masses.<sup>12</sup> Besides, Asia has found many loopholes which make sanctions ineffective. Sanctions are withdrawn sooner or later but invariably without any visible achievements to their credit.

The case of Iraq perhaps stands out as the most striking example of this recurrent paralysis of sanction regimes.

### **Sanctions against Iraq**

Iraq was first censured by the UN Security Council Resolution 660 of 2 August 1990. This was followed (four days later) by UNSC Resolution 661 of 6 August 1990, which urged all nations to ban trade and commerce with Kuwait and Iraq and freeze their foreign assets. A sanctions committee of the Security Council was set up to oversee compliance. Iraq's defiance was to result in UN forces attacking Iraq on 16 January 1991. The liberation of Kuwait was followed by another UNSC Resolution, No. 687 of 3 April 1991, lifting most sanctions against Kuwait and some against Iraq. However, what was to make sanctions unending was that this resolution asked Iraq to 'unconditionally' and 'indefinitely' accept 'the destruction' and 'removal' of all its WMD and missiles with a range beyond 150 km. Iraq was also required to co-operate with the International Atomic Energy Agency (IAEA) and UN Special Commission (UNSCOM), which would ensure its compliance with these terms.<sup>13</sup> Events were to take a different turn given that successive UN teams failed to certify that Iraq had disarmed as anticipated.

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<sup>12</sup> Doxey MP, 'Sanctions through the looking glass: The spectrum of goals and achievements', *International Journal*, LV, 2, Spring 2000, p.216.

<sup>13</sup> 'Relevant United Nations Security Council Resolutions on Iraq (1990-2002)', *Strategic Digest* (New Delhi), 33, 2, February 2003, pp.117-150.

In view of Iraq's sufferings, however, the UNSC passed resolution 688 on 5 April 1991. This allowed Iraq to export oil and created an escrow account at the UN in New York so that revenues from these Iraqi exports could be used under UN supervision. Despite the Security Council's frequent expressions of dissatisfaction about Iraqi non-compliance, many more UNSC resolutions were passed which successively revised conditionalities on these exports. Iraq, of course, had its own reasons for defiance. After one year of operation Iraq refused to continue with the UN's 'oil for food' programme, because the amount of oil it was permitted to export over each six-month period stood at only \$2 billion (although in June 1998 this was raised to \$2.5 billion). Only 53% of the proceeds were designated for the purchase of goods to meet the humanitarian needs of Iraq. Thirteen percent was earmarked for assistance to the Kurds in the north, while the remainder was to be used for paying claims against Iraq resulting from the occupation of Kuwait, the costs of UNSCOM investigating Iraq's deadly weapons capability, and those of administering the 'oil for food' scheme itself.<sup>14</sup> Finally, when the IAEA Action Team and UNSCOM inspectors had left Iraq in December 1998, by their own admission their task had not been accomplished.

In December 1999, one year after the inspectors had left Iraq, the Security Council adopted resolution 1284, establishing a UN Monitoring, Verification and Inspections Commission (UNMOVIC), an organisation intended to succeed UNSCOM. This resolution asked UNMOVIC and IAEA to fulfil key remaining disarmament tasks in Iraq and lifted the ceiling on oil exports that could be used to pay for imports under the oil-for-food programme. Inside the US, in his presidential campaign George W. Bush criticised the Clinton administration's soft policy towards Iraq. After taking office in January 2001, Bush conducted a lengthy review, resulting in the conclusion that Saddam Hussein remained a threat to the Persian Gulf region.<sup>15</sup> By this time, an increasing sense of dissatisfaction with sanctions had also led to a resurgence of debate. New proposals were made for 'smart sanctions' that would involve Iraq's neighbours in monitoring

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<sup>14</sup> Doxey M, *op. cit.*, p.9.

<sup>15</sup> Albright D & K O'Neil, 'The Iraqi maze: Searching for a way out', *The Nonproliferation Review*, 8, 3. Monterrey (US): Centre for Nonproliferation Studies, Fall-Winter, 2001, p.58.

its activities. The US and UK placed a joint proposal for 'smarter' sanctions before the Security Council in July 2001, but Russia vetoed it, and the matter remained unresolved.<sup>16</sup> Later George W Bush wanted to revive sanctions against Iraq, but events following the terrorist attacks on the US on 11 September 2001 were to completely reorient global attention toward fighting the menace of international terrorism. The US was to slowly shift the focus back to Iraq by representing Saddam as a promoter of international terrorism. In March 2003, it launched a full-scale war on Iraq, completely ignoring the UNSC, which had refused to authorise any such military action.

The Saddam Hussein regime has since been replaced by US military control in Iraq. Not a shred of evidence has been produced by the US to prove that Iraq had an ongoing WMD programme. Given the presence of arms inspectors in the country for over a decade, and their free access to most plants and facilities, it seems most probable that nuclear weapons were beyond Iraq's grasp at that time. Its chemical and biological weapons capability seem to have been equally undermined if not completely eliminated.<sup>17</sup> After all, even in the absence of these rigorous inspections, Iraq spent 19 years (1972–91) and \$18 billion and yet failed to produce a nuclear bomb.<sup>18</sup> Obviously, it was Saddam Hussein and not so much his WMD that was the source of concern to the Americans.<sup>19</sup> The US has since tried to restore its credibility at the UN and the UNSC has since lifted all sanctions on Iraq.<sup>20</sup> This exercise has been partially exacerbated by the second Persian Gulf war, which has since further complicated US relations with the UN and other major powers while at the same time further undermining the sanctions regime.

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<sup>16</sup> Tostensen A & B Bull, 'Are smart sanctions feasible', *World Politics* (Princeton), 54, 3, April 2002, p.400.

<sup>17</sup> Herring E, 'Between Iraq and a hard place: a critique of the British government's case for UN economic sanctions', *Review of International Studies* (Cambridge, UK), 28, 1, 2002, p.43.

<sup>18</sup> Bhatia S & D McGrory, *Brighter Than the Baghdad Sun: Saddam Hussein's Nuclear Threat and the United States*. Washington DC: Regnery, 2000, pp.8, 307.

<sup>19</sup> Albright D & K O'Neil, *op. cit.*, pp.61–62.

<sup>20</sup> 'UN Council to end 13 years of sanctions on Iraq', *Hindustan Times* (New Delhi), 23 May 2003, p.13.

## The impact on Iraq

Inside Iraq, the 13 years of sanctions are believed to have caused thousands of deaths from disease, far exceeding the total of those killed in the Persian Gulf War of 1991. The number of people who died due to the sanctions following the Persian Gulf war of 1991 ranges between one million to 1.7 million and includes half a million children.<sup>21</sup> This is partly because it was extremely difficult to administer sanctions without huge collateral damage. Yet the sanctions did not provide results that could satisfy the US and its allies. Denis Halliday, the UN official who coined and co-ordinated the 'oil for food' programme, resigned in protest in August 1998 because he attributed these deaths directly to sanctions.<sup>22</sup> Examples of the application of his sanctions (and their implications for the well-being of Iraqis) support the point. The importation of some desperately-needed materials was denied or delayed on the grounds of their links with Iraq's WMD programmes. Supplies of syringes were held up for fear that they might be used in spreading anthrax spores. Chlorine, a critical water disinfectant, was disallowed because it might be diverted to making chlorine gas. Many medical diagnostic techniques that use radioactive particles and plastic bags needed for blood transfusion were banned or restrained, leading to the proliferation of disease-carrying pests which in normal circumstances would have been relatively easy to control.<sup>23</sup>

These sanctions imposed on Iraq during that period seem to have had little political effect other than to radicalise political thinking and behaviour and to cause conditions in what was once described as a progressive and moderate country to deteriorate. Apart from their impact on international politics, because of the sympathy that has been generated worldwide for the Iraqi masses, Iraq's radical Islamic groups have been strengthened. This raises the threat that similar groups will become a political force in Iran.

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<sup>21</sup> Thomas RGC, 'Bombs, sanctions and state destruction: US action in a unipolar world', *World Affairs* (New Delhi/Geneva), 3, 1, January–March 1999, p.85.

<sup>22</sup> Gause III FG, 'Getting it backward on Iraq', *Foreign Affairs* (New York), 78, 3, May/June 1999, p.58.

<sup>23</sup> Mueller J & K Mueller, *op. cit.*, p.50.

As far as the balance of power within the UNSC is concerned, it seems that the collapse of the former Soviet Union caused both Russia and China to opt to go along with the US on most issues. This may have encouraged Washington to pursue its unilateral aims, treating them as international norms. While on the one hand this experiment in rigorous sanctions against Iraq clearly distorted the character of the UN, on the other it encouraged the US to pursue ideas like the dismantling of Iraq. In the wake of the Persian Gulf war, for example, the US tried to support the creation of a Kurdish state in the north and a Shia state in the south.<sup>24</sup> This was opposed by Iraq's neighbours which host the communities. In spite of the lack of support from neighbouring states for its policies, the US never gave up the military option.

### Sanctions in Southern Asia

China, India and Pakistan make Southern Asia the region of the world containing the greatest concentration of nuclear weapons states. They have also been regular targets of sanctions regimes, with the exception of China, which has escaped UN sanctions because it is one of the P-5. However, all three have been repeatedly sanctioned by the US.<sup>25</sup>

#### *India*

Sanctions on India began after its first controlled nuclear explosion on 18 May 1974. This was the first nuclear test following the conclusion of the NPT in 1968 and before the US Nuclear Non-Proliferation Act had been enacted. India's nuclear test caused Indo-Canadian co-operation to come to a complete halt. This affected fuel supplies for India's Tarapur atomic reactor and all collaboration in nuclear technologies.<sup>26</sup> No doubt, the intention was to delay India's research and development in the short term. However, France replaced Canada as the supplier of fuel from 1982,<sup>27</sup> and in the long run the sanctions were

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<sup>24</sup> Thomas RGC, *op. cit.*, p.85.

<sup>25</sup> China was last sanctioned on 9 May 2003. See 'US slaps sanctions on Chinese, Iranian companies', *Hindustan Times* (New Delhi), 23 May 2003, p.11.

<sup>26</sup> Chellaney B, *Nuclear Proliferation: The US-Indian Conflict*. New Delhi: Orient Longman, 1993, p.87.

<sup>27</sup> Chellaney B, *op. cit.*, pp.137-38.

to boost India's self-reliance, as India's Department of Atomic Energy gradually increased the indigenous content of its self-reliability to 90%.<sup>28</sup>

Similarly, with the coming of the Missile Technology Control Regime (MTCR) after May 1987, the missile projects of India's Defence Research and Development Organisation (DRDO) and the Satellite Launch Vehicle (SLV) project of Indian Space Research Organisation (ISRO) were to face technology bans. In one case the US imposed a two-year sanction on Glavcosmos of Soviet Union and ISRO of India, because the US believed Moscow had transferred cryogenic engines in violation of the MTCR to India. This again had little impact on India's satellite or missile programmes. India today has the potential to supply a very large number of critical components to other countries in the nuclear, space, defence technologies and electronics sectors.<sup>29</sup>

### *The People's Republic of China*

After 1990, China became the main target of proliferation-related sanctions following its acceptance of, and accession to, various non-proliferation regimes. China's violation of these was to provide the Western powers with a pretext to put pressure on Beijing on issues ranging from human rights to its alleged dissemination of WMD and missile technologies amongst Asian states. Sanctions were to become a recurring subject in US-China talks during the 1990s, and were seen as becoming America's most visible policy tool in its dealings with China. A recently declassified analysis of China's stance published by the US Arms Control and Disarmament Agency describes how 'the history of US-China relations show[s] that China has made specific non-proliferation commitments only under the threat of sanctions'.<sup>30</sup> These sanctions, however, were to meet with different levels of compliance.

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<sup>28</sup> Santhanam K, 'Economic sanctions & technological self-reliance', *Agni* (New Delhi), 5, 1, January-April 2000, p.33.

<sup>29</sup> Chellaney B, *op. cit.*, p.34.

<sup>30</sup> Helms J, 'What sanctions epidemic?', *Foreign Affairs* (New York), 78, 1, January/February 1999, p.5.



US concerns about China's proliferation not only preceded their concerns about China's human rights record, but also took greater and more sustained priority in their policies. However, following the Tiananmen Square incident of 1989, the US became increasingly concerned about human rights in China. The US developed a linkage between human rights violations and openness of trade that became characteristic of US-China ties until the mid-1990s. Nevertheless, given the fact that China and the US are major trading partners and both countries have a stake in maintaining trade volumes, Beijing was always conscious that the US had limited power to sustain trade sanctions in the name of human rights. Also, China had no desire to give a hearing to any US discourse on human rights.

By comparison, US sanctions on China with regard to non-proliferation were based on three premises. First, the US was able to convey its seriousness by enforcing its sanctions. Second, Beijing's interests would be best served by complying (that is, halting proliferation). Last, Beijing was dependent on US high technology.<sup>31</sup>

The first instance of US sanctions against China's proliferation activities occurred on 16 December 1985 when the US Congress announced preconditions to the bilateral nuclear co-operation agreement reached five months earlier, for the transfer of nuclear materials, components and facilities. This transfer was to be made subject to a presidential certification of China's non-proliferation credentials. This was followed by a freeze on the US liberalisation of regulations limiting their high-tech exports to China. This move, announced on 22 October 1987, was imposed in the wake of Iran's attack on a US warship in the Persian Gulf using Silkworm missiles supplied by the Chinese earlier that year. These sanctions were lifted on 9 March 1988 after China had assured the US that it would stop the shipment of Silkworms to Iran and also shared the necessary technical information on how to defeat these missiles.<sup>32</sup> But in mid-1988, China supplied intermediate range CSS-2 missiles to Saudi Arabia, which

<sup>31</sup> For details see Singh S, 'Sino-US defence ties: Whys and hows of their recent engagement', *Strategic Analysis* (New Delhi), xxii, 1, April 1998, pp.71-83; also Singh S, 'Sino-US summit: Priorities, problems and prospects', *Strategic Analysis* (New Delhi), xxii, 3, June 1998, pp.373-385.

<sup>32</sup> Ross RS, 'China', in Haass RN (ed.), *Economic Sanctions and American Diplomacy*. New York: Council on Foreign Relations, 1998, p.21.

once more raised serious controversy about China's compliance with the MTCR. China, however, was quick to assure the US that these missiles would not carry any nuclear devices, and made overtures to revive China-US co-operation following a visit from Defence Secretary Frank Carlucci during September 1988.

These two episodes were to teach Beijing about the importance that the US attached to 'stability' in the Middle East. China has never since openly violated any norms or supplied any destabilising equipment or technologies to this region. However, minor controversies have been raised about its contracts for M-9 missiles to Syria and its collaboration with Iran on chemical and biological weapons. Both remain unsubstantiated.

### *Pakistan*

From the early 1990s, it was Pakistan that was to emerge as the major focus of sanctions, as it was the recipient of nuclear and missile technology from China. Starting from 1991, China was accused of having supplied M-11 missiles to Pakistan. Sanctions have been imposed on various Chinese and Pakistani entities, repeatedly lifted and re-imposed again in response to promises made and then broken. China used the anti-proliferation argument against the US, claiming that Washington's agreeing to sell high-tech weapons to Taipei was in breach of the China-US understanding.<sup>33</sup> Both China and Pakistan have often used the argument that their transfers did not breach the MTCR provisions. This has caused the US to specify that the range and payload of any missile is to be understood in terms of its 'inherent capability', and not as described by parties to the transfer of proscribed technologies. This has since discouraged China's missile supplies to Pakistan. However, Islamabad has since developed an equally functional collaboration between Pakistan and North Korea, exchanging nuclear secrets for missile technology.<sup>34</sup> China has also been discouraged by new non-proliferation drives following the

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<sup>33</sup> *Ibid.*, p.23.

<sup>34</sup> Haqqani H, 'Nuclear proliferation: The Pakistan-North Korea connection', *International Herald Tribune* (Hong Kong), 26-27 October 2002, p.4; Hoagland J, 'Pakistan: The most dangerous place on earth', *International Herald Tribune* (Hong Kong), 31 October 2002, p.4.

nuclear tests of India and Pakistan during May 1998. In the same year, however, also in response to Pakistan's nuclear tests, sanctions were imposed on China for its alleged collaboration in Iran's chemical weapons programme.<sup>35</sup>

### **Nuclear tests by India and Pakistan**

The nuclear tests conducted by both India and Pakistan in the late 1990s had serious implications for nuclear non-proliferation. Not only were they censured by the UN Security Council, but the Glenn Amendment to Foreign Assistance Act 1961 passed by the US Congress in 1994 resulted in the US imposing 'automatic' and 'immediate' sanctions against both these countries. The sanctions had humanitarian, commercial, political and economic loopholes and limitations. This meant that waivers to sanctions were being activated even as the sanctions were being contemplated. Indeed, some of these sanctions were still being finalised when others had already been waived or even lifted. At the very outset, Karl Inderfurth, the US Assistant Secretary of State for South Asian Affairs, was to tell the Senate that, sanctions did 'not wish...unnecessary harm...to fall upon the civilian populations'; nor were they intended to cause 'financial collapse leading to economic chaos and political instability' in the region.<sup>36</sup>

The exceptions also had their political and commercial side. In the absence of US aid, for example, Pakistan — the leading foreign buyer of US white wheat, and the third largest overseas purchaser of all US wheat — was unable to buy this commodity from the US. This implied that US farmers could not participate in the wheat auctions in Pakistan scheduled for mid-July 1998. Therefore, export credits of about \$500 million — normally given to Pakistan to purchase this wheat — had to be released with immediate effect. The Senate had to rush through the necessary legislation (without the normal committee review) to allow

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<sup>35</sup> Smith C & J Farah, 'How China sold Syria nuke-capable missiles: Clinton administration knew of technology leak and covered it up', 19 October 1998 at [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=16753](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=16753).

<sup>36</sup> Testimony by Assistant Secretary for South Asian Affairs, Karl F Inderfurth before the Subcommittee for Asian and the Pacific, Senate International Relations Committee, Washington DC, 13 July 1998.

the Department of Agriculture to finance the purchase of agricultural commodities. This was justified in terms of the US wheat farmers, who could not be penalised for a situation not of their own making.

This modest wheat relief bill was soon followed by the Brownback Amendment — named after its author, Kansas Republican Sam Brownback, chairman of the Senate subcommittee on Near Eastern and South Asian affairs. The Brownback Amendment, passed on 21 October 1998 by the US Congress, authorised President Clinton to waive certain economic sanctions and resume aid and trade for one year. The Glenn, Symington and Pressler Amendment sanctions could be waived under these provisions. The only sanctions that could not be waived were those pertaining to military assistance and dual-use export and military sales. Following this, President Clinton signed the India–Pakistan Relief Act on 6 November 1998, waiving all prohibitions on the operations of the US Export-Import Bank, the Overseas Private Investment Corporation and the Trade Development Agency in India and Pakistan. The Act also instructed US officials to support loans for these two countries from the International Monetary Fund (IMF) and the World Bank.<sup>37</sup>

Moreover, the Brownback Amendment was to be used to restore both the funding of US military training programmes in India and Pakistan and government-backed financing and credit guarantees for US firms doing business with these two countries. President Clinton also moved to remove another long-standing irritant in US–Pakistan relations by agreeing to pay Islamabad \$325 million in cash and \$140 million in goods as compensation for 28 F-16 aircraft that Pakistan had earlier bought, but whose delivery had been prevented by the passing of the Pressler Amendment in 1990. By June 1999 the US Senate had extended the President's waiver authority from 12 months to five years, in effect repealing the Glenn Amendment. Therefore, 17 months after their detonation of nuclear bombs, both India and Pakistan were

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<sup>37</sup> Hook J, 'Senate passes budget bill. Then Clinton makes it law', *Los Angeles Times*, 22 October 1998, p.A18; also Lippman TW, 'US lifts sanctions on India, Pakistan', *The Washington Post*, 7 November 1998, p.A14.

to find themselves far better off vis-à-vis American nuclear non-proliferation laws than they had been at any time since 1990.<sup>38</sup>

### **Efficacy of sanctions against India and Pakistan**

The impact of the US sanctions was understandably greater on Pakistan than India, especially regarding the inflow of external loans and assistance. On average foreign aid for Pakistan stands at around 1.5–2% of its GDP and 6–8% of government expenditure, while for India the comparative figures remain between 0.8–1% and 3.5–4%. In absolute terms, since the mid-1990s, Pakistan had been receiving annual disbursements worth \$100–\$200 million from the IMF, \$250–\$300 million from Japan, and \$1 billion to \$1.5 billion from the other international financial institutions (IFIs). During the same period India had been receiving annual aid and assistance worth about \$2 billion from the World Bank and other IFIs, and \$1 billion from Japan. All this aid was halted for a brief period. This delay had noticeable opportunity costs in several sectors. Asian Development Bank (ADB) lending also fell for both countries — India from \$560 million in 1997 to \$250 million for 1998, and Pakistan from \$800 million for 1997 to \$440 million for 1998.

### **Pakistan**

By November 1998, Pakistan had less than \$500 million in foreign exchange reserves against its \$32 billion foreign debt when the IMF agreed to defer its debt servicing payments and granted a new loan of \$1.5 billion to revive the economy.<sup>39</sup> According to a report by the State Bank of Pakistan, as of March 1998 Pakistan's total debt stood at \$43.6 billion, including external debts of \$30.70 billion and \$12.84 billion in short-term liabilities.<sup>40</sup> Obviously, with a foreign exchange reserve of \$1.4 billion and debt servicing payments of \$3.75 billion for the second

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<sup>38</sup> Hathaway RM, 'Confrontation and retreat: The U.S. Congress and the South Asian nuclear tests', *Arms Control Today* (Washington DC), 30, 1, January/February 2000, p.9.

<sup>39</sup> Rizvi HA, 'Pakistan in 1998', *Asian Survey* (California), 39, 1, January/February 1999, p.183.

<sup>40</sup> *Ibid*; Rizvi SA, 'Pakistan faces sanctions not for the first time', *Pakistan & Gulf Economist* (Karachi), 1–7 June 1998, p.18.

half of financial year 1998–99 — with most short-term credits likely to be stopped — market confidence collapsed. The Karachi Stock Exchange threatened to break the 1,000-point barrier. Moreover, according to an Economist Intelligence Unit report:<sup>41</sup>

Economic mismanagement, fiscal profligacy, rising bank defaults and high levels of corruption in the last ten years have played havoc with Pakistan's economy ... On the eve of Pakistan's nuclear tests, the economy was already only limping along.

But even under such conditions sanctions seem to have achieved relatively little. Even the most optimistic estimates can claim only that sanctions delayed a few decisions.

Pakistan had some inherent advantages in having been a pariah state since the Soviets had left Afghanistan in 1989. Pakistan had been under similar sanctions under the Symington and Pressler Amendments from 1985. From then on, there were no major bilateral aid flows that could be cut in 1998 when the Glenn Amendment was passed. Given this scenario, US lending institutions had hardly any presence in Pakistan. The offices of the Export-Import Bank and Overseas Private Investment Corporation had opened in Pakistan during February and March 1998 respectively, and had very few projects. These were briefly postponed by sanctions under the Glenn Amendment. Nawaz Sharif's government obtained a \$1.56 billion loan from the IMF but the nuclear tests resulted in the delayed arrival of the first tranche, due in April 1998. In early November, when President Clinton waived most of the sanctions, Pakistan's foreign exchange reserves stood at a precariously low \$458 million.<sup>42</sup> The Pakistani rupee had also depreciated against the US dollar, and the annual growth rate of its GDP, normally 6%, ended up at 3.1% for 1998–99.

Yet, thanks to the euphoria created in Pakistan by the nuclear tests, the ruling elite was able to ride the storm. Despite fears of economic collapse, the national morale was fairly high during those initial difficult months. One measure that the government of Pakistan could

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<sup>41</sup> Economist Intelligence Unit, *Country Report on Pakistan*, Third Quarter, 1998, p.8.

<sup>42</sup> 'Forex reserves fall to \$458m', *Dawn* (internet edition) 6 November 1998 at <http://www.dawn.com>

take (as a consequence of this high morale) was to freeze foreign exchange accounts, belonging both to resident and non-resident Pakistanis. These, according to estimates, were worth over \$11 billion. One undesired effect was the halting of remittances to Pakistan from Pakistanis overseas, which were a major source of inflows for the Pakistani economy.<sup>43</sup> Other austerity measures announced included increasing working days and closing the prime minister's secretariat.<sup>44</sup> The finance minister, Sartaj Aziz, declared:<sup>45</sup>

We are ready to face them...In the past too we have faced such sanctions and can face them in future as well. We cannot compromise on our national security because of coming economic hardship.

In the end, sanctions could not push either Pakistan or India into making any concessions. The US eventually returned to the other alternative, engagement.

## India

With foreign exchange reserves at \$26 billion, India was not in any danger of financial collapse.<sup>46</sup> Even on India's stock exchange the impact of sanctions was normally both brief and marginal. Besides, by February 1999, the US had dropped all objections to World Bank loans to India, which allowed donor countries to return to funding programmes in India and Pakistan. Following the US global war on terrorism — which began with Afghanistan — all residual sanctions against India were finally lifted by the regime of George W Bush. His agenda soon deflected the world's focus from sanctions against nuclear tests to the role India and Pakistan could play in dealing with the threat of terrorism.

But the change in focus had some negative effects. The international credit rating agency Moody's Investor Services downgraded India's

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<sup>43</sup> Uzair M, 'Continuous depreciation of Pak rupee', *Dawn* (Karachi), 24 August 1998, p.8.

<sup>44</sup> Baig K, 'Pakistan exercises the nuclear option', *Pakistan & Gulf Economist* (Karachi), 1-7 June 1998, p.11.

<sup>45</sup> Rizvi SA, *op. cit.*, p.18.

<sup>46</sup> Indeed, starting from 1998, India's foreign exchange reserves have made impressive progress and reached over \$70 billion in the last five years.

rating by several points.<sup>47</sup> India's growth fluctuated from 4.7% in the second quarter of 1998 to 8% for the first quarter of 1999; yet it averaged 5.8% for 1998–99 against 5% for 1997–98 and 7.8% for 1996–97. Sanctions seem to have had a slight, but not negligible, effect on India's economy, and was more visible in private funding than in government statistics. Some of the official bilateral programmes — like test flights of India's Light Combat Aircraft and Advanced Light Helicopter and some other developmental projects — suffered temporarily as a result of the sanctions.<sup>48</sup> But most of these projects had been suffering from continual bottlenecks for other reasons.

The impact of sanctions was at best only marginal, and perhaps pinched US business much more than India's. Russia and France were eager to step in to fill the gap: they have since obtained major deals with India and this is especially so in the sectors of critical defence technologies like aircraft carriers and submarines. In terms of inflows of overall investment, India's figures for the quarter between April and June 1998 were \$4.2 billion, which was not at all discouraging when compared to the preceding year's trends. Meanwhile, India's economic engagements have since resulted in its foreign exchange reserves crossing the magic figure of \$100 billion before the end of 2003. This could not have even been imagined in the wake of the sanctions-dominated period following India's nuclear tests in 1998.

### Lessons to be learnt

Going by the track record of sanctions regimes, the imposition of sanctions is the most powerful tool other countries have to change the behaviour of regimes. Their follow-up by rigorous diplomatic negotiations for the lifting of those sanctions has since come to be the second most potent tool in encouraging compliance from target countries. Also, given the domestic pressure in the sanctioning country from business and political lobbies, sanctions have often been lifted sooner rather than later, making them ineffective unless they

<sup>47</sup> Mazumdar U, 'Fretting and fuming in the fiftieth', *Business Today* (New Delhi), 22 August 1998, p.12.

<sup>48</sup> Bedi R, 'Sanctions stall first flight of Indian LCA', *Jane's Defence Weekly* (UK), 8 July 1998, p.15; also Bedi R, 'US sanctions hit India's ordnance manufacturers', *Jane's Defence Weekly* (UK), 26 August 1998, p.6.



were formulated as short but sharp. In all countries, and especially in the US, weak sanctions imposed by successive regimes reflect the primacy of commercial over security considerations.

One factor in the relatively poor performance of sanctions is that the US does not mete out sufficiently severe punishment to those US firms who collaborate with target countries to facilitate their violation of norms and treaties. During 1992, for example, a New York firm was fined a mere \$10,000 for unlicensed export to China of a computer vector processor and a data acquisition control processor. Similarly, in 1994, a Department of Defence (DoD)–Department of Energy (DoE) study found that even defendants who transferred items with potentially lethal consequences received low sentences and fines.<sup>49</sup> Even though the Department of Commerce Bureau of Export Control can revoke export privileges, this power has rarely been used in actual practice, thanks to the clout that business lobbies wield in US politics.

Administrative bottle-necks also contribute to making sanctions inefficient and ineffective. During 1998, for example, sanctions were imposed under the Glenn Amendment provisions. These involved bureaucratic hiccups of all kinds.<sup>50</sup> It was only on 18 June 2002 that the US State Department was finally able to publish some details of the sanctions opposing nuclear tests by India and Pakistan and their objectives. Sanctions were lifted six months later and none of the objectives had been realised.

Only a few days after imposing another set of sanctions during July 1998, the Senate vote was to exempt food exports to India and Pakistan.<sup>51</sup> On 13 November 1998 the US Commerce Department published a final 'Entities List' which named about 200 businesses believed to have contributed to India's nuclear test programme. All exports to these companies were to be subject to clearance by the

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<sup>49</sup> Clarke DL & RJ Johnston, 'US dual-use exports to China, Chinese behaviour, and the Israel factor: Effective controls?', *Asian Survey* (California, USA), 39, 1, January/February 1999, p.201.

<sup>50</sup> Morrow D & M Carriere, 'The economic impacts of the 1998 sanctions on India and Pakistan', *The Nonproliferation Review*, 9, 4. Monterrey: Centre for Nonproliferation Studies, Fall 1999, p.3.

<sup>51</sup> Lippman TW, 'Senate votes to exempt food exports from sanctions on India, Pakistan', *The Washington Post*, 10 July 1998, p.A5.

Department of Commerce. The technology embargoes denying nuclear and missile-related technologies to India and Pakistan had been in place even prior to 1998.<sup>52</sup>

However, it would be naïve to conclude that sanctions were universally ineffective. In the case of imposing sanctions following India's and Pakistan's nuclear tests, for example, the US was joined by 14 other important countries including Australia, Canada, Denmark, Germany, Japan and Sweden. These together accounted for a substantial proportion of the foreign aid and trade of India and Pakistan. Together the former hold majority voting shares in international financial organisations, which could exert a considerable effect on the economies of sanctioned countries in the long run.

All of the above points could be used to refine current thinking and practice on sanctions within the UN. Specific suggestions could include the following. First, much of US sanctions-related legislation remains extremely rigid. This compels successive political administrations to create leeway for diplomatic bargaining by bypassing sanctions or lifting them. Second, when the legislation stipulates that mandatory sanctions are to be imposed and the decision can at best be delayed for 30 days, very little room for manoeuvre is allowed. Third, such legislation includes no provision or conditions for the lifting of sanctions, which makes a compelling case for 'modifications' in provisions and for 'flexibility' in practice.<sup>53</sup> In brief, the recent experience of Asia highlights the following lacunae in the prevalent sanctions regimes.

- Sanctions should be used only when all other channels of seeking compliance have been exhausted. Constructive engagement remains an essential requirement if sanctions are to work. Regimes which have been isolated for a long time — like North Korea — have nothing to lose, and can withstand sanctions for a longer period. The countries suspected of nuclear proliferation (North Korea, Iraq and Iran) are already fairly isolated from global trade. In their case

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<sup>52</sup> Mistry D, 'Diplomacy, sanctions, and the US non-proliferation dialogue with India and Pakistan', *Asian Survey* (California), 39, 5, September/October 1999, p.756.

<sup>53</sup> Singer CE, Saksena J & M Thakar, 'Feasible deals with India and Pakistan after the nuclear tests: The Glenn sanctions and US negotiations', *Asian Survey* (California), 38, 12, December 1998, p.1163.

sanctions are quite likely to prove counterproductive, forcing them to use nuclear weapons as a bargaining chip. This strategy seems to have worked well in the case of North Korea.

- Sanctions should be of escalating severity, moving slowly and steadily from boycotts of cultural and sports events to political and diplomatic isolation. This would ensure that when more stringent technological and economic sanctions are imposed, they are accompanied by a consensus built slowly over time and adhered to by the largest possible number of countries. Besides, sanctions, like war, should start piecemeal and grow in force, encouraging compliance by creating incentives for good behaviour.
- Questions as to whether co-operation amongst sanctioning states remains a prerequisite for successful outcome of sanctions are unresolved. All multilateral sanctions depend on the support of an international organisation if they are to be as effective as, or more effective than, unilateral sanctions.<sup>54</sup> Opponents invariably claim that sanctions are generally ineffective because the costs to the targeted regime are not heavy enough, and that they fall on the wrong people. Supporters, on the other hand, cite the absence of alternative tools.
- Both supporters and opponents of sanctions also accept that the links between sanctions and domestic politics can weaken normative behaviour on both sides of the sanctions divide. While the sanctioning state will seek the end of sanctions, continued defiance will be encouraged in the target state. This resistance can also be manipulated by the power elite. Therefore, while the duration of sanctions should be kept short, the costs must be high and predictable to allow for bargaining. The guiding framework should be supplied by a multilateral organisation. In this way sanctions can be made an effective tool for stability and reform in various parts of the world.<sup>55</sup>
- Given the ineffectiveness of sanctions in so many cases, the remedy may lie in refining and re-designing their implementation. What has

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<sup>54</sup> Drezner DW, 'Bargaining, enforcement, and multilateral sanctions: When is co-operation counterproductive?', *International Organisation* (MIT), 54, 1, Winter 2000, pp.97-98.

<sup>55</sup> Dorussen H & J Mo, 'Ending economic sanctions: Audience costs and rent-seeking as commitment strategies', *Journal of Conflict Resolution* (London), 45, 4, August 2001, pp.396-397.

kept sanctions flexible so far is that having failed beyond a certain point to discourage target countries from developing and testing nuclear weapons, the US often chose to use sanctions as a diplomatic bargaining instrument, in which target states were asked to undertake commitments for the future in return for condonation of their non-compliance in the past.

- Most ethical analysis shows that sanctions are extremely difficult to justify. Sanctions, which invariably seek to punish, assume unequal power relations between countries. This means that in any case of equilibrium of power, sanctions can have no role. Sanctions are also normally backed by a potent threat of war. Often they lead to an actual war. Therefore, the moral argument requires that a sanctions mechanism have an institutional framework, follow guidelines as to what will lead to the lifting of sanctions, and is monitored by an objective authority to ensure compliance on both sides, sanctioner and sanctioned.

## Conclusion

In the Asian experience, sanctions appear to have failed to achieve their original goal, that is of seeking compliance with international norms and stability in inter-state relations. Iraq remains one such glaring example. Sanctions have neither deterred Iraq's WMD programme nor put an end to China's dissemination of sensitive technologies amongst other Asian states. Nor have they prevented nuclear tests by India and Pakistan. North Korea provides another example of the continued helplessness of sanctions regimes: indeed, Pyongyang has been rewarded for repeatedly challenging the nuclear norms.

