

# The Impact of Sanctions on the Enjoyment of Human Rights

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# **The Impact of Sanctions on the Enjoyment of Human Rights**

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# 1. Introduction



The United Nations Security Council (UNSC) has adopted a total of 10 resolutions against North Korea condemning its nuclear- and ICBM-related activities under Chapter 7 of the UN Charters.<sup>1)</sup> Resolutions adopted up until 2013 focused on measures that were designed to affect the weapons programs and political elites of the Democratic People's Republic of Korea (DPRK) in a selective manner. Starting from Resolution no. 2270 adopted in March 2016, however, the UNSC began to include measures that may undermine the North Korean economy to a significant extent. Subsequently, the UNSC, through Resolutions no. 2321, no. 2356, no. 2371, no. 2375 and no. 2397, imposed additional sanctions on the essential part of North Korea's economic sector. Today, most of North Korea's major export items (minerals, food products, agricultural products, machine, timber, marine products, and textiles) are banned from export. Some major import items (industrial machines, means of transport, steel, and other metals) are also subject to trade bans. The import of crude and refined oil products is also under restriction. Dispatching workers abroad, too, is prohibited. Meanwhile, a variety of financial sanctions against Pyongyang are being imposed. They include a ban on providing financial services or transferring gold and cash in large amounts, which may contribute to prohibited programs and activities or actions to dodge sanctions imposed against the DPRK. Also prohibited are to open representative offices, subsidiaries, and bank accounts of financial institutions within the DPRK; to offer financial support for trade with North Korea; and to conduct joint ventures with North Korea. Although all sanctions

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1) UN Doc. S/RES/1718 (2006); S/RES/1874 (2009); S/RES/2087 (2013); S/RES/2094 (2013); S/RES/2270 (2016); S/RES/2321 (2016); S/RES/2356 (2017); S/RES/2371 (2017); S/RES/2375 (2017); S/RES/2397 (2017).

adopted by the UNSC since 1994 take the form of targeted sanctions, sanctions imposed against Pyongyang are assessed as so harsh and broad that they are sometimes referred to as “recomprehensivization of sanctions.”<sup>2)</sup> Against this backdrop, some predict that international sanctions against the DPRK are likely to damage its economy and civilian life to a substantial degree and their negative impact may deepen as the sanctions prolong.

The U.S., South Korea, Japan, Australia, and EU took a step further than simply implementing the UNSC sanctions. Citing a wider range of concerns, those countries have implemented unilateral sanctions, which have the potential to deteriorate the DPRK economy even further. In particular, Washington has consolidated its sanctions against the Kim Jong Un regime through multiple legislations. Entered into force on February 18, 2016, the North Korea Sanctions and Policy Enhancement Act of 2016 imposed a full-scale ban on the provision of goods, technology, and services as well as financial transactions for designated individuals and organizations; the act also granted the U.S. President discretion to adopt secondary sanctions.

As sanctions against North Korea toughen, there is a growing concern over their negative impacts on the human rights of the innocent civilian and the overall humanitarian situation in the country. In a report submitted to the 72<sup>nd</sup> UN General Assembly on September 18, 2017, Tomás Ojea Quintana, UN Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea, stated that “the Security Council

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2) Sue E. Eckert, “The evolution and effectiveness of UN targeted sanctions,” in *Research Handbook on UN Sanctions and International Law*, ed. Larissa van den Henrik (Cheltenham: Edward Elgar Publishing, 2017), p. 67.

sanctions regime is not punitive in nature, and a comprehensive assessment on its unintended negative impact on the enjoyment of human rights, in particular economic, social and cultural rights, is needed.”<sup>3)</sup> He also voiced a concern on the restraints posed by the sanctions to humanitarian aid activities by UN agencies.<sup>4)</sup>

Meanwhile, in July 2017, Pyongyang established the Sanctions Damage Investigation Committee in a bid to investigate and record damage caused by enhanced sanctions. Via official media outlets such as the Rodong Sinmun and the Korean Central News Agency, the regime claimed that sanctions have brought numerous challenges to the country. Those challenges include delayed or suspended supply of medicine and medical equipment, problems in manufacturing educational equipment for students and producing nutritional food products for children, reduced aid operations from humanitarian agencies, and blocked remittance channels for UN agencies. Pyongyang argued that those sanctions are destroying North Koreans’ right to live and develop themselves, violating the principles of international human rights treaties as well as humanitarian causes.

