

NUCLEAR CHAIN REACTION: WHY ECONOMIC SANCTIONS ARE NOT WORTH THE PUBLIC COSTS

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“The conventional wisdom is often wrong.”¹ –Steven D. Levitt

I. INTRODUCTION

In October 2013, U.S. Secretary of State John F. Kerry wrote a scathing argument in *Foreign Policy* decrying Syrian President Bashar al-Assad’s use of starvation as a weapon of war.²

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1. STEVEN D. LEVITT & STEPHEN J. DUBNER, *FREAKONOMICS: A ROGUE ECONOMIST EXPLORES THE HIDDEN SIDE OF EVERYTHING* 13 (2005).

2. John F. Kerry, *Assad's War of Starvation*, *FOREIGN POL'Y* (Oct. 25 2013).

The world already knows that Bashar al-Assad has used chemical weapons, indiscriminate bombing, arbitrary detentions, rape, and torture against his own citizens. What is far less well known, *and equally intolerable*, is the systematic denial of medical assistance, food supplies, and other humanitarian aid to huge portions of the population. This denial of the most basic human rights must end. . . .³

Secretary Kerry equated the deprivation of medical assistance, food, and humanitarian aid to the use of chemical weapons and other forms of horrendous violence. The United States frequently places economic sanctions on other countries that result in the denial of these necessities to the public of targeted states.⁴ The United States and its allies impose economic sanctions on a regular basis, often simply as an expression of disapproval and with little investigation into the ultimate effects.⁵ Policymakers must recognize that further use of economic sanctions is not worth the public costs to the United States or targeted nations.

Scholars vigorously debate the merits of economic sanctions. Many argue that sanctions rarely achieve their objectives, and they frequently violate the public's human rights in targeted states.⁶ Conversely, many hail economic sanctions as an important nonviolent tool for coercing and persuading change.⁷ Sanctions also allow politicians to signal official displeasure and the appearance of productivity.⁸ Politicians primarily focus on the immediate domestic effects, and enact sanctions without a thorough understanding of the long-term effects on the American economy and the public within a targeted nation.⁹ In November 2013, the Islamic Republic of Iran¹⁰ negotiated a temporary agreement with major world powers (known as the P5+1)¹¹ regarding Iran's nuclear program.¹² The media and many American politicians have frequently and

3. *Id.* (emphasis added).

4. *See infra* Part II.B.

5. Curtis A. Bradley, *The Costs and Benefits of Economic Sanctions: The Bottom Line*, 89 AM. SOC'Y INT'L L. PROC. 337, 338 (1995).

6. Amy Howlett, *Getting "Smart": Crafting Economic Sanctions that Respect All Human Rights*, 73 FORDHAM L. REV. 1199, 1216–20 (2004).

7. *Id.* at 1220–21.

8. Barry E. Carter, *International Economic Sanctions: Improving the Haphazard U.S. Legal Regime*, 75 CAL. L. REV. 1159, 1248 (1987).

9. *Id.*

10. Hereinafter "Iran."

11. This group is made up of the five permanent members of the U.N. Security Council (China, France, Russia, the United Kingdom, and the United States) plus Germany. This group of nations is also known as the E3+3.

12. *Iran Nuclear Deal: Joint Plan of Action – Full Document*, GUARDIAN (Nov. 24, 2013), <http://www.theguardian.com/world/interactive/2013/nov/24/iran-nuclear-deal-joint-plan-action> [hereinafter *Interim Agreement*].

incorrectly attributed Iran's willingness to negotiate to the effectiveness of the economic sanctions imposed on Iran.¹³

The purpose of this Article is to convince policymakers that the achievement of an interim nuclear agreement with Iran should not be seen as a mandate on the effectiveness of economic sanctions, and that further use of economic sanctions is not worth the public costs to targeted nations or the United States. First, this Article will explain the basic uses and legal provisions for economic sanctions. Second, this Article will detail the public costs that economic sanctions can inflict on the United States and on the nations it targets. Lastly, this Article will explain the interim nuclear agreement with Iran, and why the apparent success of the economic sanctions imposed on Iran do not justify the continued use of economic sanctions.

II. THE LEGAL FOUNDATION OF ECONOMIC SANCTIONS

Economic sanctions are "coercive measure[s] taken by one or more countries toward another to force it to comply with international law."¹⁴ The term "sanctions" can refer to both economic and military measures, but for the purposes of this Article, it will only be used to refer to economic actions.¹⁵ The term "sending" party will refer to the party imposing the economic sanctions on another. The "target" party is the intended subject of the economic harm. "Secondary sanctions" are penalties the sending state imposes on a third party for interaction with the target nation.

Economic sanctions can take many forms, including: "trade embargoes; restrictions on particular exports or imports; denial of foreign assistance, loans, and investments; or control of foreign assets and economic transactions that involve U.S. citizens or businesses."¹⁶

13. See Doyle McManus, *Iran Sanctions: Dancing with Tehran*, L.A. TIMES (Nov. 27, 2013), <http://articles.latimes.com/2013/nov/27/opinion/la-oe-mcmanus-column-iran-sanctions-20131127> (stating "In the view of the Obama administration . . . the effectiveness of sanctions brought Iran to the table."); see also White House Office of the Press Secretary, *President Barack Obama's State of the Union Address*, WHITEHOUSE.GOV (Jan. 28, 2014), <http://www.whitehouse.gov/the-press-office/2014/01/28/president-barack-obamas-state-union-address> (stating "[t]he sanctions that we put in place helped make this opportunity possible."); see also Uri Berliner, *Crippled by Sanctions, Iran's Economy Key in Nuclear Deal*, NPR.ORG (Nov. 25, 2013), <http://www.npr.org/2013/11/25/247077050/crippled-by-sanctions-irans-economy-key-in-nuclear-deal> (stating "[t]here's widespread agreement that sanctions have worked, squeezing Iran financially and bringing its leaders to the negotiating table.").

14. BLACK'S LAW DICTIONARY 1542 (9th ed. 2009).

15. *Id.*

16. Dianne E. Renneck & Robert D. Shuey, *CRS Report for Congress: Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law*, CRS FOREIGN AFFS. & NAT'L DEF. DIVISION (Oct. 20, 1997), <http://www.fas.org/man/crs/crs-sanction.htm>.