However, all of these counter-examples still do not provide sufficient reason to advocate the abandonment of sanctions regimes altogether. Consensus remains that the threat and application of sanctions delayed Indian and Pakistani nuclear tests by many years.<sup>56</sup> And the same can also be said of Iraq's failure to build WMD and of China's continuing denial or underplaying of its proliferation of WMD

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<sup>56</sup> Rydell RJ, 'Giving non-proliferation norms teeth: Sanctions and the NPPA', *The Nonproliferation Review*, 6. Monterey: Centre for Nonproliferation Studies, Winter 1999, p.10.

technologies. Many experts believe that it was US sanctions that helped bring down the Soviet Union. Sanctions played a pivotal role in forcing communist Poland to release political prisoners and legalise Solidarity, which also contributed to the collapse of communism. Similarly, sanctions imposed by Australia, New Zealand and the South Pacific countries against the French for testing nuclear devices in the Pacific in 1995 were comprehensive and effective. Sanctions remain a valid tool for seeking stability and reform in international relations, but need to be constantly updated and refined for better performance.

It is a lack of political will and other weaknesses in the international system that have been reflected in the relative ineffectiveness of sanctions regimes in recent years. Therefore, it remains imperative that nations must optimise sanctions regimes by making them far more objective, comprehensive and supported by a larger number of countries to make them representative of the international system. In doing so they will be making sanctions more effective in bringing about compliance with commonly agreed international norms by the targeted states.

# The Relevance of Sanctions in the Contemporary International System: An Indian Perspective

Rajiv Nayan<sup>1</sup>

## Introduction

Policymakers and academics have been debating over sanctions for years. Nation-states and international bodies use sanctions to bring about behavioural changes in governments. In the last century, when the First World War had ended and the League of Nations was established, many felt that the League would be a body that would help nations to avoid war, or at least prevent large-scale war. At that time, some believed that sanctions could become a political instrument to avoid or ward off war. However, the League could not prevent the Second World War, or the Cold War which followed. The opposed blocs used sanctions against each other; but at the same time they co-operated with each other in imposing bans on some countries and organisations. For example, both blocs sanctioned apartheid South Africa, and regarded the outcome of the sanctions regime against that country as demonstrating the success of the campaign. Interestingly, the end of the Cold War also coincided with the dismantling of the apartheid regime in South Africa.

The present phase of sanctions may be called both the post-Cold War and the post-apartheid phase. Yet the debate on sanctions has not ended. Scholars and policymakers are still arguing for and against their usefulness. Some believe that sanctions may work if certain conditions are met. Others say that sanctions, along with war, may put additional pressure on the banned country or targeted group and prove counter-productive. Others dismiss sanctions as futile. Kieran Prendergast, the UN under-secretary-general for political affairs remarked in 2000, '...in recent years sanctions have become a primary tool of peace enforcement. In a small number of cases, comprehensive sanctions have been put into effect. In others, sanctions have been

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focused on arms transfers, embargoes, travel bans or financial restrictions.<sup>2</sup>

This present paper will explore the contemporary relevance of sanctions in the period following the end of the Cold War.

### **Contemporary relevance of sanctions**

The argument presented in this paper claims that sanctions have relevance. However, as an instrument they require drastic improvement. Sanctions should not be the first choice of policymakers. The potential of diplomacy should be fully utilised before sanctions are contemplated. In a globalising world, *interdependence and interaction among nation-states* have introduced a new dynamic. The communication revolution is mobilising public opinion towards acceptable global behaviour in an unprecedented way. Any nation, group of nations or international community should impose sanctions only when all other peaceful means of persuasion and influence have been exhausted.

### **Sanctions or war**

In extreme situations, if there is a choice between declaring war and imposing sanctions, the latter appears the more rational alternative. Although comparing the exact cost of war as against enforcing sanctions is a difficult exercise, some attempts to do so have been made. Some may argue that war is a cheaper and more effective mechanism to ensure compliance than sanctions, but war is a much costlier affair. A study conducted by the Institute for International Economics in 1999 found that the US forfeited exports worth \$15–\$20 billion per year because of the sanctions it had imposed on different countries.<sup>3</sup> Even if we take into account the losses incurred by the US

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<sup>2</sup> United Nations, UN Press Release, SC/6845, 17 April, 2000

<sup>3</sup> Hufbauer GC, 'Trade as a weapon'. Paper for the Fred J. Hansen Institute for World Peace, San Diego State University, San Diego, California, World Peace Week, 12–18 April 1999. Online at <http://www.iie.com/publications/papers/hufbauer0499.htm>; and Testimony of Frank Kittredge, President of the National Foreign Trade Council and Vice Chairman of USA Engage, Before the U.S. International Trade Commission, 14 May 1998.

as a result of oil sanctions on Iraq, these are still much less than the costs of a war in Iraq. The 1991 Gulf War cost the United States \$60 billion. At current prices that would convert to \$80 billion. (However, some are sceptical as to the accuracy of this estimate and argue that the 1991 Gulf War cost the United States \$112 billion.)<sup>4</sup>

In an interview with *The Wall Street Journal* in 2002, Larry Lindsey, the chief economic adviser to George W Bush, estimated that the cost of the latest Iraq war might range from \$100–\$200 billion, depending on circumstances.<sup>5</sup> This was the first official estimate, though the White House refused to confirm it (and he was later relieved of his post). Mitch Daniels, the director of the White House Office of Management and Budget, in an interview with *The New York Times*, estimated that such a conflict might cost \$50–\$60 billion,<sup>6</sup> while Democrats in Congress calculated that it might cost \$93 billion.<sup>7</sup> None of these estimates was granted official status.

In September 2002, two official estimates of the cost of a new US war on Iraq were made public. The Congressional Budget Office (CBO) calculated that the cost would be \$44 billion,<sup>8</sup> whereas the House Budget Committee set it in the range of \$48–\$60 billion.<sup>9</sup> The accuracy of both of these studies has been questioned. For example, Professor William D Nordhaus, the Sterling Professor of Economics at Yale University, pointed out a number of errors in their calculations,<sup>10</sup> commenting that both studies had ignored the likely duration of the conflict. Although the US appears to have achieved a military success

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<sup>4</sup> 'Ousting Saddam "good for business", says US', *The Telegraph* (London), 15 September 2002.

<sup>5</sup> *The Wall Street Journal*, 15 September 2002.

<sup>6</sup> <http://www.cnn.com/2003/ALLPOLITICS/01/01/sproject.iq.war.cost/>

<sup>7</sup> *Ibid.*

<sup>8</sup> Congressional Budget Office, 'Estimated Costs of a Potential Conflict with Iraq,' September 2002, <http://www.cbo.gov/>

<sup>9</sup> 'Assessing the cost of military action against Iraq: Using Desert Shield/Desert Storm as basis for estimates'. An analysis by the House Budget Committee, Democratic Staff, 23 September 2002.

<sup>10</sup> Nordhaus WD, 'The economic consequences of a war with Iraq' in Kaysen C et. al., *War with Iraq: Costs, Consequences, and Alternatives*, Committee on International Security Studies, Cambridge, Massachusetts: American Academy of Arts and Sciences, 2002, pp 51–86.



in Iraq, the political and economic costs are still mounting. Moreover, for a variety of reasons, the US is yet to find an 'exit strategy', and so, US troops might remain mired in Iraq for a long time. Nordhaus added that the cost estimates are incomplete<sup>11</sup>

... because they explicitly exclude a number of potential costs, generally non-military in nature, most of which are highly uncertain. The reports exclude, with the exception of a brief mention in the CBO study, estimates of the total costs of occupation, peacekeeping, democratisation, nation-building, and humanitarian assistance.

He continued: 'Furthermore, they exclude the costs of persuading other nations to support the United States and exclude impacts upon oil supplies, macroeconomic activity, and the federal budget.'<sup>12</sup> The results for the US might include a slowdown of productivity, negative economic growth, the triggering of recession and so on. His study indicates that in the most optimistic scenario, the Iraq war may cost \$99 billion; while in the worst-case scenario it could reach \$1.9 trillion.

Lael Brainard and Michael O'Hanlon of the Brookings Institution estimate that military and reconstruction costs could range from \$300 billion to \$450 billion.<sup>13</sup> Taxpayers for Common Sense calculated that post-war costs over the next decade might range from \$114 billion to \$465 billion.<sup>14</sup> Paul Bremer, the chief of the US-led Coalition Provisional Authority in Iraq, in an interview with CNBC 'Capital Talk' set the price for getting Iraq up and running again at around \$100 billion for three years.<sup>15</sup> US President George W Bush demanded \$87 billion for continuing military and intelligence operations and reconstruction work in Iraq, Afghanistan and elsewhere. Needless to say, Iraq may consume most of the amount demanded by the President.<sup>16</sup>

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<sup>11</sup> *Ibid.*, pp 62–63.

<sup>12</sup> *Ibid.*, p 63.

<sup>13</sup> Brainard L & ME O'Hanlon, 'The heavy price of America's going it alone', *Financial Times*, 6 August 2003, <http://www.brook.edu/views/op-ed/brainard/20030806.htm>

<sup>14</sup> 'Postwar Iraq likely to cost more than war', *USA Today*, 11 August 2003, [http://www.usatoday.com/news/world/iraq/2003-08-11-rebuild-bill\\_x.htm](http://www.usatoday.com/news/world/iraq/2003-08-11-rebuild-bill_x.htm)

<sup>15</sup> *Ibid.*

<sup>16</sup> Speech by President George W Bush, 7 September 2003, <http://www.whitehouse.gov/news/releases/2003/09/20030907-1.html>.

The war may also have adverse consequences for other countries. For example, according to one report, it could cost the Arab economies over \$100 billion.<sup>17</sup> Similarly, the war is likely to have taken a high toll in countries like India already, because, among other problems, India has calculated it will need to pay \$3–\$4 billion extra for oil alone.<sup>18</sup>

The war has non-economic costs, too, related to the destructive capability of modern weapons. Before the beginning of the Iraq war, some analysts estimated that 100,000–500,000<sup>19</sup> people might be killed. As of 28 November 2003, the official figure of allied deaths stood at 509<sup>20</sup> but there is still no authoritative tally of the number of dead Iraqis, whether soldiers or civilians. The US Department of Defence does not make the official figures of dead and injured enemies available in order to avoid comparisons to the Vietnam War.<sup>21</sup>

Moreover, there is a political cost linked to the growing anti-US feeling in the Islamic world. A former co-chair of the US Commission on National Security expressed this when he said, 'Terrorists will strike the nation again, if it goes to war with Iraq.'<sup>22</sup> Once the war had begun, people in almost all Muslim nations came out in protest against the US-led allied military action. The anger felt by many against the US has already drawn some of them into terrorist activities. The world is witnessing ceaseless terror attacks. In November 2003, Italian and German police arrested three North Africans planning to undertake terrorist activities in Iraq in the name of jihad. There are many more

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<sup>17</sup> <http://www.arabia.com>

<sup>18</sup> <http://news.bbc.co.uk/go/pr/fr/-/2/hi/business/2830899.stm>

<sup>19</sup> It seems a confidential study of the United Nations estimated that there would be 100,000 deaths in the present Iraq war. This report was apparently leaked, and is now available on some websites. One may access it on: <http://www.casi.org.uk/info/undocs/war021210scanned.pdf>. For the figure of 500,000 see *Collateral Damage: the Health and Environmental Costs of War on Iraq*, a report published in November 2002 by Medact in association with International Physicians for the Prevention of Nuclear War, London. Available at <http://www.ippnw.org/CollateralDamage.pdf>.

<sup>20</sup> Associated Press, 15 April 2003.

<sup>21</sup> Filkins D & I Fisher, 'US sees lesson for insurgents in an Iraq battle', *The New York Times*, 2 December 2003. See <http://www.nytimes.com/2003/12/02/international/middleeast/02IRAQ.html>

<sup>22</sup> Associated Press, 'Hart warns war with Iraq would intensify terrorist attacks on US', 9 January 2003.

reports and arrests of foreign terrorists going to Iraq to fight the holy battle against the US and its allies. *The New York Times* reported,

In recent months, European and American intelligence services have expressed concerns about evidence that militants from an international network that includes al-Qaeda have been working to exploit Muslim anger over the occupation of Iraq to attract new recruits and open a new terrorist front.<sup>23</sup>

Even if it is true that a war will achieve the desired result more quickly, it cannot be denied that sanctions can also achieve varying degrees of success, and in a less coercive manner. Those who believe that sanctions failed to work in Iraq must not ignore the fact that although the sanctions were imposed to stop Iraq developing weapons of mass destruction (WMD), the UN's chief weapons inspector's repeated inspections did not confirm any of the allegations that Iraq possessed any. At the time of writing the war is over, and a huge irregular war is raging. The British and American establishments seem to have reconciled themselves to the reality of the non-existence of WMD in Iraq. In both countries, a blame game is on. Still, no Iraqi WMD have been discovered. Moreover, Iraq complied with many of the other conditions imposed on it through sanctions. It seems clear that the decision to replace sanctions with war was made to remove the Saddam regime rather than to end Iraq's (possibly non-existent) WMD programme. Yet the removal of the Saddam regime had not been the objective of sanctions.

### **Multilateral co-operation**

In the contemporary era, there is a preference for multilateral sanctions.<sup>24</sup> In contrast, the US has always preferred to use unilateral sanctions against countries. The National Association of Manufacturers has calculated that between 1993–96, 61 US laws and executive actions were approved that imposed unilateral economic

<sup>23</sup> Butler D, '3 arrested in Europe are tied to recruitment of Iraq fighters', *The New York Times*, 29 November 2003. Online at <http://www.nytimes.com/2003/11/29/international/europe/29TERR.html>

<sup>24</sup> For a detailed study see Stremmlau J, *Sharpening International Sanctions: Toward a Stronger Role for the United Nations*. A report to the Carnegie Commission on Preventing Deadly Conflict, Carnegie Corporation of New York, November 1996, <http://www.wics.si.edu/subsites/ccpdc/pubs/sum/2.htm#sanctions>.

trade sanctions on 35 countries.<sup>25</sup> In 1996 alone, the US authorised 26 new sanctions on different countries. Another study discovered that between 1997 and the end of 2001, 59 new US sanctions were declared and enforced.<sup>26</sup>

That many problems attach to multilateral co-operation on sanctions is now widely acknowledged. These relate to bargaining difficulties, and to lack of enforcement of multilateral co-operation.<sup>27</sup> Other problems such as backsliding, defection and covert sanction-busting by private parties inhibit its effectiveness. Yet multilateral support for sanctions is not only a 'less expensive commodity', as Lisa Martin observes,<sup>28</sup> but it also imposes higher costs on the target country. A country adopting unilateral sanctions can at best affect bilateral exchanges, creating the possibility that the target country will simply transfer its trade to other countries and meet its needs elsewhere, either through legitimate channels or gray commerce.

If the country applying sanctions has support for its cause from the international community, the ban will have greater legitimacy and sanctions will be more effective. The imposition of multilateral sanctions is less likely to be perceived as the 'imposition of the will of the stronger' on the weak. The proposer of the sanctions may also face less pressure from its domestic constituents, who in the past have complained that their business interests and export earnings suffer<sup>29</sup> when unilateral sanctions have been imposed. This is frequently the case in the US, which has also been accused by European countries of adapting sanctions norms to serve its own ends.

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<sup>25</sup> Manzullo DA, Chairman of the Subcommittee, 'Do unilateral economic trade sanctions unfairly penalise small business? House of Representatives, Subcommittee on Tax, Finance, and Exports, Committee on Small Business, Washington, DC, 24 June 1999.

<sup>26</sup> Carter BE & MT. Williams, *Study of New US Unilateral Sanctions, 1997-2001*, <http://www.usaengage.org/literature/2002/2002sanctions/index.html>

<sup>27</sup> For example, Fearon JD, 'Bargaining, enforcement and international co-operation, *International Organisation*, 52, 2, 1998, pp.269-305.

<sup>28</sup> Martin L, *Coercive Co-operation: Explaining Multilateral Economic Sanctions*. Princeton: Princeton University Press, 1992.

<sup>29</sup> For instance, see <http://www.uschamber.com/government/issues/international/cuba.htm>.

Support for the greater efficacy of multilateral sanctions is expressed by Daniel Drezner's view that 'States that co-operate because of a set of common beliefs will be reluctant to alter their position, causing the target country to prefer a sustained deadlock.'<sup>30</sup> He continues:<sup>31</sup>

Once an international institution supports the sanctions, the negative effects of sanctions busting and backsliding are controlled, whereas the positive effects of co-operation still operate. Institutionalised co-operation (the interaction between the institutional support and co-operation measures) should generate greater concessions by preventing free riding and reducing the probability of backsliding.

### **The United Nations**

If multilateral sanctions are the most effective measures to control the behaviour patterns of the governments of targeted states, the role of the UN as the nodal organisation for multilateral co-operation on the imposition of sanctions becomes critically important. For years, the UN has been at the centre of multilateral diplomacy. It has assumed unique responsibilities in crisis diplomacy, humanitarian activities and even in peacekeeping and interventionist operations. The UN is also engaged in multilateral economic diplomacy and international non-governmental organisation (NGO) activities. All of these facets have helped the body to gain larger international acceptance. Even a coercive mechanism like sanctions might meet with less resentment when imposed by the UN in comparison with those applied by other bodies. The UN has much wider representation than any other international or multilateral body. Other organisations are limited by geography, function or goal. Also, the UN cannot impose sanctions arbitrarily. There is a well-articulated procedure that must be followed before the UN can impose sanctions against a country. No single country can impose sanctions through the UN unless it has campaigned for the ban and garnered support from other members of the UN. For a substantive action to be agreed, nine Security Council (UNSC) members must vote for it and no permanent member veto it. The UN General Assembly has the power of recommendation to

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<sup>30</sup> Drezner WD, 'Bargaining, enforcement, and multilateral sanctions: When is co-operation counterproductive?' *International Organisation*, 54, 1, Winter 2000, p.83.

<sup>31</sup> *Ibid.*, p.87.

impose sanctions, but any such recommendation must have the support of at least two-thirds of the members of the Assembly.

Although the word 'sanction' is not mentioned anywhere in the UN Charter, Articles 39–42 of Chapter VII give a mandate to impose sanctions. Chapter VII enables the Security Council to take 'enforcement measures to maintain or restore international peace and security'. In recent years, the Security Council used this mandate to impose sanctions on countries such as Iraq, the former Yugoslavia, Libya, Haiti, Liberia, Rwanda, Somalia, *União Nacional para a Independência Total d'Angola* (Unita) forces in Angola, Sudan, Sierra Leone, Afghanistan, Eritrea and Ethiopia.<sup>32</sup>

A number of lacunae in the international rules and law regarding sanctions have been pointed out. Problems within the UN's present system of imposing sanctions have been identified. Article 39 of the Charter stipulates that sanctions can be imposed only after a 'determination of [an] aggressive act'. It has been rightly pointed out that this criterion is quite vague,<sup>33</sup> and often leads to misinterpretation and misuse. The Security Council has been accused of taking decisions on political grounds. Margaret Doxey explains the problem by stating, 'voting patterns are not necessarily dictated by support for norms of international peace and security but rather by "national interest", relations with allies, and domestic considerations affecting the governments of consequential states, particularly the United States.'<sup>34</sup> Many permanent members of the UNSC even advise the UN to set issues of international peace and security aside. There is also the constant complaint that Security Council members dominate other UN members, while non-permanent Security Council members resent the dominance of permanent members with veto power inside the Security Council. Quite often the veto serves useful purposes; however, at times, it is used obstructively. There is a need to strike a proper balance.

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<sup>32</sup> United Nations, Security Council, 'Security Council Sanctions Committees: An overview', <http://www.un.org/Docs/sc/committees/INTRO.htm>.

<sup>33</sup> Paul JA & S Akhtar, 'Sanctions: An analysis', *Global Policy Forum*, August 1998, [www.globalpolicy.org/security/sanction/analysis2.htm](http://www.globalpolicy.org/security/sanction/analysis2.htm)

<sup>34</sup> Doxey M, 'United Nations sanctions: Lessons of experience', *Diplomacy & Statecraft*, 11, 1, March 2000, p.5.

The issue of transparency in any decision to impose sanctions has already been raised by the General Assembly of the UN.<sup>35</sup> For years, the secretary-general has been asking for the adoption of clearly defined criteria for both imposing sanctions and lifting them. However, 'instead of offering advice and policy guidance on sanctions, the committees merely issue permits and authorisations.'<sup>36</sup>

Leaders and representatives of a number of countries have favoured the co-operative monitoring of sanctions, which would entail the integration of the resources of international and regional organisations and individual countries.

The UN has long been facing a resource problem that affects many of its most important activities. Some powerful developed countries, most notably the US, create problems by failing to pay their dues. This makes it more difficult for the UN to implement sanctions. Effectively solving these problems could enhance the role of the UN.

### **Evolution of international norms**

Another important issue in increasing the effectiveness of sanctions is the evolution of international norms on sanctions. If an international institution like the UN is the nodal agency for the imposition of sanctions, international norms should be its guiding principle. These international norms could guide not only the sanctions imposed by a body like the UN but also those introduced by individual countries and regional and non-UN multilateral groups.

The evolution of globally-accepted norms would check deviant and discriminatory behaviour in certain sanction-imposing powers, and also help to resolve the question of whether sanctions should be applied to the allies of a country against which sanctions have been authorised.

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<sup>35</sup> For general discussion on improving the UN sanctions system, see the United Nations Security Council Working Group on General Issues on Sanctions, Relevant documents and papers, <http://www.un.org/sc/committees/sanctions/documents.htm>.

<sup>36</sup> Paul JA, *op. cit.*

## The goals of sanctions

Another essential condition for the functioning of sanctions is that the goal or goals that sanctions are intended to fulfil should be clearly delineated. JM Lindsay has classified the objectives of trade sanctions into five categories: compliance, subversion, deterrence, international symbolism and domestic symbolism.<sup>37</sup> Compliance by the country that is sanctioned is generally considered the most desirable goal for enforcing sanctions. International symbolism and domestic symbolism<sup>38</sup> are considered important, but not always a very popular rationale for imposing sanctions.

All sorts of deterrent, corrective and retributive rationales are put forward to justify the imposition of sanctions. Study after study has concluded that vagueness in the objectives of any sanctions increases the likelihood of their being violated by the sanctioning parties. All the countries involved interpret sanctions to suit their national interests, but they should avoid pursuing hidden agendas, which in turn could lead to the erosion of the sanctions system.

## Sanctions and security

Sanctions related to security matters should comply with international norms. The US, which was the first country to impose sanctions on India under US domestic law after the May 1998 Indian nuclear tests, removed these sanctions in phases. Some were lifted within a year of the date of imposition, whereas the remainder were removed through Presidential Determination No. 2001-28 on 22 September 2001.<sup>39</sup>

Even though the sanctions against India are no longer in force, Indian scientists may face difficulties in getting visas to visit the US to attend meetings, conferences and seminars. It may be noted that certain programmes like the SLV-3 Satellite Launch Vehicle, Augmented

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<sup>37</sup> Lindsay JM, 'Trade sanctions as policy instruments: A re-examination', *International Studies Quarterly*, 1986, pp.153-173.

<sup>38</sup> International symbolism sends a message to other countries whilst domestic symbolism refers to garnering domestic assistance for a popular public policy initiative.

<sup>39</sup> For a detailed reference see Santhanam K et.al., 'Lifting of US sanctions: Type, scope and legal backing', *The Financial Express*, 9 October 2001.



Satellite Launch Vehicle, Polar Satellite Launch Vehicle, Geostationary Satellite Launch Vehicle, Agni and Prithvi have been under licensing requirements even for EAR 99 items.<sup>40</sup> It is inferred that restrictions would continue. For all other entities, there will be no licensing requirements.

The present relaxation is likely to see a decrease in the percentage of denials of licences. But the Indian strategic community has remained puzzled by the continuance of curbs in some areas. Surprisingly, the notice failed to differentiate satellite launch vehicles and missiles. The Missile Technology Control Regime (MTCR) says that activities relating to peaceful use of outer space would not be hampered.<sup>41</sup>

### **Pakistan and sanctions**

The US and some other countries also placed Pakistan under sanctions for testing nuclear devices in 1998, although that country was already under sanction by the US in terms of the Pressler Amendment of 1990 (for developing nuclear weapons). Of the sanctions listed for waiver under the 22 September 2001 Presidential Determination, Pakistan was covered by Section 102 (b) (2) (A), (B), (C), (D), (E) and (G) as well as Section 101 of the Act, Section 620 E (e) of the Foreign Assistance Act of 1961 and Section 2 (b) (4) of the Export Import Bank Act of 1945.

Sanctions were also imposed on Pakistan after the October 1999 military coup. In September 2001, these sanctions (under Section 508 of the Foreign Operations Appropriations Act 2001, which specifies that a country that overthrows a democratically elected head of government cannot get financial assistance from the US) were replaced by the more differentiated sanctions contained in Title V of Public Law 106-554<sup>42</sup> to Pakistan. Although sanctions under Section 508 cannot be removed until and unless the president is satisfied that a

<sup>40</sup> EAR99 is a classification for an item used in the US export control system for dual-use technology and goods. The control system maintains a list of goods and technology. This list is known as the Commerce Control List of the US Department of Commerce. EAR99 items, although not on the list, still require licensing in specific cases.

<sup>41</sup> The MTCR can be read at [http://www.state.gov/www/global/arms/treaties/mtrc\\_anx.html](http://www.state.gov/www/global/arms/treaties/mtrc_anx.html).

<sup>42</sup> US Department of State, Congressional Budget Justification for Foreign Operations, Fiscal Year 2001, 15 March 2001, <http://www.state.gov/www/budget/fy2001>.

democratically elected government has taken charge in Pakistan, President Bush, through the authority granted by 22 USC 2364, overrode some of the restrictions imposed by Section 508 of the Foreign Operations Appropriations Act. Through his Presidential Determinations, the president released grants to Pakistan without regard to any provisions of law within the scope of Section 614 (a) of the Foreign Assistance Act of 1961, giving the security interests of the US as the reason.

Later, the Bush Administration formally removed even this sanction, though the status of democracy in Pakistan under General Pervez Musharraf remained questionable. Through Presidential Determination No. 2003-16, dated 14 March 2003, Bush signed a memorandum for the US secretary of state declaring a waiver of the sanctions against Pakistan relating to the coup. The Determination states:<sup>43</sup>

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 1(b)(1) of the Pakistan Waiver Act, Public Law 107-57, I hereby determine and certify that a waiver of section 508 of the Foreign Operations, Export Financing, and Related Programs Appropriations, Division E of the Consolidated Appropriations Resolution, 2003, Public Law 108-7

- would facilitate the transition to democratic rule in Pakistan; and
- is important to United States efforts to respond to, deter, or prevent acts of international terrorism.

I hereby waive, with respect to Pakistan, section 508 of Division E of Public Law 108-7.

As far as dual-use technology and items<sup>44</sup> are concerned, Pakistan may gain because of the 21 September 2001 and subsequent waivers. By the 21 September 2001 waiver, the number of Pakistani weapons-manufacturers has been brought down from 92 to 23.<sup>45</sup> Its Hatf series of 'indigenous' missiles would be under licensing requirements for EAR 99 items. Non-nuclear and non-missile manufacturers and

<sup>43</sup> <http://www.whitehouse.gov/news/releases/2003/03/20030314-16.html>.

<sup>44</sup> Dual-use items in international relations and strategic studies have both military and civil applications.

<sup>45</sup> United States Government, Department of Commerce, Bureau of Export Administration, *Federal Register*, 66, 190, 1 October 2001, Government Printing Office, 2001, pp.0092-0093.

programmes would be able to get licenses on the basis of presumption of approval.

On 1 September 2001, a Pakistani weapons manufacturer, National Development Complex, was put into the MTCR Category II sanctions for its engagement in missile proliferation activities with a Chinese counterpart, China Metallurgical Equipment Corporation.<sup>46</sup> However, overall, the Western countries, led by the US, seem to be lenient towards a country like Pakistan that has been found developing nuclear weapons and missile programmes through clandestine mechanisms. These mechanisms often violate the non-proliferation laws and guidelines of the Western powers, including those of the US. However, Pakistan's reprieve on sanctions might have been a reward for its becoming a partner in the West's coalition against terrorism. In the meantime, Pakistan and the US have also signed an agreement to reschedule the government-to-government debts of Pakistan.

In effect, the US imposes sanctions on Pakistani entities in response to pressure from other countries, but removes or dilutes these sanctions even before the stipulated periods have elapsed. For example, by public notice 3482, on 21 November 2000, the Pakistani Ministry of Defence along with other organisations was placed under sanctions for two years for involvement in prohibited missile transactions with Iran.<sup>47</sup> However, on 2 November 2001, sanctions were lifted from the Pakistani Ministry of Defence.<sup>48</sup> The notice specified that the waiver was 'needed (1) to support Operation Enduring Freedom and (2) to permit sale or export to Pakistan of defence articles or defence services

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<sup>46</sup> United States Government, Department of State, Bureau of Nonproliferation, *Federal Register*, 66, 176, 11 September 2001, Government Printing Office, 2001, p.47256.

<sup>47</sup> United States Government, Department of State, Bureau of Nonproliferation, *Federal Register*, 65, 231, 30 November 2000, Government Printing Office, 2000, pp.71348-71349.

<sup>48</sup> United States Government, Department of State, Bureau of Nonproliferation, *Federal Register*, 66, 219, 13 November 2001, Government Printing Office, 2001, pp.56892-56893, and United States Government, Department of State, Bureau of Nonproliferation, *Federal Register*, 67, 75, 18 April 2002, Government Printing Office, 2002, pp.19306-19307.

comparable to those delivery of which was blocked by the imposition of sanctions on 30 May 1998'.<sup>49</sup>

On 2 April 2003, the Federal Register published the notices to impose sanctions on the Khan Research Laboratory (KRL) of Pakistan and Changgwang Sinyong Corporation of North Korea for involvement in missile transfer activities.<sup>50</sup> The effective date on which sanctions were to start was 24 March 2003. The Federal Register published two separate notices for the sanctions on the two organisations: number 4326 for the North Korean entity, and number 4327 for the Pakistani entity. Public Notice No. 4326 (relating to North Korea) recorded the use of sections 73(a)(1)(2)(B) and (C) of the Arms Export Control Act (AECA) and sections 11B(b)(1)(B)(ii) and (iii) of the Export Administration Act (EAA) 1979, as carried out under Executive Order 13222 of 17 August 2001 and Executive Order 12851 of 11 June 1993 to impose sanctions related to missile proliferation. Executive Orders 13222 and 12851 extended the statutory authority of the lapsed Export Administration Act (EAA) for export controls until the new EAA is finally passed by both the houses, and laws are made for export control, details and provisions of EAA-79 to guide the US administration.

Public Notice No. 4327 (relating to Pakistan) alludes to the use of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C.1601 et seq.), the Arms Export Control Act (22 U.S.C. 2751 et seq.), and section 301 of title 3, United States Code, and Executive Order 12938 of 14 November 1994, as amended. Details of the sanctions against Pakistan provided in sections 4(b), 4(c), and 4(d) of Executive Order 12938 are used in the notice. The particular provisions of the IEEPA allow for the exercise of presidential authority in the face of any unusual and extraordinary threat in whole or substantial part, both inside and outside the US.

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<sup>49</sup> United States Government, Department of State, Bureau of Nonproliferation, *Federal Register*, 66, 219, 13 November 2001, Government Printing Office, 2001, p.56892.

<sup>50</sup> United States Government, Department of State, Bureau of Nonproliferation, Public Notice number 4326, *Federal Register*, 68, 63, 2 April 2003, Government Printing Office, 2003, p.16113; and United States Government, Department of State, Bureau of Nonproliferation, Public Notice Number 4327, *Federal Register*, 68, 63, 2 April 2003, Government Printing Office, 2003, pp.16113–16114.

The provisions of the National Emergencies Act are meant for the termination of existing declared emergencies, and Section 301 of title 3 of the United States Code concerns general authorisation to delegate functions.

Most importantly, there is a difference between those provisions of the AECA used against North Korea and Pakistan. For the latter, only the provision that deals with the need for international defence co-operation and military export controls has been applied. On previous occasions, for missile-related sanctions the US used section 73 (a) (1) and section 73 (a) (2) (B) and (C) of the AECA, as can be seen in the Federal Register dated 11 September 2001. At that time, the US used the same set of laws against both China and Pakistan for their engagement in missile activities. Also, the US used section 73 (a) (1) and section 73 (a) (2) (B) and (C) of the AECA when Pakistani firms were found to be engaged in missile transfer activities with Iran. (The Federal Register notified these sanctions on 30 November 2000.)

Executive Order 12938 and its sections, imposing sanctions on Pakistan, signed by the then US president, Bill Clinton, on 14 November 1994 and subsequently revised by him through Executive Order 13094 on 28 July 1998, authorises sanctions against any foreign person (or state) that has<sup>51</sup>

... materially contributed or attempted to contribute materially to the efforts of any foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction, or missile capable of delivering such weapons.

The sanctions imposed on Pakistan in the above case appear to have little to do with the acquiring of North Korean missiles, as argued by US State Department officials and even subsequently clarified by them the next day.<sup>52</sup> It seems that the US imposed sanctions on Pakistan for supplying nuclear items to North Korea under pressure of the media and countries like Japan. Any action allowed under Executive Order 12938 is less severe than those described in Sections 101 and 102 of the AECA.

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<sup>51</sup> The White House, Office of the Press Secretary, Executive Order 13094, 28 July 1998.

<sup>52</sup> <http://www.state.gov/r/pa/prs/dpb/2003/19253.htm>.

Many in Pakistan and in the Islamic world saw the imposition of sanctions as a coercive mechanism to browbeat Pakistan and secure its support for the war in Iraq.

The invocation of these Orders and Acts will have certain implications for the Khan Research Laboratory (KRL) in Pakistan, its subunits and its successors. These are:

- no department or agency of the US government may procure any goods, technology, or services from them;
- all departments and agencies will have to terminate all existing contracts with them;
- no department or agency may provide any assistance to them; or allocate funds for their assistance; and
- the Secretary of the Treasury will prohibit the importation into the US of any goods, technology, or services produced or provided by them.

However, there are some exceptions provided for. The Department of State will postpone all licenses and other approvals for:

- exports and other transfers of defence articles and defence services from the US;
- transfers of US-origin defence articles and defence services from foreign destinations; and
- temporary imports of defence articles to them.

It is now well established that Pakistan was one of the main players in managing the al-Qaeda and the Taliban network. Although Western countries may see Pakistan acting to oppose terrorism, the Eastern countries see it as promoting terrorism. Any international principle defining state behaviour that warrants the imposition of sanctions must take this factor into account. Western countries may make a mockery of their own national laws and positions, but they should not be allowed to make a mockery of international norms.

### **Weak/strong country**

Fashioning a system of assuring the international community in general and weak powers in particular that a nation's strength does

not matter in enforcing multilateral sanctions to control deviant behaviour poses an important challenge to the international community. If a weaker nation is made to suffer for its deviant behaviour, a stronger nation should not go unpunished. Any failure to conform with sanctions imposed against a strong power for violating established international norms might send the wrong signals, leading to the further erosion of the sanctions system. The general perception is that sanctions succeed only against weak powers and have less chance of success against middle powers, and are ineffective against strong powers. This perception is partly true, but there have been occasions when the combined pressure of the whole international community has forced strong powers to change their behaviour.