Sanctions are a series of forced measures to induce changes in the policy or actions of the target country. Therefore, sanctioning parties are bound to pay attention to whether the sanctions are going to create the intended effects—in other words, whether the desired outcomes will be generated. In this context, discussions on sanctions against the DPRK tended to focus solely on assessing the sanctions’ impact or exploring ways to enhance their impact. It should also be noted, however, that the international community learned the lessons from painful experiences of the past and has

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3) UN Doc. *A/72/394* (2017), para. 6.

4) *Ibid.*, para. 37.

strived to reduce factors that may intensify the suffering felt by innocent citizens in sanctioned countries. Considering that attention to and concern over the human right conditions of North Koreans has been heightened than ever before in recent years, it is a pressing crucial challenge to strike a balance between two goals: to safeguard international peace and security and to promote the human rights of DPRK civilians. In this vein, this study will provide an in-depth review on the existing discussion and relevant cases of how sanctions affect the enjoyment of human rights for people living in sanctioned nations. Based on such a review, it will make recommendations on key considerations concerning the human rights of civilian population in the face of sanctions regime against Pyongyang.

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## **2. Discussions on Sanctions and Human Rights**



## A. Discussions at the Level of UN Human Rights Mechanism

As the number of imposed sanctions soared in the 1990s, a discussion of comprehensive sanctions' impact on human rights had come to the fore. While acknowledging the utility of sanctions in the post-cold war era, UN High Commissioner for Refugees Sadako Ogata stressed in 1992 that "our goal must be that sanctions can serve their purpose without making the disadvantaged even more disadvantaged."<sup>5)</sup> In his 1995 report submitted to the UN General Assembly under the title "Supplement to an Agenda for Peace," then-UN Secretary General Boutros Boutros-Ghali argued that sanctions are "a blunt instrument. They raise the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders."<sup>6)</sup> The Sub-Commission on the Promotion and Protection of Human Rights, a subsidiary of the UN Commission on Human Rights, also expressed concern in 1997 in its Resolution No. 1997/35 over the adverse consequences of economic sanctions on human rights.<sup>7)</sup> In 2000, the Sub-Commission on the Promotion and Protection of Human Rights commissioned Marc Bossuyt to write and submit a working paper on this subject titled "The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights."<sup>8)</sup>

While the UNSC stopped imposing comprehensive sanctions after 1994, individual countries continue to have such sanctions in

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5) Statement by Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, to the Executive Board of the UNICEF, New York, June 15, 1992.

6) UN Doc. A/50/60-S/1995/1 (1995), para. 70.

7) UN Doc. E/CN.4/Sub.2/RES/1997/35 (1997).

8) UN Doc. E/CN.4/Sub.2/2000/33 (2000).

place, which is why the UN pays keen interest to the impact of unilateral sanctions on the enjoyment of human rights. From 1994 to 2005, the UN Commission on Human Rights had adopted resolutions on “human rights and unilateral coercive measures” every year. Established in 2006 replacing the UN Commission on Human Rights, the Human Rights Council has also adopted resolutions on “human rights and unilateral coercive measures” almost every year since 2007 (except for 2011 and 2016). The UN General Assembly, too, has adopted the same resolutions since 1997 on an annual basis. The growing concern over unilateral coercive measures led to the Human Rights Council Resolution no. 27/21, which established the mandate of employing the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights (hereinafter referred to as Special Rapporteur). Idriss Jazairy was appointed as the first Special Rapporteur in May 2015.

Meanwhile, in 1997, the Committee on Economic, Social and Cultural Rights (hereinafter referred to as CESCR), which supervises the implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as ICESCR), adopted General Comment no. 8 on “The Relationship between Economic Sanctions and Respect for Economic, Social and Cultural Rights.” The CESCR explained how economic sanctions affect economic, social, and cultural rights as follows:

“While the impact of sanctions varies from one case to another, the Committee is aware that they almost always have a dramatic impact on the rights recognized in the Covenant. Thus, for example, they often cause significant

disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water, severely interfere with the functioning of basic health and education systems, and undermine the right to work. In addition, their unintended consequences can include reinforcement of the power of oppressive élites, the emergence, almost invariably, of a black market and the generation of huge windfall profits for the privileged élites which manage it, enhancement of the control of the governing élites over the population at large, and restriction of opportunities to seek asylum or to manifest political opposition. While the phenomena mentioned in the preceding sentence are essentially political in nature, they also have a major additional impact on the enjoyment of economic, social and cultural rights.”<sup>9)</sup>