Sanctions are imposed for a variety of official goals; they may be intended to promote human rights, express condemnation, deter objectionable behavior, isolate a government, or replace a government entirely.¹⁷

A. *The Purposes of Economic Sanctions*

In order to justify the imposition of sanctions, they must serve a legitimate purpose.¹⁸ The purposes of individual economic sanctions are rarely clearly stated, and when stated, they are often not the true purpose.¹⁹ Sanctions are rarely referred to as punishment.²⁰ U.N. General Assembly Resolution 242 states that economic sanctions are not meant to be punitive in nature.²¹ Whether or not sanctions are “punishment,” they ultimately impose intended costs on the target nation.²² The basic justification behind economic sanctions can be explained through criminal justice theories: “deterrence (both specific and general), incapacitation, rehabilitation, retribution, and community norm reinforcement.”²³

Specific deterrence²⁴ is the imposition of harm on an offender for the purpose of deterring that same offender from future transgressions.²⁵ In the context of economic sanctions, the use of sanctions is intended to “make[] the cost of misbehaving greater than the benefits.”²⁶ General deterrence is the imposition of harm on an offender with the intent of deterring other actors from similar behavior.²⁷ In the international context, this includes the use of economic sanctions on a single target nation to serve as an example to the rest of the world, and to discourage the behavior among other states.²⁸

Incapacitation is meant to take away an actor’s ability to perform the offending behavior.²⁹ A frequent form of incapacitation through

17. *Id.*

18. Padraic Foran, *Why Human Rights Confuse the Sanctions Debate: Towards A Goal-Sensitive Framework for Evaluating United Nations Security Council Sanctions*, 4 INTERCULTURAL HUM. RTS. L. REV. 123, 142 (2009).

19. *Id.*

20. *Id.*

21. *Id.*; Supplement to an Agenda for Peace, G.A. Res. 242 (II) ¶ 5, U.N. DOC.A/RES/51/242 (Aug. 12, 2010), available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/51/242&Lang=E [hereinafter Res. 242].

22. Foran, *supra* note 18, at 142.

23. *Id.* at 142–43.

24. Specific deterrence is also known as “special” deterrence.

25. BLACK’S LAW DICTIONARY 544 (9th ed. 2009); Foran, *supra* note 18, at 144.

26. Foran, *supra* note 18, at 144.

27. *Id.*; *Deterrence Definition*, BLACK’S LAW DICTIONARY (9th ed. 2009).

28. Foran, *supra* note 18, at 144.

29. *Id.*

economic sanctions is the imposition of an arms embargo. This may remove a state's ability to commit acts of violence by restricting the state's access to weaponry or war related goods.³⁰

The main difference between deterrence and rehabilitation is that "[w]hen deterred, the actor would or might repeat the wrongful behavior but for the possibility of sanction. When rehabilitated, the actor will not repeat the wrongful behavior, even absent the possibility of sanction."³¹ After economic sanctions are lifted, a rehabilitated target state would continue to refrain from the offending behavior, not because of the threat of future sanctions, but to embrace international norms.³² For example, if economic sanctions were applied to deter human rights violations, the target state would ideally continue to refrain from such violations after the removal of sanctions.

The United Nations has denounced the use of economic sanctions for retributive purposes.³³ Retribution is harm imposed to punish an offense that has already been committed.³⁴ Although retributive justice is rarely invoked as a purpose of economic sanctions, "most political language surrounding the use of sanctions (whether consciously or not) stresses its retributive importance."³⁵ This suggests that retribution through economic sanctions has popular support, even if it is subliminal.³⁶

Community norm reinforcement is meant to align the target with the accepted community model.³⁷ Under this theory, punishment often serves as a symbolic representation of exclusion.³⁸ "[E]xclusion is a frequent and perhaps even mandatory incidental output of sanctions aimed at one of the [above] purposes."³⁹ A community's decisions about which actors to include or exclude "define[s] the group's identity and normative values,"⁴⁰ and this is the same in the international community.⁴¹

The United States and its allies have applied the deterrent effect of economic sanctions on Iran.⁴² The U.S. Department of State says that the reason for imposing sanctions on Iran is to "respon[d] to Iran's continued

30. An arms embargo may also be imposed to incapacitate non-state actors within a nation. *Id.* at 144–45.

31. *Id.* at 144.

32. *Id.*

33. Res. 242, *supra* note 21, (II) ¶ 5.

34. BLACK'S LAW DICTIONARY 1511 (9th ed. 2009).

35. Foran, *supra* note 18, at 145.

36. *Id.*

37. BLACK'S LAW DICTIONARY 1223 (9th ed. 2009).

38. Foran, *supra* note 18, at 146.

39. *Id.*

40. *Id.*

41. *Id.*

42. U.S. Department of State, *Iran Sanctions*, STATE.GOV, <http://www.state.gov/e/eb/tfs/spi/iran/index.htm>.

illicit nuclear activit[ies]”⁴³ The United States also claims that it wants “to persuade Tehran to address the international community’s concerns about its nuclear program,”⁴⁴ suggesting the need to reinforce community norms regarding nuclear proliferation. In addition, the United States and its allies wish to incapacitate and “block the transfer of weapons, components, technology, and dual-use items to Iran’s prohibited nuclear and missile programs”⁴⁵ However, the actual effects of the economic sanctions have had broad, punitive effects extending beyond Iran’s nuclear program.⁴⁶

B. *The Legality of Economic Sanctions*

The legal channels through which the United States imposes economic sanctions provide broad discretion and little oversight. The major international body that promulgates economic sanctions is the U.N. Security Council.⁴⁷ The U.N. Charter does not explicitly include the term “sanctions.”⁴⁸ However, the Security Council’s authority to impose economic sanctions can be found throughout several chapters.⁴⁹ The U.N. Charter places the responsibility for maintaining international peace and security in the Security Council, and it provides the Security Council broad authority to carry out this responsibility.⁵⁰ The drafters of the U.N. Charter were concerned that linking the maintenance of peace to international law could “unduly hinder”⁵¹ its responsiveness to threats.⁵² Security Council decisions regarding threats to the peace are not subject to any binding judicial review.⁵³

The Security Council has the “power to identify threats to the peace or acts of aggression, and to thereby exercise its jurisdiction”⁵⁴ Importantly, the Security Council has the “power to take actions short of military force, including ‘complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means

43. *Id.*

44. *Id.*

45. *Id.*

46. *See infra* Part III.