### Democracy

Democracy is another factor that adds complexity in the sanctions system. Scholars have been deliberating over the relation between sanctions and democracy. Some argue that sanctions succeed only against those countries that are democratic. Others contend that the implementation of democracy should be the rationale for implementing sanctions. In one study 81 instances of sanctions<sup>53</sup> were examined, and the conclusion reached was that sanctions imposed by democracies succeed, whereas sanctions imposed by non-democratic countries fail.

Leaders and policymakers also have to consider whether sanctions should be used to promote democracy. Hubert Vedrine, the French foreign minister, wrote:<sup>54</sup>

In which cases should one go beyond that and decree sanctions against States which not only fail to observe the fundamental rules of democracy, but also intolerably oppress their people or endanger a region's stability? We do not rule out a priori the recourse to sanctions and in fact are imposing them against ten or so countries.

<sup>53</sup> Hart RA Jr., 'Economic sanctions and democracy: Toward a theory of democratic conflict behaviour'. Paper to the International Studies Association, San Diego, 19–23 April, 1996 quoted in Nossal KR, *Liberal-Democratic Regimes, International Sanctions, And Global Governance*, <http://post.queensu.ca/~nossalk/papers/liberal.htm>.

<sup>54</sup> Vedrine H, 'Serving the cause of democracy,' *Le Monde*, Paris, 22 February 2001 reproduced by the Embassy of France in the United States, 22 February 2001, <http://www.info-france-usa.org/news/statmnts/2001/demved.asp>.

It is argued that 'illiberal' systems such as military dictatorships, oligarchies, and human-rights abusing regimes transfer the pain of international sanctions to their peoples.<sup>55</sup> It is assumed the sufferings of the population do not move the rulers of such systems, and that the sanctioning countries or group may not therefore achieve their aims. The cases of North Korea, Cuba, Iraq, Libya, Myanmar, Nigeria and so on are cited to buttress the argument that sanctions fail to cause any change of heart in illiberal and non-democratic governments. Some scholars fear that the imposition of sanctions can be utilised by totalitarian regimes to mobilise public opinion in their favour.<sup>56</sup>

Sanctions, however, succeeded in the case of South Africa. One may argue that many factors led to the success of sanctions against South Africa, and that it is a major policy challenge for international bodies to impose effective sanctions against authoritarian regimes. By and large, sanctions are more likely to succeed if a more liberal environment is created at the global level. A world order in which democratic countries follow embedded liberal values may discuss and resolve complicated issues through dialogue and negotiations.

### **Smart sanctions**

Care must be taken to avoid economic sanctions that cause innocent people to suffer, particularly women and children, who have been shown by various studies to be the most vulnerable. A United Nations Children's Fund (UNICEF) Report noted that in the last decade of sanctions the infant mortality rate of Iraq had doubled.<sup>57</sup> Already, the concept of smart sanctions (that is, restrictions that target the regime, not the population) is being talked about. One of the purposes of this concept is to mitigate the sufferings of the people. President George W Bush, during his election campaign, frequently talked about 'smart' sanctions and their use in the future. He believed such sanctions could change the behaviour of the Iraqi regime. US officials frequently cite as an example of smart sanctions the oil-for-food programme that is supposed to produce \$20 billion in resources for dealing with the

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<sup>55</sup> Nossal KR, *op. cit.*

<sup>56</sup> For example, Doxey M, *op. cit.*, pp.7-8.

<sup>57</sup> Online at [www.unicef.org/newsline/99pr29.htm](http://www.unicef.org/newsline/99pr29.htm); and [www.cnn.com/WORLD/meast/9908/12/iraq.unicef](http://www.cnn.com/WORLD/meast/9908/12/iraq.unicef)



needs of the Iraqi people, but this programme, too, has not met with unalloyed success.<sup>58</sup> Whatever names reformed sanctions acquire, the aim should be to overcome the problems endemic to sanctions.

### **The hierarchy of sanctions**

Another important issue that recurs in the study of sanctions is: What is the most important form or type of sanctions? Other related issues are: Which of the types of sanctions is more effective? and Could these types of sanctions be hierarchised? These are difficult questions to answer. Nowadays, sanctions are considered primarily as an economic instrument, as is indicated by the bulk of the literature on sanctions. Political, legal and other forms of sanctions are less frequently researched. This tends to obstruct a proper analysis of the role of non-economic forms of sanctions in changing the behaviour of target states, leading many to conclude that economic sanctions are the most useful. There is no final verdict as to which types of sanction are most efficacious. It depends on the target's vulnerability. A combination of different kinds of sanctions has a better chance of achieving the desired objectives.

### **Trend analysis**

Sanctions should be treated as a peaceful means of resolution of conflicts. The instrument is a non-military coercive mechanism, so it needs to be handled delicately and cautiously and not as a blunt weapon. *The basic objective of using the instrument of sanctions is to prevent war. Therefore, sanctions should not become so punitive that instead of avoiding war they cause one. An effort should be made to avoid targeting the territorial integrity and sovereignty of a nation-state. The implementation of sanctions and the monitoring of compliance should be made more sophisticated, and be carried out in a proper institutional and normative framework. There is a need to set up some criteria to evaluate the degree of success and effectiveness of sanctions.*

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<sup>58</sup> For discussion see Doxey M, *op. cit.*, p.9.

## Southern Africa's Sanctions Experience: Bringing About Change?

Elizabeth Sidiropoulos<sup>1</sup>

During the Cold War, when global comprehensive sanctions regimes were not very common, Southern Africa was the region which dominated much of the sanctions debate, because of the apartheid government in South Africa and Ian Smith's white minority regime in Rhodesia. More recently, sanctions were imposed against the Angolan rebel movement *União Nacional para a Independência Total d'Angola* (Unita) in the 1990s; and against Robert Mugabe's Zimbabwe by the European Union (EU) and the United States (US), among others, in 2002.

The UN's imposition of sanctions in 15 instances in the 1990s, caused that period to be called the 'sanctions decade'.<sup>2</sup> Zimbabwe's increasingly bad governance in the late 1990s re-ignited the debate in Southern Africa about the effectiveness of sanctions against a regime as a tool of change and their effect on the populations. The debate was one with which South Africans in the 1980s had been very familiar.

As the importance of balancing 'regime transformation' with the difficulties of reconstructing a society after the end of a conflict becomes even more evident in the international arena, the impact of sanctions on the ability of the targeted state to recover after the end of the hostilities has grown in significance. The trend over the last decade has increasingly been towards sanctions targeted against those responsible. However, such actions in turn remove one of the elements of more generalised sanctions: the growing discontent of a

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<sup>2</sup> Iraq in 1990; the former Yugoslavia in 1991; the Federal Republic of Yugoslavia in 1992; Libya in 1992; Somalia in 1992; Haiti in 1993; Unita in 1993; Rwanda in 1994; Liberia in 1994; the Bosnian Serbs in 1994; Sudan in 1996; Sierra Leone in 1997; the Federal Republic of Yugoslavia in 1998; the Taliban in Afghanistan in 1999; and Eritrea and Ethiopia in 2000.

population hard-hit by them reaching a point where internal resistance itself helps to precipitate change.

This paper is divided into two parts. The first will look briefly at current debates on sanctions, including the recent UN initiatives to make sanctions more effective. The second part will focus on three case studies taken from Southern Africa: South Africa (where sanctions were imposed against a state); Angola (where they were used against a movement, Unita); and Zimbabwe (where there have been no UN sanctions, but rather sanctions by the EU, the US and Australia individually).

### **Sharpening the tool**

The increasingly interwoven and complex nature of the world and the mushrooming of transnational actors who are independent of any state but influence developments in states and across boundaries, necessitates a re-examination of the function of sanctions and ways in which they could be made more effective.

Sanctions are not a new tool, although they have been continually adapted. They took on an international and multilateral element during the UN sanctions regime primarily directed against South Africa and Rhodesia. The end of the Cold War heralded the mushrooming of UN Security Council sanctions regimes in the 1990s, but their efficacy has been difficult to determine. The general conclusion one can draw is that sanctions are but one tool in the diplomatic armoury. They cannot achieve much on their own, although they may wield substantial symbolic significance. Sanctions are supposed to fit in somewhere 'between words and war'. They are intended to deter or to bring about a change in behaviour in the sanctioned regime or actors, which may include ending civil wars, bringing protagonists to the negotiating table, or forcing the overthrow of a regime.

Like all actions of states, sanctions are not always entirely objective or consistent in their application, given that they are applied by individual states that may have particular interests. This also gives rise to perceptions that double standards or hidden agendas are applied

when sanctions are used as a tool. On the whole, however, sanctions in the last half-century have been primarily motivated by a desire in states and international organisations to condemn what is generally regarded as unacceptable behaviour by specific states. However, with the ratification of the Rome Statute and the establishment of the International Criminal Court, what are judged to be acceptable norms of behaviour by states are shifting. Bad governance, even by 'elected' leaders, may increasingly be used as a reason for sanctions in future, although the definition and interpretation of what constitutes such behaviour by regimes will remain a critical obstacle.

One of the key objectives of recent refinements in sanctions has been to focus on the primary perpetrators of what is considered reprehensible, rather than on the population as a whole. Indeed, the humanitarian consequences of sanctions (which have required the involvement of aid agencies on the ground) have contributed to a change in the debate over the type of tool sanctions should be by emphasising the importance of minimising their impact on the population at large.

The sanctions against South Africa in the 1970s and 1980s were comprehensive, and aimed at strangling its economy. The imposition of sanctions against Iraq was expected to achieve the same end. Comprehensive sanctions, even if not universally applied, substantially raise the cost of doing business in the target economy. However, the humanitarian catastrophe in Iraq following the imposition of sanctions illustrated very graphically the case of 'people's pain, perpetrators' gain' because Saddam Hussein and the Ba'ath elite benefited from the sanctions by becoming involved in racketeering and the smuggling trade. At the same time ordinary Iraqis bore the brunt of sanctions imposed with the purpose of forcing the elite to capitulate. The regime ended up increasing its wealth — although not its longevity.

Increasingly the debate about sanctions has needed to take into account new circumstances. The technological leaps, which have made it even easier for private operations to circumvent sanctions, also undermine attempts by states to comply. The UN system is trying to reduce these operations, particularly since 11 September 2001. Some of these attempts are manifested in the Stockholm and Interlaken

processes (which also aim to tackle organised criminal networks and their financing) and the Bonn–Berlin process. All of these recognise the importance of both private and public actors working together in a complementary manner, and that in a globalised world there can be no effective sanctions regime that does not take into account and incorporate private actors. The necessity of bringing them within the scope of sanctions has also fed into the debate about states, political movements or powerful international business interests or organised criminal networks involving themselves in wars for economic rather than for political reasons (described as ‘greed versus grievance’), especially in Africa.<sup>3</sup>

Ironically, the presence of aid agencies in the targeted country has often assisted sanctions violations, but at the same time the growth and prominence of NGOs has allowed many of these activities to come to light.<sup>4</sup>

For a brief time after the end of the Cold War, there was unprecedented co-operation among the Permanent Five (P-5) in the UN Security Council. That consensus helped to mobilise a UN force against Saddam Hussein in 1990–91, and to authorise the sanctions regime against him. But this euphoric co-operation was soon to end with the re-emergence of power politics, especially among the P-5. Sanctions, although their justification is couched in moral terms as an attempt to remove ‘threats to peace’, are also used for the promotion of particular national interests. For example, countries that have less to lose are more willing to enforce sanctions than countries which have a substantial trading relationship with the country in question.<sup>5</sup>

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<sup>3</sup> See Le Billon P, J Sheridan & M Hartwell, *Controlling Resource Flows to Civil Wars: A Review and Analysis of Current Policies and Legal Instruments*. New York: International Peace Academy, May 2002; Taylor M, *Emerging Conclusions, Economics of Conflict: Private Sector Activity in Armed Conflict*. Programme for International Co-operation and Conflict Resolution, March 2002.

<sup>4</sup> Cortright D & GA Lopez, *Sanctions and the Search for Security: Challenges to UN Action*. Boulder, Colorado: Lynne Rienner Publishers, 2002, pp.13, 15–16.

<sup>5</sup> In the case of the possible implementation of sanctions against the export of Liberian timber in the late 1990s and early 2000s, such an action would have imposed substantially larger costs on France, which imported a larger proportion of Liberian timber than other P-5 countries on the UN Security Council. That was a significant incentive for a country like France not to adhere to the sanctions regime.

In the case of Africa the conventional sanctions regimes aimed against 'errant' states such as apartheid South Africa, were considered no longer sufficient in an era of failed or failing states and the emergence of non-state actors. Unita is an example of a case which required the refinement of the sanctions weapon. Shorn of West-East loyalties, rebel movements in Africa in the 1990s thrived on parallel economies and shadow criminal networks to maintain the flow of revenue so that they could continue fighting. Clearly therefore, traditional sanctions aimed at constraining the national economy of a state are not the appropriate tools for placing pressure on a rebel movement that wishes to continue fighting. They are also not effective when targeting private organised criminal networks.

Sanctions regimes of the kind used against South Africa also create favourable conditions for 'sanctions-busters', criminal networks and other non-state actors, like rebel factions. For sanctions regimes to be effective they have to go to the heart of what activates such movements. Garnering the support of a country's population is not always their objective, nor are they averse to using intimidation. They operate largely on fear and patronage.

Yet ironically, the situation in Zimbabwe over the last few years has had interesting parallels with rebel movements. Whereas the basic premise behind sanctions previously was that they squeezed the economy and the state so that the citizens themselves started putting pressure on the government, this hypothesis has been shown to be invalid, at least in the short term. Regimes such as that of Mugabe have a very particular constituency — the army and the political elite. It is that constituency that needs to be squeezed, and that requires very specifically targeted sanctions.

### *From Interlaken to Bonn-Berlin and Stockholm*

The efficacy of punitive measures has been difficult to determine, and previous experience of comprehensive sanctions has not been encouraging; partly because of their destructive impact on populations, but also because by their very nature they are difficult to implement. However, in the last several years various processes have been established to refine and apply targeted sanctions (for instance

against Unita, the Taliban, Liberia and Zimbabwe, although those against the latter have no UN mandate). These targeted sanctions are 'directed against significant national decision-makers (political leaders and key supporters of a particular regime) and resources that are essential for their rule'.<sup>6</sup> Also called 'smart sanctions', they include financial, arms, travel and commodity restrictions on the relevant groups.

For such sanctions to be effective it is necessary to develop more refined systems to ensure implementation. Adherence to a sanctions regime requires the co-operation and engagement of the private sector and non-governmental organisations (NGOs).

In 1998–99 Switzerland began a series of seminars that focused on improving the enforcement of financial sanctions. The Interlaken process, as it became known, aimed to build on the actions taken internationally to combat money laundering by developing concrete proposals for improving the technical capacity and strengthening the implementation efforts of the UN and its member states.<sup>7</sup>

Similar seminars were convened in Bonn and Berlin in 1999 and 2000, by the German Ministry of Foreign Affairs. These aimed to refine arms embargoes, aviation sanctions and travel bans.<sup>8</sup> The recommendations resulting from these processes, in which academics, practitioners, NGOs and diplomats participated, were presented to the UN in October 2001.<sup>9</sup>

The Stockholm Process announced by Sweden at the same time aimed to make recommendations on the implementation of targeted sanctions. These assume that such sanctions occur under the UN umbrella. Yet the absence of a UN mandate does not mean that it is more difficult to monitor their implementation and enforce compliance.

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<sup>6</sup> Wallensteen P, C Staibano & M Eriksson (eds), *Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options*. Uppsala: Uppsala University, Department of Peace and Conflict Research, 2003, p.iii.

<sup>7</sup> See Cortright D & GA Lopez, *op. cit.*, pp.93–114.

<sup>8</sup> See *ibid.*, pp.133–179.

<sup>9</sup> UN Security Council, 4394<sup>th</sup> meeting, 22 October 2001, New York, S/PV.4394.

Some of the key recommendations made by the Stockholm Report to states or organisations intending to impose sanctions were the following.<sup>10</sup>

- They should set out a clear purpose and specific targets at the design phase. These should include what would be required for implementation of the measures, and the establishment of a sanctions committee with the power to follow through on decisions taken.
- They should maintain international support by ensuring that member states are 'fully informed of the rationale of the measures, from the early stages and throughout the sanctions regime'. The media should also be kept updated and informed of progress on implementation.
- They should monitor, follow up and refine the measures throughout the sanctions regime. Specifically they should ensure that the Expert Panels and Monitoring Mechanisms have the 'competence and the authority to perform in-depth investigations and that the Panel reports meet the highest evidentiary standards'.
- They should encourage national training programmes in the areas of police, customs and transportation services and financial controls, all of which are critical for effective sanctions implementation.
- They should adopt different measures to implement the various types of sanctions. This relates to the legislative and administrative framework of countries, as well as to the strategies for countering evasion.

Successful implementation will continue to be hampered by difficulties. Key states and multilateral institutions are the enforcers of sanctions, yet the absence of political will among some of them will undermine the efficacy of the measures and make for uneven application. Even when implemented fairly uniformly, sanctions take time to bite. The delay factor is compounded by the easing of pressure on a regime through the flow of humanitarian assistance to the population.<sup>11</sup> Sometimes the weak economic and political capacity of

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<sup>10</sup> Wallensteen P *et al.*, *op. cit.*, p.iv.

<sup>11</sup> A certain Zimbabwean minister told EU officials, who were critical of the government's policies and warned that the EU would not continue to provide funds, that the Zimbabwean government knew the EU would provide assistance



neighbouring states makes it difficult for them to apply embargoes against a neighbour, and may also weaken their economies. That was the dilemma of the Southern African states during apartheid.

Some of the difficulties related to sanctions are linked to the specific goals of the sanctions regime. For example, those aimed at forcing a state to change its behaviour are usually less successful than ones that are purely punitive, and aimed at destabilising a particular regime.<sup>12</sup>

An essential factor and variable affecting the ability of sanctions to bite is the type of regime that is being targeted. Where comprehensive sanctions were applied, the assumption was that if the 'masses' suffered this would compel the leadership to take such action as was necessary to remove the sanctions regime. That assumption is valid only in democratic states where 'political leaders are... motivated primarily by the prospect of re-election and therefore of pleasing their domestic constituencies'.<sup>13</sup> Yet the countries that were targeted in the 1990s were not fully-functioning democracies. Some of them were blatantly authoritarian dictatorships. Where the traditional dynamic between the population and the leadership is absent, sanctions that impoverish the citizenry may serve only to enrich the 'perpetrators' and targets of sanctions, as already noted in the case of Iraq; hence the role of targeted sanctions in creating 'discomfort' for the elite.

The effectiveness of sanctions depends on the ability of states and organisations to monitor their implementation. Sanctions should be imposed for a set period, and accompanied by detailed criteria which, if met, will result in the lifting of the embargo. Progress towards compliance should be assessed on a regular basis. It is also important that there are incentives as well as punishments. As stressed earlier, sanctions are but one tool, and hence need to be integrated into a broader strategy that addresses the causes of the conflict, what perpetuates it, and what engages all the critical actors.

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when the Zimbabwean population was starving. And indeed that is exactly what happened.

<sup>12</sup> Dashti-Gibson J, Davis P & B Radcliff, 'On the determinants of the Success of Economic Sanctions: An empirical analysis', *American Journal of Political Science*, 41, 2, April 1997, cited in Nooruddin I, 'Modelling selection bias in studies of sanctions efficacy', unpublished paper, January 2001, p.10.

<sup>13</sup> Nooruddin I, *ibid.*, p.13.

The following section contains three case studies — South Africa, Unita and Zimbabwe.

### **The case of South Africa**

The sanctions campaign against South Africa began in the 1950s, but gained momentum in the 1960s and 1970s. By 1963, 25 countries had imposed official boycotts against South Africa. The first punitive UN resolution in April 1961 requested members to consider taking 'separate and collective action' against South Africa. In 1963 the UN Security Council called for an arms embargo against South Africa, and in 1977 imposed a mandatory arms embargo.<sup>14</sup>

The anti-apartheid campaign mobilised communities, organisations, states, intergovernmental institutions, churches and political parties around the world, and also within South Africa itself. It would not be an exaggeration to say that this groundswell of political opposition to apartheid was unprecedented, and has not been repeated on the same scale since.

The sanctions against South Africa, introduced at different times from the early 1960s onwards, were both multilateral and bilateral. They covered arms, oil, aviation and financial links; people-to-people (sports, cultural and academic) and diplomatic interactions; and advocated private business disinvestments and divestment.<sup>15</sup> While their intention was to be comprehensive, their application became selective, partly because the various actors continually reviewed and revised their strategies in light of changed circumstances. Indeed by the 1980s the selective sanctions argument was gaining support, influenced by two main questions seizing the pro-sanctions lobby:<sup>16</sup>

- Which sanctions would weaken the South African government most?

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<sup>14</sup> Africa Research Centre, *The Sanctions Weapon: A Summary of the Debate over Sanctions against South Africa*, prepared for the Black Caucus. Cape Town: Buchu Books, 1989, pp.12–13.

<sup>15</sup> Disinvestment was the partial or total withdrawal of foreign companies, whereas divestment was the selling of shares in companies involved in South Africa.

<sup>16</sup> Africa Research Centre, *op. cit.*, p.72.

- Which sanctions would strengthen the leverage or bargaining power of the black people?

This shift was also made essential by the fundamental weakness in the sanctions regime — it was not, in fact, comprehensive.<sup>17</sup> South Africa's key economic and political partners, the US, the UK, West Germany and Switzerland, had not applied the sanctions regime during this period, and thus partly contributed to its undermining.

The effects of the various forms of sanction imposed against South Africa are described below.

*People-to-people boycotts* did not have an immediate monetary cost associated with them, but carried substantial symbolic importance. Also, the absence of cultural and academic exchanges in particular stifled the flow of ideas and intellectual debate. This type of sanction has long-term effects on the intellectual underpinnings of any society. (This topic is discussed in greater detail in the chapter by Brooks Spector elsewhere in this volume.)

At a more formal and political level, the perception of South Africa as a pariah state (which was reinforced by the absence or revocation of *diplomatic* recognition by many states) gave legitimacy to the broad anti-apartheid movement and the *liberation struggle*. It confirmed the moral reprehension with which most of the world regarded Pretoria.

The *arms embargo* had limited impact, as many Western states continued to do business with the apartheid government, collaborating with it to develop South Africa's own arms industry and supplying it with 'civilian' or 'dual-purpose' products that were not manufactured domestically. While South Africa did not become self-sufficient in the manufacture of arms and ammunition, the weapons embargo helped to accelerate industrial development in certain sectors of its economy. The substantial annual increase in South Africa's

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<sup>17</sup> A report by the Council of the Evangelical Church of Germany in 1986 concluded that 'a small group of only six countries (the USA, UK, Federal Republic of Germany, France, Japan and Switzerland) is able, through suspending the integration of the South African economy into the world economy with the help of effective sanctions, to topple one of the main pillars of the apartheid regime.' Cited in Africa Research Centre, *ibid.*, p.77.

defence budget, therefore, had a positive effect on the domestic industry, although by the mid- to late 1980s the cost to the fiscus was becoming impossible to sustain.<sup>18</sup> Sanctions also increased the cost of access to advanced high-tech systems and had a negative effect on the South African economy in the long run.

After the adoption of the mandatory arms embargo in 1977, the Security Council established a committee to monitor and supervise adherence. However, it had a weak mandate. Although in 1980 it submitted a number of proposals for making the embargo more effective, the only one adopted by the Security Council was watered down and non-mandatory. The blocking of proposals by the US and the UK ensured that the committee's role became superfluous.

Some of these difficulties of implementation of the arms embargo resurfaced in the discussions in the 1990s about making sanctions more effective.

The *oil embargo* against South Africa, which was imposed in 1973, was also unsuccessful in choking the economy, although it introduced additional costs. The Shipping Research Bureau in Amsterdam, set up by anti-apartheid organisations to trace the secret supply lines established to defy the oil embargo, estimated that it had cost South Africa over R80 billion from January 1979 to the early 1990s.<sup>19</sup> Many oil-producing countries, including Saudi Arabia, the United Arab Emirates, Qatar, Oman, Iran and Egypt, supplied South Africa, especially after the fall of the Shah in Iran in 1979 had closed off that avenue to the apartheid government. Commenting on this, the Shipping Bureau said,<sup>20</sup>

All the above-mentioned countries have repeatedly endorsed the oil embargo against South Africa. However, the massive violations of their embargo policies suggest serious deficiencies in their procedures for monitoring possible oil deliveries to South Africa.

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<sup>18</sup> For a detailed discussion of South Africa's military build-up and the impact of the arms embargo see Minty AS, 'South Africa's military build-up: The region at war', in Johnson P & D Martin (eds), *Frontline Southern Africa*. Peterborough: Ryan Publishing, 1989, pp.233-280.

<sup>19</sup> Davie K, 'How South Africa gets its oil', *The Executive*, undated.

<sup>20</sup> *Ibid.*

Both arms and oil embargoes were of far longer duration than *financial sanctions*, but it was the restriction of loans that was by far the most effective, although it came into play only in the mid-1980s. Although these sanctions were primarily driven by real economic imperatives, they nevertheless had a political impact too, entrenching the apartheid government's sense of being under siege from all sides.

The South African economy's structural deficiencies in terms of generating growth and employment (not as the result of sanctions, but preceding them) made it vulnerable. After the Second World War the economy had not been able to generate enough jobs to take natural population growth into account,<sup>21</sup> and by the early 1980s foreign capital flows had declined, as had domestic savings. The raising of foreign loans to counter these twin problems caused short-term debt as a proportion of total foreign debt to rise from 49% in 1980 to 68% in 1984. Total foreign debt in 1980 amounted to \$16.9 billion, or 20% of South Africa's GDP. Four years later this had grown to \$24.3 billion, or 46% of GDP, because of the substantial decline in the value of the rand.<sup>22</sup>

At the end of July 1985, Chase Manhattan Bank announced that it would not extend credit on maturing short-term loans; nor would it advance new credit. Other US banks followed suit. The South African government imposed a unilateral moratorium on its short-term international debt. An interim agreement was negotiated in 1986, but the crisis had a number of ramifications for South Africa. It helped to tighten the noose on an economy already under siege,<sup>23</sup> partly owing to sanctions but also because of its own structural barriers and lack of foreign capital. It undermined investor confidence in the economy and South Africa's international credit-worthiness, and the compulsory debt repayments drained an economy already starved of

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<sup>21</sup> African Research Centre, *op. cit.*, p.56.

<sup>22</sup> Hirsch A, 'Sanctions, loans and the South African Economy', in Orkin M (ed.), *Sanctions Against Apartheid*. Cape Town and Johannesburg: David Philip, 1989, p.272.

<sup>23</sup> Christopher Coker refers to South Africa's siege economy in the 1980s as one starved of foreign capital and inter-bank loans, rather than one besieged by sanctions. See Coker C, 'Disinvestment and the South African "siege economy": A business perspective', in Johnson S (ed.), *South Africa: No Turning Back*. London: Macmillan, 1988, pp.283-303.

foreign capital inflows. From the mid-1980s onwards the state had to maintain a surplus on the current account of its balance of payments.

The cost of doing business and raising private finance abroad had increased substantially, but the ability of financial sanctions to act as tools of change was nowhere more obvious than in the preparatory stages of the renegotiation of the debt rescheduling. Not only had South African big business begun increasing its calls on government to reform, but President PW Botha repealed the pass laws and lifted the state of emergency in early 1986. The international community viewed these as positive developments, but soon after the debt was rescheduled the South African government imposed a new state of emergency.

Some analysts argued that it was in the economic area that greater emphasis on adherence to sanctions needed to be placed, as the leverage exerted could be powerful.<sup>24</sup> The role played by the international banks already discussed had shown tangible results. The banks themselves had also come under substantial pressure in their own countries to be firm with South Africa, especially via the mobilisation of public opinion and activism of citizens and communities in the US and the UK.<sup>25</sup>

Another area of vulnerability for the South African economy was in trade credits, as most of its trade was financed in this way. Although trade credits were not part of the sanctions regime, in 1987, Dr Chris Stals, the director-general of finance at the time, said:<sup>26</sup> 'If the world banking community should effectively exclude South Africa from international trade and payment systems, it would be a much more effective sanctions measure than trade sanctions applied by governments.'

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<sup>24</sup> Hirsch, *op. cit.*, p.276.

<sup>25</sup> In the UK, Barclays Bank saw its share of the student market decline from 27% in 1983 to 17% in 1985 because of a campaign by students, local councils, charities and individuals protesting against its involvement in South Africa. For more detail see Hirsch, *ibid.*, p.277.

<sup>26</sup> *Ibid.*, p.282.

Restrictions on access to global finance in the mid-1980s coincided with the adoption by the US of the Comprehensive Anti-Apartheid Act (CAAA) in 1985. This was a blow not only in terms of its content, but also symbolically, as the US (especially under President Ronald Reagan) had been one of the staunchest supporters of the South African government. The CAAA, which was adopted by the US Congress notwithstanding President Reagan's veto, provided for the following restrictions on relations between the two countries:<sup>27</sup>

- prohibition of air transport;
- prohibition of nuclear trade;
- a ban on US banks taking deposits from any agency of the South African government;
- prohibition of the importation of coal, iron, steel, agricultural and edible products, textiles and uranium;
- prohibition of new investment in South Africa, except in firms owned by black South Africans;
- termination of double taxation agreements; and
- a ban on sales of petroleum products and any goods on the US Munitions List.

Provision was made to monitor political progress by the South African government. The Act also stipulated that additional sanctions would be imposed if the government had not made 'substantial progress' within twelve months. Title II of the CAAA provided for US economic assistance in the form of scholarships, legal and other assistance to political prisoners and their families, and an employment code of conduct (among others) for US companies operating in South Africa.

The CAAA was not fully adopted or adhered to by the Reagan administration. However, of all the trade sanctions against South Africa, the CAAA was the most effective in reducing the volume of trade between South Africa and the US. America was (and continues to be) an important trading partner. However, much of the decline in South Africa's exports to US markets in the late 1980s was taken up by exports to other countries. For example, when in 1987 the US and the

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<sup>27</sup> Danaher K, 'The US struggle over sanctions against South Africa', in Orkin M (ed.), *op. cit.*, pp.137-138.

UK cut back on their purchases of diamonds, Switzerland and Belgium absorbed most of the supply.<sup>28</sup>

The CAAA was followed by similar moves in Canada, Australia, New Zealand and the Scandinavian countries; and lesser measures were adopted by the European Economic Community (EEC). The EEC agreed to maintain bans on oil and arms exports, and to withdraw military attachés from Pretoria. In 1985 at Nassau the Commonwealth<sup>29</sup> applied bans on government loans to South Africa; the government promotion of South African trade missions; the importation of Krugerrands and the exportation of oil, computer equipment, goods and supplies to the military, police or nuclear sectors. It also discouraged all cultural and scientific co-operation.<sup>30</sup> Most members had already taken those measures. In London in 1986, additional sanctions were agreed upon by all except Britain. These included a ban on the importation of agricultural products, uranium, coal, iron, steel, and on new investment or reinvestment of profits earned in South Africa.<sup>31</sup>

By the end of 1985 *divestment* actions by US state and local governments had mandated that almost \$4.5 billion should be withdrawn from companies involved in South Africa.<sup>32</sup> However, neither this nor *disinvestment* was as costly to the South African government as the anti-apartheid movement may have hoped. In many instances of disinvestments, companies sold their holdings to their previous managers, or were bought by local companies: for

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<sup>28</sup> Jenkins C, 'Trading partners: The sanctions legacy', *Indicator SA*, 8, 4, Spring 1991, p.26.

<sup>29</sup> Particularly after the election of Margaret Thatcher as prime minister of Britain in 1979, the Commonwealth had become increasingly divided over South Africa and the application of sanctions, with Britain isolated from the rest of the members. India, Australia, Canada, Zambia and Zimbabwe were especially prominent in the Commonwealth during this period. Thatcher denounced sanctions as 'immoral'.

<sup>30</sup> Freeman L, 'All but one: Britain, the Commonwealth and sanctions', in Orkin M (ed.), *op. cit.*, p.144.

<sup>31</sup> *Ibid.*, p.145.

<sup>32</sup> Minter W, 'Destructive engagement: The US and South Africa in the Reagan era', in Johnson P & D Martin (eds), *op. cit.*, p.428.



example, Anglo American purchased Barclays National from its British parent company.<sup>33</sup>

Although the sanctions against South Africa were meant to be all-encompassing and comprehensive, as already noted they lacked the support of key Western states, which applied certain sanctions half-heartedly. Technologically, South Africa received substantial assistance from states such as Israel and Taiwan, as proxies of the West, South Africa having been part of the Western alliance during the Cold War. (It was only as the Iron Curtain started to disappear that the impetus for change grew in South Africa, and the government showed a greater willingness to engage the domestic opposition in a more sustained and open manner.)

Furthermore, South Africa's robust institutions, economic, political and security, and its strong natural resource base helped the country to resist longer. The South African government's ability to establish a number of front companies to help counter the effect of sanctions was also significant. It also led to the destabilisation by South Africa of its neighbours. The cost to the member states of the Southern African Development Co-operation Conference of preparing for South African retaliation against sanctions between 1987-90 was about \$6 billion.

### *Assessment*

Sanctions are often cited as playing a significant role in bringing down apartheid, but paradoxically, it is also claimed that 'the ability of the Pretoria regime to survive for so long is related in part to the massive political, economic and military support that it has received from its external allies'.<sup>34</sup> (This is one of the lessons that has been ignored in the debate over Zimbabwe.)

The uneven application of the sanctions against South Africa may have lessened their impact, but in some instances had unintended positive effects. The black population benefited from the continuing engagement of certain foreign companies in South Africa. The Sullivan

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<sup>33</sup> Coker, *op. cit.*, p.288.

<sup>34</sup> Minty AS, *op. cit.*, p.280.

and European Community Codes<sup>35</sup> of employment practice, with which all foreign companies had to comply, offered greatly improved conditions of service. Also, international companies remaining in South Africa provided employment to the very people who were discriminated against by apartheid.

There was clearly an argument to be made for engagement with the South African government by certain Western countries at the time. The merits of the US policy of constructive engagement may still be hotly debated, as indeed is the impact of sanctions. However, engagement can play an essential role in pressurising a regime to change, provided it is not 'molly-coddling' the perpetrator. Those who are closest to the regime and have substantial interests may have the greatest ability to manoeuvre that regime into greater reforms. (This is a lesson that is also crucial to the Zimbabwean case.) However, as Jack Bloom points out in explaining why apartheid's opponents preferred sanctions to constructive engagement,<sup>36</sup>

There is also a very strong psychological need here, that of maintaining morale, knowing that [black politicians and the broad anti-apartheid movement] are not isolated, that someone, somewhere, understands and sympathizes with their plight. *Visible* affirmations are tremendously appreciated, along the lines of protest marches, embassy sit-ins, effigy burning etc. All this quiet diplomacy of constructive engagement cannot provide, whereas the strident posturing of disinvestments campaigners most definitely can.