Taking into account those aspects of economic sanctions, the CESCR stipulated in the General Comment two sets of obligations, one directed to the sanctioned states and the other to parties that impose the sanctions. To the affected states, the CESCR emphasized that “the imposition of sanctions does not in any way nullify or diminish the relevant obligations of that State party. As in other comparable situations, those obligations assume greater practical importance in times of particular hardship.”<sup>10)</sup> The target states are obliged to “take steps ‘to the maximum of its available resources’ to provide the greatest possible protection” for the social rights of their residents, and “to ensure the absence of discrimination in

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9) CESCR, General Comment No. 8 (1997), para. 3.

10) *Ibid.*, para. 10.

relation to the enjoyment of these rights, and to take all possible measures, including negotiations with other States and the international community, to reduce to a minimum the negative impact upon the rights of vulnerable groups within the society.”<sup>11)</sup> To the sanction-imposing parties, the CESCR set out the obligation to take social rights into accounts in designing a sanctions regime and to undertake effective monitoring throughout the sanctions’ implementation period. In addition, the sanctioning party must take measures independently or in the form of international assistance and cooperation, especially economic and technical ones, to address any disproportionate suffering experienced by vulnerable people in the sanctioned state.<sup>12)</sup>

## **B. How to Apply International Human Rights Law on Sanctions**

In the UN human right mechanisms, there appears to be a general consensus that economic sanctions have negative impacts on the enjoyment of human rights for residents of the target country. However, some disagree with the view that economic sanctions constitute a human rights violation. Since neither the UN nor UNSC is a party to international human rights treaties, critics argue, those organizations shall not bear obligations bound by international human rights treaties. In the case of sanction-imposing individual state, which is a party to the human rights treaties, its obligations as a party are not applied in relation to people living outside of their jurisdiction, according to this perspective.

It must be said, however that the UNSC is also not immune to

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11) *Ibid.*

12) *Ibid.*, paras. 11-14.

considerations on human rights given the relevant provisions in the UN Charters (Articles 1, 24, and 55). As an international organization, the UN, obviously, is not a party to international human rights treaties. Therefore, any of the sub-organizations of the UN including the Security Council are not formally bound by those treaties. However, they are effectively “bound by the principles inherent in human rights treaties” and “developments in practice with regard to economic sanctions demonstrate an increased tendency to take these principles into account.”<sup>13)</sup> It is difficult to set clear legal limits to prevent possible human rights issues from emerging caused by UNSC sanctions. Still, efforts to strengthen the UN Security Council’s responsibility on human rights will help strike a more sophisticated balance between the protection of international peace and security and respect for human rights.

Some may argue that the International Human Rights Law is unsuitable for regulating economic sanctions, since it basically governs the relationship between a state and residents of its territory or jurisdiction. In this regard, it may be necessary to emphasize that the ICESCR set forth the realization of social rights via “international assistance and co-operation.” Article 2.1 of the ICESCR stipulates that “each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the

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13) Henry G. Schermers and Niels M. Blokker, *International Institutional Law: Unity within Diversity*, 5<sup>th</sup> edition (Boston: Martinus Nijhoff Publishers, 2011), p. 1003.

present Covenant by all appropriate means, including particularly the adoption of legislative measures.” Articles 11.1, 11.2, 15.4, 22 and 23 also stipulate matters regarding international cooperation. Based on these provisions, the CESCR has fleshed out relevant obligations of extraterritorial or international nature. Therefore, imposing trade bans or other similar measures that inhibit the supply of goods necessary to uphold rights stated in the ICESCR, or exploiting such goods as a means to put political and economic pressure are at risk of being considered a violation of “the obligation to respect” social rights at the extraterritorial or international level.

### **3. Case Analysis**

## **A. Iraq**

International sanctions against Iraq were in implementation from 1990 to 2003 in a bid to terminate the Iraqi armed forces' invasion of Kuwait, eliminate weapons of mass destruction, and induce a change of power of the Saddam Hussein regime. At the center of the sanctions were UNSC resolutions that stated full-scale trade embargoes including oil export bans, bans on financial transactions, the prohibition of arms trade, and aircraft operation. Those sanctions caused a chain reaction: a sweeping drop in supply led to the skyrocketing price of basic commodities including food, real income fell, and unemployment increased, all of which forced a number of Iraqis into extreme poverty. Subsequently, Iraqi people's rights to health, life, development, work, education, and an adequate standard of living were all adversely affected. To make things worse, an airstrike of the Multi-National Force-Iraq in 1991 destroyed infrastructure including roads, hospitals, power generation facilities and schools, which had accelerated the collapse of the Iraqi economy in combination with the sanctions.

