Introduction

Joy Gordon

The history of sanctions over the last century is, in a sense, the history of its changing narratives. At the inception of the League of Nations, it was envisioned that the "boycott" would be immediately devastating. In Woodrow Wilson's words,

> No goods can be shipped in or out, no telegraphic messages can be exchanged … there shall be no communication of any kind between the people of the other nations and the people of that nation. The nationals, the citizens of the member states will never enter their territory, until the matter is adjusted, and their citizens cannot leave their territory. It is the most complete boycott ever conceived in a public document; and I want to say with confident prediction that there will be no more fighting after that. There is not a nation that can stand that for six months.[1]

By contrast, during the Cold War, even when sanctions were touted as an important tool in foreign policy and global governance, the most influential database showed that sanctions were effective in only about one-third of the cases;[2] and later work suggested that even that figure should be revised downward, along the lines of 4 percent.[3] In the 1980s, the case of South Africa offered a powerful illustration of how sanctions could have a critical role in establishing democracy and respect for human rights. But over the decades that followed, it became clear that the case of South Africa was in fact not a paradigm; rather, it was an anomaly.

[1] *Woodrow Wilson's Case for the League of Nations*, compiled with his approval by Hamilton Foley (London: Princeton University Press, 1923; New York: Kraus Reprint Co. 1969), 69.

[2] Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliot, *Economic Sanctions Reconsidered: History and Current Policy*, 2nd ed., (Washington, DC: Institute for International Economics, 1990).

[3] Robert Pape, "Why Economic Sanctions Do Not Work," *International Security* 22, no. 2 (Fall 1997): 93.

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When the United Nations Security Council (UNSC) imposed comprehensive sanctions on Iraq in 1990, following Iraq's invasion of Kuwait, the humanitarian consequences were dramatic. The massive bombing campaign of the Persian Gulf War destroyed or crippled much of Iraq's infrastructure; and for more than a decade, the sanctions then prevented its restoration. Even with the introduction of various forms of humanitarian exemptions, notably the Oil for Food Programme (OFFP), there was widespread as well as epidemics of cholera and typhoid, poverty, and hardship for much of the population. The narrative of sanctions had shifted once again; sanctions were now viewed as inhumane, as well as unsuccessful in their stated goal of achieving disarmament and security in the region.

Targeted "smart" sanctions, such as arms embargoes, travel restrictions, and asset freezes, were seen as a solution to both sets of problems: It was envisioned that they would exert far more leverage on the governments and individuals being targeted, while leaving the civilian population unaffected. These new sanctions, it was said, bore no resemblance to the old comprehensive sanctions of the 1990s. There would be no cause for ethical or humanitarian concerns.

But the situation is far more complex than that. Indeed, as this volume suggests, if we look at sanctions through a different lens, we see not only a different set of issues but also a different set of actors. We not only see sanctions that are explicit and operate clearly and directly but also sanctions that are circuitous and opaque. We see that the issues that are most familiar to us – such as compliance, deterrence, and effectiveness – are not in fact *the* issues, but rather are the issues of concern to the sanctioners. By contrast, if we look at the interests and perspectives of other actors, we see an entirely different legal and moral landscape. We see, first, the foundational question of legality: Even those sanctions regimes authorized under the UN Charter may run afoul of international law, including human rights and humanitarian law. As Alena F. Douhan writes in her chapter, "Unilateral Sanctions and Emerging Issues of International Human Rights Law," this is also evident in regard to unilateral sanctions, sometimes referred to as "unilateral coercive measures" (UCM), which may have severe impacts on economic, social, and cultural rights. Sanctions imposed autonomously by governments or regions may additionally violate the rights of sovereign states. As Pierre-Emmanuel Dupont discusses in his chapter, "An Overview of Some Legal Issues Concerning Unilateral Sanctions," while there are circumstances in which a state may legally sever economic ties with other nations, notably retorsions and countermeasures, unilateral sanctions often do not accord with the requirements for these under international law. As both Douhan and Dupont discuss, from the perspective of international law, unilateral sanctions are particularly problematic insofar as they are extraterritorial, affecting third-country nationals outside the proper jurisdiction of the sanctioning state.