In the case of South Africa, there is no doubt that without the substantial domestic resistance, characterised from the early 1980s onwards by the rise of the United Democratic Front, the critical mass that was so important in bringing the government to the negotiating table would not have been created. Yet in many senses it was also the political stalemate that had made the opposition in exile realise the importance of engaging in talks with the government. Critically, this

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<sup>35</sup> These were initiated in 1977. They were both broadly similar. Initially aimed at improving conditions of workers within foreign companies, they later focused on conditions at community level and involvement in 'national' problems. See Bloom JB, *Black South Africa and the Disinvestment Dilemma*. Johannesburg: Jonathan Ball Publishers, 1986, pp.36-38.

<sup>36</sup> *Ibid.*, p.231.

sense of stalemate also resulted in an internally negotiated solution, with very little foreign influence exercised on the outcome.

### **The case of Angola**

The case of sanctions against a rebel movement, *Unita*, illustrates some new developments in the evolution of the debate on sanctions during the 20<sup>th</sup> century. The first is that this was aimed against a political and military movement in a state that had been at war for the better part of 40 years. Angola could be characterised as a failed state, not so much because the ruling party, the *Movimento Popular de Libertação de Angola* (MPLA), was weak, but because it had no control over much of the territory of the state. It was unable or unwilling in a war situation to fulfil its social compact with its citizens, that is the provision of security and a stable political and economic environment in which the population could thrive.

The war and the resulting sanctions against *Unita* were also an illustration of a new type of war, representing another element with which the international community was going to have to deal — the use of a country's natural resources, such as oil, diamonds and timber, to fund the parties to sustain intra-state conflicts.

The international sanctions against *Unita* reflect a change in the debate from the comprehensive approach adopted by the UN in the 1960s and 1970s against South Africa and Rhodesia, to a more targeted approach in the 1990s. Sanctions against *Unita*, like those against Somalia, Liberia, Rwanda, Sierra Leone and Yugoslavia, were linked to civil wars. While the sanctions against South Africa were also associated with a desire to change the internal situation in the country, they were different because they had broad-based international legitimacy, being perceived as part of the decolonisation process.<sup>37</sup>

The UN's decision to apply sanctions against *Unita* came after the return of *Unita*'s leader, Jonas Savimbi, to the bush in the aftermath of the 1992 presidential elections, which he alleged had been marred by widespread irregularities. He refused to accept the election results,

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<sup>37</sup> See Wallensteen P, 'A century of economic sanctions: A field revisited', *Uppsala Peace Research Papers*, 1, 2000, p.3.

which gave the victory to the MPLA's Eduardo Dos Santos. This meant an overturning of the Bicesse Accords of 1991 between the MPLA and Unita that had made the elections possible, and a resumption of the civil war.

In September 1993, the UN Security Council banned the sale of arms and petroleum products to Unita. It was seen as the aggressor because it had refused to accept the results of an election that the international community had broadly regarded as free and fair. At the same time the Security Council established a sanctions committee. A new peace agreement was signed in November 1994, the Lusaka Protocol.<sup>38</sup> However, Unita violated the Protocol, and additional sanctions were applied in 1997. They included a prohibition on flights to and from Unita-held territory and on foreign travel by senior Unita officials; and diplomatic sanctions which forced the movement to close down its offices in other countries. In 1998, financial sanctions which froze the movement's financial assets and banned anybody from having any financial transactions with Unita, were added. Furthermore, UN Security Council resolution 1173 banned all forms of travel to Unita-controlled territory and instituted an embargo on any diamond imports from Angola not certified by the government.

It was obvious that the need perceived by the UN Security Council to ratchet up the sanctions meant that the regime already imposed had been largely ineffectual in bringing about the international community's objectives, which were to force Unita to the negotiating table and end the civil war. Paradoxically, the MPLA government also bought diamonds from Unita, which were sold through the state diamond company, perhaps to maintain the diamond price and prevent over-supply.

By the time of Savimbi's assassination in February 2002, Unita had become the black sheep. A conscious move had been made by the UN and key actors in the international community to control it through punitive measures (sticks); while the MPLA was to be offered inducements (carrots). This strategy had not only alienated Savimbi and those members of Unita still fighting the bush war from the

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<sup>38</sup> See also Thomashausen A, 'Angola: The role of the International Community', *South African Journal of International Affairs*, 9, 2, Winter 2002, pp.17-42.

moderate elements of that movement, but also helped the MPLA pursue its 'total defeat' strategy against Unita.

While the civil war in Angola is now over, how the MPLA's defeat of Unita will determine the character of the polity and the process of democratisation in the future remains to be seen.

### *The Fowler Committee*

It was only after the assumption of the chair of the UN sanctions committee by Robert Fowler, the Canadian ambassador to the UN in 1999, that the committee adopted a 'more assertive monitoring and enforcement role'.<sup>39</sup> The aim of this greater assertiveness was to 'try to restrict Unita's capacity to pursue a military option in Angola, and at the same time to encourage Unita to comply with its obligations under the Lusaka Protocol'.<sup>40</sup> Following an extensive mission to Central and Southern Africa, Fowler made a series of recommendations to the UN on improving the implementation of the sanctions. The most important of these was the recommendation that it establish a panel of experts.

In 1999 the UN Security Council adopted resolution 1237, which provided for the establishment of two independent panels of experts to examine and make recommendations on sanctions against Unita. The purpose of the first panel was to investigate Unita's finances (especially respecting the diamond trade); that of the second was arms trafficking and the sources of Unita's supplies. These panels were subsequently merged.<sup>41</sup> The panel's report, published in March 2000, did not shy away from 'naming and shaming'. It identified governments, individuals and companies that were involved in helping Unita to circumvent the sanctions.

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<sup>39</sup> Cortright D, GA Lopez & E Cosgrove, 'Success in the making? The evolution of UN sanctions in Angola', in Cortright & Lopez, *op. cit.*, p.65.

<sup>40</sup> Report of the Panel of Experts on Violations of Security Council Sanctions Against Unita, UN Security Council, 10 March 2000, S/2000/203.

<sup>41</sup> For a detailed discussion of the panel's activities see Cortright, Lopez & Cosgrove, *op. cit.*, pp.66-71.

Some of the countries reported as assisting Unita to violate sanctions were Burkina Faso, Congo-Brazzaville, Rwanda, Togo and Bulgaria. Zaïre had also been implicated before 1997.

The recommendations made by the panel of experts included the following.<sup>42</sup>

- Sanctions should be imposed by the Security Council against leaders and governments found to have been deliberately breaking the sanctions relating to the supply of arms and military equipment to Unita.
- Agreement by governments to register, license and monitor the activities of arms brokers should be sought. This information should be stored in national databases that would be made available, as appropriate, to other governments and regional and international organisations.
- The onus of verification of the actual end-user should lie with the supplier of the arms.
- Institutionalised information exchange mechanisms between oil companies and governments in areas adjacent to the conflict zones should be established, to help identify illegal fuel diversions.
- Where the legal origin of rough diamonds cannot be established by the possessor, they should be forfeit.
- Countries containing important diamond marketing centres should make the sale of undeclared rough diamonds a criminal offence.
- Traders and companies involved in selling undeclared diamonds should lose their registration, be placed on an industry blacklist and be barred from any involvement in the diamond industry worldwide.
- A more effective arrangement should be developed and implemented by the diamond industry to ensure that its members worldwide abide by the sanctions against Unita.
- Banking procedures should be instituted to assist in the identification of individuals targeted by sanctions and the freezing of their assets.
- SADC should consider introducing a mobile radar system that can be rapidly deployed in the region so as to detect illegal flights across

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<sup>42</sup> Report of the Panel of Experts on Violations of Security Council Sanctions Against Unita, UN Security Council, 10 March 2000, S/2000/203.

national borders, and a regional air traffic regime should be established in preference to a country-by-country system.

The report also recommended the establishment of a monitoring mechanism in addition to the sanctions committee.

While many of the countries named challenged the report's conclusions, its bold and 'no-nonsense' tone had an impact. Many countries announced their willingness to co-operate with the UN in closing the loopholes in the sanctions regime.<sup>43</sup>

In 2000 the UN Security Council established a monitoring mechanism to investigate reported violations and to look at ways of improving the effectiveness of sanctions. This was the only recommendation made by the Fowler report that the Council acted upon. (The Security Council's most notable omission was to ignore the recommendation to apply sanctions against leaders or governments violating sanctions. The matter was deemed too sensitive to even consider.) The monitoring mechanism engaged in both 'public exposure and quiet diplomacy to mobilize international sanctions compliance. Systematic outreach to countries of the region became 'the most effective diplomatic means' to win support for the isolation of Unita'.<sup>44</sup> This mechanism helped to keep up the pressure on sanctions violators, while at the same time widening the network of international actors involved in enforcement.<sup>45</sup> Its 2001 supplementary report claimed a drastic reduction in the arms delivered to Unita.<sup>46</sup>

The sanctions and their effective monitoring also ensured that the sale of diamonds to purchase arms had declined significantly, thus eroding Unita's conventional military capability at a time when that of the MPLA government was increasing. The mechanism's addendum report estimated that in 2000 Unita's income from diamonds was at least \$100 million. However, while still substantial, this represented a

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<sup>43</sup> Cortright, Lopez & Cosgrove, *op. cit.*, p.67.

<sup>44</sup> UNSC, *Supplementary Report of the Monitoring Mechanism on Sanctions Against Unita*, S/2001/966, New York, 12 October 2001, par. 266. Cited in Cortright, Lopez & Cosgrove, *op. cit.*, p.68.

<sup>45</sup> Cortright, Lopez & Cosgrove, *ibid.*, p.69.

<sup>46</sup> UNSC, *Supplementary Report*, S/2001/966, par. 11.

drastic decline from the \$300 million earned in 1999. Although sanctions deserved part of the credit, the decline was also partly attributable to Unita's having lost control of some of the diamond-producing territory.

An important element in the sanctions against Unita was the support the sanctions regime and the MPLA government received from neighbouring states. SADC member states co-operated by preventing Unita's diamond exports and monitoring the movement of petroleum supplies.<sup>47</sup>

### *The Kimberley Process*

The mobilisation of elements of civil society against the selling of what became termed 'blood diamonds' was a very important outcome of the work done by the sanctions committee to publicise violations by states and the private sector of the sanctions against Unita.

In 1998 an NGO, Global Witness, published a report that was critical of the diamond industry's role in fuelling conflicts in Africa. It documented the means by which Unita was arming itself through the illicit sale of diamonds.<sup>48</sup> The campaign against 'conflict' diamonds grew. Its proponents included Amnesty International, Physicians for Human Rights, the International Human Rights Law Group, the International Rescue Committee and TransAfrica. The war in Sierra Leone, which was also being partially financed by the sale of diamonds, became an additional cause to rally support for the campaign.

The threat expressed by activists and the NGOs was, in the words of Rory More O'Ferrall, De Beers' director of public and corporate affairs,<sup>49</sup>

... unless the diamond industry joins with us and the governments to take strong action against the trade in conflict diamonds, however small a

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<sup>47</sup> See Cortright, Lopez & Cosgrove, *op. cit.*, p.71.

<sup>48</sup> Global Witness, *A Rough Trade: The Role of Diamond Companies and Governments in the Angolan Conflict*. London: Global Witness, December 1998.

<sup>49</sup> Rory More O' Ferrall, director of public and corporate affairs, De Beers Group of Companies, transcript of address, 5 April 2002.



proportion of the legitimate trade they may be, we will blacken the reputation of the industry by associating all diamonds with the sort of atrocities we see on our TV screens.

The campaign was instrumental in galvanising De Beers, both for moral and commercial reasons, into pushing for reforms within the industry. (The industry estimated the trade in 'blood diamonds' to be about 2% of the total diamond trade.) The chairman of De Beers, Nicky Oppenheimer, emphasised that 'a transparent verification of both government and industry procedures is essential to the credibility of [a] certification scheme in the eyes of the world'.<sup>50</sup> In July 2000 De Beers adopted 'Best Practice Principles' which committed the company to refusing to buy or trade in rough diamonds 'from areas where this would encourage or support conflict and human suffering'. The Kimberley Process, which was launched in 2000 by the South African government, brought together the diamond industry, governments, the UN and the NGO community. Its aim was to create an international scheme to certify and track the import and export of rough diamonds. The South African government (and the Ministry of Mineral and Energy Affairs in particular), played an instrumental role in mobilising regional support for countervailing measures within SADC because it realised the deleterious effect the campaign could have on the diamond industry in the region. At the same time South Africa began drafting the UN resolution on 'conflict' diamonds.

Two years later in November 2002, the ministers of 50 participating countries endorsed intergovernmental measures to introduce the Kimberley Process Certification Scheme (KPCS) to govern the trade in rough diamonds. (The UN also endorsed the scheme.) The diamond industry also agreed to implement the self-regulation contained in the Scheme. The KPCS came into effect in January 2003. By April 2003 some 50 states were deemed to have met the minimum requirements set by the KPCS.

While the KPCS is regarded as a model for preventing the illicit exploitation of natural resources to fund wars, its success will depend

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<sup>50</sup> Smillie I, *Motherhood, Apple Pie and False Teeth: Corporate Social Responsibility in the Diamond Industry*, The Diamonds and Human Security Project, Occasional Paper No. 10, 5 June 2003, p.12.

on its ability to provide an effective monitoring mechanism. This would substantially increase the costs of selling and buying diamonds for those outside the system.

### *Other initiatives*

The work done by the Fowler committee and its monitoring mechanisms to raise awareness worldwide of the role that illicit exploitation of resources (whether diamonds, oil or timber) plays in raising the money to prolong conflicts led to the adoption of additional initiatives. These included an NGO programme, *Publish What You Pay*, which sought greater financial transparency from international oil, gas and mining companies operating in developing countries in terms of payments made to the host governments, as a large proportion of such payments fuels government corruption and mismanagement. The initiative, comprising more than 80 NGOs (including the Open Society Institute, Global Witness and Partnership Africa–Canada) placed an onus on the governments of developed countries ‘to require transnational extraction companies to publish net taxes, fees, royalties and other payments made’.<sup>51</sup> This would enable civil society to determine the amount of money misappropriated, and in this way act as a deterrent to both the companies who offer financial inducements and the governments who accept them.

In September 2002, the British prime minister, Tony Blair, announced the Extractive Industries Transparency Initiative (EITI). Its objectives were similar to those of *Publish What You Pay*, calling for greater transparency both from companies on their payments to governments and government-linked entities, and from the host country governments over revenues. However, the voluntary nature of such initiatives makes compliance uncertain and enforcement very difficult.<sup>52</sup>

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<sup>51</sup> *Ibid.*; and also [www.publishwhatyoupay.org](http://www.publishwhatyoupay.org).

<sup>52</sup> See Smillie, *ibid.*, for a very good discussion of the efforts by the Organisation for Economic Co-operation and Development to refine its guidelines for multinational enterprises. These guidelines encourage high standards and best practices in corporate behaviour.

Apart from these non-mandatory initiatives, the US Congress passed the Clean Diamond Trade Act (which went through the Senate in April 2003), enacting the regulations set out in the Kimberley Process.

### *Assessment*

While sanctions against Unita took some time to take effect, they represented an important milestone in the evolution of a more effective sanctions regime. Fowler's initiative to make the sanctions committee more than just a body to which people made submissions for waivers of sanctions regimes helped to enforce compliance. The creation of a panel of experts proved useful in Angola's case, and has also been used in investigations into the illegal exploitation of the natural resources of the Democratic Republic of Congo. The greater effectiveness of the sanctions committee also signalled to the various players in the diamond industry that they were required to address illicit diamond trafficking more actively.

The sanctions committee's 'naming and shaming' approach, and its ability to maintain a public awareness of developments in sanctions avoidance, offers important lessons for a newer case, that of Zimbabwe. The debate over that country has polarised around two extremes: sanctions targeted at its leaders and 'quiet' diplomacy.

Of course the sanctions against Unita, as in the case of South Africa, were not the sole cause of the movement's defeat, but the ability of the sanctions committee to monitor and 'name and shame' contributed to its isolation. The substantial degree of compliance provided by important states in cutting off Savimbi's supply lines also reflected the limited international profile and legitimacy of Unita's cause. The general vilification of the rebel movement enabled the MPLA to tighten the noose around it, with very little criticism from the international community of any strong-arm tactics used by the Angolan army. The MPLA's military involvement in other countries in the region also ensured that supply routes to Unita were cut off.<sup>53</sup>

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<sup>53</sup> Angola intervened in Congo-Brazzaville to impose a friendly government in 1997. It also signed a tripartite agreement with Namibia and Zambia to improve security along their common borders. Namibia allowed Angolan forces to cross into its northern territory in hot pursuit of Unita fighters.

From the mid-1990s onwards, the international community regarded Unita as a spoiler. It closed its eyes to the MPLA's corruption and autocratic practices, and provided the government with aid, while private oil companies paid large signature bonuses into the MPLA's coffers.<sup>54</sup> This behaviour was compounded by the relative weakness of Angolan civil society in acting as a check on the government and generating support for greater pressure on the MPLA. Whether this, combined with Unita's international marginalisation, has encouraged the MPLA's culture of impunity, and whether this will undermine Angola's long-term prospects for good governance and democracy, remains to be seen.

### **The case of Zimbabwe**

Sanctions against Robert Mugabe's regime in Zimbabwe differ from those in the previous case studies in two ways. First, no UN sanctions have been imposed. There are only bilateral sanctions and a suspension from the Councils of the Commonwealth. Second, there has been no groundswell of condemnation by either governments or civil society movements of the type seen against Unita or against South Africa under apartheid. The condemnation of Robert Mugabe's government has emanated from the UK (and the EU), the US and Australia, but not openly from countries in the region. Only more recently, during 2003, has there been some civil society mobilisation by trade unions and the churches in the region. However, like the sanctions against Unita, the measures target the key politicians responsible for the crisis in Zimbabwe.

This is not the first time that sanctions have been imposed against Zimbabwe. In the 1960s Ian Smith's Rhodesian regime was the object of extensive sanctions by the international community. The regime withstood pressure to negotiate with the black liberation movements for as long as its supporter, South Africa, maintained supply routes for its imports and exports. However, by 1974, on Portugal's announcement that it would grant all its colonies immediate independence, South Africa's prime minister, John Vorster, began to

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<sup>54</sup> For a discussion of transparency and state revenues in the MPLA government, see Grobbelaar N, G Mills & E Sidiropoulos, *Angola: Prospects for Peace and Prosperity*. Johannesburg: SAIIA, 2003, pp.62-67.

see the writing on the wall. He started a policy of *détente* with black African states to the north. It is widely accepted that an increase in economic pressure from the south was one of the factors that brought the Rhodesian regime to the negotiating table, and led finally to the Lancaster House agreements in 1979.

### *Zimbabwe's descent into anarchy*

The current debate over sanctions against Zimbabwe follows the constitutional referendum in February 2000, which dealt a blow to Mugabe's Zanu-PF and seriously undermined its apparently invincible position. Mugabe's defeat in the referendum poll set in motion the Zimbabwe government's strategy of clamping down on all opposition. From 2000 onwards, as pressure on the opposition started mounting, and land seizures by 'war veterans' became the order of the day, a heated debate began in South Africa and Britain in particular, about whether sanctions should be applied against Mugabe. On the eve of the 2002 presidential elections the abuse of the electoral system had become so blatant that a series of sanctions were implemented by the EU, especially after the head of the EU observer mission had been denied entry into Zimbabwe.

In Zimbabwe there has been no full-scale outbreak of civil war; nor has there been an unconstitutional military coup. But there have been ongoing and escalating violations of human rights; rapes; tortures and intimidation of non-Zanu-PF supporters; a clamping down on the voices of the independent media and continuous state-sponsored violence. Rhodesian-era security legislation continues to stay on the statute books, and in many instances has been made even more draconian. The separation of powers has been eroded, as have civic and political freedoms.

There has also been a significant decline in what was once Southern Africa's most vibrant economy after South Africa. In the first six months of 2003, some \$20 million left the Zimbabwe Stock Exchange — more than five times the amount of funds withdrawn by foreign businesses in 2002. Inflation in the third quarter of 2003 was well over 400%. Zimbabwe's 'land reform' policy displaced some 500,000 farm workers and evicted 90% of the country's commercial farmers.

Zimbabwe's tobacco industry, which generated more than 30% of foreign exchange income, has been virtually destroyed.

The political impasse came to a head following the disputing of the 2002 presidential election results by the main opposition party, the Movement for Democratic Change (MDC). Many observer groups found these elections unfree and unfair, not because people had been intimidated on election day but because of the government's well-orchestrated campaign of hampering voter registration; the lack of independence of the electoral commission; and the enactment of various pieces of legislation that made unhindered campaigning by the opposition very difficult. However, both the South African and the OAU observer missions found the election results to be a legitimate expression of the will of Zimbabweans.

### *The imposition of sanctions*

In February 2002 the EU imposed targeted sanctions against 79 senior Zimbabwean government officials. These restrictions included:

- the freezing of personal assets of senior members of government and other high-ranking officials;
- the prohibition from travelling to EU member states of such persons;
- an embargo on any sale of arms by EU member states; and
- the suspension or re-orientation of certain financial development co-operation programmes with the government of Zimbabwe, mainly owing to the government's non-compliance with the provisions of the bilateral agreements, and to a political and economic environment that was not conducive to co-operation with government structures.

The US imposed similar sanctions, effective from 22 February 2002, which included the freezing of financial and personal assets of the political elite; the barring of US citizens from having financial dealings with the listed people; and a travel ban.

In March 2002 the Commonwealth Chairpersons' Committee on Zimbabwe (comprising South Africa, Nigeria and Australia) agreed to suspend Zimbabwe from the Commonwealth for a period of one year. This was a response to the findings of the Commonwealth Observer

Group that the presidential elections had been marred by a high level of politically motivated violence, and that 'conditions in Zimbabwe did not adequately allow for a free expression of the will of the electors'. The suspension was subsequently renewed in 2003, but the disagreements within the Commonwealth troika mirrored those between the EU and Southern Africa states. However, while Mugabe tried to portray the differences of opinion within the Commonwealth as racially based there were a number of 'non-white' member states which were critical of the Zimbabwe leadership.<sup>55</sup>

The conditions set by the Commonwealth for progress in Zimbabwe were:<sup>56</sup>

- engagement by the Zimbabwean government in constructive dialogue with the opposition MDC;
- repeal of the repressive laws against journalists and the media;
- putting an end to state harassment of the opposition;
- progress on addressing the issues of electoral malpractice raised by the Commonwealth Observer Group after the 2002 presidential elections and the 2000 parliamentary elections; and
- engagement with both the United Nations Development Programme (UNDP) and the Commonwealth on lawful and transparent land reform.

A few months later, in October 2002, the Australian government imposed bilateral 'smart' sanctions against Zimbabwe. These 'smart' sanctions comprised:

- a ban on travel to Australia by Zimbabwean ministers and certain senior officials;
- a freeze on the Australian assets of such ministers and officials;
- suspension of non-humanitarian aid to Zimbabwe;
- prohibition of defence sales and suspension of all defence links;
- downgrading of cultural links; and
- suspension of bilateral ministerial contact.

<sup>55</sup> In December 2003, the Commonwealth Heads of Government Meeting (CHOGM) upheld Zimbabwe's suspension, following which Zimbabwe announced that it was leaving the Commonwealth.

<sup>56</sup> ZWNews, 'Commonwealth conditions', 16 October 2003. See [www.zwnews.com/print.cfm?ArticleID=7751](http://www.zwnews.com/print.cfm?ArticleID=7751)

Apart from bilateral sanctions and suspension, many countries have withdrawn their aid to Zimbabwe except for humanitarian assistance to combat the widespread famine. The International Monetary Fund (IMF) and the World Bank have refused to extend further loans. In September 2001, Zimbabwe was removed from the list of countries eligible to use resources under the IMF's Poverty Reduction and Growth Facility. In June 2002, the IMF ended all technical assistance to the country, and one year later suspended Zimbabwe's voting and related rights because the country had not strengthened its co-operation with the IMF over policy implementation and payments sufficiently.<sup>57</sup> In December 2003 the IMF instituted proceedings to expel Zimbabwe from its ranks over its failure to meet its obligations.

### *Sanctions versus quiet diplomacy: Mutually exclusive?*

The debate between the pro- and anti-sanctions camps on the subject of Zimbabwe has mirrored that over South Africa in the 1980s. The difference lies in the supporters of each camp. The UK (and the EU), the US, Australia and some non-African members of the Commonwealth are in the pro-sanctions camp, versus the countries and organisations of the region, which are generally opposed to sanctions. In the case of apartheid South Africa, most of the former group opposed sanctions, while the latter (and the ANC, which was banned at the time) favoured them as a means of forcing the regime to its knees.

From the outset, one of the key points of dispute over Zimbabwe has been the different interpretations of the cause of the problem in that country. For Australia, the UK, and the EU among others, the situation in Zimbabwe is one resulting from bad governance, abuse of power and destruction of the rule of law. African states, on the other hand, regard the ongoing crisis as one emanating principally from unresolved land redistribution. Even the Commonwealth Marlborough House statement of March 2002 reiterated that 'land is at the core of the crisis in Zimbabwe'.<sup>58</sup> If one accepts that the latter is

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<sup>57</sup> 'Zimbabwe: IMF suspends voting rights', *IRIN*, 9 June 2003.

<sup>58</sup> Commonwealth Marlborough House Statement on Zimbabwe, 19 March 2002. See [www.thecommonwealth.org/dynamic/ViewAPress-search.asp?ID=430](http://www.thecommonwealth.org/dynamic/ViewAPress-search.asp?ID=430).



indeed the problem, then the way of resolving it is to complete land redistribution, after which normality can be expected to return — but this has not happened. The resettlement programme had ended, according to Mugabe, by August 2002. Yet blatant human rights violations and muzzling of the opposition continued in 2003.

Why has the international debate about Zimbabwe been so acrimonious?

First, the initial outcry over Zimbabwe by Britain's minister for Africa, Peter Hain, was perceived by African leaders as being driven by the fact that the 'victims' were white Zimbabwean farmers. Had the farmers been black, these heads of government argued, the outcry from Hain and Blair would have been far more muted.

Second, the idea that whites owned a disproportionate share of the land had substantial resonance in the region, both in South Africa and in Namibia. Mugabe and Zanu-PF insisted that at the heart of the problem, which was now manifesting itself in farm occupations by so-called war veterans, was inequitable access to farming land, even though 22 years had elapsed since independence. South Africa had to tread a cautious path on the issue of land redistribution in Zimbabwe. It did not wish to be seen to be insensitive to the problem, especially since a number of organisations in South Africa were protesting against the government's slow pace of land redistribution. While the South African government was unequivocal in its support of the protection of property rights when the Pan Africanist Congress and the Landless People's Movement occupied Bredell in Gauteng province in 2001, the portrayal from the outset of the problems besetting Zimbabwe in racial terms meant that South Africa ignored such an analysis at the peril of being characterised a puppet of 'neo-colonial powers'.

By attributing Zimbabwe's current troubles to unresolved land and race issues Mugabe scored a coup. No regional leader would call for sanctions or be highly critical of him if his country's crisis was the legacy of colonialism. The real problem facing Zimbabwe — that of poor governance and abuse both of power and the rule of law — did not feature in the analysis of most other regional leaders. The opposition in South Africa and elements of the media, while criticising

the South African government's handling of Zimbabwe, contributed to the perception of a racial divide. This was because much of the criticism came from the Democratic Alliance, the official opposition party, which is perceived as primarily a white liberal party.

Third, African leaders have very rarely mobilised against a fellow leader, especially one of the stature of Mugabe, who had played a prominent role in his country's liberation. Supporting opposition parties against incumbents (who — at least on the surface — had been elected by the people), was also a precedent that regional leaders were loathe to create, given their own shaky support bases in some instances. Although some African states have expressed concern over the rapidly deteriorating situation in Zimbabwe, such implicit criticisms have been uttered only in private.

Of all the players involved directly or indirectly in Zimbabwe, it is widely accepted that South Africa's role is critical. This is because of its economic power, its contiguity with Zimbabwe and its own experience in resolving conflict through peaceful means.

The South African government has rejected the imposition of sanctions against Zimbabwe, preferring instead to focus on quiet diplomacy; that is trying to bring the main Zimbabwean protagonists to a negotiated settlement. However, close on three years after the crisis began in Zimbabwe with the start of the land invasions, South Africa's quiet diplomacy has yet to yield any results. As any state bordering on a country in dire straits knows, South Africa has to tread more carefully than countries which share no borders and hence are less likely to suffer any spillover effects. It also knows it would be naïve to think that Zanu-PF would be a pliant partner if a concerted push was made to force it into an agreement, which could result in its removal from power and the loss of substantial economic perquisites.<sup>59</sup> Ironically, the South African government and other neighbouring states gave as one of their reasons for not supporting sanctions, even targeted ones, against Zimbabwe that the people most hurt would be Zimbabwean citizens. The South African government has also

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<sup>59</sup> Some of this is drawn from an article written by the author for the Commonwealth Policy Studies Unit based in London for the Commonwealth Heads of State summit in Abuja in December 2003.

repeatedly stressed that it is up to the Zimbabwean people to decide their own future and that such a future cannot be imposed on them. However, such an approach oversimplifies the debate. The sanctions applied to date have targeted the political elite, not the population. Nor does the imposition of sanctions mean that the final outcome will be an externally imposed one. The lesson learned by South Africans from their own experience of sanctions was the importance of keeping up the pressure, both internal and external, on the parties so as to force them to make progress. Furthermore, the continuous engagement of the UK and the US in encouraging reform and negotiations (some of which occurred behind the scenes) was equally important to South Africa's transition. Quiet diplomacy and sanctions are not mutually exclusive, especially if they are integrated into a comprehensive strategy to compel the opposed parties to participate in negotiations.

### *Have sanctions failed?*

Given that sanctions are aimed at bringing about change, it is fair to ask whether they have failed in the case of Zimbabwe. It is an equally valid question to ask of the policy of quiet diplomacy.

In reply to the first question, it is perhaps a little early to assess the effects of sanctions on Zimbabwe. Most of them were implemented only in 2002. In South Africa's case it was only after 1985 that the financial sanctions began to have an effect on the regime, while in Unita's case its final capitulation came as a result of military defeat in 2002. However, the sanctions regime after 1999 had contributed to that outcome.

Zimbabwe is in some respects a special case. There are serious weaknesses in the current sanctions against Zimbabwe. For example, only a few states have imposed sanctions on Zimbabwe, so it is relatively easy for the political elite to circumvent them and redirect their assets to other regions. Again, there has been no unity of purpose in the implementation of the sanctions, especially in the case of the EU. This body has been divided on how best to bring about change; countries like France and Italy take a less hard-line approach than

Britain.<sup>60</sup> Furthermore, that Zimbabwe's neighbouring states have not joined the blockade has been helpful in providing a lifeline to the regime. Regional solidarity has given Mugabe a sense of legitimacy that the pro-sanctions lobby would seek to deny him.

The value of sanctions against Zimbabwe is most likely to lie in helping to galvanise the local population into taking action against an economic and political system that is clearly becoming increasingly erratic. Where a regime is engaged in reprehensible actions the imposition of sanctions also sends a symbolic message to both the perpetrators and the victims — of reprehension and moral condemnation on the one hand and solidarity on the other. This serves to deny the regime the international legitimacy it craves, while conferring it on the opposition.

The economic and political situation in Zimbabwe has continued to deteriorate. Yet there has been some evidence of action from the population. The mass stayaways organised by the Zimbabwe Congress of Trade Unions during 2003 were relatively successful; and the churches became involved in trying to start negotiations between the MDC and Zanu-PF. The Zimbabwe Council of Churches also issued a public apology for standing by while violence, rape, intimidation and torture 'ravaged the nation'.

Ongoing pressure from various external actors, whether governments, trade unions, churches or private companies is vital because it is a 'stick'. (Others have preferred to use only the 'carrot' when dealing with Zanu-PF.) Such pressure also helps to strengthen the negotiating position of the opposition. However, a greater commonality of purpose is needed among all the countries and organisations (both regional and international) that are involved, so that both the sanctions and the constructive engagement policies<sup>61</sup> are integrated to achieve a common aim.

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<sup>60</sup> President Jacques Chirac invited President Robert Mugabe to Paris for the Africa-EU summit, although the EU sanctions strictly forbade such a move. In November 2000 the SADC-EU summit, which was scheduled to be held in Copenhagen, was moved to Maputo, so that the tricky political situation of 'having to refuse Zimbabwe's attendance would be avoided.

<sup>61</sup> The term 'constructive engagement' was initially used by the Reagan administration to describe its policy vis-à-vis apartheid South Africa. At the time, the anti-apartheid

The Zimbabwe sanctions case study has not yet been concluded, unlike those of South Africa and Angola. At the SADC summit in Dar es Salaam in August 2003, President Benjamin Mkapa of Tanzania said that sanctions had failed and hence needed to be lifted. But quiet diplomacy has proved an equally unsuccessful alternative.

### **Lessons learnt from the Southern African experience of sanctions**

Although the three case studies examined display a number of different characteristics, some common lessons can be drawn from them.

- A substantial degree of unity of purpose concerning the desired outcome of the sanctions regime is essential. This may necessitate a good cop–bad cop routine among countries engaged in trying to break the impasse.
- The sanctions regime, to be successful, requires the support of regional states. This becomes even more important if there is a substantial economic relationship between these countries and the target state.
- The mobilisation of popular sentiment across the world is a powerful lever, although regional condemnation may be the most significant source of change. In the case of Zimbabwe, many inhabitants of the region support the stance of Mugabe, because they see him as standing up to the West, Britain and the US in particular. Regional opposition to sanctions may weaken a global campaign against a particular country, but regional mobilisation against a particular regime unsupported by the involvement of that country's key trading and financial partners is also not sufficient.
- Domestic mobilisation has an important part to play, because the regime is put under pressure not only by the sanctions of the international community but by its own people.

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campaign condemned this approach. In February 2003 the Nigerian president, Olusegun Obasanjo, said he preferred a policy of 'constructive engagement' and effective diplomacy to 'antagonism' towards Mugabe. See Quist-Arcton O, 'Nigeria, South Africa favour "constructive engagement" with Zimbabwe', 7 February 2003, on <http://allafrica.com/stories/printable/200302080221.html>

- It is crucial to avoid polarisation along North–South, white–black lines. Hence there is a need for a common definition of the problem.
- Alliances should be created not only among states, but also with private industry and global civil society, to improve overall compliance with international sanctions regimes.

### *Quo vadis sanctions?*

In the 21<sup>st</sup> century, the environment in which sanctions operate is determined by globalisation, which has made the emergence of international regimes such as the Kimberley Process necessary. Globalisation has reduced the power of the state as the primary actor, and made possible the emergence of a plethora of transnational actors, including organised crime networks which thrive in the open global society. Paradoxically, globalisation has also made it easier for sanctions (for example, the freezing of financial assets of individuals and the tracking of various transactions around the world) to be applied effectively. It has helped to target sanctioned individuals in the private domain as well. However, that many parts of Africa are not globalised also means that some of the more advanced sanctions are less effective in Africa.