47. Robin Geiss, *Humanitarian Safeguards in Economic Sanctions Regimes: A Call for Automatic Suspension Clauses, Periodic Monitoring, and Follow-Up Assessment of Long-Term Effects*, 18 HARV. HUM. RTS. J. 167, 172 (2005).

48. *Id.*

49. Foran, *supra* note 18, at 127–28; U.N. Charter ch. V–VII.

50. Foran, *supra* note 18, at 127–28; U.N. Charter ch. V, art. 24.

51. Geiss, *supra* note 47, at 172.

52. *Id.*

53. Foran, *supra* note 18, at 127–28; U.N. Charter ch. V.

54. Foran, *supra* note 18, at 127–28; U.N. Charter ch. VII, art. 39.

of communication, and the severance of diplomatic relations.”⁵⁵ The U.N. General Assembly passed a resolution that clarified this power stating, “[t]he purpose of sanctions is to modify the behavior of a party that is threatening international peace and security and not to punish or otherwise exact retribution.”⁵⁶ However, the Resolution provides little specific guidance, and “the Security Council has taken some creative paths in defining what constitutes a threat to the peace”⁵⁷

The United States also uses its own domestic law to impose economic sanctions. In 1917, the United States enacted the Trading with the Enemy Act (TWEA).⁵⁸ This gave the U.S. President “broad authority to investigate, regulate, prevent or prohibit transactions in times of war or declared national emergencies.”⁵⁹ In 1977, Congress enacted the International Emergency Economic Powers Act (IEEPA).⁶⁰ Under the IEEPA, the President may exercise economic powers to confront “any unusual and extraordinary threat . . . to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.”⁶¹ In 2001, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), in part, increased the executive power “to block transactions involving property during the pendency of an investigation.”⁶²

The President’s powers under the IEEPA expanded in 2001 when the U.S. Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act in “response to the September 11, 2001 terrorist attacks”⁶³ The USA PATRIOT Act, in part, increased the executive power “to block transactions involving property during the pendency of an investigation.”⁶⁴ In 2007, Congress passed the International Emergency Economic Powers Act Enhancement Act

55. Foran, *supra* note 18, at 127–28 (quoting U.N. Charter ch. VII, art. 41); Geiss, *supra* note 47, at 170–71.

56. Geiss, *supra* note 47, at 171; (quoting Res. 242, *supra* note 21, (II) ¶ 5).

57. Geiss, *supra* note 47, at 171; Res. 242, *supra* note 21.

58. Barbara J. Van Arsdale, *Validity, Construction, and Operation of International Emergency Economic Powers Act*, 50 U.S.C.A. §§ 1701–1707, 183 A.L.R. FED. 57, § 2 (2003); Trading with the Enemy Act of 1917, 50 App. U.S.C.A. §§ 1–39, 41–44.

59. Arsdale, *supra* note 58, § 2.

60. *Id.*; International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701–1707; *The International Emergency Economic Powers Act and Related Trade Control Regulations*, 29 NO. 2 CORP. COUNS. Q. art. 4 (2013) [hereinafter *IEEPA and Related*].

61. International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701–1707.

62. Arsdale, *supra* note 58, § 2.

63. *IEEPA and Related*, *supra* note 60, § I.

64. Arsdale, *supra* note 58, § 2.

increasing IEEPA penalties.⁶⁵ This increased civil penalties from \$50,000 to either \$250,000 or twice the violating transaction (whichever is higher).⁶⁶ It also raised the criminal penalty for violators of the IEEPA from \$50,000 to \$1,000,000.⁶⁷

Among many challenges, the validity of the IEEPA has been challenged in court on grounds of violating the freedom of speech protections of the First Amendment.⁶⁸ In addition, it has been challenged on the grounds of violating the right to due process of law, and protection from uncompensated takings under the Fifth Amendment.⁶⁹ It has also been challenged on the grounds of violating the Fourth Amendment protection against unreasonable seizures.⁷⁰ Though it has received some negative treatment in court, it has been largely validated and withstood the challenges.⁷¹

The United States began imposing economic sanctions on Iran in 1980 following a crisis in 1979 in which Iranian students took 52 Americans hostage in the U.S. Embassy in Tehran.⁷² In 1987, the United States imposed an embargo on Iranian imports. In particular, this prohibited “dual-use” items from being sold to Iran.⁷³ In 1997, the United States prohibited Americans from investing in Iran and expanded trade restrictions.⁷⁴ In 2010, President Obama signed the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA). This allowed the United States to impose secondary sanctions on companies and individuals doing business with Iran, and to prevent companies doing business with Iran from using American financial institutions.⁷⁵ The Security Council has broad discretion under international law to impose sanctions, and the U.S. President has broad unilateral discretion under U.S. law. This broad discretion at the national and international levels can result in extensive economic sanctions that have undesired effects on both the United States and the targeted country.

65. *IEEPA and Related*, *supra* note 60, § I.

66. *Id.*

67. *Id.*

68. *Arsdale*, *supra* note 58, § 2-6.

69. *Id.* § 6-15.

70. *Id.* § 22.

71. *Id.* § 2-25.

72. Steve Jones, *A History of U.S. Sanctions Against Iran: Newest Round Brings Apparent Results*, ABOUT.COM (May 15, 2013), <http://usforeignpolicy.about.com/od/alliesenemies/a/A-History-Of-U-S-Sanctions-Against-Iran.htm>.

73. *Id.* Dual-use items are civilian goods that have the potential for military applications.