Second, we see questions of legitimacy: Jurist Marc Bossuyt proposed that sanctions must meet the "Martens Clause test": Are the sanctions free from protest arising from violations of the "principles of humanity and the dictates

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of the public conscience"?[4] Even where international law is not directly implicated, sanctions may run counter to the norms of international conduct and respect for basic human welfare and civil rights. Dursun Peksen, A. Cooper Drury, Lisa Hultman, and many others have shown that sanctions in fact worsen the repressive practices of authoritarian regimes, undermine freedom of the media, and generally result in reduced civil liberties. In this volume, in his chapter "A Global Analysis of Economic Sanctions and Civil Society Participation in Target Countries," Peksen shows that sanctions undermine civil society and political engagement; that this is the case, regardless of whether the sanctions are unilateral or multilateral; and that this can be seen with both conventional and targeted sanctions.

It is also often said that the legitimacy of sanctions is dependent in part on whether they have been imposed by a single nation, or multilaterally, by a coalition of nations. However, if we look more closely at how such a coalition is formed, we may find that the situation is more complicated. In his chapter, "Walking a Diplomatic Tightrope: The US and South Korea's Sanctions against Iran," Deokjun Ha describes the tension that can be found within a sanctioning coalition. While South Korea joined the US in its sanctions against Iran, it did so reluctantly. South Korea found itself in an untenable position, trying to maintain good relations with two allies who were at odds with each other. Thus, while the notion of a multilateral coalition suggests that the international community is speaking with one voice in condemning the targeted state, in fact the formation of a coalition may not at all signify this; and the legitimacy of the sanctions may consequently be less than it seems.

Equally foundational is the framework by which sanctions are explained and justified. The rationale of the sanctioner may be that its objective is to prevent terrorism, stop aggression, support human rights, and so forth. Those rationales may be based in fact, but they may be based on speculation, or even false claims. Even if there is a factual basis, the practice of imposing economic measures against a state or an individual may be done arbitrarily or inconsistently. The reality is that, regardless of whether there is or is not a valid justification, sanctions nearly always occur through a process that is politicized. They are sometimes imposed in a process that is explicitly political, as is the case with the UNSC: A resolution imposing sanctions must have the affirmative vote of at least nine members of the Council, and all five permanent members must concur. But sanctions may also be imposed by a state in the context of domestic politics, as when a president wishes to show strength without incurring the risks of a military intervention, or to appease an influential domestic constituency. Sanctions may or may not be supported by good

[4] United Nations Commission on Human Rights (UNCHR), Sub-commission on the Promotion and Protection of Human Rights, "The Adverse Consequences of Human Rights," Working Paper prepared by Mr. Marc Bossuyt, E/CN.4/Sub.2/2000/33, June 21, 2000, 12.

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reasons; but it is hard to imagine any scenario in which they are not formulated in a manner that is highly politicized.

If we turn our attention to this dimension, then we see a different set of answers to longstanding questions. The matter of compliance is surely the most long-standing concern of scholars and practitioners over the last four decades: If target states have little likelihood of doing what is demanded of them by the sanctioner, then how can we justify continuing to use a measure that is so ineffective? When scholars look at why there is such a low likelihood of compliance, we are accustomed to seeing a certain set of answers. Johan Galtung famously noted that, even where the regime is repressive, the population may not rise up against it, but rather will defend it in the face of what is seen as external aggression – the "rally-'round-the-flag" effect. When the sanctioner demands regime change, the leader will surely resist compliance, since it represents an existential threat to his power, or perhaps his liberty or his life. But if we consider that the imposition of sanctions is, first and foremost, a political act, then it is clear that compliance would make little sense. If the sanctioner is a state acting unilaterally, then one administration with its foreign policy and domestic agenda may impose sanctions on a target state, while the next one will lift them, and the following one reimposes them – all while the target state maintains the same conduct and the same policies. While the rationales may still use the language that typically accompanies sanctions – human rights violations, counter-terrorism, corruption, and so forth – these sound increasingly hollow as the imposition and lifting of sanctions come to appear quite arbitrary. But additionally, this means that the imposition and lifting of sanctions are simply unpredictable. We saw this, for example, in the case of the Iran nuclear deal (the Joint Comprehensive Plan of Action, JCPOA), where one US administration committed to lifting its sanctions if Iran met certain requirements; but once Iran had done so, a new administration was in place, which then withdrew from the JCPOA and kept US sanctions in place. Consequently, regardless of whether the target state or its officials are engaged in wrongdoing, or whether they do or do not have the support of their people, it simply makes little sense for those targeted to comply with demands that will come and go for political reasons, quite unrelated to their own actions.