Although the Kimberley Process Certification Scheme is still in its infancy, its achievements to date are widely regarded as a success for both sanctions enforcement and for the diamond industry. This has raised the possibility that the formula could be replicated in other areas of commodity sanctions (such as timber, oil or even coltan). However, the particularities of each of the commodities and of the business environment pertaining, might make this more difficult. In the case of diamonds, the dominant diamond company, De Beers, played a critical role in the adoption of the KPCS. There is no equivalent player in other commodities. Furthermore, countries such as the US and France are highly unlikely to adopt a compulsory disclosure regime for their multinational companies. In this respect sanctions will continue to be driven by national interests. The search for strategic commodities will determine whether action is taken against certain 'bad' regimes but not others.<sup>62</sup>

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<sup>62</sup> For example, the US issued a statement soon after the presidential elections in Equatorial Guinea in December 2002, which said that there had been no voter

The current discourse about the need for states to observe norms of good governance can be seen as complementary to the objectives of sanctions. Peer review, as envisaged in the *New Partnership for Africa's Development*, is a form of self-sanction. Sixteen African states have agreed to be peer reviewed already. This initiative by African states coincides with various other processes undertaken internationally to make leaders accountable for their actions. These include the International Criminal Court and also international conventions such as those against transnational crime or counter-terrorism, which aim to track down the 'middlemen' who help to fuel conflicts or to keep corrupt regimes in power.

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manipulation, but the opposition had been disorganised and that the president had conducted a very vigorous and professional campaign. This contrasted markedly with the EU's observations, which deplored the conduct of the elections and the fact that some members of the opposition were still incarcerated or in exile. The positive stance taken by the US was ascribed to the importance it places on ongoing access to Equatorial Guinea's oil reserves.

# Lessons From Conflict Mediation in Southern Africa and the Role of Civil Society

Hussein Solomon<sup>1</sup>

## Introduction

The recent suspension of Zimbabwe from the Commonwealth throws into sharp relief the contours of the globalising norm-based world we now inhabit. The appalling human rights record of the regime, coupled with its recalcitrant stance on embracing democratic values such as those contained in the Commonwealth's Harare Declaration, have finally resulted in its suspension from the Commonwealth. Whilst the regime of Robert Mugabe tried to protect itself from external intervention by means of the tried and tested method of raising the issue of national sovereignty, the Commonwealth decision to continue the country's suspension suggests that it understood that in a democracy the people are sovereign, and that the government earns the right to act as the agent of that popular sovereignty by means of a mandate from the people at the ballot box. Where a government comes to power by vote-rigging or alternatively by violating the human rights of its citizens, such a government has not earned the right to serve as agent of that popular sovereignty.

In a globalising world, insecurity anywhere is a threat to security everywhere. Within such a context, the gross violation of human rights in any particular country becomes a concern for the international community and makes external intervention not only morally acceptable but politically imperative. At the Abuja meeting of the Commonwealth in December 2003, whilst the Harare regime was not invited, several members of Zimbabwean civil society attended and made their voices heard. This opens up the extent to which civil society can complement track one initiatives in arriving at a negotiated

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settlement to a conflict. This is one of the objectives of this contribution.

But there is a second, broader, objective behind this paper, and this relates to the extent that one can build a synergy between external and local actors in conflict mediation. Despite much academic literature on so-called multi-track diplomacy<sup>2</sup> bringing state, sub-state and international actors together, the truth is that there has been little co-ordination between these various actors.<sup>3</sup> What this paper seeks to do then is to examine the interaction of these two variables — civil society and external intervention — by means of two case studies: the transition from apartheid to democracy in South Africa; and the transition from Rhodesia to Zimbabwe. By means of these case studies, I hope to arrive at certain policy-related recommendations with a more general application.

### **Civil society and conflict resolution in Southern Africa**

According to Lala Camerer,<sup>4</sup> civil society is an

... inherently pluralistic realm distinct from, yet interacting with the state and processes of production, consisting of numerous associations and organised around specific interests with the following in common: communally organised, independent, voluntary, autonomous, able to form links with other interest groups and do not in any way seek to set themselves up as an alternative to the state.

Whilst this is a good working definition, there are problems in its application to the two case studies in hand.

Methodological problems notwithstanding, the role of civil society in broader conflict resolution initiatives has been enhanced in recent years. There are several reasons for this. First, given that the majority of today's conflicts are intrastate as opposed to interstate, and that

<sup>2</sup> Rupesinghe K, *The General Principles of Multi-Track Diplomacy*. Durban: African Centre for the Constructive Resolution of Disputes (ACCORD), 1997.

<sup>3</sup> Solomon H, 'The role of civil society in reconstruction, rehabilitation and reconciliation in Africa', in Sidiropoulos E (ed.), *A Continent Apart: Kosovo, Africa and Humanitarian Intervention*. Johannesburg: SAILA, 2001, p.254.

<sup>4</sup> Camerer L, 'Party politics, grassroots politics and civil society', *Orientation*, December 1996, p.11.

national governments are key players in such violent conflicts, the need for impartial third parties in peacemaking and peacebuilding becomes pronounced. Second, the weakness and concomitant lack of capacity of African states is another factor contributing to a need for third party intervention.<sup>5</sup> Civil society represents one such third party. As such, it has come to play a pivotal role in conflict situations across the African continent, its contributions ranging from early warning of impending crises, to mediation, and on to post-conflict reconstruction. Third, non-governmental organisations can often respond much more quickly to an impending crisis than governments or inter-governmental bodies since they are more flexible and less bogged down by political machinations than these other bodies.<sup>6</sup> However, perhaps the most important argument for the need to involve civil society in broader conflict resolution initiatives relates to the poor track record of state-based initiatives — both regional and international — in conflict prevention and mediation initiatives across the African continent. As Michelle Parlevliet notes,<sup>7</sup> it is, 'increasingly recognised that the extensive involvement of local actors is necessary if a process of conflict prevention and transformation is to have a durable impact'.

The next section focuses on the role civil society has played in getting the respective parties to a conflict to accept a negotiated settlement.

### *The role of civil society in the struggle for Zimbabwe*

Civil society played an important role in resisting white minority rule in Rhodesia. One of the most prominent of these organs of civil society was the church, and the Catholic church in particular. Organised resistance from religious bodies started on 13 April 1964, when Ian Smith took over the leadership of the Rhodesian Front (RF). Church leaders were afraid for the consequences of the Smith's being elected, because he was a conservative and a known proponent of unilateral independence from Britain. Church leaders met a week later, and

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<sup>5</sup> Solomon H, in Sidiropoulos E, *op. cit.*, p.243.

<sup>6</sup> Carnegie Commission, *Carnegie Commission on Preventing Deadly Conflict*, New York: Carnegie Corporation of New York, 1997, p.xxxvii.

<sup>7</sup> Parlevliet M, 'Containment or change? Civil society's role in conflict prevention in Africa', in Sidiropoulos E, *op. cit.*, p.62.

afterwards issued a joint statement declaring that no act outside the constitution could be morally justified without the expressed consent of the peoples of the country.<sup>8</sup> The statement went on to warn that it was permissible for Christians to engage in legitimate rebellion against an unjust authority. Shortly thereafter, Christian churches were at the forefront of challenging the RF government. For instance, Bishop Skelton, at a Sunday service at St. John's Anglican Cathedral in Bulawayo, made a call for civil disobedience against the government.<sup>9</sup>

After the Unilateral Declaration of Independence (UDI) in 1965, tensions between government and churches, and in particular the Catholic church, increased dramatically. Of course, it could be argued that the Catholic church inside Rhodesia was simply taking its cue from the Vatican, which, in 1965, had succinctly stated the Church's position on Rhodesia's UDI:<sup>10</sup>

... this independence will forge a South African bloc in clear opposition to the orientation prevailing in the remainder of the continent. The result would be dialectics of a racial type destined for developments of unforeseeable, but certainly grave proportions.

Whatever the genesis of the Roman Catholic church's opposition to the Smith regime, one thing is certain: it earned the ire of the RF government. For instance, Father Dieter Scholz, a Jesuit, and his colleagues at the Catholic Justice and Peace Commission, played a key role in investigating and exposing atrocities committed by the Rhodesian security forces. This earned them the title of 'enemies of the state', and led to their arrest and the banning of their exposés of atrocities.<sup>11</sup> Meanwhile the Catholic Bishop of Umtali, the Right Reverend Donald Lamont, was arrested by the police when it came to light that he had refused to report the presence of guerrillas to the authorities, and had incited others to do the same.<sup>12</sup> The Catholic church also played a more direct role in assistance to the guerrillas. In

<sup>8</sup> Linden I, *The Catholic Church and the Struggle for Zimbabwe*. London: Longman Group, 1980, p.83.

<sup>9</sup> *Ibid.*, p.83.

<sup>10</sup> *Ibid.*, p.88.

<sup>11</sup> Meredith M, *Robert Mugabe: Power, Plunder and Tyranny in Zimbabwe*. Johannesburg: Jonathan Ball Publishers, 2002, pp.1, 6.

<sup>12</sup> Hutson HPW, *Rhodesia – Ending an Era*. London: Springwood Books, 1978, pp.116-117.

March 1975, for example, Robert Mugabe sought help from Catholic priests when he was attempting to evade capture by Rhodesian security forces. Father Emmanuel Ribeiro and some Dominican nuns provided him with the necessary assistance to enable him to escape into Mozambique.<sup>13</sup>

In addition to the churches, other organs of civil society also put pressure on the government. Sectors of the media made clear their opposition to the Smith regime and to the state of emergency following the declaration of UDI, when they repeatedly carried blank columns in their newspapers in an effort to sensitise people to the censorship laws that had been imposed. As a result of this protest, copies of the *Moto* newspaper were seized by Rhodesian police, and the editor of *The Rhodesia Herald* was arrested.<sup>14</sup>

Neither was civil society protest confined to the churches and the media. Grassroots, community-driven structures under the umbrella of the Southern Rhodesia African National Council (SRANC) appealed to Africans to engage in civil disobedience and defy all racially discriminatory legislation.<sup>15</sup> This structure, together with another (that of the Methodist church under the leadership of Bishop Abel Muzorewa) achieved an international profile in 1971–72.

In November 1971, Sir Alec Douglas-Home and the Rhodesian government arrived at a set of proposals for the settlement of the Rhodesian question. However, the British had one stipulation — that any settlement needed the consent of the majority of blacks. The litmus test was the establishment of the Pearce Commission by the British Government in 1972 to gauge black opinion towards the settlement proposals of 1971. Muzorewa and his supporters managed to orchestrate a massive 'no' campaign, forcing the withdrawal of the proposals of 1971.<sup>16</sup>

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<sup>13</sup> Meredith M, *op. cit.*, pp.4–5.

<sup>14</sup> Linden I, *op. cit.*, p.88.

<sup>15</sup> Kriger NJ, *Zimbabwe's Guerrilla War: Peasant Voices*. Cambridge: Cambridge University Press, 1992, p.97.

<sup>16</sup> Hutson HPW, *op. cit.*, p.100.

Earlier in this paper, it was argued that the Camerer definition of civil society is problematic. Whilst her definition adequately covers certain aspects of civil society, it is quite clear that its Eurocentric bias makes it less easy to apply to civil society in a traditional African context. For instance, African resistance to the first white settlers arriving on their land goes back to 1890 and the rebellions of 1893 and 1896–97.<sup>17</sup> These rebellions were often led by chiefs. Where exactly does the chieftaincy fit into the traditional definition of civil society? Again, in a penetrating study the anthropologist David Lan<sup>18</sup> has illustrated how spirit mediums, the religious leaders of the Shona, gave active support to Zimbabwe African National Union (Zanu) guerrillas. The scale of the war expanded into an astonishing act of collaboration between ancestors and their descendants, the past and the present, the living and the dead. Through the spirit mediums, continuity was established between the rebellions of 1893 and 1896–97 and the current conflict. Yet traditional definitions of civil society are silent on the role of spirit mediums.

On the other hand, both of the works of Kriger<sup>19</sup> and Gann and Henriksen<sup>20</sup> clearly indicate the central role of villagers in the Zanu military campaign. It was they who supplied Zanu guerrillas with food, intelligence, recruits and porters (crucial in any army which lacks mechanised transport). Without the support of local villagers, Zanu would have been unable to expand and intensify its insurgency. Should we view these local villagers as part of civil society, and see their contribution to the insurgents in much the same light as we do that of the local Catholic church? If the answer is affirmative, we should also note that civil society structures are defined as independent. And it is here that we run into problems, since these local villagers were incorporated into the political and military structures of Zanu through the *pungwes* (meetings) between guerrillas and civilians.

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<sup>17</sup> Hancock IR, 'Rhodesia', in Ayoob M (ed.), *Conflict and Intervention in the Third World*. London: Croom Helm, 1980, p.173.

<sup>18</sup> Lan D, *Guns and Rain: Guerrillas and Spirit Mediums in Zimbabwe*. London: James Currey, 1985.

<sup>19</sup> Kriger NJ, *op. cit.*, p.121.

<sup>20</sup> Gann LH & TH Henriksen, *The Struggle for Zimbabwe: Battle in the Bush*. New York: Praeger, 1981, p.88.

Any assessment of the role civil society played in the struggle for Zimbabwe would need to redefine the concept of civil society to provide a more adequate conceptual 'fit' to the objective realities of Zimbabwe in the run-up to the Lancaster House agreements of 1979.

### *The role of civil society in the struggle for a democratic South Africa*

The very conditions generated by the apartheid system (unequal access to education, health and housing and a discriminatory employment and political system) served to fuel opposition against the system. This took the form of a vibrant civil society which challenged the very edifice of the apartheid regime. The state's response was harsh. Thus protests against the pass laws of 1960 resulted in the Sharpeville massacres, when police opened fire on unarmed demonstrators. Similarly protests by school children in Soweto against the quality and type of instruction they were receiving were met by a similarly heavy-handed approach by the security forces. Increasingly the military were used to police townships.<sup>21</sup> The result of this was the militarisation of South African society.

However, the protests on the part of civil society served a number of useful purposes. First, they challenged the myth of the invincibility of the apartheid state. In addition to boosting morale amongst Africans, they also served to signal to foreign investors that South Africa was not such a stable investment after all. This caused the loss of billions of dollars in foreign investment. Second, filmed footage of the protests and the subsequent crackdowns shown in people's homes the world over publicised the apartheid question and set the stage for the development of a global anti-apartheid movement. Third, the ferocity of the protests of 1976 took the state by surprise, causing it to channel more resources into defence. Thus by 1976, defence was already accounting for 25% of the national budget,<sup>22</sup> placing a strain on the fiscus just when the economic sanctions started to be felt by South Africans.

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<sup>21</sup> Goldsworthy DJ, 'South Africa', in Ayoob, *op. cit.*, 1980, pp.209-210.

<sup>22</sup> *Ibid.*, p.211.

The period from the 1952 Defiance Campaign to the mid-1970s represented the first phase of civil society's protest against the apartheid regime. In the aftermath of the 1976 uprisings, various civil society formations engaged in a major rethink of their strategy and tactics. It was felt that more focused activities were needed to challenge the very heart of the apartheid system. The severe repression of civil society formations following the 1976 uprisings had resulted in a severely weakened civil society. Thus it was felt that more co-ordination and co-operation were needed between the different organs of civil society. The election of a hawkish Prime Minister (later President) PW Botha, in 1979 further served to underline the need for civil society organisations to adopt a more united approach to the repressive apparatus of the state.

The second phase, from the late 1970s onwards, witnessed a more focused challenge to the apartheid state on the part of civil society. One of the targets focused upon was the apartheid military itself. Resistance to conscription to serve in the apartheid armed forces found its practical expression in the establishment of the End Conscription Campaign (ECC) in 1983.<sup>23</sup> By 1986, the ECC had grown into a national umbrella body representing over 50 organisations, with branches in nine centres. The impact of the ECC's campaigns on the state security apparatus was visible: a quarter of all conscripts called up for camps did not present themselves. Moreover, increasing numbers of those who did go refused to be deployed in the townships.<sup>24</sup> Clearly, the ECC was having an adverse impact on the military power of the state itself. Small wonder then that the ECC became the target of the state's security services.

This second phase of civil society's struggle against the apartheid regime was not only characterised by more focused action, but also by better co-ordination between the elements of civil society. On the one hand an attempt was made to link national and local struggles. In October 1979 the Port Elizabeth Black Civic Organisation (PEBCO) was formed. While PEBCO challenged the state-appointed community

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<sup>23</sup> Evans M & M Philips, 'Intensifying civil war: The role of the South African defence force,' in Frankel P, Pines N & M Swilling (eds.), *State, Resistance and Change in South Africa*. Johannesburg: Southern Book Publishers, 1988, p.134.

<sup>24</sup> *Ibid.*, p.135.

councils and mobilised its constituency against rate or rent increases, it also sought to link these activities with broader national issues. Thus PEBCO demanded the release of Nelson Mandela, and also called on the government to provide Africans with freehold rights within 'white South Africa'.<sup>25</sup> The formation of the United Democratic Front (UDF) on 20 August 1983 was also a response to the need for greater co-ordination. The UDF represented the bringing together of 560 anti-apartheid organisations in one collective body. A UDF pamphlet published at the time set out the goals of the new organisation:<sup>26</sup>

The main organisational focus of the UDF campaign would be at the local and regional levels. Organisations affiliated to the UDF will run campaigns around certain aspects of the new Constitution that affects their membership in a direct way. This is to ensure that the UDF does not simply become a political protest group, but is able to build and strengthen non-racial democratic organisations as an alternative to apartheid itself.

The civic organisations were not alone in these activities; the trade unions also started to mobilise. Hence December 1985 witnessed the launch of the Congress of South African Trade Unions (Cosatu), which brought together community-oriented and independent working class unions. The strength of Cosatu was established when a year later it called for a stayaway to commemorate the tenth anniversary of the Soweto uprisings. In the Transvaal, 90% of organised labour heeded the call. Figures from other regions were also high. In Natal the figure was 80%, while the Eastern Cape had a stayaway of 99.5%.<sup>27</sup> Small wonder then that both the UDF and Cosatu were targeted for repressive state action during the 1984-86 uprisings. The subsequent declaration of the state of emergency by President Botha affected many of these structures, and civil society generally.

The third phase of civil society's struggle against apartheid started in the late 1980s and continued into the 1990s. This phase involved second-track diplomacy and post-conflict reconstruction and reconciliation. Following tentative contacts between the National

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<sup>25</sup> Alden C, *Apartheid's Last Stand: The Rise and Fall of the South African Security State*. London: Macmillan Press Ltd, 1996, p.156.

<sup>26</sup> *Ibid.*, p.187.

<sup>27</sup> Webster E, 'The rise of social movement unionism: The two faces of the black trade union movement in South Africa', in Frankel, Pines & Swilling, *op. cit.*, p.187.



Party government and the African National Congress (ANC) from as early as 1984 in Geneva, the Institute for a Democratic Alternative in South Africa (Idasa) under the leadership of Dr Frederick van Zyl Slabbert sought to facilitate further contact between the ANC and members of the dominant Afrikaner establishment. The first meeting was held in Dakar, Senegal, where 62 prominent Afrikaners met with 18 members of the ANC and South African Communist Party (SACP) in July 1987. This meeting proved to be a watershed in the shaping of the political destiny of the country. Delegates discussed a wide range of issues, including the political and economic structures of a new South Africa as well as issues concerning the transition to democracy and the building of national unity.<sup>28</sup> The substance of the Dakar meeting informed the formal negotiations at Kempton Park in the years that followed. The rapport established was sufficient to sustain 12 more clandestine meetings between the belligerents before the formal commencement of negotiations in South Africa.

It was not only in the pre-negotiation phase that civil society played an instrumental role in mediation. In the run-up to South Africa's first democratic elections on 27 April 1994, the country held its breath as the Inkatha Freedom Party (IFP) refused to participate in the elections. *It was through the efforts of Anglican Archbishop Desmond Tutu and the Reverend Frank Chikane that the IFP's entry into the elections was secured.* Their efforts were complemented by those of the Kenyan mediator — Professor Washington Okumu.<sup>29</sup> Following the elections, it was NGOs and individuals within broader civil society who played a pivotal role in reconciliation efforts in the new South Africa. Archbishop Desmond Tutu's role in the Truth and Reconciliation Commission, for instance, is widely acclaimed.<sup>30</sup>

One could argue that the internal pressure exerted by civil society played an important role in the democratisation processes of both

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<sup>28</sup> Alden, *op. cit.*, p.267.

<sup>29</sup> Gounden V & H Solomon, 'Comparative analysis of conflict resolution in Angola and South Africa', in Alker HR, Gurr TR & K Rupesinghe (eds.), *Journeys Through Conflict: Narratives and Lessons*. New York: Rowman and Littlefield Publishers, Inc., 2001, p.187.

<sup>30</sup> Huysse L, 'Dealing with the past in South Africa', in Reyhler L & T Paffenholz (eds.), *Peace-Building: A Field Guide*. Boulder, Colorado: Lynne Rienner Publishers, 2001, pp.358–364.

Rhodesia and South Africa. They exposed atrocities committed by the security forces in both countries. They challenged the moral basis of the power exercised by the Salisbury and Pretoria regimes. They exposed and undermined sham efforts at reform on the part of the incumbent regimes. They provided direct and indirect support to the liberation movements in both countries. Moreover, through boycotts, stayaways, go-slows and strike actions they undermined the power of the state itself.

However, it is important to accept that in neither of the case studies were the actions of civil society sufficient to topple the racist regimes in Salisbury and Pretoria. For those placing their faith in the guerrillas of either of the liberation movements, the message was similarly depressing. Indeed, it could be argued that in both cases the prospects of a military victory for the guerrillas were far-fetched. In the Rhodesian case, the civil war resulted in the deaths of 15,705 people (0.22% of Rhodesia's population).<sup>31</sup> The breakdown of this figure is even more revealing: 8,250 guerrillas; 954 security force personnel; and 691 black and 410 white civilians died.<sup>32</sup> The point is that in neither the Rhodesian nor the South African situations was internal pressure exerted by both civil society and direct military action on the part of guerrillas sufficient to pressurise the respective regimes into accepting majority rule. However, this pressure set the stage for external intervention.

### **External intervention in internal conflicts:**

#### **The case of sanctions against South Africa and Rhodesia**

In this section the effectiveness of international sanctions against Rhodesia and South Africa to compel both regimes to accept majority rule is evaluated. Sanctions may be defined as 'all punitive economic measures imposed by a state, organisation or person (the sender) on another state, organisation or person (the target)<sup>33</sup> [which] have as their ultimate objective to change the behaviour of the target.

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<sup>31</sup> By comparison, the current conflict in the Democratic Republic of the Congo has already resulted in the deaths of over 3.5 million people since 2 August 1998.

<sup>32</sup> Gann & Henriksen, *op. cit.*, p.83.

<sup>33</sup> Africa Research Centre, *The Sanctions Weapon*. Cape Town: Buchu Books, 1989, p.9.

However, it is imperative that we contextualise our discussion on sanctions within the broader ambit of external intervention in situations of internal conflict and crisis before discussing particular cases. Sanctions do not simply serve to signal international concern to the offending state and punish bad behaviour on the part of the regime: they also serve 'as a precursor to stronger actions, including if necessary, the use of force'.<sup>34</sup> Thus sanctions need to be situated within a broad ambit of tools (ranging from military and economic to governance approaches) available to policymakers.<sup>35</sup> (This is best captured in Michael Lund's *Preventive Diplomacy Toolbox* in Appendix 1.)

While the diplomat has a variety of tools to choose from in his 'preventive diplomacy toolbox', so too has the policymaker concerning which sanctions to impose. There are financial sanctions, which cover loans, credits and investment; and there are trade sanctions, which cover all aspects of exports and imports (not only of goods but also of technology). Then there is also disinvestment, which involves the partial or complete withdrawal of foreign companies from the targeted state; and divestment, which involves the selling of shares in companies active in the targeted state.<sup>36</sup> More recent years have witnessed the phenomenon of targeted sanctions. These are often directed at the leaders of the offending state, and include the freezing of their assets in foreign countries as well as bans on foreign travel imposed upon both the leaders and their families.

### *Sanctions against Rhodesia*

In 1965, when Ian Smith announced UDI, Rhodesia was a British colony and UDI was an act of rebellion. Apart from feeling any moral obligation, Hancock<sup>37</sup> notes, Britain had a legal right to intervene. However, the British response was hopelessly inadequate. According

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<sup>34</sup> Carnegie Commission, *Carnegie Commission on Preventing Deadly Conflict*. New York: Carnegie Corporation of New York, 1997, p.xxiv.

<sup>35</sup> Lund M, *Preventing Violent Conflict: A Strategy for Preventive Diplomacy*. Washington DC: US Institute of Peace, 1996.

<sup>36</sup> Africa Research Centre, *op. cit.*, p.9.

<sup>37</sup> Hancock, *op. cit.*, p.172.

to Stremiau,<sup>38</sup> the first mistake Britain made was to rule out the use of force; instead it imposed economic sanctions on its former colony. This had two immediate effects. The first was to undermine Britain's bargaining position in its negotiations with the Salisbury regime. The second was that it '... allowed the Rhodesian government to consolidate its power at the only time before the late 1970s when its ability to maintain law and order was in question'.<sup>39</sup>

In similar fashion, Britain's enforcement of sanctions against Salisbury was complicated by its own contradictory interests and the failure of the international community to act in concert, despite the introduction of selected mandatory sanctions in December 1966 by the UN Security Council, followed by comprehensive mandatory sanctions in May 1968.<sup>40</sup> The initial failure of the sanctions campaign is illustrated by the fact that one year after UDI and the imposition of sanctions, the Rhodesian economy posted a surplus.<sup>41</sup> Indeed, throughout the period 1965-74 the Rhodesian economy expanded: GDP rose by 83%; industrial output doubled and mining output tripled.<sup>42</sup> It was the Zambian economy that was brought close to bankruptcy by the sanctions imposed upon Rhodesia, whilst the target country thrived.

Why did sanctions fail to end white minority rule in Rhodesia? One reason for this is provided by Stephen John Stedman,<sup>43</sup> who described how Rhodesia's tobacco crop was stowed in disguised crates and shipped to a network of intermediaries, in a vast international conspiracy to beat the sanctions. Such sanctions-busting activities were common in much of the Rhodesian economy. But the second and more important reason is that no sanctions regime could succeed as long as Portugal and South Africa refused to co-operate with it. The obvious answer was to impose sanctions on Pretoria itself. This, however, London was loathe to do, since British investment in South

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<sup>38</sup> Stremiau J, *Sharpening International Sanctions: Towards a Stronger Role for the United Nations — A Report to the Carnegie Commission on Preventing Deadly Conflict*. New York: Carnegie Corporation of New York, 1996, p.62

<sup>39</sup> Hancock, *op. cit.*, p.176.

<sup>40</sup> *Ibid.*, p.178.

<sup>41</sup> Hutson, *op. cit.*, p.62.

<sup>42</sup> Hancock, *op. cit.*, p.180.

<sup>43</sup> Stedman SJ, *Peacemaking in Civil War: International Mediation in Zimbabwe, 1974-1980*. Boulder, Colorado: Lynn Rienner Publishers, 1991, p.38.

Africa constituted 10% of British total foreign investment. British trade with Pretoria actually increased by 50% between 1969 and 1971.<sup>44</sup>

Hancock<sup>45</sup> provides an even more telling reason for the failure of sanctions against Rhodesia during the initial period. He argues that the premise underlying the sanctions was itself faulty. Their aim was to break the white monolith inside Salisbury by inducing divisions between moderates like Smith and the more right-wing of his cabinet members, on the assumption that under pressure of sanctions, Smith would discard his right wing and agree to significant concessions towards black majority rule. As it turned out, it was a costly miscalculation. Smith was no moderate. Instead he was shackled to radical nationalists within his administration and totally committed to the retention of a white Rhodesia. This realisation did not seem to penetrate British thinking until the late 1970s.

By the mid-1970s the tide had started to turn against Rhodesia, and international sanctions had started to bite. The tobacco industry was badly affected by international sanctions, replacement parts for agricultural machinery were difficult to come by, sanctions-busting came at a high price as overseas middlemen charged increasingly exorbitant amounts, and Rhodesia could not gain sufficient access to capital markets to exploit its natural advantages.<sup>46</sup> The impact of sanctions was further exacerbated by drought and the worldwide economic recession that followed the decision by the Organisation of Petroleum Exporting Countries (OPEC) to quadruple oil prices.<sup>47</sup>

The regional geostrategic balance also started to swing against Salisbury. Following the military coup in Portugal, which led to the subsequent independence of both Angola and Mozambique, Smith hoped he could retain his trade routes through Beira and Lourenço Marques. After the independence of Mozambique, however, this proved impossible. Consequently, Smith sought to reinforce his trade

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<sup>44</sup> Hancock, *op. cit.*, p.179.

<sup>45</sup> *Ibid.*, p.182.

<sup>46</sup> *Ibid.*, p.181.

<sup>47</sup> Hutson, *op. cit.*, p.112.

ties to Pretoria, thus increasing his dependence on South Africa.<sup>48</sup> Unfortunately for him, the tide of history was against him.

The South African prime minister, BJ Vorster, was well aware of the changes taking place in the region and in the international arena, and opted to change his strategy accordingly. In the past he had sought to maintain a string of white buffer states along South Africa's northern border to keep the country 'safe'. Angola and Mozambique having become independent, he sought to establish friendly relations with moderate black neighbours. This necessitated a speedy and peaceful transition to majority rule for South West Africa/Namibia and Rhodesia. Further north, Zambian President Kenneth Kaunda was arriving at similar conclusions, albeit working from a different set of premises. Convinced that majority rule was now inevitable in Southern Africa, he believed that 'the choice lay between an intensified armed struggle and an immediate but peaceful transfer of power'.<sup>49</sup> The consequence of this was a short-lived *détente* between Southern African states in a collaborative attempt to pressurise Salisbury into accepting fundamental change. The South African effort was given added impetus by the US secretary of state, Henry Kissinger, who strongly advised Pretoria to exert its fullest influence to persuade Salisbury to accept majority rule. The reason for Kissinger's intervention was Washington's conviction that the only way to stave off Soviet expansionism in Southern Africa was through moderate black majority rule; hence the pressure brought to bear on both Pretoria and Salisbury.<sup>50</sup>

James Callaghan, the new British prime minister, adopted a new approach to Salisbury following the breakdown of the Smith-Nkomo talks on 22 March 1976. He set out uncompromising preconditions for renewed settlement talks: 'agreement on the principle of majority rule elections within eighteen months to two years, no independence before majority rule, no drawn-out negotiations'.<sup>51</sup> Confronted with unprecedented pressure from London, Washington and Pretoria, Smith was forced to retreat. But he still had a few tricks up his sleeve.

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<sup>48</sup> *Ibid.*, pp.114-115.

<sup>49</sup> Hancock, *op. cit.*, p.194.

<sup>50</sup> Hutson, *op. cit.*, p.138.

<sup>51</sup> Hancock, *op. cit.*, p.194.

On 3 March 1978 Smith announced his internal settlement to the world, one that was exclusive rather than inclusive. It made provision for white control of the armed forces, the police, the civil service and the government itself.<sup>52</sup> Suspecting that this settlement was intended merely to perpetuate white rule by other means, both London and Washington rejected Smith's plan. Subsequently Smith was forced to make the major concessions at Lancaster House in 1979, and thereby pave the way for a democratic Zimbabwe.

However, it would be wrong to assume that external pressure was brought to bear only upon Ian Smith's Rhodesian Front. Pressure from the Frontline States (FLS) of Tanzania, Zambia, Botswana and Mozambique was also placed on Robert Mugabe and Zanu, to persuade him to opt for a negotiated settlement rather than the military victory he was bent on achieving. All these countries supported the liberation movements by allowing the guerrillas to use their territories to establish rear bases and supply lines. Because their support was crucial to any war effort, their withdrawal of support would spell the end of any liberation. Their leverage over Mugabe was to prove of vital importance to the success of the Lancaster House negotiations. When during the proceedings Mugabe wanted to withdraw and refuse to take any further part in the negotiations, he was stopped by a direct warning from Mozambican President Samora Machel's envoy:<sup>53</sup>

If he did not sign the agreement, he would be welcomed back to Mozambique where he could write his memoirs, but Mozambique would make no further sacrifice for a cause that could be won at the conference table. In other words, as far as Mozambique was concerned, the war was over.

In the final analysis, as Gann and Henriksen<sup>54</sup> put it, the 'Rhodesians failed, not so much for military, but for economic and political reasons'.

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<sup>52</sup> *Ibid.*, p.197.

<sup>53</sup> Meredith M, *Robert Mugabe: Power, Plunder and Tyranny in Zimbabwe*. Johannesburg: Jonathan Ball Publishers, 2002, pp.2-8.

<sup>54</sup> Gann & Henriksen, *op. cit.*, p.83.

### *Sanctions against South Africa*

External intervention against South Africa has many points of similarity with intervention against Rhodesia. Both countries experienced sanctions from the 1960s onwards.<sup>55</sup> In both cases, the impact of sanctions was felt only when the international community had agreed to act in concert against them. Thus although the UN passed its first punitive resolution against South Africa in April 1961<sup>56</sup> and the UN Security Council imposed a mandatory arms embargo in 1977,<sup>57</sup> it was only when the US passed the Comprehensive Anti-Apartheid Act of 1986 that the screws against Pretoria were well and truly tightened.<sup>58</sup> The participation of the US colossus in both the Rhodesian and South African contexts proved decisive in forcing the incumbent regimes to re-evaluate their options and to accept the principle of majority rule. In both cases changing international circumstances also served to exacerbate the impact of international economic sanctions. As with Rhodesia, the oil crisis of the 1970s occurred at the very time when South Africa had begun a large-scale programme of oil stockpiling. Oil imports which in 1973 had cost R190 million were by 1975 costing R1,100 million.<sup>59</sup> Like Rhodesia, South Africa also sought to bypass international sanctions through sanctions-busting and the overt and covert support of certain states. For instance, Israel and France assisted Pretoria in the development of its defence capabilities.<sup>60</sup>

Notwithstanding these similarities, there were important differences in the experiences of both countries in relation to international sanctions. First, in the case of Rhodesia, sanctions were imposed by external states, while in the case of South Africa sanctions were popularly led by individuals and organisations from both inside and outside the country. The first sanctions occurred in Britain in 1957, when there was a popular boycott of South African goods following

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<sup>55</sup> Hofmeyr J, *The Impact of Sanctions on South African White Political Attitudes*. Washington DC: Investor Responsibility Research Centre, 1990, p.1.

<sup>56</sup> Africa Research Centre, *op. cit.*, p.11.

<sup>57</sup> Alden, *op. cit.*, p.117.

<sup>58</sup> Hofmeyr, *op. cit.*, p.1.

<sup>59</sup> Goldsworthy DJ, 'South Africa,' in Ayoob, *op. cit.*, 1980, p.211.

