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Economic Power Inducing Compliance with International Law

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Abstract. In this paper, Junhao Lian elaborates and provides explanations for compliance with international law and how economic power can enforce it. It separates the question into three hypotheses: Economic Sanctions, Foreign Aid, and trade benefits, and thoroughly explains them, and gives an effective recommendation, followed by a conclusion. It goes into depth on three separate case studies: the South African Apartheid which is used to explain economic sanctions, the African Growth and Opportunity Act which explains trade benefits, and the development of Eastern Europe, which explains foreign aid. Alas, this paper suggests that economic power should be used instead of the military, but it is vastly impossible to disengage from any military conflicts.

Keywords: Economic, Power, Compliance, International, Law

1. Introduction

The effectiveness of international law depends on governments' commitment to abide by its rules and obligations in a world that is becoming more interconnected by the day. This compliance is undermined by enduring issues that range from economic inequality to geopolitical rivalry, which raise serious concerns about the tools available to uphold and reinforce international legal frameworks. The main topic of this research study is how governments might encourage adherence to international law by using economic power, such as trade advantages, economic sanctions, and foreign aid.

I did this by looking into how states might utilize economic power—such as trade benefits, economic sanctions, and foreign aid—to encourage adherence to international law. I also evaluated whether or not economic incentives or penalties can successfully bring state behavior into line with legal requirements.

2. Literature review

This literature review tries to examine the use of economic tools by states—specifically sanctions, trade incentives, and foreign aid—as ways to enforce compliance with international law. These methods operate under the legality of laws such as the UN Charter, the WTO, and some customary international laws. The sources that I will be reviewing offer a balanced perspective on the effectiveness, legality, and humanitarian concerns surrounding these methods.

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2.1. Legality and definitions of economic pressure

Michael Reisman, in his article "Coercion and Self-Determination," explains that economic pressure doesn't necessarily breach Article 2(4) of the UN Charter, since no 'force' is used on another state. 'Force' in this case is defined as military violence, whilst non-violent methods such as economic sanctions would fall under legal boundaries.

Vera Gowlland-Debbas emphasises the importance of the UN Charter Chapter VII, which allows for the UNSC to enforce sanctions. She also states that even though these sanctions are legal, it does not mean that major humanitarian issues might not occur if not correctly used. It is important to note though that if the UNSC does impose sanctions on a state that breached the agreement of peace, the action reflects the stance of the international society, making it more of a collective responsibility. Furthermore, she notes that even though these sanctions are imposed by the UNSC, it may not be completely legal, since it depends on whether the action is proportional and whether there are any human rights violations.

2.2. Risks and humanitarian concerns of sanctions

In a policy-oriented approach, Diane Amann discusses how sanctions are used in practice, specifically those implemented unilaterally. Her work emphasises how there are risks when imposing sanctions unilaterally, and states should be careful not to violate human rights and trade obligations. She asks states to consider the proportionality and humanitarian impact when imposing sanctions.

In contrast, recent legal scholars have highlighted the moral and humanitarian implications of sanctions. In 2021, an article from the Yale Journal of International Law argued that the rules in the IHL (International Humanitarian Law) should guide the design of future sanctions, whilst ensuring civilians are not heavily affected. This reflects the growing movement that tools other than military ones should also fit in international laws and legal norms.

2.3. Trade incentives as legal tools

When it comes to trade incentives, the EU's GSP+ is a good example. The Generalised Scheme of Preferences Plus rewards nations to pursue good governance and sustainable development with a two-thirds reduced tariff. These incentives are legal under WTO laws, as seen in GATT Article XXI(b)(iii):

"Nothing in this Agreement shall be construed to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests... taken in time of war or other emergency in international relations."

This clause has been used to justify many restrictive trade measures. However, WTO rulings such as the Russia–Traffic-in-Transit case have clarified that these measures and justifications have to be in good faith.

2.4. Foreign aid as a peaceful mechanism

Another way states promote legal compliance is through foreign aid with conditions, such as democratic reforms or human rights improvements. This is considered the most peaceful out of the three proposed resolutions, and it is also more collaborative in nature. No rules can be violated when providing foreign aid, and it is more supported in the international society to solve problems.

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Empirical studies have shown that these measures can be more effective than conventional methods to ensure peace.