We see a similar logic if we look at the question of deterrence. Deterrence has long been identified as one of the objectives of sanctions. This is sometimes framed in terms of general deterrence – if international actors know generally that they will face penalties for aggression or human rights violations, then they will be less inclined to engage in these acts.[5] More specifically, sometimes the threat of imposing sanctions will succeed as a deterrent. The Threat

[5] Francisco Giumelli, "Targeted Sanctions and Deterrence in the Twenty-First Century," in *NL ARMS Netherlands Annual Review of Military Studies 2020: Deterrence in the Twenty-First Century – Insights from Theory and Practice*, ed. Frans Osinga and Tim Sweijs (The Hague: Asser Press, 2021), 356.

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and Imposition of Economic Sanctions (TIES) dataset places this figure around 25 percent.[6] Presumably, the modest success rate for deterrence in general is partly attributable to the same logic we see in compliance: If there are countries or institutions of global governance that sometimes impose sanctions and sometimes do not, sometimes corresponding to the actions of the target state and sometimes not, then there is little motivation to alter one's conduct in anticipation of uncertain and unpredictable penalties.

If we consider the politicization of sanctions, we see another dimension as well: the architecture of impunity. Quite obviously, due to their veto power, none of the Security Council's permanent members need fear that the Council will use its extraordinary powers under Chapter VII of the UN Charter to impose measures against them, or their client states, which entail the collective enforcement of all member states of the UN. And in the domain of unilateral sanctions, it is overwhelmingly the case that sanctions are imposed by the wealthiest countries against the poorest countries in the world. Indeed, in 80 percent of the sanctions cases over the last century, the sanctioner's GNP was at least ten times greater than that of the target country in 80 percent of the cases, and the ratio was greater than 100:1 in half the cases.[7]

During the Cold War, there were some exchanges of sanctions between the US and the Soviet Union, but these were largely symbolic, causing little real damage to either economy. While there have been a growing number of sanctions measures between the US and China, the size of both economies is so great that they have absorbed these without major disruptions. Certainly the extensive sanctions imposed on Russia after its invasion of Ukraine have caused considerable economic disruption. But that situation is quite anomalous. For the most part, countries (or regions, specifically the European Union, EU) with great economic strength have little reason to fear the imposition of sanctions – because of their own resilience to such measures, and because their role in the global economy is so significant that other actors would be loath to target them, given the costs to themselves. The end result in a sense parallels the architecture of the Security Council: Whether formally or effectively, the most powerful nations have impunity. Thus, sanctions cannot serve as a deterrent to them. That is, those who can do the greatest harm are at the same time those who have the least to fear.

Finally, if we consider how deeply sanctions are politicized, then we will view the humanitarian impact very differently. While Woodrow Wilson envisioned the boycott as a tool of certain and immediate devastation, in the post-World War II era, that was not the case, since the trading blocs of the Cold War ensured that sanctions imposed by either superpower could not be

[6] T. Clifton Morgan, Navin A. Bapat, and Yoshiharu Kobayashi, "The Threat and Imposition of Economic Sanctions Data Project: A Retrospective," in *Research Handbook on Economic Sanctions*, ed. Peter A. G. van Bergeijk (Cheltenham: Edward Elgar, 2021), 52.