<sup>60</sup> *Ibid.*, p.208.



the treason trial of December 1956.<sup>61</sup> This was to lay the foundation for the anti-apartheid movement, which grew into a global phenomenon. Second, and as a concomitant of the first point, the sanctions campaign intensified as internal repression of the democratic opposition inside the country intensified. The first sanctions were imposed against the apartheid regime in the shadow of the Sharpeville massacre of 1960. Following the 1976 uprisings and the killing of the Black Consciousness leader, Steve Biko, in 1977, more sanctions followed. Pretoria's brutal repression of the 1984-86 uprisings during its state of emergency elicited further sanctions. The third distinguishing feature of the sanctions campaign against Pretoria lay in the vulnerability of South Africa's economy, which, in the 1980s, was estimated as being dependent for between 50% and 60% of its gross national product (GNP) on trade with the West. Being such an open economy, South Africa is very vulnerable to trade boycotts, sanctions and disinvestment.<sup>62</sup> Hence we can conclude that the fact that 90% of South Africa's merchandise exports were subjected to sanctions of one kind or another, and that 100 states applied restrictions on trade with the Republic, did not do wonders for its economy.<sup>63</sup> Neither did the country's rising inflation, and stagnating growth rate, and the R18 billion in private capital disinvestments from South Africa between 1986-88.<sup>64</sup> Sanctions and disinvestments were perceived by senior government officials as a blow to the economy. They were a powerful force to motivate the apartheid state to adopt reform at home and a less bellicose foreign policy towards its neighbours. Foreign Minister Pik Botha publicly declared several times that the only way out of South Africa's international isolation was through domestic reform. These sentiments also informed President De Klerk's own thinking:<sup>65</sup>

We realise that credible constitutional reform has a very important role to play in creating a climate which will be conducive to private investment,

<sup>61</sup> Africa Research Centre, *op .cit.*, p.11.

<sup>62</sup> Razis V, *The American Connection: The Influence of US Business on South Africa*. London: Frances Pinter Publishers Ltd, 1986, p.12.

<sup>63</sup> Geldenhuys D, 'Ten crisis in South Africa's international relations', *International Affairs Bulletin*, 13, 3, 1989, p.93.

<sup>64</sup> Moorcroft PL, *Africa Nemesis: World Revolution in South Africa 1945-2010*. United Kingdom: Brasseys Ltd, 1990, p.25.

<sup>65</sup> Address by Mr. FW de Klerk, state president, to the *Financial Mail* conference on investment in 1990, Johannesburg, 6 October 1989, p.3.

to the normalisation of South Africa's international economic relations, and to the development of a strong economy.

The unbanning of the ANC, the release of Nelson Mandela and the beginning of formal negotiations between the ANC and the National Party government were to begin within months of President De Klerk's making this statement.

### **Lessons to be from conflict mediation in Rhodesia and South Africa**

The first lesson is that conflict mediation has a better chance of success where a synergy has been developed between local and external actors. The South African case makes it abundantly clear that pressure from civil society and the imposition of sanctions by external actors are two sides of the same coin. Indeed, what is often forgotten is that a variety of civil society organisations such as the UDF, Cosatu and the South African Council of Churches actually campaigned for sanctions. Albert Luthuli forcefully laid out the underlying rationale for this stance in 1963:<sup>66</sup>

I shall not argue that the economic ostracism of South Africa is desirable from every point of view. But I have little doubt that it represents our only chance of a relatively peaceful transition from the present unacceptable type of rule to a system of government which gives us all our rightful voice.

Was there merit in such an argument? Clearly there was. Whenever the sanctions noose tightened around Pretoria, it sought to engage in domestic reform. In the light of the brutal state repression following the 1984–86 uprisings, the global sanctions and disinvestments lobby was considerably strengthened. The year 1986 witnessed the passing of the Comprehensive Anti-Apartheid Act by the US Congress. American bankers refused to renew their loans to the country, causing the rand to plummet. This compelled President Botha to scrap influx control in 1986 and to lift the state of emergency.<sup>67</sup> The same was also true of Rhodesia. Whenever the Smith regime was faced with a

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<sup>66</sup> Orkin M, *Sanctions Against Apartheid*. Cape Town: David Philip Publishers (Pty) Ltd, 1989, p.vi.

<sup>67</sup> *Ibid.*, p.2.

hardening of international opinion it sought to make concessions. These finally led to the successful Lancaster House agreements.

But external intervention in the form of sanctions also served another crucial function, that of protecting civil society in its actions against the racist regimes in Salisbury and Pretoria. In opposing authoritarian regimes, civil society is vulnerable to intimidation, arrest and even murder by the state security agencies. However, concerted action on the part of the international community can go some way towards providing protection to civil society by punishing the state's repressive behaviour. Thus in the case of South Africa the intensification of the sanctions regime followed each and every repressive act of the state: the Sharpeville massacre of 1960; the brutal repression of the Soweto uprisings of 1976; and the uprisings of 1984–86.

The second lesson derivable from the two case studies is that for sanctions to be effective, they need to be seen as part of a broader strategy to influence the targeted government. The British refusal to contemplate the use of military force following UDI undermined its sanctions regime. Its failure to take action against South Africa for its sanctions-busting activities on behalf of Rhodesia did not help either. Gradated piecemeal approaches to sanctions are unlikely to work, whereas sanctions work best when they are swiftly and comprehensively imposed, with all nations working in concert towards a common objective. States imposing sanctions should also take care that neighbouring countries do not suffer untowardly as a result of sanctions imposed on the target state. *The deleterious impact of sanctions on Rhodesia on its neighbour Zambia is a case in point.* States imposing sanctions should send clear, unambiguous signals to the target state, stressing the conditions that must be fulfilled before the sanctions will be lifted. These requirements should be accompanied by incentives which would hopefully strengthen the hands of the moderates within the target state.

The third lesson is that civil society is able to have a greater degree of success in influencing government where civil organisations act in concert. There is strength in numbers and in co-ordination. It is for this reason that mobilisation against apartheid under the umbrella of the UDF was so successful for the hundreds of civic organisations and NGOs. Linking local with national issues as PEBCO did also served to

sensitise township dwellers to the linkages between local issues, such as high rents, and the unbanning of the ANC and PAC. In this way, a stronger anti-apartheid movement could be sustained to challenge the apartheid regime.

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## **Appendix 1**

### *Michael Lund's Preventive Diplomacy Toolbox: Policies and Instrument for Preventing Violent Conflict*

#### **I Military approaches**

##### *A. Restraints on the use of armed forces*

- Arms control regimes (including their monitoring)
- Confidence-building measures
- Non-aggression agreements
- Pre-emptive peacekeeping forces (for deterrence and containment)
- Demilitarised zones, 'safe havens', peace zones
- Arms embargoes, blockades
- Non-offensive defence force postures
- Military-to-military programmes

##### *B. Threat or use of armed forces*

- Deterrence policies
- Security guarantees
- Maintaining or restoring local or regional 'balances of power'
- Use or threat of limited shows of force

#### **II Non-military approaches**

##### *A. Coercive diplomatic measures (without the use of armed force)*

- Diplomatic sanctions (withholding of diplomatic relations, recognition as state, or membership in multilateral organisations)

- Economic sanctions (condemnations of violations of international law)
- War crimes, tribunals, trials

***B. Non-coercive diplomatic measures (without armed force or coercion)***

**Non-judicial**

- International appeals (moral suasion to conflicting parties to urge accommodation)
- Propaganda (directed at violators of international principles)
- Fact-finding missions, observation teams, on-site monitoring (of human rights abuse, instances of violence)
- Bilateral negotiations (between opposed parties)
- Third party informal diplomatic consultations (by official entities)
- Track-two diplomacy (by official, non-governmental parties)
- Conciliation
- Third-party mediation
- Commission of inquiry or other international inquiries
- Conciliatory gestures, concessions (unilateral or reciprocal, 'tit-for-tat' gestures by opposed parties)
- Economic assistance or political incentives (to induce parties to cooperate)

**Judicial or quasi-judicial**

- Mechanisms for peaceful settlement of disputes
- Arbitration (binding decision by permanent tribunal)
- Adjudication

**III Development and governance approaches**

***A. Policies to promote national economic and social development***

- Preventive economic development (in conflict-prone states or areas)
- Preventive private investment (in conflict-prone states or areas)

- Economic trade (with conflict-prone states or areas)
- Economic integration (to achieve interdependency)
- Economic reforms and standards
- Society-to-society, bilateral co-operative programmes (in social, cultural, educational, scientific, technological, or humanitarian affairs)

***B. Promulgation and enforcement of human rights, democratic and other standards***

- Political conditionality (attached to economic aid)
- International human rights standard-setting
- Human rights suits
- Election monitoring
- Military-to-military consultations (regarding military professionalism and the role of the military in society)

***C. National governing structures to promote peaceful conflict resolution***

- Power-sharing
- Consociation
- Federalism
- Federation
- Confederation
- Autonomy
- Partition
- Secession
- Trusteeships, protectorates (internationally sponsored)

# **Non-Traditional Diplomacy: Cultural, Academic and Sports Boycotts and Change in South Africa**

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## **Introduction**

The academic, cultural and sports boycotts imposed on South Africa in the last half of the 20<sup>th</sup> century were sustained international efforts to press the country to accept fundamental political change. The boycotts arose from concerns over specific apartheid policies, but eventually became part of a much larger, multi-textured effort to achieve far-reaching alterations in South Africa's political dispensation. Proponents saw the boycotts as efforts based on moral principles. Their goal was to bring home the costs of apartheid to white South Africans, thereby encouraging them to withhold support for apartheid and instead promote a radical restructuring of the South African political order. The boycotts emerged from a tradition of efforts to achieve decisive political change without recourse to the coercive power of military-style force. Boycott proponents evolved their tactics — and their goals — over time, in response to changes in the larger picture of political and security order in Southern Africa.

Boycotts by individual countries, multilateral national groups — and most especially non-state actors — have a long historical lineage. Americans can easily recall the 1773 'Boston tea party' — the dumping of British imported tea into Boston harbour as part of a larger boycott of British goods and taxes in the years before the American

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<sup>1</sup> JB SPECTOR was, at the time of writing this chapter, an American diplomat who had worked extensively on international cultural and educational exchanges as well as press relations in South Africa in 1975–76, 1989–92 and 2001–03. The views expressed in this paper are solely the views of the author and do not necessarily represent the views of the US government. This paper also represents an initial treatment of a longer work now in progress. The author looks forward to the opinions, insights and observations of readers to assist in the preparation of the larger work.

Revolution. (This occurred 100 years before the word 'boycott' became the term for such actions.)

Since the 20<sup>th</sup> century, boycotts have included international coalitions of states acting upon non-state actors to affect yet another state; non-state actors seeking to persuade a group of states to act to promote change in the internal policies of yet another state; and efforts by coalitions of international non-state actors (sometimes with the assistance of individual states or international organisations) to bring pressure to bear on the government of a particular state. An example of the first category is the Arab League's attempts at retaliatory action against American firms trading with Israel. An example of the second is the campaign by international human rights/civil rights non-governmental advocates to press for a boycott of Zimbabwe in the 2003 Cricket World Cup, so as to compel Zimbabwe to change its internal policies. For the third, one could look to campaigns by various European academic associations to end educational exchanges between the rest of Europe and Austria when a neo-Nazi party entered into a coalition with the ruling government.

Alternatively, domestic non-state actors can initiate an internal boycott organised around a particular economic activity, in order to induce policy alteration or even a regime change, while drawing upon international public opinion to sustain their efforts and add pressure on that regime. Examples of this include Gandhi's 'March to the Sea' to protest a British monopoly tax on salt in British India, and the Southern Christian Leadership Council's bus boycotts in the American South — a campaign that effectively heralded the start of the American civil rights struggle. In both cases, while the actions of internal actors did not immediately produce fundamental domestic change, they contributed to a much broader campaign that did, even as they also elicited significant international opprobrium directed against the ruling structures. The table shown below offers a simple typology of boycotts by type, actors and objective.

Despite variations, policy-directed boycotts appear to share several central features. First, they aim to achieve a change either in government policy or in the actual regime. Second, they believe in the efficacy of working beyond the usual international legal order — or the formal texture of the domestic legal system — to achieve such



results. Third, they hold a broad, often unvoiced, belief in the efficacy of boycott techniques over the long term in producing policy or regime change without overt physical coercion. In that respect, boycott proponents draw upon a body of doctrine holding that such transformation can be achieved through non-violent, collective means if enough people and groups can be brought to act in concert. Moreover, there is a conviction that the power of the boycott derives from both from the actions of its proponents and from its impact on the larger body of public opinion — first nationally and then globally.

<b>Proponent's goals vis-à-vis regime</b>				
<i>Actors</i>	<i>Change policy</i>	<i>Punish regime</i>	<i>Isolate regime</i>	<i>Change regime</i>
Intra-state non-state group/s	Montgomery bus boycott	Boston tea party	Cyber protests against US over Iraq	Gandhi's march to the sea
External non-state group/s often in association with, or in support of, domestic groups	Academic and cultural boycotts against SA Sports boycott	Sports boycott	Olympic expulsion Rugby tour boycott	Post 1983 UN cultural boycott (includes UN listings)
External state and multi-state group + external non-state actors? + internal non-state actors?	Putative academic boycotts against Israel re Palestinian policies in 2002-03	Putative sports boycotts against Zimbabwe in 2002-03	Arab League trade boycotts against firms dealing with Israel	Academic boycotts against Haider's Austria in 1990s

Academic, sports and cultural isolation of South Africa — in sync with economic sanctions, dis-investments

Proponents of boycotts — whether they acknowledge it or not — are heirs to a theory of public action that takes shape in modern times as a fusion of eastern and western political (and religious) traditions. Henry David Thoreau's *Essay on Civil Disobedience*<sup>2</sup> (written to explain his protest against a tax to support the Mexican War) was probably the first document to articulate this theory in its modern guise. Thereafter, Mahatma Gandhi drew upon such ideas in his formulation of *satyagraha* (passive resistance) as an affirmative political doctrine.<sup>3</sup> And Reverend Martin Luther King Jr.'s expositions and sermons on the impact of faith on politics, as in 'Letter from a Birmingham Jail' and 'I've been to the Mountaintop' drew in turn upon the views set out earlier by Gandhi and Thoreau.<sup>4</sup>

These efforts also draw upon what Harvard's Joseph Nye has called 'soft power' — the ability of culture, ideas, the mass media, and economics to act as important forces in influencing policy — without the coercive nature of military power.<sup>5</sup> Until the end of the Cold War, international relations analysts often saw soft power as marginal compared with the nuclear or conventional balance of forces between the North Atlantic Treaty Organisation and the Warsaw Pact. The impact of culture, ideas, and the media — even economics — was regarded as having relatively little effect on the essential shape of the international system. However, following the fall of the Soviet empire, and once again after 11 September 2001, analysts are focusing greater attention on the impact soft power and non-state actors can have on the international system. (Examples of powerful soft agencies range from anti-globalisation campaigns, the Internet, the WTO, to al-Qaeda.) Although much attention is still focused on new military

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<sup>2</sup> Thoreau HD, 'Essay on civil disobedience' in Witherall EH (ed.) *Thoreau: Collected Essays and Poems*. New York: Literary Classics of the United States Inc., 2001, pp.203–224.

<sup>3</sup> Fischer L (ed.), *The Essential Gandhi: His Life, Work, and Ideas: An Anthology*. New York: Vintage Books, 1983.

<sup>4</sup> King ML Jr., 'I've been to the mountaintop', in Warner M (ed.), *American Sermons — The Pilgrims to Martin Luther King, Jr.* New York: Literary Classics of the United States, pp.876–888.

<sup>5</sup> Nye J Jr., *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone*. New York: Oxford University Press, 2002.

technologies, the technologies of communication are also amplifying the impact of non-state actors on the world.<sup>6</sup>

Parallel to Paul Kagan's 'fog of war,' the profusion of international actors and their often-conflicting goals, strategies and effectiveness can help redirect some attention towards examinations of how (or whether) sports, educational and cultural boycotts and related strategies can achieve significant policy changes. New calls to impose boycotts on behalf of particular causes also encourage examinations of these strategies. Such analysis is both timely and relevant to a fuller understanding of the complete international system.

However, a thorough examination of the full panoply of boycotts used as policy tools is beyond the scope of this paper. The more limited focus of this discussion, therefore, is to look at how major international actors collaborated with South African internal actors (to articulate, design, advocate and use the pressure of sports, educational and cultural boycotts) in bringing pressure to bear on South Africa during the National Party's rule. As the goals of the different actors coalesced, their efforts were aimed, first, at provoking changes in policy implementation; then alterations in the actual policies; and finally, replacing the regime itself.

### **The origins of the boycotts**

Following consolidation of the National Party's rule and the evident failure of armed resistance efforts to bring the apartheid state to its knees, and given the general unwillingness of the world community to take decisive steps to alter the behaviour of the South African government, apartheid's international opponents considered alternative means. The Reverend Trevor Huddleston, after his expulsion from South Africa for his opposition to the Nationalist regime, appears to have been the first to make a specific call for an international sports boycott of South Africa.<sup>7</sup> He did this first in a 1954 newspaper article published in 1954, and then more extensively in a book published in 1956.<sup>8</sup>

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<sup>6</sup> Taylor C, 'Day of the smart mobs', *Time*, 10 March 2003, p.53.

<sup>7</sup> Denniston R, *Trevor Huddleston*. London: Macmillan Publishing, 1999, p.149.

<sup>8</sup> Huddleston T, *Naught For Your Comfort*. London: Collins Publishing, 1956.

Huddleston's call led to slowly increasing international pressure to restrict South Africa's international sports participation, including its exclusion from the Olympics Games in 1968. Ironically, it was South Africa's unwillingness to allow Basil D'Oliviera, the formerly South African 'coloured' cricket star, to tour South Africa as part of the planned Marylebone Cricket Club's 1968 tour that moved the issue from back burner to front page. The South African prime minister of the time, John Vorster, handed boycott proponents a decisive weapon when in a public speech given in Bloemfontein he argued:<sup>9</sup>

We are not prepared to receive a team thrust upon us by people whose interests are not the game, but to gain political objectives which they do not even attempt to hide. The team, as it stands, is not the team of the MCC selection committee but of the political opponents of South Africa.

Initially, for many, the goal of the sports boycotts was not regime change or a challenge to the legitimacy of the South African state. Rather, it was to punish South Africa's unwillingness to select integrated teams and to manage its international teams through non-racial organising bodies. Most especially its refusal to play integrated teams from other nations provided the impetus for a boycott.

These calls for sports boycotts must be seen from the perspective of their time, rather than from the vantage point of the post-apartheid South Africa. In the late 1950s and early 1960s, it was still just possible to envision a South Africa where the recent electoral victories of the Nationalist Party could be rolled back at the polls and its policies unwound. Similarly, it was difficult for any but the most optimistic to imagine a South Africa driven to the wall by any of the relatively ineffectual African liberation movements. The popular mobilisation efforts and the underground military wings of the African National Congress (ANC) and Pan-African Congress (PAC) had been crushed internally, and a ring of Portuguese and other European colonies still walled South Africa off from the newly independent states of west, central and east Africa. Rhodesia had not even declared Unilateral Declaration of Independence (UDI), let alone become Zimbabwe.

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<sup>9</sup> Oaks D & C Saunders *et al.* (eds), *Illustrated History of South Africa — The Real Story*. Pleasantville, NY: Reader's Digest, 1988, pp.450–451.

Support for the pleas made by the ANC president, Albert Luthuli, for sports, cultural or trade boycotts, building on Huddleston's earlier calls, appeared to represent one of the few ways in which pressure could be exerted on South Africa.<sup>10</sup> In fact, until the early 1960s, the only significant international boycott against South Africa had been the World Court's decision about South Africa's administration of South West Africa, and the resultant calls for a limited arms embargo against South Africa.

Academic boycotts drew their first impetus from British academic associations. In 1965, nearly 500 academics from 34 British universities signed a declaration to protest the banning orders issued against anti-apartheid academics Jack Simons and Eddie Roux as well as growing racial discrimination in higher education institutions in South Africa. The signatories also pledged that they would not apply for, or accept, academic posts in South African universities that practised racial discrimination.<sup>11</sup>

Central to this call for a boycott was the close relationship that existed at that time between the British and South African academic worlds, following the colonial and Commonwealth pattern. Most of South Africa's most renowned academics (especially at the English-speaking universities) had personal and professional links to British institutions. Indeed, South African institutions were connected to those in the UK through a broad array of relationships, exchanges and historical ties. American academic connections with South Africa were much weaker and less visible, and so the push for an American academic boycott against South Africa took longer to gain momentum.

It was only in the late 1970s and early 1980s that American universities and academics embarked on a concerted push for an academic boycott targeting South Africa. They did this under pressure from academics whose world view was anchored in the experiences of Vietnam and Watergate and whose organisational skills had been sharpened by the civil rights struggle and anti-Vietnam War protests. Often the academic boycott operated in tandem with the well-publicised

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<sup>10</sup> Denniston R, *op. cit.*, p. 153.

<sup>11</sup> 'Declaration by British Academics', <http://www.anc.org.za/ancdocs/history/boycotts/academic65.html>.

disinvestment campaigns. These initiatives put pressure on university endowments and city and state pensions investments in American companies with significant business ties to South Africa and were played out in public and in the media.

The official US government Fulbright exchange programme ceased sending American exchange lecturers to teach in South African universities by the early 1970s. However, the selection of South Africans for Fulbright scholarships to attend American universities continued, as it was regarded as a contribution towards the creation of an educated cohort that could benefit a new non-racial South Africa — whenever that might emerge.<sup>12</sup>

The cultural boycott began slightly differently. Here British organisations again took the lead — reflecting the largely British texture of imported culture in South Africa in the 1950s and 1960s. As noted earlier, Reverend Huddleston was probably the first to call for a cultural boycott when he wrote,<sup>13</sup>

I am asking those who believe racialism to be sinful or wrong ... to refuse to encourage it by accepting any engagement to act, to perform as a musical artist or ballet dancer...

In recognition of the increasing severity of apartheid, several British cultural organisations determined that their members should not perform in South Africa, beginning with the British Musicians Union in 1961. Two years later, 45 British playwrights instructed their literary agents to refuse performing rights, 'where discrimination is made among audiences on grounds of colour.'<sup>14</sup> In subsequent years, a growing number of American, British, Irish and European cultural groups adopted similar policies. This prevented the works of

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<sup>12</sup> The author participated in the administration of the Fulbright Programme during the period 1975–76 and 1989–92. This comment reflects the common assumptions of those involved in the direction and administration of the programme at the Embassy and in Washington and New York exchange offices.

<sup>13</sup> As quoted in Sher A & G Doran, *Woza Shakespeare*. London: Methuen Random House, 1997, p.218.

<sup>14</sup> United Nations Center Against Apartheid, 'Some important developments in the Movement for a Cultural Boycott Against South Africa.' New York: UN, 1983.

playwrights of the stature of Arnold Wesker, Arthur Miller and August Wilson from being seen in South Africa until the 1990s.<sup>15</sup>

## The boycotts evolve

As they evolved, the boycotts appear to have drawn sustenance from several interacting phenomena.

- First, in comparison with South Africa's geopolitical position in the 1960s, its situation in the mid- to late 1980s was more problematic. By then opponents could argue that the Nationalist government and apartheid's days were numbered. The colonial cordon around South Africa had disappeared, giving liberation movements easier access to South Africa. The Soweto uprising of 1976 and its aftermath — the rise of the United Democratic Front (UDF) and the 'civics' movements of the mid-1980s — re-energised the internal opposition. Further, the growing impact of economic sanctions, the international banking credit squeeze that followed PW Botha's Rubicon speech, and growing disinvestment movements on university campuses beyond South Africa all led to the realisation that externally generated pressure could be marshalled against South Africa to bring about changes in policy law and even regime.<sup>16</sup>
- Second, the political activism of prominent figures like Harry Belafonte and Quincy Jones generated interest in, and support for, a list kept by the UN of well-known entertainers who had visited South Africa, despite the growing momentum of the cultural boycott. While being listed by the UN's Centre Against South Africa carried no specific punishment, it did ensure negative publicity — anathema to any entertainer interested in securing bookings and

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<sup>15</sup> A personal comment: When I first came to South Africa in 1975, I was astonished at how strongly English this country appeared culturally. When I returned in 1987, I was astonished at how much more American in texture the local culture had become — a partial reflection of the impact of TV — and especially American TV — as well as a decline in British cultural content due to the boycott. It also appeared to be a result of an increasingly vigorous embrace of American urban black culture by black (and some white) South Africans via recordings and broadcasts — often through the nominally independent broadcasts of Bop-TV that reached most of Soweto. This produced a curious irony in the impact of the cultural boycott — discussed in the main text.

<sup>16</sup> Kasrils R & V Brittain, 'No room for justice', *The Guardian*, 21 December 2002, among many other commentators.

performances in the future. Frank Sinatra's cancellation of a planned performance tour to South Africa is a case in point.<sup>17</sup>

- Third, leading African American entertainers — Bill Cosby, Stevie Wonder and Quincy Jones, among others — were becoming new cultural icons in South Africa. That these personalities were prepared to protest against South African policies, to refuse to visit South Africa, and to prevent their works from being made available to TV, cinema or video and record/CD stores may have given the average white South African yet another reason to reconsider support for apartheid.<sup>18</sup> A similar trend occurred in sport, as international protests over attempts to give South African teams international competition opportunities helped to encourage a growing sense of international isolation in South Africa.<sup>19</sup> Simultaneously, it appears to have given black South Africans a sense that a much larger community outside the country understood their travails, and was doing something to end them.<sup>20</sup>
- Fourth, increasing numbers of entertainers began to participate in public political efforts directed against South Africa — and they began to have greater impact. A descendant of America's civil rights struggle and the anti-Vietnam protests, the anti-apartheid movement seemed to many to be a moral and political continuation of these earlier efforts. On the other side, South Africa's attempts to evade these pressures through the use of entertainment venues in the so-called independent bantustans may well have had the opposite effect to that intended: they gave foreign entertainers a specific, identifiable target that could be abbreviated into a struggle sound byte.<sup>21</sup> Sun City, an entertainment/recreation resort in the theoretically independent state of Bophutatswana, gave rise to Steve

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<sup>17</sup> Sher A & G Doran, *op. cit.*, p.219.

<sup>18</sup> During the late 1980s, SABC-TV management repeatedly asked American Embassy officials to use their good offices to encourage American television producers to help them obtain the rights to broadcast such shows as 'Sesame Street' on SABC's main channels.

<sup>19</sup> Kahiya V, 'Debate over boycott looks to past', *The Zimbabwe Independent*, 10 January 2003 and via <http://allafrica.com/stories/200301100475.html>. Also, Oaks D & C Saunders et al, *op. cit.*, pp.450-1.

<sup>20</sup> 'Roundtable: Ray Phiri, Siphon Mabuse, Ole Rietov', from 1<sup>st</sup> World Conference on Music and Censorship, Copenhagen, 20-22 November 1998, *African Quarterly on the Arts*. Glendora International Limited, 2002, <http://www.glendora-eculture.com>.

<sup>21</sup> Sher A & G Doran, *op. cit.*, p. 219.



van Zandt's chart-topping pop tune, 'Ain't Gonna Play Sun City,' among other songs and music videos that were open attacks on the National Party regime.

- Fifth and finally, the formal establishment of an official ANC cultural office toward the end of the 1980s seems to have heralded a more focused, effective direction for the cultural boycott. This office worked in increasing synergy with the UN, as well as a broader range of American, British, Western European and other anti-apartheid coalitions and organisations.<sup>22</sup>

However, even as late as 1987, international relations scholars such as John Barratt could still write:<sup>23</sup>

There is no doubt that international pressures — from mere criticism to sanctions threats — have had an effect, much of it positive in the sense of contributing to reform, some of it negative in that it has caused hardening of official white attitudes ... But it is not possible to measure the extent of the roles of external pressures in each of these areas against the internal pressures for change. One problem is, of course, that the [South African] government has never been able to admit explicitly that external pressures have to any great degree been responsible for changes in policy.

Nonetheless, just three years later, as Nelson Mandela and other ex-prisoners were beginning to adjust to ordinary life, as exiles were returning home and as once-banned organisations were re-engaging in vigorous political activity, the author and political activist Achmad Dangor could argue:<sup>24</sup>

The cultural boycott was conceived in a time when all peaceful opposition had been driven underground ... The necessity to fight and isolate apartheid and white supremacy on all fronts, included a cultural dimension. In the eighties the blanket boycott was adjusted to accommodate the emergence of resistance culture and to implement it in a democratic fashion. While there have been difficulties, this strategy in relation to the other fields of struggle has been effective and it will remain

<sup>22</sup> 'Barbara Masekela: Profile', <http://www.africanpubs.com/Apps/bios/0053MasekelaBarbara.asp>.

<sup>23</sup> Barratt CJA, 'Can external leverage pressure South Africa?' in Sethi P (ed.), *The South African Quagmire*. Cambridge: Ballinger Publishing Co., 1987.

<sup>24</sup> Oliphant, 'Achmad Dangor: Writing and Change [interview]', *Staffrider*, 9, 2, p.34.

in place until apartheid is abolished ... Neither the cultural boycott nor sanctions are ends in themselves, but means to an end.

The boycott strategy had multiple purposes. Proponents argued for a two-fold approach. Through the public controversy surrounding the sports, arts and education boycotts, they wanted to generate public demand to impel the governments of other countries to exert pressure on South Africa for change. In addition, they would also encourage, bring pressure to bear on, or embarrass into compliance, leading cultural, academic and sports figures in other countries to make public statements committing themselves to eschew any relationship with South Africa. In so doing, they would bring home the costs of apartheid to white South Africans, so encouraging white disaffection from racist policy and building support for a fundamental restructuring of South Africa's political order.<sup>25</sup>

The US government did not sign on to the boycotts officially. However, in addition to a growing array of limited economic sanctions, it effectively altered its international educational and cultural activities. This was in recognition of the boycotts and in response to the growing futility of engaging in international cultural exchanges between the US and South Africa.

The ANC eventually became the prime mover of the push for a strengthened cultural boycott. Especially once its cultural desk in Lusaka was up and running, the ANC articulated a cultural policy that took increasing notice of what South Africans were later to describe as the vanguard role of culture and cultural workers in South Africa in the liberation struggle. As musician Hugh Masekela said recently, 'I don't think we could have had a revolution in this country without songs.'<sup>26</sup>

The ANC while still in exile was the primary mover of advocating and asserting the boycott. Even within and around the ANC there appear to have been several competing views. From the late 1980s onward,

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<sup>25</sup> 'Position paper on the cultural and academic boycott', adopted by the National Executive Committee of the African National Congress, Lusaka, May 1989.

<sup>26</sup> O'Connor AM, 'US audiences hear of SA's revolution armed with music', *The Sunday Independent*, 9 March 2003, p.11 (reprinted from the *Los Angeles Times*).

two schools of thought appear to have emerged regarding the purposes of the boycotts. On the one hand, there was the position, described by journalist Mandla Langa in his report on the 'Culture in Another South Africa' conference in Amsterdam in 1987: 'There was no mincing of words: the arts are a weapon in the struggle for national liberation and democracy in our country. There is no way to separate culture from politics.'<sup>27</sup> On the other hand, an alternative view began to emerge in succeeding years. It was articulated first by ANC exile intellectual Albie Sachs, and then by such local figures as Mike van Graan. For these individuals, the anti-apartheid struggle and the cultural boycott were more means to liberate the arts and artists than unconditional tools in service to a revolutionary idea. Sachs' paper, 'Preparing Ourselves for Freedom', first produced in exile, then widely circulated in photocopied versions, was finally reprinted in the *Weekly Mail* in early 1990. It triggered particularly intense debate in South Africa about the role of the artist in a new political dispensation — and the continuing relevance and utility of the boycotts.<sup>28</sup>

Van Graan's argument, also first distributed in photocopied versions, and then reprinted in various alternative newspapers around the country, argued that the boycotts had actually outrun their usefulness:<sup>29</sup>

Now, with apartheid being removed from the statute books and formal repression such as states of emergency, bannings and detention on the decline, the moral base and legitimacy of many of the strategies adopted in the past has been or is being eroded.

Moreover, he claimed that because of the decline in apartheid, support for the boycott was actually weakening. Continued unwavering adherence to it to satisfy the 'young lions' of the liberation movements ran the risk of alienating the very people the liberation movements wished to attract as new supporters at a time when they were within reach of victory.

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<sup>27</sup> Langa M, 'The quiet thunder: Report on the Amsterdam Cultural Conference', *Sechaba*, March 1988.

<sup>28</sup> Sachs A, 'Preparing ourselves for freedom', in de Kok I & K Press (eds), *Spring is Rebellious*. Cape Town: Buchu Books, 1990.

<sup>29</sup> Van Graan N, 'The Cultural Boycott: A case for its immediate and unconditional lifting', *South*, 22–28 November 1990.

Much of this debate was presaged by the ANC's own 1989 position paper on the cultural boycott, which advocated a new, more limited form of boycott. This paper argued that:<sup>30</sup>

In order to grow and develop, this emergent culture of liberation needs to interact with, and be exposed to, the progressive intellectual and cultural currents in the rest of the world ... The cultural and academic boycott of apartheid South Africa ... must consistently and continuously be strengthened as part of our overall strategy for the isolation of the apartheid regime.

No cultural workers, artists, sportspersons or academics should be permitted to travel to South Africa to perform or to impart their services and expertise, save and except in those instances where such travel is clearly in furtherance of the national democratic struggle or any of its objectives. Democratic and anti-racist South African artists, cultural workers, sportspersons and academics — individually or collectively — who seek to perform, work or participate in activities outside South Africa should be permitted to do so without fear of ostracism or boycott. It would greatly facilitate matters if the Mass Democratic Movement [this prior to the unbanning of the ANC — author] created credible structures for consultation inside South Africa to vet such travel.

...[T]he current effort to create broad non-racial governing bodies in every major sports discipline has become an important new arena of struggle of the forces of national liberation and democracy. It deserves the support and assistance of the international community.

In mid-1990, Barbara Masekela, newly returned from exile and the ANC's head of cultural policy, spoke at the Grahamstown National Arts Festival. She advocated the continuation of the cultural boycott, arguing that it would serve as 'a pathway, to allow the representative, democratic culture of the people out to the world, as much as it is a filter to exclude the poison of apartheid, and prevent it gaining credibility.'<sup>31</sup>

In sport, pressure from various African countries had kept South Africa out of the 1968 Olympics and had led to its complete expulsion from the Olympic movement in 1970. The ANC, in its 1971 paper entitled, 'International Boycott of Apartheid Sport — with special reference to the campaigns in Britain by the Anti Apartheid

<sup>30</sup> 'Position paper on the cultural and academic boycott', *op. cit.*

<sup>31</sup> Masekela B, 'Culture in the New South Africa', *Scenaria*, September 1990.

Movement', argued that because official South African sports organisations had failed to integrate their respective sports racially, they were in violation of the terms of the Olympic Charter, which stated that, 'No discrimination is allowed against any country or person on grounds of race, religion or political affiliation.'<sup>32</sup> Even at that early date, the ANC had begun to set out the case that integrating sports might not be enough to produce an end of the boycott. As a paper presented by the ANC before the UN concluded:<sup>33</sup>

The Anti-Apartheid Movement has always urged that the outside world should boycott all apartheid sport. All links with racist bodies should be abolished until sport *inside* South Africa is conducted on the basis of merit alone and not of colour. This may not be possible until white domination itself is ended in South Africa. *Until there is a non-racial society which will permit open sport, we may have to exclude South Africa from all international competitions.* For it is wrong to support racialism in any form and apartheid is not a game. [author's italics]

The cancellation of the Marylebone Cricket Club tour to South Africa, exclusion from the Olympics, and then the collapse of a South African tour to England in 1970 amidst furious street demonstrations set a pattern that was to prevail until South African cricket became multiracial. As University of the Witwatersrand historian, Bruce Murray, wrote in his monograph on the collapse of South African international cricket during the apartheid era:<sup>34</sup>

As it happened, when in the late 1970s the apartheid state and white sports administrators finally responded to the country's sporting isolation by moving towards deracialising team sports in South Africa, the radical

<sup>32</sup> 'International Boycott of Apartheid Sport — With special reference to the campaign in Britain by the Anti-Apartheid Movement', *United Nations Unit on Apartheid, Notes and Documents*, 1, 16/71, April 1971 <http://www.anc.org.za/ancdoc/history/aam/abdul-2.html>.