In terms of how civilian lives were affected by sanctions, food shortages resulting from sanctions caused malnutrition among the Iraqi people. In particular, the percentage of infant and toddler aged under 5 with severe malnutrition jumped from 3% to 11% during 1991-1996; and the rate of chronically malnourished infant and toddler soared from 19% to 31%. During the same period, the rate of newborn babies weighing less than 2.5kg went up from 5% to 22% due to women's severe malnutrition during pregnancy. Furthermore, a drastic fall in medicine import after the sanctions' implementation paralyzed the functions of the healthcare sector. As

another consequence of the sanctions, the import of chlorine, a crucial disinfectant for water treatment, was halted, breaking down the Iraqi water supply and sewage systems. Subsequent water contamination made infectious diseases prevalent. The total incidence of typhoid went up from 1,819 in 1989 to 24,436 in 1994; the number of people diagnosed with cholera, which was zero in 1989, soared to as high as 1,345 in 1994. In addition, school enrollment rates dramatically plummeted as the Iraqi government cut 90% of the education budget after the sanctions went into effect. Sanction also caused many companies to shut down, driving unemployment rate up to as high as 28% in 2003. In sum, economic damage from sanctions was almost entirely transferred to and inflicted on innocent citizens.

The UNSC guaranteed an exemption of sanctions for imports of medicine and food under humanitarian circumstances. This exemption, however, failed to relieve the negative impact of sanctions on the civilian population of Iraq. Many companies found the exemption a restraint as it required an approval from the UN Security Council Sanctions Committee on North Korea (hereinafter referred to as “the 1718 Committee”)<sup>14</sup>). The UNSC launched the Oil for Food Programme (OFF) to ensure Iraqi residents’ access to food, medicine, and medical equipment. The OFF, too, alleviated little of the suffering as only a small amount of money actually went to civilians.

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14) UN Doc. S/RES/661 (1990), para. 3c; UN Doc. S/RES/687 (1991), para. 20.

## **B. Cuba**

The U.S. initiated imposing unilateral sanctions against Cuba in 1962. In early days, the sanctions had little implications for Cuba, which could rely on trade transactions with the Soviet Union. After the fall of the USSR, however, Cuba could no longer remain immune to U.S. sanctions having lost 75-80% of its trade market with the Soviet Union. Furthermore, the U.S. enforcement of Cuban Democracy Act of 1992 and Cuban Liberty and Democratic Solidarity Act of 1996 enabled extraterritorial sanctions against Cuba, thereby substantially undermining its economy. Between 1989 and 1993 Cuba's food import dropped as much as around 50%, and the limited supply of imported fertilizers, fuel, animal feed, and agricultural machinery destroyed the agricultural sector at large. As a result, food shortages hit Cubans. A decrease in food supply exacerbated nutritional conditions of Cuban people. The average weight of Cuban adult men and women dropped, the number of underweight pregnant women grew, the weight of newborn babies fell, and the preterm birth rate increased. An embargo on chlorine disinfectants cut off access to clean, potable water for many Cubans, which caused the spread of infectious diseases. For example, the percentage of diarrhea-associated deaths soared from 2.7% in 1989 to 6.8% in 1993. In medical sector, more children with heart disease had to wait for their treatment due to sanctions on the purchase of medical equipment used for such a purpose in healthcare facilities. Also, medical institutions stopped treating child diagnosed with tumors as necessary equipment such as scanners for radiation therapy could no longer be purchased. Although the U.S. did not impose a full-scale ban on

exporting medications to Cuba, their supply was effectively blocked since the Cuban Democracy Act of 1992 stipulated that exporters must gain a license from the U.S. government before selling medicines to Cuba.

American sanctions against Cuba affected the right to freedom of people in Cuba. As Washington enacted two statutes (the Cuban Democracy Act of 1992 and Cuban Liberty and Democratic Solidarity Act of 1996) in the name of safeguarding Cuba's liberty and democracy, Havana countered with the enactment of a new law: Act No. 88 on "protection of Cuba's national and economic independence." Officially declared as a law to protect the country from outside force, the statute in fact was a means of suppressing its people. Based on this law, Cuban dissidents were arrested on charges of acting against national independence and preservation.