[7] Hufbauer et al., *Economic Sanctions Reconsidered*, 89.

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comprehensive; and at the same time, the mutual veto powers of the permanent members largely paralyzed the Security Council, permitting few measures under Chapter VII. The UN sanctions imposed on Iraq in 1990, and maintained for over a decade, changed the world's view of sanctions, making it evident that they could in fact look like the catastrophic dystopia Wilson described.

As scholars, ethicists, UN agencies, and humanitarian organizations documented the crisis, and documented as well the causal role of the sanctions, considerable political pressure was brought to bear on the Council. Those countries that consistently advocated for the harshest measures to be applied to Iraq – the US and UK – at the same time were the most vocal in insisting that the harm was not their doing. The fault lay with Saddam Hussein, for a variety of reasons, it was said; or the claims of humanitarian harm were exaggerated; or the risk that Iraq might divert humanitarian goods to nefarious purposes warranted the severe strictures that blocked their import. Nonetheless, as international pressure grew, the US and UK made a series of concessions, or at least appeared to. In actuality, something very different took place: The means by which Iraq's crisis was sustained, its essential imports blocked, and its infrastructure crippled, became obscured by a series of bureaucratic maneuvers. Humanitarian imports, for example, were not "blocked," but rather put "on hold," with the holds then lasting months or sometimes years. Iraq was permitted to sell oil to buy humanitarian goods, but then the equipment needed to conduct the oil extraction was blocked. Iraq would be permitted to purchase an urgently needed water treatment facility, but then the generator needed to operate it would be blocked as a "dual use" item that the military might conceivably use. Thus, it appeared that the US, UK, and the Council were responding with concern to the humanitarian crisis that continued unabated. But on closer inspection, what we see for the most part were not substantial and effective measures to end the crisis. Rather, what we see were measures geared toward political damage control, while creating such extensive impediments that little could be done to alleviate the humanitarian crisis. In "Sanctions and Their Lasting Legacy on Iraq's Healthcare," Omar Dewachi describes how these practices played out in regard to Iraq's healthcare system, disrupting the availability of medical professionals, medicines, and functioning medical equipment. The devastating impact on public health is well known. But what is not widely known are the long-term effects, which endured long after the sanctions had been lifted. As Dewachi shows, the sanctions altered the ecology of wound care: When sanctions compromised access to the goods and equipment needed to maintain sterile practices, the only defense against sepsis was often the use of broad-spectrum antibiotics. This, in turn, gave rise to drug-resistant viruses that were then carried outside of Iraq, and continue to confound medical treatment to this day.

In "The Effect of Sanctions on the DPRK: Humanitarian Exemptions and the Health Sector," C. Yoonhee Ryder, Edward I. Ham, and Kee B. Park show

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that practices regarding exemptions in the health sector have not changed greatly. While the UNSC, the US, and other sanctioners justify their sanctions on North Korea primarily in regard to its nuclear program, the sanctions in fact go well beyond that. While the North Korean government spends heavily on the military, it also prioritizes healthcare. However, the sanctions greatly constrict the government's ability to procure medical equipment, delaying or preventing the import of goods such as ambulances and hospital supplies. UN agencies and other aid organizations are impeded in their work as the sanctions create obstacles to financial transfers, drive away donors, and impose exhausting administrative burdens.

This is not unusual within sanctions practice. In "The Negative Impact of Sanctions on Humanitarian Aid," Alice Debarre writes about the many ways that sanctions regimes undermine the work of aid organizations. Indeed, in many cases, the foundational principles of humanitarian work run directly counter to how sanctions regimes operate. Humanitarian actors, she notes, are guided by the principles of humanity, neutrality, independence, and impartiality. However, if an aid organization provides assistance to a person or entity that has been blacklisted by a sanctioner, the aid organization may find that it is subject to severe penalties. These organizations must not only exclude those who have been designated on sanctioners' lists, but they must also take steps to ensure that their goods and services do not benefit these persons even indirectly. All of this, in turn, often takes place in situations of conflict, natural disasters, and population displacement.