74. Jones, *supra* note 72.

75. *Id.*

III. THE PUBLIC COSTS OF ECONOMIC SANCTIONS IN GENERAL

Despite the enthusiasm of policymakers, economic sanctions frequently do not achieve their intended goals and have little deterrent effect.⁷⁶ The stance that economic sanctions do not work has “tremendous support.”⁷⁷ The purported effectiveness of economic sanctions to achieve policy goals by non-violent means has “little empirical evidence.”⁷⁸ When policymakers consider whether to impose a new set of economic sanctions, they must weigh the potential benefit of achieving their goal against the historical evidence of ineffectiveness and the public costs detailed below.

A nuclear explosion is caused by a rapid chain reaction.⁷⁹ On a basic level, a nuclear explosion begins with a single submicroscopic neutron reacting with a single uranium atom.⁸⁰ When an extra neutron reacts with the uranium atom, the neutron is immediately pulled into the uranium atom.⁸¹ This causes the uranium atom to split into two separate atoms, releasing three extra neutrons and a profusion of energy.⁸² These three released neutrons then react with other uranium atoms, causing them to also split and each release three more neutrons and more energy.⁸³ Each of those neutrons then splits more uranium atoms and so on. These particles are so minute that they are undetectable even by microscopes, yet the totality of the chain reaction causes a catastrophic explosion.

Similarly, the catastrophic costs of economic sanctions are not caused by a single event. It is the totality of events triggered by an economic sanction that impose disastrous public costs. However, unlike a nuclear chain reaction, the economic chain reaction happens slowly over many years. Because the results take so long to affect the public, the consequences are often not linked to the imposition of economic sanctions. The imposition of economic sanctions continues to send destructive shockwaves throughout the economies of both the sending and target states long after the initial event.

A. *The Public Costs to the United States as a Sending State*

Economic sanctions are a “deliberate infliction of economic self-

76. See generally Robert A. Pape, *Why Economic Sanctions Still Do Not Work*, INT’L SECURITY, 66–77 (1998).

77. Foran, *supra* note 18, at 137.

78. Pape, *supra* note 76, at 66–67.

79. *The Uranium Explosive Myth*, HIROSHIMASYNDROME.COM (2014), <http://www.hiroshimasynndrome.com/the-uranium-explosive-myth.html> [hereinafter *Uranium*].

80. *Id.* This brief explanation assumes a uranium 235 isotope (U-235).

81. *Id.*

82. *Id.* This nuclear fission splits the uranium atom into Barium 141 and Krypton 92.

83. *Id.*

harm”⁸⁴ When a sending state imposes economic sanctions, they often consider it a low-cost coercive or symbolic action. However, sending economic sanctions has a vast, negative impact on the U.S. economy.⁸⁵ Logically, “the sending State should not enact economic sanctions if domestic costs are greater than the importance of the policy objective sought or the likelihood that such objective will be achieved.”⁸⁶ Regrettably, the U.S. government overlooks the chain of events that creates high domestic costs. When the U.S. government imposes economic sanctions, American businesses are often forced to bear the burden.⁸⁷ Every year, “[s]anctions cost U.S. companies billions of dollars . . . in lost sales and returns on investment—and cost many thousands of workers their jobs.”⁸⁸

When the United States triggers an economic chain reaction by imposing sanctions, the immediate impact is absorbed by American businesses that deal directly with the target nation.⁸⁹ These businesses incur the employee and technology costs needed to ensure compliance with the specific details of the new regulations.⁹⁰ Furthermore, new economic sanctions make it impossible for American businesses to perform their contracts with parties in the target state.⁹¹ The negative effects then begin to spread, impacting other domestic businesses in ways that are more difficult to quantify; American businesses incur costs from losing business relationships, lost opportunities, and the loss of foreign investment opportunities.⁹²

States “that frequently coerce [through the use of economic sanctions] can create a reputation of being unreliable partners.”⁹³ Confusing regulations deter foreign businesses in third party states from dealing with American companies.⁹⁴ When this causes American businesses to lose an initial sale, American companies then lose the continued business of selling related goods and services throughout the product’s time in sale.⁹⁵

84. Justin D. Stalls, *Economic Sanctions*, 11 U. MIAMI INT’L & COMP. L. REV. 115, 155 (2003).

85. Adam Smith, *A High Price to Pay: The Costs of the U.S. Economic Sanctions Policy and the Need for Process Oriented Reform*, 4 UCLA J. INT’L L. & FOREIGN AFF. 325, 338 (2000).

86. Stalls, *supra* note 84, at 155.

87. *Id.* at 157.

88. Richard N. Haass, *Policy Brief #34: Economic Sanctions: Too Much of a Bad Thing*, BROOKINGS.EDU 2 (June 1998), <http://www.brookings.edu/research/papers/1998/06/sanctions-haass>.

89. Joanmarie M. Dowling & Mark P. Popiel, *War by Sanctions: Are We Targeting Ourselves?*, 11 WTR CURRENTS: INT’L TRADE L.J. 8, 9 (2002).

90. Stalls, *supra* note 84, at 153–54.

91. *Id.* at 154.

92. *Id.*; Smith, *supra* note 85, at 338–39.

93. Stalls, *supra* note 84, at 154.

94. Smith, *supra* note 85, at 338.

95. *Id.* at 341.

Moreover, American businesses become less competitive because they are forced to raise prices or make quality concessions to make up for the perceived risk of doing business with a sending state.⁹⁶

As the negative effects of economic sanctions continue to reverberate throughout the U.S. economy, the “international belief that U.S. businesses are unreliable trading partners”⁹⁷ makes foreign businesses hesitant to use American-made parts in their products.⁹⁸ A foreign business that incorporates parts built in the United States handicaps itself if the U.S. government imposes new sanctions that prevent the American parts manufacturer from completing its supply contracts.⁹⁹ Furthermore, the possibility of economic sanctions allows foreign “companies [to] gain a commercial advantage over their U.S. counterparts simply by advertising that they are not subject to the commercial risk that economic sanctions pose.”¹⁰⁰ Countries that perceive themselves to be under the threat of economic sanctions will refuse to make agreements with businesses that incorporate American parts due to the fear of an unreliable supply.¹⁰¹ This aversion to American business does not apply to goods alone; the aversion extends to businesses that rely on American companies for “sophisticated support services.”¹⁰²

The chain reaction continues to branch throughout the U.S. economy by making it difficult for domestic companies to obtain export financing.¹⁰³ Moreover, raw materials become more expensive.¹⁰⁴ The effect reaches further into the domestic economy when affected businesses are forced to eliminate jobs, especially those relating to the exportation industry.¹⁰⁵ “[E]xport-related jobs . . . typically pay a 12%–15% premium over the national wage.”¹⁰⁶ The displaced workers that manage to find new employment are often forced to accept jobs at lower wages.¹⁰⁷ Unemployed workers and workers employed at lower wages lose purchasing power in domestic markets.¹⁰⁸ When consumers have less money to spend domestically, American businesses lose revenue.¹⁰⁹ The chain reaction exacerbates the difficult job market forcing domestic

96. *Id.* at 342.