### **C. Myanmar**

A series of sanctions against Myanmar trace back to the early 1990s, when the need arose to halt the military regime's oppression against residents and promote transition towards a democratic political system. Those sanctions were unilaterally imposed by multiple individual parties such as the U.S., EU and Australia and included arms embargoes, visa and travel bans, and freezing of assets targeting government officials. Later, as the military dictatorship prolonged, the sanctions were reinforced and expanded to a comprehensive full-scale embargo and financial sanctions. Once highly isolated, Myanmar started to see a growth in manufacturing, construction, trade, and mining industries through foreign direct investment thanks to an economic reform and opening policy of

the State Law and Order Restoration Council (SLORC) after taking power in 1988. Especially notable was the significant expansion of the textile industry, which by 2000 became Myanmar's largest source of export whose main markets were the U.S. and the EU. Under these circumstances, trade embargoes against Myanmar dealt a huge blow to the economy, directly affecting the lives of many ordinary people in the country.

In the first month of Washington's implementation of the Burmese Freedom and Democracy Act of 2003, which imposed a comprehensive import ban on Myanmar products, some 40,000 workers lost their job at sewing factories. In 2004, 100 garment factories went out of business, leaving 50,000-60,000 workers jobless. Likewise, as sanctions made international companies operating in Myanmar pull out of their investments, unemployment soared on a massive scale and real wages dropped across the country. In addition, the new military government's countermeasures against economic sanctions also contributed to the income decline. To make up for the lost revenue caused by sanctions, the new military government forcibly mobilized residents to infrastructure construction and other projects, and issued more money. This increase in monetary supply triggered high inflation, further hurting the real wage of workers. Driven by unemployment and high inflation, lowered income led to the nutritional deficiency of Myanmar people. Most residents had symptoms of key protein deficiency; malnutrition was observed in more than one third of the entire children. Also, many women who lost their textile factory job resorted to prostitution, boosting the AIDS incidence rate.

By contrast, the SLORC was mostly unscathed by sanctions. Under the State-Owned Economic Enterprises Law enacted in

1989, the military regime already secured its monopoly on 12 high value-added products including oil, natural gas, and steel before the sanctions went into effect. The textile industry, which relied heavily on trade with sanctioning countries, was privatized by 85% at the time of sanctions' implementation. Therefore, the sanctions caused little damage to the regime. Moreover, the new military government had secured alternative export markets for those industries, including India and China. Ironically, those who were hit hardest by sanctions were not the military regime, the sanctions' target, but the innocent civilians. As China's influence on the country became so strong thereafter, the new military government's alternative market strategy came backfired, driving the regime seek out to mend fences with the U.S. Nevertheless, it is telling that innocent civilians in Myanmar had to suffer for as long as 26 years until Washington lifted the sanctions in 2016.

#### **D. Iran**

Sanctions against Iran first begun with America's unilateral sanctions. Yet in 2006, upon the revelation of uranium enrichment facilities within Iran, the UNSC adopted Resolution no. 1969, which launched collective sanctions. Later, the EU, Canada, Australia, India, Japan, and South Korea imposed unilateral sanctions against Iran, following the suit of the U.S. The trade embargoes and financial sanctions under the UN and unilateral sanctions led to steep inflation, wage decline and growing unemployment for Iranian workers. A subsequent drop in income rapidly hurt the quality of life for civilians. In 2013, Iran's inflation rate reached 45%, and the Consumer Price Index skyrocketed from 100 in 2011 to 178 in

2013. The manufacturing sector was hit especially hard by sanctions, which blocked financial supports as well as import and export. This brought about more unemployment, which soared to as high as 20% in 2012.

In principle, goods that were recognized as for humanitarian purpose—in particular food and medicine—were exempt from sanctions. International companies, however, often stopped trading with Iran because of the requirement for acquiring a license before exporting the exempted goods. Subsequently, the exemption clause had been rendered useless. On the ground of their potential conversion into means of nuclear weapons development, all the nuclear medicine and equipment including radiation therapy equipment were subjected to import embargo, cutting off access to nuclear treatment altogether. Reportedly, around 6 million patients with asthma, hemophilia, primary immunodeficiency, AIDS and other illnesses struggled to secure medicines for their treatment. Meanwhile, the sanctions' ban on the technology transfer concerning the extraction and production of crude oil made Iranians resort to use unrefined oil. Subsequent air pollution caused by unrefined oil undermined respiratory health of the Iranian people. Lung cancer incidence shot up among children; around 45,000 died of the disease in one year.