In conclusion, I have demonstrated that whilst economic methods are less violent than military action, they should still meet legal standards to be considered legitimate. Multilateralism, proportionality, accountability, and the insurance of human rights are essential for ensuring that these instruments uphold rather than undermine the international legal order.

3. Hypothesis

3.1. H1: states can effectively use economic sanctions to promote compliance with international law

I believe this hypothesis has been proven to be true, as can be seen in the first Case Study of South African Apartheid. To reiterate, Apartheid was the segregation, racial discrimination and systematic oppression of people of other races in South Africa. This was an infringement on the Universal Declaration of Human Rights, which led to heavy international resistance. The United Nations Security Council passed Resolution 181, which encouraged member nations to impose economic sanctions and other trade restrictions on South Africa. Internal resistance also played a part in the abolishment of Apartheid, with Nobel Prize winner Nelson Mandela leading the country into a new future. To prove that the hypothesis is true, economic sanctions must have been effective in the case of Apartheid, and I believe they were. It created a looming economic threat for the South African government and also rallied internal resistance due to the major unemployment caused by the sanctions, thereby proving that economic sanctions are indeed effective in promoting compliance with international law.

3.2. H2: states can effectively use trade benefits and restrictions to promote compliance with international law

I believe that this hypothesis has also been proven to be true with a caveat, as can be seen in the second Case Study of the African Growth and Opportunity Act. Trade benefits can be seen to promote compliance with international law in the cases of Lesotho, which was a trade benefit through and through, and Madagascar, which shows both trade benefits and restrictions work to promote compliance with international law. However, the case of Ethiopia can be seen as a case where trade benefits and restrictions did not effectively promote compliance with international law, since Ethiopia had been a member of AGOA, but still decided to commit acts violating human rights, which proves that trade benefits have little effect in contributing to the promotion of compliance with international law. Hence, I believe that trade benefits and restrictions, whilst effective in promoting compliance with international law, are not the most effective way in compliance with international law.

3.3. H3: states can effectively use foreign aid to promote compliance with international law

I believe that this hypothesis has also been proven true. In the last case study on the Dissolution of the Soviet Union and Eastern Europe as a result, the EU gave foreign monetary aid to countries such as Poland, Hungary, and the Czech Republic under the condition that they comply with certain international laws. Fundamentally, if foreign aid is being requested, the nation is already in a state where they have no choice but to follow the conditions given to it by the state offering the foreign

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aid, since its economy or military is in such a decrepit state. Hence, I believe that foreign aid can be used to promote compliance with international law effectively.

In conclusion, States can effectively use sanctions and foreign aid to promote compliance with international law, and although not as effective, can also use trade benefits and restrictions to promote compliance with international law. This thereby disproves the null hypotheses of: States can not effectively use sanctions, trade benefits and restrictions, and foreign aid to promote compliance with international law.

4. Case studies

4.1. Apartheid

The Apartheid system was a policy with the purpose of racial segregation in areas of West Africa, most significantly in South Africa, from 1948 to the early 1990s. These policies were based on an authoritarian political culture called bassap, which ranked races in a minoritarian system, ensuring that white people had the most rights and held the highest status, and it was followed by Indians, Coloured and black Africans in that order. The first apartheid law was the Prohibition of Mixed Marriage Act, 1949, which prohibited the marriage between "whites and non-whites", which was followed closely by the Immorality Amendment Act, which prohibited sexual relations between white people and people of other races. However, the most consequential measure was the Population Registration Act of 1950, which divided the entire population into racial categories, Black, White, Coloured, and Indian, based on appearance, socioeconomic background, recorded ancestry, and cultural practices. As a direct result of this classification system, around 3.5 million Black Africans were displaced from their homes and forced into segregated areas, a policy designed to confine them to designated "tribal homelands." [1]

Because of these policies, South Africa faced numerous condemnations from the United Nations and became subject to wide-ranging economic sanctions, including arms embargoes and restrictions on trade. This was perfectly legal due to the Universal Declaration of Human Rights (UDHR) [2], which states in Article 1 that:

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

Hence, by segregating black Africans and other races, it is directly in violation of this law, since human beings are being treated differently based on their attributes. This is further elaborated in Article 2 of the UDHR [2], which states that:

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

This further contradicts Apartheid, since people are literally being separated by race, social origin, and birth. And under Article 7 of the UDHR [2]:

"All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. "

Under this, the UN, via specifically resolution 217 A (III), is able to try and protect the black people of Africa through Resolution 1761, passed in 1962 which was a non-binding resolution that denounced South Africa's apartheid policies, in the process creating the United Nations Special Committee against Apartheid, and urged the imposition of economic and other sanctions on the country.