In "Sanctions as Barriers to the Work of Humanitarian Organizations in Syria," Mohammad Kanfash describes how the humanitarian crisis in Syria is greatly complicated by the multiple overlapping sanctions regime that are in effect. He notes that, "Half of Syria's pre-conflict population has been internally and externally displaced, with hundreds of thousands of deaths, and millions of persons suffering from injuries and traumas." However, even with humanitarian exemptions, the sanctions directly and indirectly interfere with the delivery of aid and the purchase of food and medical supplies, and compel aid organizations to direct substantial resources to meeting bureaucratic requirements.

Thus, even where there have been humanitarian exemptions and similar measures to protect vulnerable populations, from the Iraq sanctions up through the present time, while they may serve to provide an appearance of concern, in practice, they fall well short of actually protecting those in need.

In a parallel development, the introduction of "smart" sanctions in the late 1990s established a narrative of sanctions reform that dominated the public understanding of sanctions. Once again, the story diverged considerably from the reality. The narrative of smart sanctions held that arms embargoes, targeted commodity sanctions, travel restrictions, and financial asset freezes had replaced the comprehensive sanctions. Smart sanctions, it was claimed, by exerting leverage directly on the targeted political leaders, accomplished

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what the broader measures could not in terms of compliance and effectiveness. Further, because only individual wrongdoers themselves were affected, there could be no humanitarian impact on the broader population. In fact, something very different was taking place, which was the exclusion of states from much of the global financial system; the disruption of shipping and other logistics for imports and exports; and severe damage to essential infrastructure. In part, this occurred quite openly, as in the case of US sanctions on Cuba imposed in the early 1990s but continuing to the present, which target shipping, exports, foreign investment, technology, and fuel. Similarly, the UNSC sanctions against North Korea target coal, iron, and other major exports; shipbuilding and shipping services; international financial transactions; and major industries, such as textiles and seafood.

In "The Impact of UNSC Sanctions on Food Security in the DPRK," Hazel Smith maps out how these broad sectoral sanctions compromise North Korea's food economy, even where there are exemptions allowing some food imports. Because the sanctions result in the drastic reduction of oil imports, for example, this affects agricultural and irrigation machinery, as well as the means to transport crops, seeds, food, and labor in the agricultural sector. This, in turn, significantly worsens food insecurity. Similarly, in "The Gendered Impact of Sanctions on the DPRK," by Suzy Kim and Kevin Gray, while the various sanctions regimes imposed on North Korea do not explicitly target women, they nonetheless affect women adversely and extensively. For instance, women were heavily employed in textile manufacturing. However, when sanctions undermined the textile industry, women's unemployment increased. Whereas formal sector employment provides certain protections and relative financial stability, many women were then forced into the informal sector, with lower pay and working conditions that are less safe.

Thus, the disruption of core sectors of the economy can, among other things, be expected to compromise industrial production, worsen unemployment, worsen poverty and food insecurity as imports decline, and reduce state spending on infrastructure, education, and healthcare.

Further, sanctions can impact not only the target country's current economic situation, but also its broader trajectory of economic and human development. In "The Impact of US Sanctions on Cuba's Economic Development," Raúl Rodríguez Rodríguez shows how the sanctions disrupted Cuba's overall development strategy. For example, this strategy entailed diversifying Cuba's international economic relations through joint ventures with foreign companies. However, US sanctions laws place these investors at risk of litigation in US courts. Sanctions laws also effectively block Cuba from access to international financial institutions such as the World Bank and the International Monetary Fund (IMF), depriving Cuba of the opportunity to obtain funding for development or restructuring its debt.