97. Stalls, *supra* note 84, at 156–57.

98. *Id.*; Smith, *supra* note 85, at 341.

99. Dowling & Popiel, *supra* note 89, at 10.

100. Smith, *supra* note 85, at 341.

101. Dowling & Popiel, *supra* note 89, at 10.

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. Smith, *supra* note 85, at 343.

107. *Id.*

108. *Id.*

109. *Id.*

businesses to cope with the loss of revenue by eliminating more jobs.¹¹⁰ Unemployment and lower wages lead to even less purchasing power and consumer confidence.¹¹¹ The creation of new jobs in the United States is further limited since foreign companies are deterred from locating production facilities in the United States because economic sanctions prevent them from exporting to certain markets.¹¹²

In addition to less purchasing power, American consumers face higher prices for goods.¹¹³ When it is more expensive to import raw materials, the costs of production and manufacturing increase.¹¹⁴ These increased manufacturing costs lead to a more expensive final product.¹¹⁵ Economic sanctions trigger a chain reaction that ultimately leads to the American public having to pay more for goods with less income to spend.¹¹⁶

B. The Humanitarian Costs to the Target State's Public

Economic sanctions have been said to be “blunt mechanisms, analogous to blowing up an entire airplane with innocent passengers on board to kill just one terrorist.”¹¹⁷ When the United States imposes economic sanctions on a target nation, the intent is often to provide an eventual benefit to the general public after coercing the nation's leaders. However, the exact opposite frequently occurs.¹¹⁸ The chain reaction triggered by the imposition of economic sanctions sends shockwaves throughout the target nation's economy causing undesired humanitarian costs. Sanctions are not effective unless they impose costs to the targeted nation, but the effects on the public of the targeted nation are vast, extending far beyond the intended harm. Economic sanctions often target the most vulnerable populations while political leaders and elites are shielded from the catastrophic conditions.¹¹⁹ Even in situations where humanitarian assistance is exempted, economic sanctions can increase disease and malnutrition.

Domestic sources of food can be devastated by economic sanctions because target countries cannot import agricultural essentials such as

110. *Id.*

111. *Id.*

112. *Id.* at 343–44.

113. Dowling & Popiel, *supra* note 89, at 12.

114. *Id.*

115. *Id.*

116. *Id.*

117. Howlett, *supra* note 6.

118. THE IRAN PROJECT, REPORT: WEIGHING BENEFITS AND COSTS OF INTERNATIONAL SANCTIONS AGAINST IRAN 46 (2012) [hereinafter REPORT 2012].

119. Howlett, *supra* note 6, at 1218.

seeds, pesticides, and fertilizers.¹²⁰ The good intentions of the international community can worsen problems with attempts to provide humanitarian aid.¹²¹ When international organizations respond by delivering food aid, domestic agriculture suffers because farmers cannot compete with the free food brought by international organizations.¹²² Farmers already lose major sources of income when they are prevented from exporting their goods.¹²³ This effect is deepened by farmers losing the means for economic improvement when they are forced to sell their livestock or even their farmland to pay expenses.¹²⁴ Furthermore, without fuel, spare parts, and working infrastructure, food supplies can rot in warehouses while citizens are subjected to starvation.¹²⁵ This can trigger dramatic surges in food expenses caused by the increased demand for the little food that is available.¹²⁶ Moreover, economic sanctions can decrease the supply of safe drinking water.¹²⁷ Without being able to import the equipment and chemicals necessary to maintain clean water, the public is vulnerable to outbreaks of diseases related to unhygienic conditions.¹²⁸

Continuing the chain reaction, economic sanctions also cause the deterioration of health care infrastructure, such as hospitals and clinics.¹²⁹ Denying essential medical supplies causes curable and treatable diseases to become lethal.¹³⁰ Under such conditions, performing surgeries becomes increasingly difficult, and screening for preventable diseases cannot be carried out adequately.¹³¹ Another significant problem arises when the public of a targeted nation does not have access to legitimate sources of trade and cannot access the necessary amount of medical supplies.¹³² This can create a black market for medical supplies that is subject to profiteering by illegitimate middlemen.¹³³

The chain reaction caused by economic sanctions can affect multiple generations. Due to the depressed economy, there is often a decrease in the quantity and quality of youth education.¹³⁴ Economic sanctions

120. Smith, *supra* note 85, at 346–47.

121. *Id.* at 352–53.

122. *Id.*

123. *Id.*

124. *Id.*

125. *Id.* at 347.

126. *Id.*

127. *Id.*

128. *Id.* at 347–48. Without safe drinking water for the public, water-borne diseases like typhoid fever, dysentery, and viral hepatitis increase. These diseases most severely inflict the elderly.

129. *Id.* at 348.