In Iran's case, it is noteworthy how Iranian people reacted and addressed the sanctions against their regime. In the face of economic turmoil triggered by the sanctions, many citizens chose to express openly their dissatisfaction instead of enduring pain in silence. The public anger led to the victory of Hassan Rouhani in the presidential election, a candidate who showed willingness to start nuclear negotiations with western powers. Riding on the

momentum, the Joint Plan of Action in 2013 was concluded as the first step towards the relaxation of sanctions. In 2015, the conclusion of Joint Comprehensive Plan of Action (JCPOA) enabled sanctions to be lifted to a significant extent.

## **E. Implications**

Several implications can be drawn from the cases of four sanctioned countries. First, a sanctions-driven economic blockade against a country creates a chain of effects. First of all, trade embargoes and restrictions on financial transactions invoke decrease in supply and heighten inflation and put strains on the revenue and operation of domestic companies. They also cause international companies to turn to third-world markets over the concern of unfavorable investment environment. The government, in an attempt to offset weakened financial budget by sanctions, may ramp up monetary supply, which can trigger deeper devaluation of the national currency and higher inflation. Likewise, sanction-induced damages of the government and the private sector are inevitably transferred to ordinary citizens. In all four countries, the government and companies cut salaries or jobs as their operation was reduced, while declined supply drove up inflation. This combination resulted in a drastic fall in income, which substantially undermined the quality of life for citizens. Consequently, residents faced supply shortages of necessities such as food and medicines. As the situation prolonged, the number of people diagnosed with malnutrition-related illnesses increased, and the death rate jumped due to a collapse of the medical system. It was also observed that more children quit school as their parents could no longer afford school fees with a

drop in income. In a nutshell, the direct impact of economic sanctions on the target country's government and private sector creates a chain of reaction, which inevitably has a wide range of impact on the rights to health, life, work, education, development, and an adequate standard of living. This chain of reaction on the general population is especially notable in that it is much bigger and wider than the damage borne by the elite. The following table demonstrates how the chain reaction unfolds in general.

<Table> The Chain Reaction of Sanctions

Measures & impacts	Economic sanctions	Supply reduction	Rising inflation & unemployment	Fall in national average income	Decline in household purchasing power for food & medicine + Damage to social infrastructure system	Adverse effect on people's quality of life and human rights
Content	1) Foreign investment reduced by financial sanctions, the outflow of international companies from the target country, import & export compromised due to difficulties in securing means of payment 2) Sanctions-induced drop in direct import & export 3) Collateral effect: limit to international aid for vulnerable groups			<ul style="list-style-type: none"> <li>• Rationing system slashed due to declined food import</li> <li>• Operational difficulties in water supply facilities arising from an import ban on disinfectant products</li> <li>• Operational difficulties in medical system</li> <li>• Establishment of human resource infrastructure undermined due to limited chances for education and research</li> </ul>	<ul style="list-style-type: none"> <li>• Food shortages, nutritional imbalance or deficiencies among infants and children +</li> <li>• Increase of illnesses caused by contaminated potable water</li> </ul> ↓ Reduced access to medical system driving up the death rate and the incidence of infectious disease	Rights to life, health, and an adequate standard of living
Right			Right to work	Rights to education and development		

Sources: by author, based on case reviews.

Second, the suffering of ordinary people caused by sanctions did not necessarily lead to have the purpose of the sanctions fulfilled. All four countries described earlier were ruled by dictators. The authoritarian regimes, despite being aware of the severe hardship that their people were experiencing from sanctions, tried to maintain and consolidate their power instead of changing policy to lift sanctions. In Iraq, then-President Saddam Hussein found the country's sanctions-driven economic turmoil a reason to vilify outside forces including the U.S. and used this as an opportunity to solidify his control over the population. His regime also rejected UN's proposal of the Oil-for-Food Programme (OIF) multiple times, delaying its implementation for five years. Worse, as the OIF began, Hussein embezzled the money from oil sold through the program. In Cuba's case, the government did make some effort to alleviate the suffering of innocent people as the damage from sanctions became severe. It implemented policies to prioritize vulnerable groups and increased public health budget by 30% in 1989. Yet, by and large, Havana refused to give up its socialist regime or stop the oppression of dissidents and anti-government media for the most part of the sanctions' implementation period. The Myanmar government, too, tried to ease public dissatisfaction over the troubled economy by putting the blame on Washington and democratic activists, while turning a blind eye to the pain felt by the population. In fact, it imposed forced labor on residents including children to cover revenue losses stemming from the sanctions. Lastly, in Iran, President Mahmoud Ahmadinejad declared his unwavering commitment to nuclear arms development despite massive sanctions at work. All this leads to a critical point: sanctions, even when they manage to bring damage across the