In "Sowing Discord: Iranian Wheat Imports under Sanctions," Esfandyar Batmanghelidj shows us with some precision how sanctions that affect sectors

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such as a country's supply chain and international banking access may have a very concrete impact on food security. Even though the various sanctions regimes imposed on Iran do not target food imports, the indirect consequences significantly disrupt Iran's wheat supply. As Batmanghelidj demonstrates, the indirect effects of sanctions may be fully as damaging as the direct effects. This can be seen in many other contexts as well. In "Economic Sanctions and the Human Security of Afghan Migrants in Iran," Athar Shafaei explores how the sanctions imposed on Iran impact Afghanis living in Iran. There are different generations of Afghan migrants, as well as different social and economic classes. While the impacts of sanctions on these groups has varied, the sanctions often cause economic and social disruption. For example, as Iranians experienced greater unemployment, they took on jobs that had long been held by Afghan migrants, who in turn were forced into less secure and less remunerative work.

Where sanctions directly impact a population, such as preventing ships from delivering food, resulting in malnutrition, we can see where the causality lies. But where the impact of sanctions is indirect, or where there are also other contributing factors, it is important to sort out whether and in what ways it is accurate to identify the sanctions as the source of the problem. In "Estimating Causal Effects of Sanctions Impacts: The Role of Country Studies, with an Illustration from Venezuela," Francisco Rodríguez notes that sorting out the links of causation in these sorts of settings often requires data that satisfy conditions rarely present in nonexperimental settings. He explores several possible methodologies, and suggests that country-level case studies may be a promising approach. Using quasi-experimental methods, looking at the case of Venezuela, he addresses the question of whether a causal relationship can be demonstrated between the sanctions imposed on the country and the decline in economic conditions.

While it is not surprising that sectoral sanctions would broadly impact areas such as employment, inflation, and food security, what we would not expect is that there can be similar outcomes from what seem to be the "smartest" of the smart sanctions: asset freezes and other forms of blacklisting, whereby individual persons, companies, and foundations are designated as Specially Designated Nationals (SDNs) or other types of "blocked persons." While the designated individuals may be subject to penalties, the greater harm is actually that third parties are subject to penalties for engaging with them. Thus, a European bank that does business with, say, a Cuban national may be subject to severe penalties by the U.S. Treasury Department. Most notably, the French bank BNP Paribas was required by US regulators to pay fines totaling some $9 billion for providing financial services to Sudanese, Iranian, and Cuban entities.[8]

[8] U.S. Department of the Treasury, "BNP Paribas Agrees to Plead Guilty and to Pay $8.9 Billion for Illegally Processing Financial Transactions for Countries Subject to U.S. Economic Sanctions," Press Release, June 30, 2014.

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These listings have been broadly criticized by the international community as "extraterritorial." But they have also been criticized by legal scholars and the international community because of the concern about the accuracy of their claims. Shortly after the attacks of September 11, 2001, the use of listings by the UNSC and by the US and other governments increased dramatically, ostensibly as a means to freeze the assets of terrorists and isolate them internationally. While these listings were administrative measures, they were framed as emergency measures; the view was that national and international security was a matter of such urgency that the usual protections that might be found in civil or criminal contexts could not apply, such as the right to notice, the right to see and respond to the evidence, and the right to appeal. To some extent, this reasoning was plausible; if a terrorist received warning, then presumably they would move their funds before they could be frozen. But once the funds were frozen, there was no such rationale. Nonetheless, the UNSC as well as the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) were deeply reluctant to provide even basic due process protections. US courts showed a nearly absolute deference to US agencies in these matters, although the EU followed a somewhat different path, with a higher requirement for listings and judicial venues that were far less deferential.

For those who are listed by the US, it might be difficult to even find out the details of the accusations against them. As Erich Ferrari discusses in "US Treasury Department Blacklisting and the Barriers to Delisting," listed persons may have little or no access to the underlying evidence, and without that, challenging their listing has little chance of success. Thus, on one hand, these listings appear to be narrowly circumscribed to deprive terrorists and so forth of the means to commit their wrongful acts. But the lack of transparency and due process mean that once again we encounter concerns of legitimacy, legality, deterrence, and effectiveness. If listings are, or are seen to be, arbitrary, they may run afoul of national and international law, and also fail to carry the moral weight that would be found in settings where the process is fair, and justice is seen to be done. If the listings are made on the basis of hearsay or speculation, which is sometimes the case, then there can be no deterrence, since individuals may be listed even where no wrongdoing has taken place. And while listings may be quite effective at disrupting the lives of those targeted, changing wrongful conduct seems unlikely, since those listed are rarely told exactly what they must do to have their designations lifted.