<sup>33</sup> *Ibid.*

<sup>34</sup> Murray B, 'The Sports Boycott and Cricket: The Cancellation of the 1970 South African Tour of England', The Wits Interdisciplinary Research Seminar, 12 August 2002, pp.26-7. This unpublished paper provides a wealth of detail and sources about the decision to end official cricket competitions between South Africa and the rest of the world following protests organised by Peter Hain, as well as the internal debate between ANC-aligned and other sports federations outside of the officially sanctioned white sports organisations in South Africa. This was the same Peter Hain who would advocate boycotting Zimbabwe in the 2003 Cricket World Cup because of its human rights record under President Mugabe.

opponents of apartheid added another dimension to the sports boycott by demanding the dismantling of apartheid itself as a pre-condition for South Africa's return to official international competition.

While some international sports competitions continued to take place, most notably between South African and other national rugby teams, South Africa 'remained almost totally isolated from serious international competition in sport'.<sup>35</sup> However, once FW de Klerk unbanned the liberation movements, released the political prisoners, and began negotiations towards a political transition, South Africa's readmission to international sports became possible — even in advance of a full political transformation. As described by the Australian scholar Douglas Booth, following complex negotiations and consultations between internal and external actors, the International Olympic Committee 'granted the Interim National Olympic Committee of South Africa conditional recognition and said that South Africa would be invited to Barcelona upon the repeal of apartheid'.<sup>36</sup>

Meanwhile, a somewhat different evolution was taking place among academics regarding the academic boycott. This was occasioned initially by the Irish academic Connor Cruise O'Brien. In a controversial speech at the University of Cape Town in 1987, he called for the end of the academic boycott. Although this debate became intertwined with a larger, more complex debate about democratising apartheid-era university structures, admissions and instructional content (which were similar to the debates occurring simultaneously over the democratisation and integration of official sports bodies), there were differences as well. The posture of even politically radical academics became what Neville Alexander summarised as:<sup>37</sup>

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<sup>35</sup> Oaks & Saunders, *op. cit.*

<sup>36</sup> Booth D, 'Accommodating race to play the game: South Africa's readmission to international sport', *Sporting Traditions*, 8, 2, May 1992, p. 195. Like Murray's monograph, Booth's article in this Australian journal of sports sociology, history and economics leads the reader to a wide range of original sources. Booth argues that the readmission of South Africa to international sports as part of the process of the negotiated transfer of power was essentially a betrayal of anti-apartheid sports bodies inside South Africa in the interests of making the Barcelona games truly universal.

<sup>37</sup> Alexander N, 'Academic boycotts: Some reflections on the South African case,' <http://www.iit.edu/departments/csep/perspective/pindex.html>.

Debate over the boycott also raised deep questions concerning the morality and political point of only excluding scholars coming from outside the country when the majority of scholars who supported apartheid were South Africans employed by the very institutions that were to carry out the boycott. Eventually consensus was attained, at least in the more left-leaning academic community. All anti-apartheid academics and intellectual activists should band together in academic staff associations explicitly opposed to the regime and committed to the eradication of apartheid. These associations would be mandated, as appropriate, to invite foreign scholars to South African universities or to prevent them from coming. The boycott should not be a suicidal weapon cutting off all communication between the progressive academic community in the rest of the world and ourselves living in South Africa.

In acknowledgement of these changes in interpretation of the academic boycott, the US gradually began encouraging the restoration of informal and official educational and cultural activities. It did so in the belief that these links contributed to reasserting the importance of democratic and artistic values in the shaping of a new South African political and cultural life. In late 1990, embassy officials negotiated with the National Education Crisis Committee, one of those anti-apartheid educational structures envisioned by the ANC boycott policy paper, to re-establish the American Fulbright Professor programme in some of South Africa's universities.

In the following year, embassy officials, in close consultation with the ANC, the PAC and other anti-apartheid parties, and in association with cultural institutions generally regarded as having been part of the broad anti-apartheid movement, began negotiations to assist the first officially-authorized American cultural exchanges to South Africa in a generation. These included obtaining the rights to a play written by the leading African-American playwright, August Wilson, and directed by a leading American theatre director, to be performed at the Market Theatre and the Grahamstown National Arts Festival; a two-week visit to Grahamstown and Johannesburg by the National Theatre of the Deaf; and a month-long visit to Johannesburg by the internationally renowned Dance Theatre of Harlem (DTH). The DTH visit brought three South Africans back to their own country, where none of them had previously had the chance to perform professionally before. This last venture was officially a co-production by the Market and the Johannesburg Civic Theatres, the latter newly reopened after

years of renovation. It was now racially integrated and had a new management structure that took cognisance of the need for greater representivity in its governing body. When the DTH's visit was officially announced, *The Sowetan* published the news under the banner headline 'Dancers to Open Civic Theatre — Big Break: Famous Harlem Group to Herald End of Cultural Isolation'. It reported:<sup>38</sup>

It is now official that the famous Dance Theatre of Harlem is to open Johannesburg's newly renovated Civic Theatre on September 15. This was confirmed by the Market Theatre Foundation, the City of Johannesburg and Nedbank. This will be the first time an American dance company of international repute tours South Africa. The tour starts on September 7 and will feature DTH's community outreach programme. This will include arts exposure, lectures and demonstrations aimed at educating and developing audience participation. Master classes for aspiring South African dancers, lectures and workshops on production, wardrobe and repertoire will also be held.

In accordance with the new, more open, complex and democratic process, the organisers worked hard to elicit broad support from the anti-apartheid community and liberation movements. President Nelson Mandela, in endorsement of the DTH visit, and echoing the logic of the ANC's cultural policy document, wrote to DTH artistic director Arthur Mitchell that the company would:<sup>39</sup>

... serve as an inspiration to our artists, who have struggled to maintain their vision and creativity despite brutal apartheid oppression ... Our great challenge here is to democratise our cultural and social institutions, over which the apartheid ideology has sought to dominate. The transitional process we are struggling to engender is a difficult one, to which your visit will make positive contributions.

The PAC, meanwhile, clothed their agreement to the visit in more avowedly liberationist language, noting that<sup>40</sup>

The PAC feels that the Harlem Dancer's visit will not have the intent and effect of advancing apartheid and will give appropriate assistance to the

<sup>38</sup> 'Dancers to open Civic Theatre', *The Sowetan*, 29 July 1992.

<sup>39</sup> Letter, from ANC President Nelson Mandela to Dance Theatre of Harlem Artistic Director Arthur Mitchell, 3 April 1992.

<sup>40</sup> Letter, from PAC Secretary for Culture and Sport to the Market Theatre Foundation, 13 February 1992.



Market Theatre and other dance formations and to the disadvantaged dancers in occupied Azania ...

## Evaluating the results of the boycotts

Proponents of the boycotts have frequently argued that these boycotts focused increasing attention and pressure on the apartheid state both internationally and internally, and helped lead to its demise.<sup>41</sup> Despite the obvious appeal of this argument, this position remains difficult to measure, and still requires more thorough evaluation. Testimony from government decision-makers noting how much weight they had given to the intangible costs of the boycotts when deciding how much to resist a negotiated settlement would provide an obvious measure of the effect of the boycotts. However, it is unlikely that such evidence could be obtained. Nonetheless, another, more indirect measure is the extent to which South African officials sought to circumvent the boycotts. They did this by means of support for cultural events arranged with other willing regimes, through concerts in the notionally independent homelands and — most importantly — through efforts to set up international sporting events even when they required *sub rosa* government funding. These supply at least a rough gauge of how much the boycotts had begun to hurt.<sup>42</sup>

Further, it appears that there were also important, unintended consequences of the boycotts — and the apartheid regime's concurrent restrictions on many South African artists and entertainers. As Zegeye and Kriger have argued, 'Cultural practitioners were actively engaged in a new discourse, pre-empting, as it were, the contours, policies and practices of culture in a post-apartheid society.'<sup>43</sup> Moreover, despite the difficulties the boycotts created for many South African artists who attempted to arrange for performance and exhibition opportunities overseas, some of these artists have commented that this relative isolation gave them essential space to grow and develop their craft. It prevented them from being thrust too

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<sup>41</sup> 'Roundtable: Ray Phiri, Siphon Mabuse, Ole Rietov', *op. cit.*

<sup>42</sup> Oaks & Saunders, *op. cit.*

<sup>43</sup> Zegeye A & R Kriger, 'Cultural change and development in South Africa', *Culturelink Review*, Special Issue, 1998–99. <http://www.culturelink.org/review/s98/s98intro.html>.

early into the glare and the quickly-changing currents of world art movements before they had consolidated their own styles, content or perspectives.<sup>44</sup>

From the US government's viewpoint, as early as 1991 American embassy officers had begun to envision a South Africa where an end to apartheid would lead to new opportunities for self-expression for cultural groups. It would also, paradoxically, leave such groups with little financial support once 'under-the-radar' funding by foundations and governments (mostly in Western Europe) began to evaporate in the new, more democratic dispensation. This would leave cultural groups formally free but organisationally and financially unable to participate meaningfully in the new state and new culture.

The embassy described this dichotomy specifically in terms of nurturing democratic values through the free expression of culture and ideas. The proposed solution was the creation of a special fund. Embassy comments to Washington on the proposed fund argued, 'We ... believe that this opportunity represents a once in a generation opportunity to encourage democratic principles as an entire society undergoes a sea change.'<sup>45</sup> While this proposal was ultimately not successful in its original form, it represented the clearest possible signal from the embassy that culture, education and sports represented avenues through which to advance a democratic agenda, while supporting a remaking and transformation of the South African polity.

### **Final comments**

Only a few years ago, treatments like this one would probably have been relegated to historical studies of the cultural life of South Africa's apartheid era. However, renewed appreciation by scholars and foreign policy professionals of 'soft power' and the role of non-state actors in the international system has made analyses of boycotts and their

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<sup>44</sup> Private conversation between William Kentridge and the author, February 2003.

<sup>45</sup> 'Cultural self help for South Africa: a unique fund for unique time and place'. Unclassified telegram 8605 from American Embassy Pretoria to USIA Washington, 27 June 1991.

ability to induce policy change both timely and relevant to achieving a fuller understanding of the international system.

Moreover, the recent past offers a new series of state and non-state efforts to effect changes in the behaviour of other states through the use of boycotts. These have included calls for academic boycotts against Austria when a neo-Nazi party joined the government, initiatives to institute academic and cultural boycotts against Israel in response to its policies in the West Bank, and in 2003 a putative sports boycott during the Cricket World Cup to bring about changes in Zimbabwe's domestic policies. Accordingly, even without precise analytical measurements, international actors must believe boycotts have potential utility.

Accordingly, further study of the educational, sports and cultural boycotts directed against South Africa, together with comparative boycott studies, should be able to contribute to a more thorough ability in commentators to analyse the impact, effectiveness and approaches of non-state actors involved in asymmetrical international struggles. This in turn should help inform policy makers about the fullest array of options available to deal with conflicts.

It is important, too, to remember that the cultural, sports and academic boycotts directed against South Africa took place before the advent of the Internet as a major international tool for gathering or disseminating ideas, information and advocacy. Over the past several years, anti-globalisation protestors have demonstrated the power of the Internet by mobilising demonstrators and activists around the world, without the need for major office staffs, headquarters operations or even a central command centre. The mobilisation of protestors over the Iraq crisis in 2003 led to Internet-generated efforts that ranged from physical demonstrations to flooding the computers of government offices with unsolicited junk e-mail. Just before the start of the Iraq war, anti-war protestors nearly caused total breakdown in the switchboards of the White House and US Congress.<sup>46</sup> The potential for non-state, citizen-based efforts — both

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<sup>46</sup> Taylor C, *op. cit.*

nationally and internationally — is obviously growing. As *The Economist* noted:<sup>47</sup>

As the Internet becomes mobile and ubiquitous, it will bring about changes of its own. Precisely what these will be is not yet clear, but the earliest claims of cyber-dreamers — that the Internet will produce a shift of power away from political elites to ordinary citizens — may well become reality.

[Already] much more political activity is now being channelled through single-issue, grassroots organisations and expressed by means of ‘protest politics’, such as petitions, demonstrations and consumer boycotts. This trend was well established before the Internet, but the web’s arrival has accelerated it. The ability to organise, proselytise and communicate at low cost has been a huge boost to such groups, be it a locally based effort to block an airport expansion or a global environmental campaigner such as Greenpeace.

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<sup>47</sup> ‘Power to the people’, ‘Digital dilemmas’, *The Economist*, 25 January 2003, p.13.

## Conditionality as a Tool of Reform

Ross Herbert<sup>1</sup>

This paper was conceived as a complement to the broader discussion of the various forms of sanctions that may be used to influence the behaviour of states.

Although the conditionalities attached to international aid and loans are most often thought of as focused on obtaining more effective development, aid conditionality is rarely confined purely to economic regulation. Indeed, the specific types of behaviour that conditions seek to stop — such as corruption, nepotism or tribalism in hiring or tendering — are intrinsically both economic and political, in that they are part of a broader system of patronage-based or clientelist politics.

In the available diplomatic toolkit, conditionality can be thought of as the lowest level in a hierarchy of countermeasures, working downward from the most drastic — armed intervention — through economic sanctions, targeted personal sanctions and various diplomatic intercessions to public condemnation. In this range of options, conditionality is by far the most routine. Although often disliked by the government upon which conditions are imposed, it offers the advantage that conditions are so common that they are not necessarily interpreted as a diplomatic shot across the bows.

Thus, in the discussion of the options available to bring misbehaving states into line, aid conditionality is likely to be brought out of the diplomatic toolkit before economic sanctions, cultural or sports boycotts, calls for public demonstrations or war. Because it necessarily involves a great many planning and review meetings, aid is also valuable as a channel for formal and informal diplomacy. Equally important, many of the nations whose behaviour the international

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community wishes to modify are dependent on donor aid, and cannot afford to sidestep these donor–recipient consultations.

### **Conditionality as a coercive instrument**

This chapter's title implies two distinct major questions, and several others subordinate to those. First, how does conditionality work as a coercive instrument? That is, how can outside actors use conditions to get countries to do things they would not do on their own? Second, to what aims can conditionality be used, and where will it likely fail?

To the first question, many would answer that coercion is offensive, and that aid should be given without strings attached. Despite the appeal of the latter to recipient nations, condition-free aid is impossible, both politically and legally, for banks and donor nations. Given the magnitude of the misappropriation of government and donor money in all developing nations, a wide variety of conditions have been embedded in the law of donor nations and the rules governing development institutions.

On the other hand, although coercion can work theoretically, it has often failed in practice. This is partly related to the methods of conditionality; but it is also related to its end goals — that is, the shape and form of the development activities that donors attempt to prescribe. Aid donors have to ask whether the so-called experts know how to manage development effectively. This is perhaps divergent from this paper's main theme of conditionality, but the persistence of bad advice from the First World has had a major political impact in recipient countries. This in turn has provided the political cover needed for people like the former Kenyan president, Daniel Arap Moi, to consistently subvert the intent of conditionality, regardless of how severe and specific the conditions are.

What are conditions? They are really lines in the sand that donors draw, the crossing of which will theoretically bring repercussions. In this sense, conditions are triggers to sanctions. For example the European Union's Chapter 96 provisions lay out certain norms expected of aid recipients and a set of procedures and sanctions to be invoked when those conditions are violated.

Conditions take two different forms. Some are aimed at what donors consider proper development administration. For instance, donors may require that states account for funds or disburse benefits in certain ways. The second form is more contentious and imposes conditions demanding change in a nation's political or economic structures, such as requirements that state-owned companies be privatised, that an independent anti-corruption body be established or that legislation be passed to ensure the independence of the judiciary or central bank.

Conceptually this is simple enough, but actually pulling the trigger is far from simple in practice. Given that states range in behaviour towards donors from very co-operative to very hostile, there cannot be one conditionality formula for all aid relationships. Conditions that might be energetically embraced by the present post-Moi government in Kenya are likely to be fought steadfastly by states like Myanmar or Zimbabwe.

As a result, conditionality must be applied in quite different forms under three potential scenarios.

- *Enthusiastic reformers*: First there are those states, like Uganda, which have generally embraced the reform ideas put forward through donor conditions. Significant goodwill has been built up in such cases, so that minor infractions ought not to inspire radical steps in reaction. Under such a generally positive donor-recipient relationship, conditions are treated more like recommendations in practice. Theoretically a donor might precipitate a fight over a missed target, but is often more likely to settle for a conversation and some semblance of corrective action.
- *Partial reformers*: Next is a group of middling states that have various problems with corruption, mismanagement and poor allocation choices among others, but who are reasonably responsive to donor protest. Such cases require a careful assessment of when and how to follow through on threatened sanctions.
- *Reform opponents*: Last is the category of grossly misbehaving nations, such as Mobutu's Zaire or Mugabe's Zimbabwe. Here the title of this paper confuses the issue, because conditionality in such a scenario can no longer be neatly confined to questions of development methodology or economics. In such countries the economic

problems that necessitate aid devolve both from fundamental structural problems in the way the political system operates and from the way that politicians actively — rather than accidentally — subvert good governance for personal or political gain. With such countries, corrective measures take on a much higher level of political content, and the threats required must be handled very differently from those applicable to the generally well-intentioned nations.

### *Phases in the evolution of aid*

There has been an ongoing evolution in donor thinking about aid strategy, which has brought major shifts in the forms of conditionality. The 1960s were a heady, optimistic time during which few of the kinds of conditions that exist today were considered necessary. Most African states were debt-free at independence, and enjoyed strong commodity prices and fiscal surpluses. The West was heavily influenced by what seemed then to be the success of central planning and the forced creation of heavy industry.

Donor aid focused on mega-projects, such as major irrigation schemes, electrification programmes and the creation of factories. Little attention was paid to the potential for corruption, sustainability or the lack of management expertise available in the recipient countries to manage such projects. Soviet–Western competition for African loyalty injected into the aid game an element of destructive competition in which donors sought to prove public points, paying little regard to the suitability of the aid projects on offer. Few conditions applied, and the seeds of abuse were sown.

In the 1970s, Western aid began to shift away from huge initiatives towards smaller endeavours as donors attempted to correct the mistakes of the mega-project era. The rise of corruption and abuse of funds kept the concentration on specific programmes — as opposed to direct budget support — because project-based aid allowed donors to control project management and financing directly, outside the administrative channels of the recipient governments.



**Table 1: The major players and the focus of their conditionalities**

- *US and European powers*: Focus on maintaining colonial influence, commercial interests, and fighting terrorism.
- *IMF*: Narrow focus on fiscal sustainability, little focus on politics but strong on corruption. Supported by the big bilateral donors.
- *World Bank*: Firm repayment terms, little interest in politics, increasingly focused on structural adjustment and fiscal systems.
- *Bilateral donors*: Increasingly firm on good governance.
- *UN*: Good governance promoted but conditions only enforced when embarrassed, desire to lead co-ordination of aid to boost prestige but afraid of host governments.

Failure to manage national budgets, falling commodity prices, and gross over-use of debt had brought many African states to bankruptcy by the mid-1980s. Regimes responded by printing money and restricting foreign exchange. Hyper-inflation, budget cutting, shortages and strikes forced states to seek emergency aid. Just as the Soviets were leaving the African aid field, the International Monetary Fund (IMF) structural adjustment period was born, and with it a new focus on aid aimed at encouraging states to reform their policy and political/economic structures, replacing the earlier paradigm of aid to build things or finance projects.

In the 1990s, donors became increasingly aware of the problems relating to project funding, and of the extra burden it could impose on governments. In response they directed their funds toward technical assistance aimed at improving the financial and administrative capacity of recipient governments. They also sought supposedly more efficient methods of management. The proliferation of project aid sapped the limited capacity for oversight of governments as each donor project demanded attention from top civil servants. The desire to maximise aid flows led governments to take on dubious projects that often suited the donor's agenda without necessarily assisting the recipient government to pursue a coherent development plan. For example, a Nordic donor built a large educational facility in Tanzania dedicated to industrial-style fishing. This was of little benefit to the country's artisanal fishermen, and became a net drain on government resources once the initial donor funding ended.

To improve the efficiency of administering aid and to ensure that it bolsters the national development plan, some donor countries began

shifting from project-based funding to providing funds directly to the national treasury or to selected ministries, such as education or health, in which they took a particular interest. The UK and the Nordic countries have been prominent in this area. Although intended to cut down on the burden imposed by many different donor-tracking systems, this trend has actually transformed the types of conditions bilateral donors apply. On the surface, direct budget support eliminates many of the conditions required for the administration of specific projects. However, to assure themselves that money is properly managed, donors backing direct budget support now involve themselves much more with the kinds of systemic and structural questions that were once only asked by the IMF. The result is a shift from transaction-oriented conditions to more fundamental ones.

The World Bank was burned by the many failures of mega-infrastructure projects. It also realised that building big things had not contributed to the growth of African economies, or to their fiscal capacity to repay borrowed funds. As a result, the Bank, eager to remain relevant and to establish itself as the centre of development work, began to shift into the structural adjustment area. Aid has thus taken on a new shape, although recipient governments have been slow to recognise it. Just as donor fatigue was cutting aid levels in the 1990s and governments were coming under fiscal pressure, the three big conditionality players — the IMF, the World Bank and bilateral donors — all began to focus increasingly on good governance and better fiscal administration systems.

Rising frustration with the lack of progress resultant from aid has led to discussion of how to create greater 'coherence' among aid donors. *Instead of promoting a hodgepodge of projects, donors should combine their funds and support a better, more consistent master plan.* The end of the Cold War has helped purify the motivations behind aid donors, who are now overtly structuring their aid towards poverty reduction. Although significant philosophical differences exist among donors, they have begun to show a more united front in their aid consultations with recipients. The US and Germany retain some of the toughest project and budgetary conditions. More than other donors, Japan, Canada and the US also attempt to ensure that their funding is spent on products and consultants from their countries.

Despite these differences, donors show increasing solidarity in requiring recipients to follow the menu of conditions imposed by the IMF and World Bank.

Taken together, donor co-ordination, the drive for aid effectiveness and the freedom to focus on poverty reduction following the end of the Cold War have served to make aid conditionality more stringent. The Netherlands and Denmark, for example, ended all aid to several countries they deemed not to be making a serious effort to fight corruption and deliver effective services.<sup>2</sup> Both nations are concentrating their remaining funds on fewer, more reformist states.

Ironically, the New Partnership for Africa's Development (Nepad) has called for less conditionality by foreign donors, more donor co-ordination and more direct budget support. By pledging to improve African governance, Nepad and Peer Review have focused the minds of the donors on governance, and made it easier for them to say, 'you pledged to clean up, so let's see the delivery'. That was the strong message sent out after the Kananaskis G-8 meeting in 2002. Donors pledged to boost aid volumes, but signalled that aid would be controlled more than ever by bilateral donors' notions of what is proper. At a programme level, there seems to be greater donor interest in fitting into the priority schemes of recipients, but in terms of the willingness to tolerate corruption, the rules are much less tolerant.

### **Actually pulling the trigger**

The idea of donor solidarity is not simple to maintain in practice. A more unified front presented to the recipient government means that greater pressure can be applied behind conditions, so that the recipient faces the prospect of a greater portion of aid being cut off if conditions are violated.

In both Tanzania and Uganda — both supposed aid darlings — governments have woken up to the realisation that true donor co-ordination entails much higher risk for the recipient country. As pressure rose over its involvement in the war in the Democratic

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<sup>2</sup> 'Malawi corruption halts Danish aid', 31 January 2002, *BBC News Online*, <http://news.bbc.co.uk/2/low/africa/1794730.stm>

Republic of Congo, Uganda, which depends on aid for some 52% of its national budget, announced its intention of reducing its aid dependence by a fifth. When Tanzania got into a tiff with Britain over an unnecessary military air-traffic control system, Britain temporarily cut a large portion of its aid. If all its donors had worked together, the threat of a wholesale suspension of funding would have forced Tanzania to cancel the contract or lose the half of its budget that is donor-provided.

Disruptive as a major cancellation of aid could be, in practice it has been infrequent. Both aid donors and recipients have pressed for a greater level of donor co-ordination to help eliminate the separate management meetings required by different bilateral aid rules. Such co-ordination has come slowly. Bilateral donors increasingly put their weight behind IMF requirements and have on occasion threatened to cut aid jointly, but such solidarity is undercut by the proliferation of conditions in bilateral and multilateral aid packages. If there was only one condition to aid, it would be comparatively easy to pull the trigger and make good on the threat behind conditionality. But with so many — sometimes as many as 50 in an IMF matrix — at what point do donors take action? Do they go by a point system? How many minor infractions constitute a major infraction, or demonstrate a lack of seriousness in fighting corruption in the recipient country? While donors broadly back a good governance, anti-corruption agenda, they have very different ideas about what kind of response to infringement of conditions is likely to induce the desired good behaviour.

In practice, donors and recipients go through a ritual dance. Donors have consultative meetings and express concerns. Recipients learn to express sympathy and shock that such problems have occurred. They vow to do better, and another six months go by before the next consultation. Many plausible excuses for failure to meet conditions are offered. Sometimes they are real — central government may not have much control over a corrupt district council, for example. But more often than not, the excuses are pure fiction but offer plausible deniability. For instance, when Moi wanted to win a new IMF deal in 1999, he agreed to set up an independent anti-corruption authority and bring Richard Leakey in to control the civil service. When Leakey began to make real progress against corruption, Moi had an infamous conversation with him in which the president said he wished Leakey

would lighten up. Leakey told him that action on corruption was critical to maintaining the IMF deal, without which Kenya would be in fiscal peril. A few days later, an obscure farmer brought a case to the constitutional court asserting that it was an unconstitutional infringement on the attorney-general's prosecuting powers for the anti-corruption authority to have a separate mandate to bring charges. The case was heard, the authority quickly declared unconstitutional, and corruption charges were filed against Leakey.

What is remarkable is the extent to which Moi refused to believe that the IMF would actually implement its threat and withdraw the rest of Kenya's three-year adjustment programme. Indeed, Kenya's entire relationship with the IMF and donors has been not unlike the kind of gamesmanship that Saddam Hussein used with weapons inspectors: do just enough to fulfil a key demand; then delay and obfuscate to avoid making the required reforms.

### *Shifting from future-oriented to past or performance-oriented conditionality*

The actions of countries like Kenya helped to fuel another important trend in aid. Frustrated by various forms of cheating the conditions set, the IMF and World Bank have grown much more prescriptive. In the case of Kenya they went so far as to stipulate that certain reform laws must be passed by certain dates. However, in some instances these laws were blocked by genuinely independent parliamentary protest within both Moi's party and the opposition. In other cases, the delays were orchestrated by Moi, who could rightly ask the IMF how it could insist on a law that the democratic system opposed.

The new conditions took the form of exacting promises from the recipient governments to undertake certain reforms in the near future. Those reforms would be matched by a scheduled release of funds. Critics accuse the IMF of attempting to buy reforms in this way. But Moi demonstrated an ability to delay such reforms adroitly. (This is not unlike the argument that surrounded Iraq and its obfuscation of demands to disarm.) Because the recipient's promises are always for the near future, such conditions open the donor to manipulation as the government invents a continuous string of plausible reasons to

explain why reforms are being delayed. This has given rise to what some call performance-based conditions, which focus on past performance. Some such conditions are designed to provide more aid if performance is higher. Such conditions effectively say: We don't care what you say you are going to do, we will loan/donate funds based on solid responsible performance.

The most prominent example of this approach is the proposed US Millennium Challenge Account, through which George W Bush wants to make a radical change in the way aid is given out. Instead of promises, he hopes to set up a list of criteria that define a government that is doing the right things. Once a state qualifies for aid, it will get it — supposedly regardless of geostrategic considerations or promises. However, by awarding aid only to the best proposals, the programme would require countries to compete for funding. This shift would ostensibly make the donor operate more like a grant-making foundation. Existing aid would continue, but the new \$5 billion in aid pledged at Monterrey would be run through the new system.

At a theoretical level, the EU has also looked at performance-based aid, under which countries would get more or less money based on their actual fulfilment of specific goals, such as educational achievements or reductions in the mortality rate.

### **Measuring results**

Africa has now had 24 years of structural adjustment and the attendant conditionalities aimed at steering it towards adopting better policies. What has been accomplished?

At one level, there has been a measure of success. There is far greater macro-economic stability today than there was two decades ago, when scores of governments faced food riots, hyper-inflation and foreign currency shortages. This is easy to overlook. Although the conviction may have come about very slowly, African governments — Robert Mugabe's aside — have come to accept that they must be fiscally responsible.

However, African governments continue to seek structural adjustment loans. An IMF study found that of 44 countries world-wide defined as prolonged users of structural adjustment loans, 23 were in Africa.<sup>3</sup> It also found that there has been a steady rise in the use of adjustment loans, and that there is a negative relationship between such loans and economic growth.

**Table 2: Half of the states in sub-Saharan Africa are 'prolonged' IMF users**

Benin	Mali
Burkina Faso	Mauritania
Côte d'Ivoire	Morocco
DRC	Mozambique
Equatorial Guinea	Niger
Gabon	Senegal
Gambia	Somalia
Ghana	Tanzania
Guinea	Togo
Kenya	Uganda
Madagascar	Zambia
Malawi	

#### Perpetual adjustment

'Prolonged use has expanded since the 1970s in terms of the number of countries, the share of the IMF's membership and total financial exposure'.

'In 2001, arrangements with prolonged users represented about half the total number of ongoing IMF supported programmes'.

'In the cases of prolonged use of general resources, IMF-supported programmes tend to be associated with a negative impact on growth'.

Source: *Evaluation of Prolonged Use of IMF Resources*, Washington DC: International Monetary Fund, September 2002.

Senegal, the first recipient of a structural adjustment loan, is illustrative. It received its first adjustment loan in 1979, and has been restructuring ever since, despite assurances from the IMF that each dose of medicine would quickly restore stability. In the 1980s, Senegal received 15 stabilisation and adjustment loans from the World Bank and IMF, along with \$350 million a year in aid. By 1991, it had rescheduled its debts eight times. From 1990–95 annual aid to Senegal

<sup>3</sup> International Monetary Fund Independent Evaluation Office study: *Evaluation of Prolonged Use of IMF Resources*, September 2002. See appendix.

rose to an average of \$473 million or 14% of GDP. When it began adjusting in 1980, its debt was \$1.47 billion or 49% of GDP. Today, with debt as 75% of GDP, Senegal is still 'adjusting', and its government is no more effective in designing and carrying out meaningful programmes than its predecessors.<sup>4</sup>

### **Donors rarely pull the trigger**

If adjustment is the medicine Africa needs, why does the patient remain feeble? There are pockets of success, such as the demonstration projects intensively driven by donors. But there are very few examples in which the technology and management approaches of such demonstration aid have been learned by the recipient countries and subsequently rolled out to provide effective solutions that are *affordable on a mass scale*.

Part of the problem has been an unwillingness of donors to actually pull the trigger implied by conditionality. Kenya, for example, has had 19 sectoral and structural adjustment loans between 1979–96.<sup>5</sup> Beginning in 1979 and repeatedly thereafter, the World Bank economic reviews, conducted with the Kenyan government, have noted a gross failure to maintain roads, government facilities and vital plants and equipment. Repeatedly maintenance has been made a condition of adjustment loans and repeatedly it has been ignored, as the derelict state of the Nairobi–Mombasa highway attests.

Conditionality at times seems to be a game of brinkmanship, but the recipient nations — despite their fiscal dependence — are far from powerless. By 2002, the government of Malawi was widely criticised for fraud and gross mismanagement. Despite being the sixth poorest country in the world, Malawi diverted aid money to pay for a fleet of Mercedes limousines for ministers.<sup>6</sup> One government official noted that 30% of government revenue regularly went missing. The IMF had

<sup>4</sup> Van de Walle N, *African Economies and the Politics of Permanent Crisis, 1979–1999*. New York: Cambridge University Press, 2001. Also World Bank online data.

<sup>5</sup> Easterly W, *The Elusive Quest for Growth: Economists' Adventures and Misadventures in the Tropics*. Cambridge, MA: MIT Press, July 2001.

<sup>6</sup> White M, 'Malawi's limos prompt aid corruption crackdown', *The Guardian*, 30 October 2000, <http://www.globalpolicy.org/nations/corrupt/governmt/1030mw.htm>.



been expressing concern over high-level corruption for two years.<sup>7</sup> Eventually violations of its structural adjustment pledges became so stark that the IMF cancelled any further loans in April 2002 amid signs of impending famine. Having sold off its maize stocks, bungled the management of its agricultural market and exhausted its fiscal resources owing in no small measure to corruption, Malawi appealed for loans to buy maize. Facing the prospect of being blamed for allowing famine to spread, the IMF reversed itself and granted Malawi an 'emergency' loan to buy food, just four months after the suspension. This effectively destroyed the credibility of the IMF as an enforcer of conditionality.

Throughout its crisis, Malawi showed a sophisticated ability to offer mixed messages. At times senior government figures railed against donors, defiantly declaring that they could do without foreign interference. At other moments, they uttered pious statements that no one should be above the law, and that corruption must be contained. Kenya, Zaïre and now Zimbabwe have relied on similar rhetorical techniques. However, one cannot infer on the basis of these examples that conditionality has never worked. Among nations that have basically committed themselves to reform and have been able to put the self-interest of politicians aside for the public good, conditionality has helped to inject a variety of needed specific reforms. Conditionality is also important as an excuse to hold a conversation, often with middle-ranking civil servants and politicians. At least theoretically, such conversation has the power to spread the gospel of fiscal responsibility.

However, when fiscal irresponsibility is driven by politicians determined to run their nations as personal fiefdoms, conditionality has barely made a difference. One reason for its failure in this negative scenario is that aid administrators are often low- or middle-ranking diplomats who interact with those in the recipient government at roughly the same level. If the source of the problem is the top man in

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<sup>7</sup> 'Malawi corruption worries IMF', *The Namibian*, 21 September 2000, <http://www.namibian.com.na/2000/September/marketplace/00A514DCE8.html> 'We really hope government will act on these cases. Otherwise, donors will wonder whether it is really necessary at all to put money to this country knowing it will end up in individual people's pockets. It is very disturbing,' the IMF resident representative, Thomas Gibson, told Reuters.

the government, conditionality would have to be backed up by much more heavy-handed diplomacy than is typically used in Africa.

### **The efficacy of aid**

This paper is not concerned with the effectiveness of aid per se. However, the inability of the international aid system to offer advice that delivers durable results has undermined the credibility that is necessary if conditionality is to be an effective instrument for changing the behaviour of nations.

Many studies have attempted to determine whether aid can be actually correlated with growth. At the most optimistic rating there is a very weak link. However, the majority of studies have found no relationship between aid and economic success in Africa. One more positive study<sup>8</sup> found that \$1 of aid produced about \$1 in increased government spending, but \$1 of debt produced slightly more spending (see Table 3). However, the evidence shows that in the long-term this marginal effect has not created independent businesses that produce jobs. The World Bank's own internal assessments, which take a much more sanguine view of the Bank's success, rate a third of their loans unsuccessful.