target country's economy, do not necessarily encourage a political leader or regime to change. None of the four regimes saw the plight of their people a reason to alter their policy direction to try to lift sanctions. Iran's case is especially notable in this regard. Admittedly, the economic sanctions failed to change the attitude of then-President Ahmadinejad. Frustrated by the ordeal caused by coerced measures, however, Iranians cast a ballot against the regime and induced a regime change, taking the first step towards the relaxation of sanctions. The case of Iran fits the formula of sanctions: first, economic sanctions are imposed. Second, the sanctions hit the target country's economy. Third, people start to protest and finally, the target country starts to change its behavior. It indicates that sanctions' success significantly depends on whether the citizens of the target country, even under the oppressive regime, have an institutional outlet such as elections to express their opinion.

Third, the existence of humanitarian exemptions or mitigation measures for the civilian population imposed during the implementation period fails to have a significant impact on alleviating the actual suffering of people. In all four cases, items subject to the sanctions exemption included food, medicine, and other urgently needed items. Exporters of those products, however, mostly saw the exemption as another restriction, since they were required to get a prior approval or license from a sanction-imposing country before exporting those goods. As a result, as discussed earlier, many of them gave up exporting to those sanctioned countries altogether. UN's OIP was also proven futile in relieving pain caused by sanctions, since only a small fraction of funds actually went to residents for food purchase. These instances, however, should not be interpreted that humanitarian exemption clauses are needless in

the sanctions implementation. Rather, they indicate the importance of smart design in ensuring the effectiveness of enforcing such a clause or institution, since the existence of humanitarian exemptions itself does not relieve the pains caused by sanctions for ordinary people. To prevent humanitarian exemptions from being regarded as yet another restriction by companies or international aid agencies, sanction-imposing countries or international institutions should actively consider not to include quarantine or license requirements in humanitarian exemption clauses.

Fourth, it is vulnerable groups who are hit first and hardest by the negative effects of sanctions. The vulnerable low-income groups barely make ends meet without savings or other assets. Naturally, high inflation or unemployment comes as a bigger blow to them than other groups. In particular, the health of pregnant women and children from vulnerable families is at the risk of being fatally affected by the level of nutritional supply. Most studies on the impact of sanctions on the right to health point out that nutritional imbalance, disease incidence and death rates increased especially higher among pregnant women and children in sanctioned countries, including the four countries discussed earlier. Such findings suggest a need for special consideration on vulnerable groups in imposing sanctions.

Fifth, it can be misleading to see economic sanctions as a direct cause of economic hardship experienced by civilians just because their suffering coincides with the sanctions' implementation. As seen in the above four cases, such economic difficulties can be attributed to a host of other factors. In Iraq, a war had already destroyed almost all social infrastructure in the country before the sanctions came into effect. In Myanmar, many residents were already financially

struggling due to a longstanding isolationist economic policy. In Iran, inefficient bureaucracy blocked a smooth operation of its economic system, which is often cited as a key reason for economic woes felt by residents. Therefore, it may be dangerous to pinpoint economic sanctions solely as the leading cause, even when the sanctions coincide with the economic downturn and many people's subsequent suffering. A correct assessment of the sanctions' impact on the non-elite population of the country requires a concrete review on each country's unique situation and combined factors that affect people's lives.

Lastly, there should be a comparative analysis between sanctions' impact on the human rights of residents and the desired goals of sanctions in assessing their effects. Of those four cases explored earlier, Iran and Myanmar saw a regime change, the desired goal of sanctions placed against them. One may argue that sanctions in Iran and Myanmar were proven effective because their ultimate goal, a regime change, was fulfilled. This view is in line with the argument that human rights violation of the residents in sanctioned countries should be tolerated to a certain extent in order to induce changes in a target regime, which poses a threat to the international community at large.<sup>15)</sup> Looking into both Iran and Myanmar cases, however, it might be difficult to assess that the leadership change in a sanctioned country equals to the sanctions' success. First, there are differences between the two cases, starting from the length of time each country waited until the regime change finally happened. In Iran, it took less than four years from the economic impact of