Further, the impact of these apparently narrow listings is expanded greatly in various ways. First, when the "individuals" listed are key government officials, government agencies, or nationalized companies, the result of the listing is that the state as a whole may be pushed farther toward bankruptcy as it is blocked from restructuring debt or acquiring foreign investment. Where a government ministry or official charged with purchasing food or agricultural inputs is listed, food insecurity may be worsened. When a national shipping

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line is listed, the country's exports and imports may be compromised. In "Blacklisting: The US's Targeted Sanctions against Cuba, 1994–2021," Seida Barrera Rodríguez, Ernesto Domínguez López, and Melina J. Iturriaga Bartuste review nearly 1,000 listings of Cuban persons and entities. They found that these practices were closely tied with broader policies targeting critical sectors of the economy. For example, in 1997, forty-five ships were blacklisted, coming in the aftermath of legislation that imposed severe penalties on any ship that came to the US within 180 days of docking in Cuba. The authors suggest that these actions, in combination, sought to undermine Cuba's access to international maritime trade. Thus, what purport to be measures targeting individual persons and companies, ostensibly involved in some form of wrongdoing, instead function to disrupt whole sectors of the economy.

Although we are accustomed to thinking of sanctions as involving only two sets of actors – the sanctioners and the sanctioned – third parties are deeply engaged in the relation in various ways. In "Hurting Your Own Allies: The Impact of US Sanctions on Venezuela and the Fracturing of the Wrong Coalition," Benedicte Bull and Antulio Rosales look at how sanctions imposed on Venezuela weakened the private sector. Businesses were forced to pursue strategies that led to an informalization of the economy and saw the emergence of new business elites. Where the business sector could have been an ally in the movement for democratization, the sanctions instead contributed to the fragmentation of such a coalition.

Private actors also engage with sanctions in another way as well. In "A Private-Sector Perspective on the Sanctions–Industrial Complex," Nicholas W. Turner notes that sanctions are above all implemented by the private sector: When a country or individual is sanctioned, the substance of this measure consists in the refusal of banks, corporations, and other private actors to engage with the sanctioned entity. Turner notes that in recent years private commercial actors have increasingly engaged in a practice that is known as "overcompliance." That is, they not only comply with the letter of the law but also, in conjunction with a risk assessment, they terminate some business relations that are apparently quite legal.

Overcompliance occurs when there are two conditions present. First, the requirements of the sanctions are unclear, and the sanctioner cannot or will not provide adequate clarification. This can be seen, for example, in the requirement that private actors not only decline to engage with those who are SDNs or on similar lists. That would be fairly straightforward. But what the US and some other sanctioners also require is an additional degree of due diligence; banks, for example, must also research their customers to see if they might have ties to SDNs, or might sell goods that ultimately are resold to a sanctioned country. In the case of US sanctions, there is no clear rule about how much effort is required to meet the due diligence requirement. But if the bank errs in its judgment, then, perhaps years down the road, it may face severe penalties from the Treasury Department. Second, the penalties can be

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catastrophic. Several foreign banks faced penalties of hundreds of millions of dollars. They also risk being excluded from the US financial system, known as the "death penalty" for any bank that does business in US dollars.