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The year after that, in 1963, the UN Security Council passed Resolution 181, which called for voluntary arms embargoes on South Africa. By 1989, the United States of America, along with 23 other nations, had enacted various trade sanctions on South Africa, namely, the Comprehensive Apartheid Act of 1986. As a result, $23.9 Billion RD had been moved out of South Africa by 1988, resulting in a stark decline in employment and also GDP, seen through the increase of inflation at 12-15% a year [3]. This enhanced domestic dissent, especially among smaller business owners, was a major factor in the replacement of the government by the African National Congress (ANC), and hence the end of Apartheid.

It should be noted that economic sanctions, whilst being a major factor towards the end of apartheid, are not the sole cause. Internal resistance and protests are also a factor that catalysed the end of apartheid. Specifically, the Soweto Uprising in 1976, which was student protests against apartheid, ending with more than 100 casualties by police, shook the international community. Furthermore, under Nelson Mandela's leadership, the ANC engaged in negotiations (CODESA talks), and was the straw that broke the camel's back, successfully peacefully ending the torment of Apartheid. Many other lesser factors, such as the shifting global context, the end of the Cold War, and economic instability, also played a part, it is believed that the international sanctions still played an indispensable role [4].

This case study perfectly shows the power of economic sanctions to enforce international law, and induce compliance, since the economic sanctions imposed by the UN and other major countries induced heavy economic pressure on South Africa, and as Nelson Mandela famously agreed, saying that "There is no doubt", economic sanctions is what brought South Africa to the negotiation table.

4.2. African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000 by the United States, grants qualifying sub-Saharan African nations duty-free entry to its market for more than 1,800 goods, on top of the over 5,000 items already exempt from tariffs under the Generalized System of Preferences (GSP) program [5]. Through this, the markets of African countries are stimulated, specifically towards exportation to the USA in fields such as textiles, apparels and agricultural products. AGOA eligibility requirements are set out in Section 104 of the AGOA legislation (Public Law 106/200), and it details strict restrictions on the nature of the economy, loyalty to the United States, and Obedience to International Law.

Many countries reap the benefit of this Act, and one such example would be Lesotho. Since 2000, Lesotho has been continuously eligible under AGOA, and hence, has become one of the largest exporters of apparel to the U.S. from Sub-Saharan Africa under AGOA. Since 2001, $6.9 Billion of the country's apparel exports have been qualifying for duty-free market access, and remain the second-largest apparel exporter under AGOA, behind Kenya in first. Not only that, Lesotho has exported $725 Million worth of diamonds to the U.S. since 2000 (AGOA Guide), and has not been subject to any import duties. This is an invisible form of Trade benefits, enforcing compliance with international laws, specifically the conventions of the International Labour Organization (ILO), which are to be enforced if a country wants to be eligible for the AGOA. A relevant law would be ILO Convention No. 98 (1949), Article 1(1):

"Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment."

By being part of AGOA, this rule is to be enforced. If it is broken, the country, in this case Lesotho, risks being ineligible to be part of the AGOA, which would significantly damage the economy of the country.

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Another example could be Madagascar. Following its shift away from socialist economic policies in the 1990s, Madagascar, under the guidance of the World Bank and IMF, adopted privatization and liberalization measures. However, a coup d'état in 2009 prompted many nations to halt non-humanitarian aid until democratic governance was restored with the election of a new president in 2014. Specifically, in Public Law 114, Stat. 273, it is stated that AGOA must be

"to promote democratization, good governance, and strong civil societies in sub-Saharan Africa."

By becoming a dictatorship, the US was forced to suspend the country of its membership in AGOA, and henceforth is also in a way restricting trade, since imports to the USA now require fees and duty, which significantly impacts the economy of a developing country such as Madagascar, seen in a sharp decline in textile production, around 100,000 jobs lost, and a GDP drop of nearly 11%. However, when a new leader was democratically elected in 2015, the U.S. reinstated Madagascar's membership to AGOA. This led to a period of rapid economic growth, with exports to the USA peaking in 2022, with $912 Million [AGOA Guide].