130. Howlett, *supra* note 6, at 1217.

131. Smith, *supra* note 85, at 349.

132. *Id.*

133. *Id.*

134. *Id.*

damage the infrastructure, making it difficult to keep electricity supplied to schools.¹³⁵ Some families may no longer be able to pay the tuition to keep their children in school, or they may need to have the children work to make extra money for the family to live.¹³⁶ Regardless of the reason for which a child leaves school, children are much less likely to return to school after they have left, even if the economy is able to recover.¹³⁷

The inability of businesses to import parts or energy for factories forces businesses to close. This causes jobs to be eliminated, taking the middle class with them.¹³⁸ When the public has less money to spend, the domestic effects worsen since businesses and services are forced to shut down.¹³⁹ This also increases socioeconomic disparities among classes in the targeted nation's public.¹⁴⁰ When goods are scarce, prices necessarily increase. The wealthy are able to pay the prices demanded by the black market suppliers.¹⁴¹ This demonstrates how economic sanctions severely damage the lower and middle classes while leaving political leaders and elites relatively unscathed.¹⁴² What is an inconvenience for the wealthy can be a matter of life or death for the poor. Economic sanctions may hit the wealthy in the wallet, but they hit the poor in the stomach.

IV. THE CASE OF ECONOMIC SANCTIONS ON IRAN

A. *The Interim Nuclear Agreement*

In late 2013, the P5+1 countries reached a temporary agreement with Iran regarding Iran's nuclear program. The agreement is renewable by the consent of all parties with an initial term of six months.¹⁴³ It was extended in July 2014.¹⁴⁴ The agreement is meant to create a space for all parties to negotiate for a long term agreement.¹⁴⁵ The agreement makes clear that it is not intended to be a final agreement; it is intended to be the first step in reaching a comprehensive, lasting agreement.¹⁴⁶ The

135. *Id.*

136. *Id.*

137. *Id.*

138. *Id.* at 352.

139. *Id.*

140. *Id.* at 351.

141. *Id.* at 351–52.

142. *Id.* at 352.

143. *Interim Agreement*, *supra* note 12, at 1.

144. Louis Charbonneau & Fredrik Dahl, *Iran Warned of 'Last Chance' in Nuclear Talks After Deadline Missed*, REUTERS.COM, July 19, 2014, <http://www.reuters.com/article/2014/07/19/us-iran-nuclear-idUSKBN0FN27020140719>.

145. *Id.*

146. *Id.*

preamble to the agreement states that the purpose of the agreement is to reach a comprehensive agreement that “would ensure Iran’s nuclear program will be exclusively peaceful.”¹⁴⁷

Iran’s main responsibilities under the agreement are to halt its current uranium enrichment activities, and to allow enhanced monitoring of its nuclear facilities.¹⁴⁸ Specifically, Iran will not enrich uranium beyond five percent.¹⁴⁹ For the uranium already enriched beyond five percent, half will be diluted down to five percent.¹⁵⁰ The other half will be used to fabricate fuel for the Tehran Research Reactor.¹⁵¹

Iran has agreed that it will not make advancements to its nuclear facilities while the agreement is in effect.¹⁵² Iran has also agreed that it will create no new locations for enrichment.¹⁵³ Under the agreement, Iran was initially obligated to provide detailed information about its nuclear program within the first three months.¹⁵⁴ This included “a description of each building on each nuclear site, a description of the scale of operations for each location engaged in specified nuclear activities, information on uranium mines and mills, and information on source material.”¹⁵⁵ Lastly, Iran will grant international weapons inspectors daily access to its nuclear facilities, including unannounced inspections.¹⁵⁶

The P5+1 countries have committed to suspending various economic sanctions, pausing efforts to reduce Iran’s oil sales, and allowing Iran to access some of its oil revenue currently being held abroad.¹⁵⁷ The P5+1 countries will not impose any new sanctions as long as the agreement is in effect.¹⁵⁸ Furthermore, the agreement states that the countries will work to establish financial channels for humanitarian trade.¹⁵⁹

B. Economic Sanctions are Mistakenly Credited with Motivating Iran to Negotiate

The United States and its allies have claimed that Iran negotiated an interim agreement because economic sanctions crippled its economy and

147. *Id.*

148. *Interim Agreement*, *supra* note 12, at 1–2.

149. *Id.* at 1.

150. *Id.*

151. *Id.*

152. *Id.* at 2.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.* at 3.

158. *Id.*

159. *Id.*

forced Iran to come to the negotiating table.¹⁶⁰ Two members of Congress wrote that Iran came to the table, “because the economic pain levied on it by Congress has become unbearable. This outreach was borne out of necessity, not a sudden gesture of goodwill.”¹⁶¹ Sanctions certainly played a role in bringing Iran to the table, but Iran’s motivation was more complex.

Another reason that economic sanctions have had little apparent effect is that Iran’s primary negotiation position has not changed in response to the sanctions.¹⁶² In fact, it has been Iran’s perception of change in the U.S. negotiation position that made the difference.¹⁶³ Iran has maintained that it has been willing to agree to a peaceful nuclear program for years.¹⁶⁴ In both 2003 and 2005, Iran made proposals that would limit its nuclear operations and allow implementation of transparency measures to ensure that its program was strictly for peaceful purposes only.¹⁶⁵ In 2003, Iran issued a proposal to the United States to negotiate several issues.¹⁶⁶ One of the items on the proposed agenda was the negotiation of “[f]ull transparency over Iran’s nuclear program”¹⁶⁷ At that time, Iran also maintained its right to peaceful nuclear technology, just as it requested in negotiations leading up to the interim agreement.¹⁶⁸

In 2005, Iran made two separate proposals that also included major terms on nuclear negotiations.¹⁶⁹ An Iranian proposal in January 2005 contained “[a]n Iranian commitment not to pursue weapons of mass destruction.”¹⁷⁰ In March 2005, Iran made another proposal with the following terms:

Iran’s adoption of the IAEA Additional Protocol and continuous on-site inspections at key facilities.
Limiting the expansion of Iran’s enrichment program and a policy declaration of no reprocessing.
Immediately converting all enriched uranium to fuel rods.

160. Robert Menendez & Lindsey O. Graham, *Opinions: Iran’s Messenger has Changed. Its Message has not*, WASH. POST (Sept. 27, 2013), http://www.washingtonpost.com/opinions/irans-messenger-has-changed-its-message-has-not/2013/09/27/b0be5b04-278e-11e3-b75d-5b7f66349852_story.html.

161. *Id.*

162. *Factsheet: History of Official Proposals on the Iranian Nuclear Issue*, ARMS CONTROL ASS’N (Jan. 2014), http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals [hereinafter *Proposals Factsheet*].