In the face of these conditions, it is unsurprising that banks, shipping companies, insurance companies, investors, and many other private actors choose to simply withdraw from whole markets rather than risk a catastrophic business loss, particularly when they cannot know with precision what they must do to comply. Thus, we have seen the extensive termination of banking services and other commercial engagement in countries, or entire regions, that are perceived to be "high risk," including Africa and the Arab world. In "The 'Chilling Effect' of US Economic Sanctions on Banking and Financial Inclusion in Africa," Charles B. Chilufya, S.J. and Fernando C. Saldivar, S.J. describe the large-scale "chilling effect" of this risk assessment. International banks close down their African branches, and correspondent banks that facilitate transnational transfers terminate their relations with respondent banks in Africa. It becomes difficult for legitimate businesses to find banking services, and whatever services do remain available become much more costly. This then affects the ability of African actors, whether states or private actors, to pay for imports, receive payment for exports, obtain foreign investment or loans, and carry out many other essential transactions. Consequently, economic development as a whole is compromised, and with it, many aspects of human security.

Unable to meet their need for financial services through banking, ordinary customers and small businesses then struggle to find alternative ways to meet their objectives, such as sending financial remittances to their families. They increasingly turn to gray market or illicit enterprises, such as using "mules" to carry cash. In "Caught in the Crosshairs of Sanctions and Anti-money Laundering Measures: Informal Value Transfer Systems and Civil Asset Forfeiture," Rachel Barnes KC and Ryan Dowding describe what happens when people resort to systems outside of banks to send funds to business partners or family members in a sanctioned country. These systems, known as Informal Value Transfer Systems (IVTS), including the Muslim system *hawala*, are not necessarily engaged in illicit activities, and someone sending home remittances to their family may have earned those funds legally. But within the UK, IVTSs are viewed as being at high risk of providing services for illicit actors. If an IVTS makes even a minor error regarding its regulatory compliance, part or all of an IVTS' assets – including the funds of migrants sending remittances to their families – may be seized in a civil asset forfeiture. This process contains few procedural protections. Thus, an innocent individual engaged in a permissible act of supporting their family may find that their funds have been seized, with little evidentiary basis, on the suspicion that a *different* client of the IVTS was acting illegally.

In a sense, we have now come full circle. We began with the comprehensive sanctions of the 1990s that caused untold suffering to those who bore no responsibility for the actions of the regime; then saw protest and demand for

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reform; then the implementation, or at least the apparent implementation, of reform through targeted sanctions, and measures such as humanitarian exemptions. But as the contributors to this volume have shown, the use of sanctions today to cripple major economic sectors in a target country is not anomalous; it is done routinely, as we see in Iran, Cuba, North Korea, Venezuela, and elsewhere. Where there are humanitarian exemptions, they are often burdened by such costly and cumbersome requirements imposed by the sanctioner that they accomplish little in terms of establishing a pipeline that allows the needed goods to reach vulnerable populations, and to support infrastructure requirements. Where aid organizations seek to provide assistance, they in turn are subject to such stringent and expensive legal and logistical requirements that they are hamstrung at every turn. While the use of SDN and similar listings provides a semblance of precise targeting, in many cases it is only a semblance, obscuring the sectoral damage that is being done and the extensive disruption and harm to whole populations. We see as well the large-scale economic disruption that occurs through the risk assessment and withdrawal of banks and other commercial actors from the regions of the world where compliance with sanctioners' requirements is too costly and difficult to maintain a commercial presence. The consequence of this practice is that development efforts in the Global South are slowed, or derailed altogether, maintaining or worsening poverty, displacement, and food insecurity.

But, significantly, it is not immediately apparent that responsibility lies with the sanctioner. To the contrary, the sanctioners can, and do, insist that it is not their doing; if a bank or an airline or an investor chooses to withdraw from a market, sanctioners would say that is the company's choice. It is only by looking at the conditions that the sanctioner created – ambiguous requirements for compliance and catastrophic penalties for noncompliance – that we see the complicated and obscure means by which the sanctioner successfully eludes responsibility for the machinery it has set in motion. In "Economic Sanctions: Accountability, Legality, and Legitimacy," Joy Gordon suggests how we might revisit the question of who is responsible for the endless and devastating circle of "unintended consequences."

It is the intent of this volume to offer a new narrative of economic sanctions that seeks to identify how the workings of their power are obscured, how indiscriminate harm is done to those who are the most vulnerable and the least blameworthy, how punishment is inflicted without transparency or justice, and who should be held accountable.

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