In stark contrast, Ethiopia lost its eligibility to the AGOA due to widespread war crimes and crimes against humanity in the Tigray conflict (extrajudicial killings, sexual violence, mass displacement) in 2022. This violated plenty of international laws, but most prominently, the Geneva Conventions of 1949, Common Article 3 [6], which states that

Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

This led to a decrease of $3.67 Billion USD of net trade from 2020 to 2022, significantly impacting the country's economy [7].

Through this case, it can be seen that Trade restrictions and benefits are effective for enforcing compliance with international law. However, it is to be noted that all of these examples, Lesotho, Madagascar and Ethiopia, can not individually reinforce the effectiveness of restrictions and benefits, since each has other factors impacting statistics such as GDP and domestic trade. However, bunched together, these significantly contribute to the study of effectiveness.

4.3. Eastern Europe

After the collapse of the Soviet Union in 1989, many Eastern European states, such as Poland, Hungary, and the Czech Republic, began their transition from authoritarian regimes to democracies. The European Union (EU) played a decisive role in this shift by offering billions of euros in economic foreign assistance, particularly through the PHARE program (Poland and Hungary: Assistance for Restructuring their Economies). However, this aid was not unconditional. Compliance with international law, especially human rights and democratic governance, was made a requirement in exchange for funding and eventual membership in the EU.

This conditionality was formally established under the Copenhagen Criteria of 1993 [8], which stated that any state seeking EU membership must have "stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities." Such demands directly echoed existing international laws. For instance, the International Covenant on Civil and Political Rights [9], Article 25 affirms that "Every citizen shall have the right and the opportunity… to vote and to be elected at genuine periodic elections… by universal and equal suffrage."

The economic consequences of this approach were immense. By 2004, when Poland, Hungary, and the Czech Republic finally acceded to the EU, billions of euros had already been invested in

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legal and institutional reform, infrastructure, and governance. Poland alone received over €11 billion in aid between 1990 and 2004, which it used to modernize its judiciary and improve minority rights protections [3]. These reforms aligned closely with the European Convention on Human Rights (1950), Article 14 of which states: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Foreign assistance under the EU not only stimulated economic growth but also produced tangible political change. Hungary enacted stronger protections for ethnic minorities, while Poland worked to reinforce judicial independence—both reforms demanded under EU aid conditionality. Without this financial leverage, many of these reforms may have been delayed or implemented only partially.

It should be recognized, however, that EU aid was not the sole factor in this transformation. The collapse of Soviet influence, domestic democratization movements, and the pressures of globalization also played critical roles. Yet the EU's use of economic assistance as leverage was indispensable in ensuring compliance with international law and embedding those standards firmly into domestic legal systems.

This case study demonstrates how foreign economic assistance can be used as a powerful tool to enforce compliance with international law. By tying aid to reforms grounded in the ICCPR, UDHR, UN Charter, and ECHR, the EU successfully ensured that its new member states upheld international norms on democracy, human rights, and the rule of law.

4.4. Recommendation

I believe that the economic sanctions should be more commonly used as a method of enforcing international law, and I believe that this has already in some sense been implemented in the international society. As an example, the 35% tariff on imports imposed on Russia by the United States as an effort to end the Russo-Ukraine War in 2022, the international sanctions on Iran, and so on. However, there is still some room for improvement. The primary reason as to why economic methods of enforcing international law is not the main method is that, for Economic oppression to have effect, it must come from many nations. Even though the UN is supposedly meant to regulate that, it is not effective against the 5 permanent members of the UNSC, as will be discussed further on in the paper. This indicates the formation of another International Body which would regulate International tariffs, Trade benefits and restrictions and Foreign aid, which would be unlike the WTO as it would have the same amount of power as the UN. Or, it could indicate that the UN requires reform.

5. Conclusion

Through this paper, I hope to prove that economic power is an effective means to enforce state compliance with international law, but international organizations need to be reformed in order to prevent the violation of international law. This paper has analysed economic sanctions and their effectiveness in terms of enforcing state compliance. Through his case studies, it can be seen that economic sanctions and foreign assistance are the most effective means of wielding economic power, whilst trade benefits and restrictions are still effective but not as much.

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