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

An EU declaration recognizing Iran as a major source of energy for Europe.

Iran's guaranteed access to advanced nuclear technology along with contracts for the construction of nuclear plants in Iran by the EU.

Normalizing Iran's status under G8 export controls.¹⁷¹

Iran proposed these terms long before the West's "crippling sanctions" implemented throughout 2010 and 2013.¹⁷² Iran's main principles have not changed.¹⁷³ A former top Iranian negotiator stated that it was not sanctions that brought Iran to the table.¹⁷⁴ He explained that the main reason that Iran was able to negotiate any deal with the P5+1 was a change in U.S. policy.¹⁷⁵ The United States had previously insisted that Iran could not be allowed to enrich uranium.¹⁷⁶ That position changed to the stance that Iran could not have a nuclear weapon or a nuclear weapons program.¹⁷⁷ If the United States truly takes that position, then Iran would have its primary demand—a peaceful nuclear energy program.¹⁷⁸ Economic sanctions cannot be solely credited with Iran's willingness to negotiate in 2013 and 2014 because Iran's primary negotiation demands remained unchanged.

An internal power shift in Iran was an additional factor leading to Iran's willingness to negotiate.¹⁷⁹ After a contested, controversial election in 2009, Iran's leadership was under pressure to restore legitimacy to the regime.¹⁸⁰ The Supreme Leader needed a high election turnout.¹⁸¹ In order to satisfy both potential revolutionaries and Iran's conservative leadership, the Supreme Leader Ayatollah Ali Khamenei allowed strong reformist figures to hold office.¹⁸² To counteract a planned boycott, the Supreme Leader allowed moderate politicians, such as the now-president Hassan Rouhani, to run in the election.¹⁸³ Rouhani, a

171. *Id.*

172. *Id.*

173. *Id.*

174. Hossein Mousavian, *It was not Sanctions that Brought Iran to the Table*, FIN. TIMES (Nov. 19, 2013), <http://www.ft.com/cms/s/0/8d9631f4-510c-11e3-b499-00144feabdc0.html>.

175. *Id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. Ariane Tabatabai, *Rouhani's Rise and Implications for Iranian Foreign Policy and Nuclear Politics*, MIDDLE EAST ARMS CONTROL (June 24, 2013), <http://www.middleeast-arms-control.com/2013/06/24/rouhanis-rise-and-implications-for-iranian-foreign-policy-and-nuclear-politics/>.

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

former lawyer and diplomat, was Iran's chief nuclear negotiator from 2003 to 2005.¹⁸⁴ During that time Rouhani promoted a "'moderate approach' as one straying away from all extremism."¹⁸⁵ Though Iran's political system leaves all final decisions to the Supreme Leader, Rouhani has popular support and approval of Khamenei.¹⁸⁶ Rouhani was able to influence the negotiations through his appointment of cooperative diplomats.¹⁸⁷ Rouhani's moderate approach played a significant role in Iran's willingness to negotiate an interim agreement.¹⁸⁸

The West's economic sanctions on Iran have been mistakenly credited with causing Iran's willingness to negotiate. Iran's main negotiating positions did not change as a result of sanctions; rather, the change in Iran's attitude toward communications was primarily caused by Iran's leadership change.

C. The Economic Costs to the United States Caused by the Imposition of Economic Sanctions on the Islamic Republic of Iran

The U.S. sanctions on Iran triggered many detrimental effects to the United States. The debate over Iran's sanctions caused disputes between the United States and its allies over the justification of the economic sanctions.¹⁸⁹ The sanctions also had the reverse effect of the U.S. objectives in many cases.¹⁹⁰ For instance, the use of economic sanctions against Iran led to a decrease in Iran's moderate voices.¹⁹¹ The sanctions caused a breakdown in Iran's political infrastructure, deteriorating accountability, and empowering radical factions.¹⁹²

Economic sanctions have led to Iran's development of a sophisticated domestic arms industry.¹⁹³ Because Iran's trade relations with the rest of the world have been uncertain, Iran has spent a large amount of resources on developing its own domestic sources of weaponry, creating and stockpiling ballistic and cruise missiles internally.¹⁹⁴

Another key detriment that the United States brought upon itself through the use of economic sanctions was that it seriously damaged relations between Iran and the United States, making it even more

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*

188. *See id.*

189. REPORT 2012, *supra* note 118, at 45.

190. *Id.* at 46.

191. *Id.* at 47.

192. *Id.*

193. *Id.* at 49.

194. *Id.*

difficult to negotiate.¹⁹⁵ Despite Rouhani's willingness to negotiate with the United States, there is very little trust between the two nations.¹⁹⁶

Although economic sanctions are meant to cause public discontent with the target nation's government, Iran's "ultra-conservative factions" have been able to shift blame by "portray[ing] international sanctions as U.S.-led 'economic warfare.'"¹⁹⁷ Imposing economic sanctions on Iran has backfired in several ways: hurting the United States and its allies economically, strengthening Iran's domestic arms industry, and empowering Iran's radical factions.

Private companies in the in the United States and its allied countries have been excluded from "potentially lucrative business"¹⁹⁸ deals with Iran and Iranian businesses.¹⁹⁹ Iran has the fourth-largest oil reserves in world.²⁰⁰ The sanctions have led to potential conflict in major international shipping areas, primarily the Strait of Hormuz.²⁰¹ Any economic conflict with Iran inevitably increases oil prices around the world.²⁰² Iran has a GDP²⁰³ of around one trillion dollars, and has strong trade ties with the European Union.²⁰⁴ The United States is still recuperating from a recession, and the E.U. recovery has been "very shaky."²⁰⁵ Because the United States and the European Union are still recovering, avoiding business opportunities to harm Iran can be especially costly.

D. *The Humanitarian Costs to the Iranian Public*

The chain reaction caused by the imposition of economic sanctions has hurt Iran's vulnerable populations. One detrimental result has been the scarcity of food and other humanitarian necessities.²⁰⁶ In 2012, northwestern Iran experienced earthquakes, and economic sanctions made it difficult for relief groups to reach those in need.²⁰⁷ Even when

195. *Id.* at 48.