A 2002 World Bank study, requested by the then US Treasury Secretary, Paul O'Neill, found that in 1990 \$1 billion in aid lifted 105,000 people above the absolute poverty line of \$1 a day in income. By 1997–98 the same amount helped move 284,000 people out of poverty. That is to say that in 1990, some \$9,523 was spent in order to lift each person's income by something less than \$365 a year; whereas in 1997 it cost only \$3,521 to do the same.<sup>9</sup> Given that success rate, would it not be more effective just to fly planes over Africa and push money out of the doors?

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<sup>8</sup> Feyzioglu T, Swaroop V & M Zhu, *Foreign Aid's Impact on Public Spending*, Policy Research Working Paper 1610. Washington DC: World Bank, March 1996.

<sup>9</sup> Goldin I, Rogers H & N Stern, *The Role and Effectiveness of Development Assistance — Lessons from World Bank Experience*. Washington: World Bank, 2002.

<b>Table 3: Studies on the effectiveness of aid in improving growth</b>			
<i>Authors</i>	<i>Sample period</i>	<i>Countries covered</i>	<i>Major conclusions</i>
Boone P (1994)	1972-90	97 developing countries (among which 36 are African)	Aid has a positive but statistically insignificant impact on growth. All aid, private and public, is consumed.
Mosley P (1995)	1960-93	19 major UK aid recipients (11 of which are African)	Aid has a minimally positive impact on growth. The degree of aid effectiveness increases with lag structure. The impact of aid on investment is small. Aid reduces mortality; that is, it is positive but not significant. No evidence of negative association between aid and export growth.
Hadji M <i>et al.</i> (1995)	1987-92	31 sub-Saharan African countries	Aid has a positive impact on growth. The performance of sub-Saharan Africa depends on economic policies.
Feyzioglu <i>et al.</i> (1996)	1971-90	14 developing countries (among which three are African)	\$1 in aid increases government spending by \$1. \$1 in concessional loans increases government spending by more than \$1. Aid has a positive and significant impact on public investment. Concessional loans to transport and communication sectors are not fully fungible. Concessional loans to energy sector are partially fungible. Concessional loans to the agriculture and education sectors are slightly fungible.
Burnside & Dollar (1997)	1970-93	56 developing countries (among which 21 are African)	Aid has positive impact on growth with good macro policy. Donors reward good policy, but aid does not affect policy.
Tsikata TM (1998)	1975-80, 1990-95	56 developing countries	Aid has not had statistically significant impact on growth in recipient countries. Aid has had a positive impact on domestic saving and investment when recipient countries made adjustment efforts. Stresses the importance of a macro-economic policy mix to address issues of competitiveness and crowding out of private investment.
Durbarray R <i>et al.</i> (1998)	1970-93	58 developing countries	Foreign aid has a positive impact on growth, under stable macroeconomic policy environment. An optimal level of aid flows exists: aid/GDP equal to 40-45%.
Guillamont & Chauvet (1999)	1970-81, 1982-93	56 developing countries	Growth is positively influenced by good macro-economic policy, independent of aid or the external environment. Policy does not seem to have been significantly influenced by aid. Aid effectiveness depends on the external environment. Aid should be allocated to countries that face difficult environments, and/or implement policies leading to better performance.

<b>Table 3: Studies on the effectiveness of aid in improving growth (continued)</b>			
<i>Authors</i>	<i>Sample period</i>	<i>Countries covered</i>	<i>Major conclusions</i>
Hansen H & F Trap (1999)	1970-93	56 developing countries (among which 21 are African)	Aid increases aggregate savings, investment and growth. Aid works, even in countries with unfavourable policy environment. Unresolved issues: how and what different kinds of aid instruments can work better in different countries.
Lensink R & O Morrissey (1999)	1970-95	75 developing countries (among which 36 are African)	The impact of aid on growth depends on the effects of aid on investment levels. Aid uncertainty is negatively and consistently related to growth, therefore predictable aid inflows are important for investment, and thus for growth. Conditionality increases uncertainty, and therefore reduces aid effectiveness. Stability in donor/partner relations makes it easier for partners to predict aid inflows and this may permit more investment and better fiscal planning.
Source: Table VI-1, <i>The DAC Journal</i> , Development Co-operation 1999 Report, OECD 2000, Volume 1, No 1.			

When the study was released in March 2002, O'Neill observed: 'For a very large fraction of the world population, people still living under a dollar a day, that doesn't seem to me like 50 years' worth of success.'<sup>10</sup>

William Easterly, a former World Bank economist, summarised the international community's role in the era of structural adjustment: 'What is clear is that the hopes for "adjustment with growth" did not work out. There was too little adjustment, too little growth and too little scrutiny of the results of adjustment lending.'

This failure of conditionality is at the root of the inability of the IMF and World Bank adjustment regime to rectify structural problems quickly. Conditionality has become a veritable merry-go-round of continuous adjustment, new conditions, failure to adjust, debt rescheduling and more adjustment.

<sup>10</sup> Associated Press and Agence France Press, 12 March 2002.

### *Where did the aid go?*

There are many reasons that explain the ineffectiveness of aid. Much donor funding aims only to ameliorate famine caused by weather or war. A great deal does not focus on fostering economic growth but on improving health, sanitation and education. While these are virtuous aims, such aid has no direct or necessary impact on job creation or the recipient country's economic competitiveness.

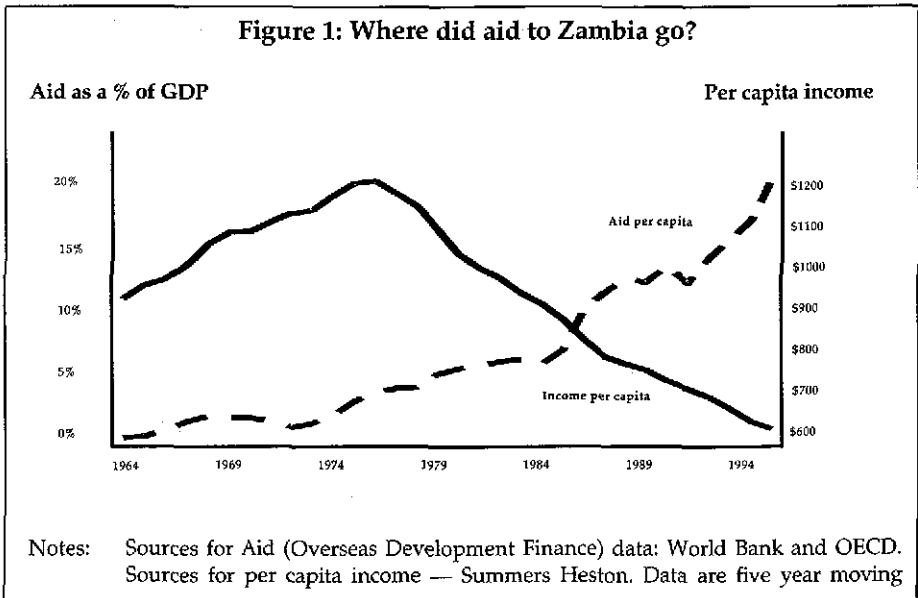
While funding may be accounted for as if it has been spent in Africa, much of it is tied to the products of donor countries or spent on consultants and services from the developed world. Consequently, it has no multiplier effect on African economies. Another critical reason that aid has not been more effective is that it is having the effect of bleeding the best and brightest indigenous talent out of industry and government and into the far better-paid aid circuit.

Based on my work as a journalist in Africa, I believe that aid is having a profound effect in warping the political and decision-making culture of the continent, which in turn affects how nations react to conditionality. It has enflamed some of the worst sentiments among politicians out to grab a slice of what they see as fast money. And it has driven the creative initiators out of African governments and into the donor agencies.

For example, in Mozambique an aid official related the story of much-needed improvements to the transportation system. The vast bulk of the road building was to be paid for by aid and loans. However, the plan to prioritise where to begin required that a modest study be done. But Mozambique would take no action on this plan for years, because it was waiting to find a donor to fund the study, on the reasoning that as long as the prospect of free money exists, it is better to wait for it than to take action within one's own resources.

The ability of a recipient government to take the initiative is another way of measuring the effectiveness of aid. Zambia was the target of massive infusions of funding and for a substantial period one of the most enthusiastic of disciples of the IMF. However, there is no correlation between the amount of aid it received and the per capita income of its people (see Figure 1). In fairness, one must consider

whether the magnitude of Zambia's problems is simply so great that aid on however large a scale is insufficient to the task. I would argue on the other hand that conditionality induced a great number of peripheral changes — for example the opening up of the retail sector and stabilisation of prices and forex — but on the most critical issues, like timely privatisation of the copper mines — conditionality did nothing to contain the corruption and misguided greed that surrounded the privatisation of mining.

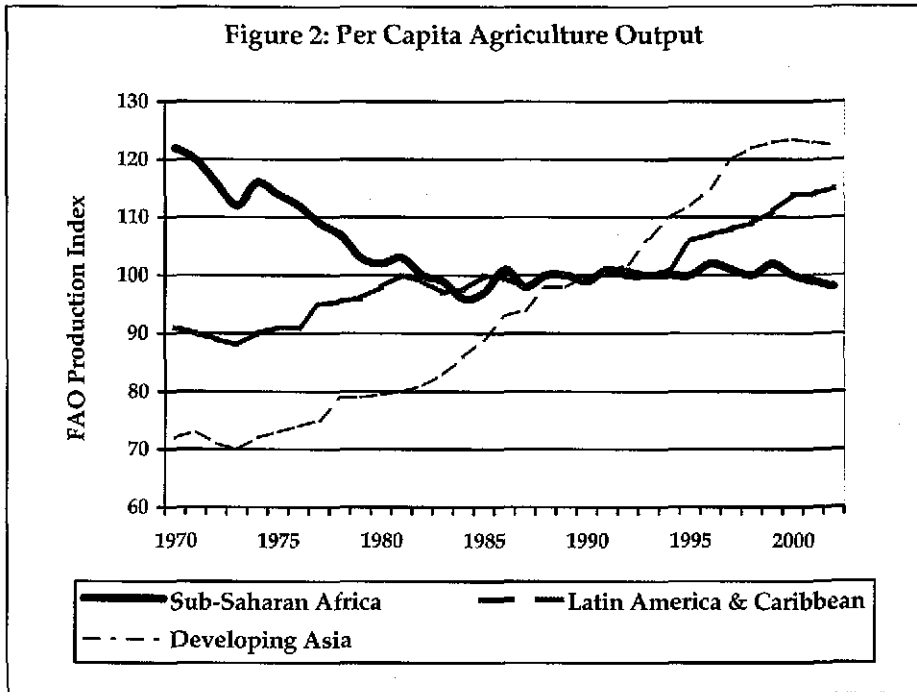


Zambia has squandered its dowry and has no more assets left in the attic to auction off. It remains extremely weak structurally, and has shown none of the entrepreneurial flair that propelled the likes of Malaysia or Singapore.

### *Agricultural productivity*

Another crude way of measuring aid success or the lack of it is to look at agriculture, the mainstay of two-thirds of Africa's population and one of its biggest foreign currency earners. It is the core of African civilisation, and as such provides an effective yardstick for measuring the overall development enterprise in Africa. The following chart illustrates a most dangerous trend: while the rest of the world has

made rapid gains in agricultural productivity, Africa has undergone a steady decline over the last three decades.



Africa's lagging agricultural productivity compounds a deeper problem. In an interconnected world, the value of what Africa produces is tied proportionately to the value of what everyone else produces. Nearly all of the commodities that Africa produced at independence have been taken up in other parts of the world, which expanded production more energetically in proportion to the greater effort and investment applied.

Andrew Warner, a researcher at the Centre for International Development, argues that the value of African agricultural and mineral exports peaked in 1980 (in constant 1987 dollars) and has been declining ever since. He argues that the fortunes of African countries faded in the 1960s and 1970s because of their comparatively passive posture. Rising commodity prices account for nearly all African growth during that period, and equally, the decline of commodity prices subsequent to 1980 accounts for the ongoing economic

stagnation.<sup>11</sup> Viewed another way, without its commodity exports Africa has little to show for its economic development efforts over the last four decades.

### **The competitive market for investment**

China, which is arguably Africa's strongest competitor for foreign direct investment and the greatest threat to the kind of low-end manufacturing Africa practises, has begun sending salesmen to the factories in northern Mexico that were built by US industry to take advantage of the North American Free Trade Area. These Chinese salesmen are moving methodically through Mexico's industrial heartland making sales pitches offering cheaper labour, land, and tax concessions to those that relocate to China. That is the kind of environment in which Africa is competing.

Given the rapid progress in the rest of the world and such aggressive tactics, aid agencies and African economic development strategy should not be measured by the simple yardstick of economic output. Africa must prepare for the prospect that it may well do everything right and still get poorer. Hence the real question is: How does Africa make the progress necessary to get ahead of others?

Despite the need for radical change, Africa and aid donors have been too internally focused and too accepting of mediocrity. In Zambia, the head of teacher training explained to me that 30 years after independence, the country had never examined whether the education offered by schools was achieving anything. He had found that three-quarters of the students leaving 7<sup>th</sup> grade were illiterate. This precipitated a re-examination of the decision to teach in English only. The good news is that a shift was made to teaching literacy in the mother tongue first, which brought about a radical improvement in outcomes. The bad news is: Why did it take so long, and where were the aid donors in all of this?

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<sup>11</sup> Warner A, 'African economies without raw materials,' *Africa Competitiveness Report 2000/2001*, World Economic Forum.



We will never catch up until we begin to do what the corporations call re-engineering, not looking for tiny gains but massive ones. And we must be willing to consider radical solutions.

### **Short-term failure, longer-term success**

The success or failure of the overall system of aid conditionality can look quite different when viewed from varied time horizons. In the very short term, almost no conditionality has the power to transform behaviour, regardless of how strongly it is backed up by powerful donor governments. The shorter the timeframe, the less effective conditionality appears.

However, the public debate and diplomatic wrangling over conditions are part of a process of long-term learning. Looking at Kenya in the 1990s alone, the country appeared to provide proof that conditionality was a failure. Repeatedly Moi made the reforms needed to get cash, only to find masterful ways to backslide or obviate the purpose of the imposed conditions. However, in suppressing reform, Moi caused the demand for it to accumulate like the latent energy of water building up behind a dam wall.

Viewed over a 30 to 40-year span, the relentless pressure of conditionality on corruption can be said to have facilitated a long, slow movement in support of reform. Once Moi was replaced, a flood of reformist energy was released. Once an example of the failure of conditionality, Kenya now is one of Africa's most aggressive reformers.

Even over that longer timeframe, not all conditions have been embraced. Those that have been adopted — for example, those pertaining to the modalities for fighting corruption or administering state finances better — were those in which the logic behind the conditions was manifest. However, many forms of conditionality were never fully debated in political society and remain subject to intense argument. For example, donors have failed to convince Kenyan parliamentarians and significant players in business and civil society that calls for further liberalisation of trade, privatisation of state industries or removal of interest rate caps are good policy prescriptions.

For conditionality to be successfully embraced by the public in the long term, it must be openly discussed, and accepted by the electorate. Unfortunately, the IMF has tended to operate behind closed doors so as to avoid debating policy directly with the public in recipient countries. Consequently, presidents in such countries have most often simply adopted IMF rules without public or parliamentary exchange of views. Many of the conditions enforced by the IMF under structural adjustment involved cutting back on popular, albeit fiscally unsustainable government benefits, such as free education and subsidised food and fuel. The IMF exacted such concessions because recipient governments were bankrupt and had few options. But the lack of public debate meant that in many countries the public was not properly forewarned. In many cases, the trauma of structural adjustment helped to topple long-standing regimes. Although the successor regimes have been more democratic, the oppositional nature of political transition has meant that the new regimes face pressure to rewind the clock and renew the largesse expected of government. In this way poor public consultation by the IMF and recipient governments has undermined the long-term success of donors in persuading recipient countries to embrace conditionalities.

# Conclusion

Tim Hughes<sup>1</sup>

Sanctions have a long and undistinguished history. In 432 BC officials in Athens denied traders from Megara access to Athens harbour and its markets. Far from achieving their stated objectives, these actions contributed to the outbreak of the Peloponnesian wars.<sup>2</sup> Despite the longevity of punitive legislation as an instrument of international foreign policy, it was the 1990s that became known as the sanctions decade. This decade also exposed the weaknesses of the method as a tool of international diplomacy. Sanctions as applied during the 1990s stand accused of being both a blunt and an ineffective tool. Yet despite a myriad of critiques, little substantial alternative has been proffered save for the improvement, refinement and more efficient application of targeted or smart sanctions. Indeed, they remain beset by fundamental problems, definitional, conceptual, and procedural.

The chapters in this compendium highlight a number of these key challenges. The first order of problem is conceptual. Despite their use and abuse, sanctions remain a poorly defined phenomenon. It is insufficient to say that they occupy a space 'somewhere between words and war'. Even the United Nations Charter never specifically uses the word 'sanctions', but rather states in Article 41, that the Security Council may call on member states to apply 'measures not involving the use of armed force in order to maintain or restore international peace and security'. As Singh points out, a further problem confronting sanctions is the scope and range of their use as an instrument. These extend from cultural and sports boycotts to trade and technology embargoes to the interdiction of arms transfers and financial sanctions.

The second and more substantive challenge is contextual. The global context in which sanctions are applied is increasingly complex and

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<sup>2</sup> Poulson M, *Seattle Post*, 11 May 1999.

prone to rapid change. Furthermore, in the contemporary context, it is likely that sanctions will be increasingly applied against groups not representing states, such as international terror networks, and also against those regimes that provide them with material and political support. But again this raises the problem of defining the purpose of sanctions. 'Non-state actors' by definition lack the diplomatic assets and trappings of statehood. They have no embassies to close, no diplomatic staff to be declared *persona non grata*. No *démarches* can be issued, and diplomatic immunity cannot be withdrawn. In the main, such groups cannot be expelled from international fora because they seldom qualify for membership. Furthermore, non-state actors draw their membership from a host of countries and jurisdictions and indeed may receive material and political support from a number of different public and private, legal and illegal networks and funding bases. The channelling of funding support for terrorist networks from legitimate charities, particularly in the Middle East, is but one case in point.

Some regions are markedly susceptible to terrorist penetration, and present particular challenges for the international community and for sanctions regimes. As Mills points out by way of example, Africa is characterised by the existence of weak states, which are vulnerable to predatory behaviour from both within and without. Many African states remain unprotected owing to poor human infrastructural capacity and the seemingly intractable problem of porous, uncontrolled and unpatrolled borders. Key elements for penetration and destabilisation by crime syndicates, warlords, rebels or terror networks are thus ever present. This condition is frequently exacerbated by the existence of lootable commodities such as diamonds, timber and, to a lesser extent, crude oil. The existence of such commodities not only skews the ruling party's behaviour but makes the state more attractive to destabilising forces, both regional and domestic. With the establishment of the New Partnership for Africa's Development (Nepad) and its emphasis on good governance as a pre-requisite for enhanced investment, questions must be raised regarding the sanction of fellow African states against deviant and 'non-compliant' states who are not Nepad members. The likelihood of sanctions being imposed on deviant states in Africa is slim. The only exception is the African Union's refusal to recognise governments swept into office by *coups d'état*. Nevertheless the imposition of loan

and aid conditionalities is a form of international sanction that is likely to increase rather than decrease in the coming years.

At the broadest level, Mills argues that globalisation has made the weakening of states more preponderant, the rise of terror networks more likely and the consequent application of conventional sanctions more difficult in certain respects. The key drivers here are improvements in transport, the communications revolution, the emergence of weak and collapsed states, the proliferation of weaponry, the deregulation of the global economy, the spread of organised crime networks and global migration patterns. The ending of the bi-polar stability that characterised the Cold War has also given way to fears felt by some states of nuclear proliferation in others. Even more threatening is the potential that 'dirty bombs' could be developed by terror organisations. This is but one instance of the new and profound challenges that demand a fundamental review of the application of sanctions.

The pace and complexity of change in the global arena present another dimension of difficulty for sanctions, namely the timeframe required for agreement to be reached on their need, design, implementation and efficacy. In practical terms sanctions require a raft of legal, regulatory and administrative measures that must work in a mutually reinforcing manner if sanctions are to have any chance of biting. For example, as Spector points out, the genesis of the boycott and sanctions movement against apartheid South Africa can be traced back to 1954. Following this time line, it took precisely 40 years to bring about the desired change and deliver a fully-fledged democracy. Indeed the campaign against South Africa was a long, arduous, multi-faceted and largely incremental process that received universal support only in the mid- to late 1980s, some four decades after the election of the National Party government. But whilst apartheid may constitute an unusual case, having triggered sanctions on both moral and security grounds, the threats posed by genocidal catastrophes such as Rwanda and Burundi in 1994, or perhaps the possession and threatened deployment of weapons of mass destruction by certain states demand a far more immediate and effective response than hitherto.

A further quandary for the international community is the conflicted prioritisation given to issues by the major powers. Simply put, does security always trump ethics and morality? For example, the military government of Pakistan has long been regarded with suspicion or outright hostility by leading members of the international community: yet General Pervez Musharraf's support for the US war against the Taliban in Afghanistan brought him rapidly into the embrace of the US (both figuratively and literally). Such dualism, whilst perhaps understandable within the 'logic' of the US war against terror and al-Qaeda in particular, undermines the moral imperative required for the collective imposition of sanctions.

A dimension seldom considered in the debate on sanctions is the role of civil society. Too often those imposing sanctions regard civil society within the targeted country implicitly as a passive victim. Attention has recently been paid to the avoidance of suffering in the population as a result of sanctions, but little recognition has been given to the role that civil society can and has played in both agitating for and helping to enforce boycotts and sanctions. Solomon goes some way towards plugging this gap by documenting the contribution made by civil society in both the Rhodesian and South African boycott and sanction campaigns, in which the church, trade unions and community-based organisations played a leading role. Yet it is often these very civil society organisations that are threatened by the authoritarian regimes targeted by the international community.

Furthermore, the sentiment attached to sanctions by the sanctioned is increasingly hostile. They are perceived as an instrument imposed by the strong on the weak, and even when applied multilaterally, their initiation is seen to be at the behest of powers such as the US and the powerful European countries. The imposition of sanctions against them is also (ab)used by governments to galvanise or inculcate a sense of siege in the population. In this way they seek to raise national fervour against the sanctioning countries, usually to mask the very purpose or issue for which sanctions were imposed in the first instance. Even the current structure of the UN and in particular the P-5 serves to undermine the instrumentality of sanctions. This applies equally to the US and China.

A further weakness of sanctions as an instrument of policy is the cost to the economy and vested interests of the country imposing sanctions. This is particularly acute for exporting countries, in particular when the targeted country represents a large and attractive market. Additionally, sanctions operate in an interdependent global environment characterised by acute competition for exports and market share. The opportunity cost for domestic business of countries that impose sanctions can be high in both economic and political terms. The clearest example is the practicality of a country's imposing sanctions on China on grounds of abuse of human rights or weapons proliferation. Simply put, China is too important a market for countries to lose by imposing unilateral sanctions.

Likewise, support for sanctions from 'frontline' states contiguous to the target country is often ambiguous. Typically, trade and relations between these countries are strongly interconnected; as a result, a secondary and unintended impact of sanctions is felt by frontline states. In the case of Iraq, Jordan actively opposed even the imposition of so-called smart sanctions. Only Turkey offered conditional support for the measures. This lacuna demands a corrective response if sanctions are to receive effective support from the countries best positioned to see that they are implemented. One step in the right direction was the permission granted by the UN to Iraq's border states to import 150,000 barrels of oil per day, in exchange for an undertaking to eliminate cross-border smuggling.<sup>3</sup>

Most disturbingly, despite their disputed success in Southern Africa, sanctions appear to have failed in far too many instances, most particularly in the Middle East and Asia. The second Gulf War in 2003 is the strongest example of a situation where comprehensive international sanctions failed to achieve even their most basic objectives. Rather, sanctions stand accused of complicity in the death and immiseration of thousands if not hundreds of thousands of Iraqi women and children.

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<sup>3</sup> Lynch M, *Smart Sanctions: Building Consensus or Maintaining Conflict?* Global Policy Forum, 28 June 2001.

Sanctions imposed on Pakistan, India, China and North Korea bear little or no relation to a desired outcome, whether non-proliferation, the advancement of human rights, or any other.

### **What is the current thinking and response to the existing shortcomings?**

It has been argued that the development of smart sanctions may be motivated less by humanitarian concerns than by a recognition that the current sanctions regime is inadequate. In the case of Iraq, it was certainly the case that prior to the 2003 war, sanctions were falling apart or being bypassed with increasing effectiveness. There is merit to this argument. Yet one dimension of smart sanctions against Iraq was the design of mechanisms to permit far greater trade in humanitarian goods in addition to basic foodstuffs, in exchange for the limited exportation of oil. On the other hand, smarter, targeted or secondary sanctions have often been met by enhanced and ever more sophisticated counter-measures seeking to bypass both their imposition and their efficacy.

The picture is not all bleak, however. In December 1997 the United Nations Inter-Agency Standing Committee reported to the Security Council on the humanitarian impact of sanctions. This was followed by a letter from Kofi Annan to the president of the United Nations Security Council in February 1998, in which he raised concerns as to the harmful consequences of sanctions. *Inter alia*, he argued that sanctions must not contradict human rights instruments and standards such as the Geneva Conventions, and that there was a need for humanitarian exemptions within sanctions regimes.

This has spurred an international debate from which a broad consensus is emerging. The areas of consensus are:

- the need for greater speed in the implementation of sanctions;
- the need to induce a target to comply whilst minimising the negative effect of sanctions on the civilian population;
- the need to compensate neighbouring states against retaliation by the sanctioned state;
- the need for greater international co-operation and monitoring; and



- the need to draw in, and on, the non-governmental sector in the sanctioned country.

This emerging consensus gave rise to the Interlaken Process, which focused on the targeting of financial sanctions and included asset freezes, the prevention of money laundering, and the blocking of financial transactions or services, for example those of Unita in 1998 and the Taliban in 1999. Interlaken 2 resulted in the drafting of a manual for a model law to assist countries in the drawing up of sanctions regimes.

This has assisted countries to ensure that they possess a legal framework appropriate for the implementation of UN sanctions. Another helpful move has been the designation of an official national administering agency, which will develop guidelines on compliance for banks. Administering agencies are to be empowered to monitor compliance, to identify violations and to impose penalties.

Interlaken was followed by the Bonn–Berlin Process. Although building on Interlaken, Bonn–Berlin was technical rather than political in nature, and included the drafting of model UN resolutions. The focus of Bonn–Berlin was on arms embargoes and travel or aviation-related sanctions. It stressed the need for such sanctions to link up with UN peacekeeping and conflict resolution activities, recommended that details of arms deals should be recorded on a common database, and sought to target specific flights or airlines. Furthermore, Bonn–Berlin placed a strong emphasis on investigation and compliance.

In October 2001 the Stockholm Process, which focused on the implementation of targeted sanctions, was launched. The emphasis was on the sequencing of sanctions, particularly at all levels of the UN. Stockholm also called for integration of action between the UNSC, sanctions committees, member states, the private sector and NGOs. The best example of successful multi-faceted co-operation is the Kimberley Process, intended to curb the sale of conflict diamonds.

The Stockholm Process advanced a number of specific recommendations, including that sanctions resolutions should be designed with implementation in mind; that it was vital to maintain

international support for the sanctions regime; that it was critical to monitor, follow up and improve measures throughout the regime; and that it was crucial to strengthen the sanctions work of the UN Secretariat. Furthermore, Stockholm acknowledged that it was important to learn from the experience of the UN Counter Terrorism Committee, and that effective sanctions require capacity-building and training programmes in implementing states. Stockholm accepted the principle that implementation can be enhanced through a model law, but warned that some types of sanctions required flexibility.

As Singh notes, sanctions should be applied only under particular and rigorous circumstances. They should follow, not precede, constructive engagement, and only when the latter option has been exhausted. They should be implemented in an incremental manner, both in scope and intensity. This gives the target nation every opportunity to comply, whilst sparing the domestic constituency the pain of the impact of sanctions. Furthermore, an incremental approach provides the international community with every opportunity to act, and remain, in unison. Therefore, the moral argument for sanctions that they must operate within an institutional framework, provide clear guidelines as to what will lead to the lifting of sanctions, and establish an objective sanctioning authority to ensure compliance on both sides, would hold.

Sidiropoulos's case studies of Unita in Angola and contemporary Zimbabwe in particular, exemplify some of these core complexities. In the case of Unita, United Nations sanctions were imposed on a non-state actor that *de facto* exercised governmental/state control over vast tracts of the failed, or rapidly failing, nation-state of Angola. A further challenge thrown up by the Angolan case and one that Sidiropoulos points out was handled with considerable success, was the imposition of comprehensive multilateral sanctions through the co-operation of the United Nations, individual nation-states, international business and NGOs via the Kimberley Process. Within five years of international NGO Global Witness highlighting the role illicit diamonds played in the Angolan civil war and within three years of the establishment of the Kimberley Process, the trade in so-called conflict diamonds which had fuelled Unita's (and the RUF in Sierra Leone) war effort particularly in the late 1980s and 1990s has been effectively halted.

But it is the vexed and persistent case of post-2000 Zimbabwe that highlights the central challenges confronting sanctions in the contemporary arena. Extrapolating from Sidiropoulos's Zimbabwe case study in particular, we can draw a number of lessons:

Firstly and centrally, there is a lack of unity of purpose in the reasoning behind and application of sanctions against Zimbabwe, thus their application is patchy, porous and probably unsustainable.

Secondly, sanctions against Zimbabwe do not have the support of the states in the region. This was most vividly manifest in the SADC bloc's opposition to Zimbabwe's continued suspension from the Councils of the Commonwealth at the December 2003 Abuja Commonwealth Heads of Government Meeting (CHOGM). Such a stance severely undermines other international initiatives against the Mugabe regime.

Thirdly, despite signs of increasing discontent from popular and opposition movements within Zimbabwe, very little effective domestic pressure is being brought to bear on the regime.

Fourth, despite the fact that other African, Caribbean and Pacific countries voted for the continued and indefinite suspension of Zimbabwe from the Commonwealth, there is a perception amongst Southern African countries that positions adopted on the Mugabe regime course along the 'North-South' global divide. This is reinforced by the fact that the most comprehensive 'smart' sanctions have been imposed by the United States and the European Union.

Finally, the contemporary Zimbabwe case exemplifies the current weak state of transnational civil society engagement with governance issues. In stark contrast to the civil society pressure placed on the Smith regime in Rhodesia and successive South African apartheid governments, the widespread human rights abuses perpetrated in Zimbabwe have to date failed to be taken up effectively and comprehensively by international NGOs, human rights bodies, jurists, think tanks, business, academia and trade unions. This is the case in the international community and most tellingly in countries throughout the Southern African region. The prognosis for effective sanctions against the Mugabe regime is thus not encouraging.

As the case of Zimbabwe attests, sanctions remain a complex and perplexing arena of international engagement. There is agreement on but two issues. Firstly, despite the poor record of sanctions, there is no feasible alternative currently under debate. As an instrument, sanctions are here to stay. The second area of agreement is that with the profound challenges facing the international system in the early part of the 21<sup>st</sup> century, the demand for enhanced and more effective or 'smart' sanctions regimes has never been greater.

## Select Glossary

AECA	Arms Export Control Act
APRM	African Peer Review Mechanism (Nepad)
CAAA	Comprehensive Anti-Apartheid Act
CBO	Congressional Budget Office
CHOGM	Commonwealth Heads of Government Meeting
Cosatu	Congress of South African Trade Unions
DFID	Department for International Development
DRC	Democratic Republic of Congo
DRDO	Defence Research and Development Organisation
DTH	Dance Theatre of Harlem
EAA	Export Administration Act
ECC	End Conscription Campaign
EEC	European Economic Community
EITI	Extractive Industries Transparency Initiative
FLN	<i>Front de Libération Nationale</i>
FLS	Frontline States
Frelimo	<i>Frente de Libertação de Moçambique</i>
IAEA	International Atomic Energy Agency
Idasa	Institute for Democracy in South Africa
IEEPA	International Emergency Economic Powers Act
IFP	Inkatha Freedom Party
IMF	International Monetary Fund
ISRO	Indian Space Research Organisation
KPCS	Kimberley Process Certification Scheme
KRL	Khan Research Laboratory
MDC	Movement for Democratic Change
MPLA	<i>Movimento Popular de Libertação de Angola</i>

MTCR	Missile Technology Control Regime
NAM	Non-Aligned Movement
Nepad	New Partnership for Africa's Development
NGO	Non-governmental organisation
NPT	Nuclear Non-Proliferation Treaty
NWS	Nuclear Weapons State
OPEC	Organisation of Petroleum Exporting Countries
RF	Rhodesian Front
RMA	Revolution in Military Affairs
SLV	Satellite Launch Vehicle
SRANC	Southern Rhodesia African National Council
UDF	United Democratic Front
UDI	Unilateral Declaration of Independence
UNDP	United Nations Development Programme
Unita	<i>União Nacional para a Independência Total d'Angola</i>
UNMOVIC	UN Monitoring Verification and Inspection Commission
UNSC	United Nations Security Council
UNSCOM	United Nations Special Commission
WMD	Weapons of Mass Destruction
WTO	World Trade Organisation
Zanu	Zimbabwe African Union
Zanu-PF	Zimbabwe African Union-Patriotic Front

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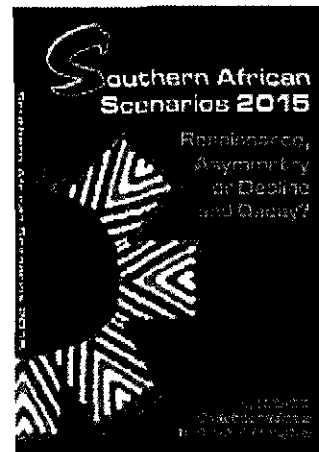
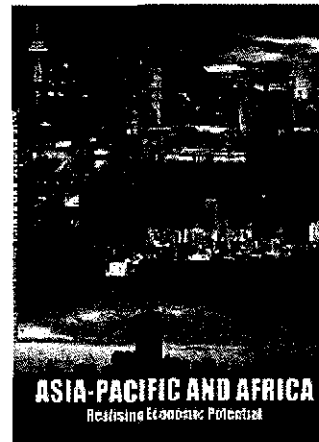
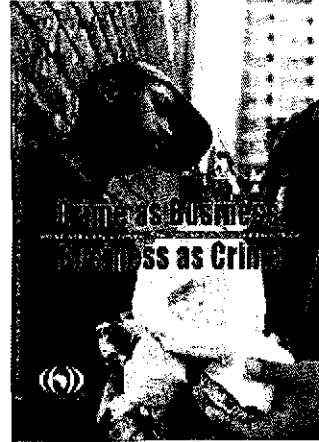
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The 1990s and 2000s witnessed a proliferation of UN sanctions regimes around the world, as the international community braced itself to deal with brutal regimes and threats to international peace and security. Although by no means a new tool for dealing with conflicts, sanctions were increasingly refined in the 1990s to target the transgressors rather than ordinary citizens. While they are not the sole agents of change, sanctions are important instruments in the diplomatic armoury available to international actors.

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