196. *Id.*

197. THE IRAN PROJECT, REPORT: STRATEGIC OPTIONS FOR IRAN: BALANCING PRESSURE WITH DIPLOMACY 26–27 (2013), *available at* <http://www.crf.org/iran/iran-project-strategic-options-iran-balancing-pressure-diplomacy/p30487>[hereinafter REPORT 2013].

198. *Id.* at 27

199. *Id.* at 52

200. This includes only proven oil reserves. REPORT 2012, *supra* note 118, at 54.

201. *Id.* at 50. The Strait of Hormuz has been an area of frequent tension, with Iranian Vice President Mohammad-Reza Rahimi threatening to cut off oil supplies through the Strait.

202. *See id.* at 54.

203. This gross domestic product calculation was calculated using Purchasing Power Parity (PPP).

204. REPORT 2012, *supra* note 118, at 52.

205. *Id.*

206. *Id.* at 50.

207. *Id.* at 51.

they were able to reach those affected by the earthquakes, economic sanctions made it difficult for relief organizations to receive donations through the Iranian banking system.²⁰⁸ Even government assistance for the vulnerable has been limited by economic sanctions.²⁰⁹

The inability of Iranian citizens to gain access to necessary drugs and medical supplies has been a humanitarian tragedy.²¹⁰ Due to economic sanctions, many companies will not export drugs to Iran.²¹¹ In addition to the direct prohibition of exports, many pharmaceutical companies and banks that could otherwise do business with Iran refuse to do so in order to avoid risking their reputation in Western countries.²¹²

Iran has a sophisticated domestic drug production industry, and currently manufactures about 90% of its own pharmaceutical needs.²¹³ However, this production has become increasingly difficult to maintain as it has become more difficult to import the necessary active ingredients.²¹⁴ Beyond the pharmaceutical needs, Iran has had difficulty accessing even basic medical supplies, such as sutures.²¹⁵

Those who are wealthy enough to afford necessary pharmaceuticals logically stockpile drugs in order to ensure their own supply, exacerbating the national shortage.²¹⁶ Naturally, as in many other countries subject to economic sanctions, Iran has developed a flourishing black market for pharmaceuticals.²¹⁷ In Iran's black market drug trade, sellers of pharmaceuticals are able to charge up to four times the price that drugs would cost in an ordinary market.²¹⁸ One former Iranian health official estimates that almost 60% of Iran's cancer patients are in jeopardy as a result of the drug shortage.²¹⁹

The imposition of economic sanctions on Iran backfired and caused many detrimental effects to the United States and its allies. Moreover, it has caused a humanitarian disaster in Iran. These public costs, weighed against the miniscule coercive effect, reveal a crumbling justification for

208. *Id.*

209. *See id.* at 50.

210. *See* Dara Mohammadi, *US-Led Economic Sanctions Strangle Iran's Drug Supply*, LANCET (Jan. 26, 2013), [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)60116-6/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)60116-6/fulltext).

211. *Id.*

212. *Id.*

213. *Id.*

214. *Id.*

215. Zahra Baradaran-Seyed, *Economic Sanctions Strangle Iranians' Health, Not Just Drug Supply*, LANCET (May 11, 2013), [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)61024-7/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)61024-7/fulltext).

216. *Id.*

217. *Id.*

218. Mohammadi, *supra* note 210.

219. *Id.*

the use of economic sanctions.

V. CONCLUSION

Economic sanctions are not worth the public costs. They rarely achieve their stated goals, and their implementation triggers a destructive chain reaction that sends shockwaves throughout the sending and target states. Economic sanctions are imposed to influence the behavior of a target state through deterrence, incapacitation, rehabilitation, and reinforcement of international norms. As seen in Iran, however, the frequent effect of economic sanctions is retribution: punishing a target state's public for its leaders' actions.

The legal channels through which the United States imposes economic sanctions provide alarmingly broad discretion. With other members of the Security Council, the United States imposes economic sanctions that are binding on other nations, yet are not subject to binding judicial review. U.S. law permits the President to unilaterally impose economic sanctions without specific legislative approval. This broad discretion at the national and international levels allows the United States and its allies to create sweeping economic sanctions that endanger the target nation's public through the denial of basic necessities.

After the signing of the interim nuclear agreement, many American politicians declared the economic sanctions on Iran a success. However, that success is illusory. The changes in Iran's position regarding its nuclear program were mostly inconsequential, and its altered attitude toward communication was primarily due to its internal leadership change. Similarly, historical evidence shows that economic sanctions rarely succeed in bringing about their intended change. The improbable success of economic sanctions is outweighed by the costs.

Economic sanctions cause intentional "self-harm"²²⁰ to the sending state. When the United States imposes economic sanctions, the American public bears a significant burden. Initially, American businesses that deal directly with the target state suffer. However, the chain reaction spreads, making American businesses less competitive in international markets. When American businesses cannot compete, they lose revenue. This eventually leads to lower domestic wages, higher unemployment, and more expensive goods. Imposing economic sanctions on Iran has excluded businesses in the United States and its allies from opportunities in Iran and international markets. The United States and the European Union have been recovering from an economic recession, making the burden of economic sanctions especially costly.

220. Stalls, *supra* note 84, at 155.

The chain reaction triggered by the imposition of economic sanctions also reverberates throughout the target state's economy, causing undesired humanitarian damage to the general population. Economic sanctions can devastate a nation's infrastructure and dramatically decrease the availability of food and potable water. As seen in Iran, this can lead to higher rates of malnutrition and disease, while impairing the function of hospitals and clinics. In addition, economic sanctions on Iran have inhibited humanitarian response to natural disasters and caused a national drug shortage. Iran demonstrates the high costs to the well-being of the targeted nation's public.

The use of economic sanctions against Iran did not demonstrate their success; rather it has shown that the chain reaction caused by economic sanctions slowly leads to severe humanitarian costs. Policymakers must recognize that the illusory benefits from further use of economic sanctions are not worth the self-inflicted economic burden and the intolerable denial of humanitarian needs.