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15) Lori Fisler Damrosch, 'The Civilian Impact of Economic Sanctions,' in *Lori Fisler Damrosch (ed.) Enforcing Restraint: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations, 1993), pp. 281-282.

sanctions that first appeared in 2012 to the signing of the JCPOA. By contrast, Myanmar waited for 26 years from 1990, the first year of the sanctions implementation, to 2015, the year when Aung San Suu Kyi won the general election. On average, it takes three years for sanctions to reach their goals. If the implementation period exceeds three years, the target regime would start to seek a bypass while ordinary people remain trapped in sanction-driven adversity, according to one theory.<sup>16)</sup> Myanmar's case fits this theory in many aspects. Myanmar's new military government replaced new trade partners with China, India, and others in an early stage. During more than twenty years under the sanctions regime, the new military government had continued and reinforced the violation of human rights of Myanmar people: it intensified forced labor on residents, induced inflation to supplement military finances, and cracked down on peaceful anti-government protests by force. That is why one should not conclude that sanctions are effective just because the goals that the sanctioning parties intended are met. This view is backed by the fact that a critical, determining factor for the Myanmar regime change was the growing influence of China in the country, which was hardly intended outcomes that the U.S. tried to achieve through sanctions. Furthermore, all those four cases had one thing in common: people experienced violations of the right to health, which threatened the life of a majority of innocent citizens. In assessing the effectiveness of sanctions, it should be taken into consideration how severely human rights of the residents are violated and for how long. Such an approach will

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16) George A. Lopez & David Cortright, "Economic Sanctions and Human Rights: Part of Problem or Part of the Solution?," *The International Journal of Human Rights*, Vol. 1, No. 2, 2007, pp. 6, 9.

be beneficial in that it will encourage sanctioning parties to be more discreet in light of the target country's political system and characteristics, the economic and financial structure, and selecting sanctioned items. This will in turn help a sanctioning party devise sanctions that have a minimal impact on the human right of residents in the sanctioned party.



## **4. Sanctions against North Korea and Human Rights of North Koreans**

## **A. Key Considerations**

International sanctions against the DPRK evolved into a set of highly broad and intensive measures since 2016. Therefore, it might be premature to assess the impact of sanctions on the human rights of North Koreans at this point. These tough sanctions, if prolonged, have potential to deal a serious blow to the domestic economy in the North, generating in turn a chain reaction, compromising the quality of life for civilians and undermining their human rights. In this context, the following section will introduce a list of topics that need to be taken into account such as relevant existing discussions and cases as well as the unique characteristics of North Korea.

### *1) The Degree and Timing of Economic Damage*

In general, the more active a country is in international trade, the bigger economic damage sanctions can bring. In this regard, North Korea is far less dependent on international trade than the average developing economy. Broken down by country, China takes up more than 90% of the DPRK's total cross-border trade. Such characteristics may relatively limit or slow down economic damage dealt by sanctions. Compared to other economies, the sanctions' impact on the DPRK economy may be benign—though only in relative terms. Still, sanctions-induced drop in international trade is expected to give a considerable amount of shock to the DPRK economy, since the nation's dependency on cross-border trade has grown large compared to the past. Its inability to replace imported necessities with domestically-produced goods highlights

how important the quality of international trade has become.<sup>17)</sup> North Korea's total cross-border trade has already rapidly fallen according to relevant data. In its 2017 report on DPRK's international trade situation, the Korea Trade-Investment Promotion Agency (KOTRA) suggested that North Korea's cross-border trade (except for inter-Korean trade) fell by 15% year-on-year. In particular, its export dropped by 37.2% compared to a year before.<sup>18)</sup> In 2018, according to the General Administration of Customs of China, the DPRK's export to China plummeted by 87.6% year-on-year; its import from China also decreased by 33.4% from a year earlier.<sup>19)</sup>

Nevertheless, there is another potential variable that may impact the degree of economic damage and its duration in terms of sanctions imposed against Pyongyang: the Kim regime's attempts to evade sanctions and countries assisting those efforts. For example, the Panel of Experts of the 1718 Committee reported that it "found extensive use of a combination of multiple evasion tactics, including indirect routes, detours, loitering, false documentation, trans-shipment through third countries, and manipulation of Automatic Identification System signals."<sup>20)</sup> This so-called "third country effect," along with Pyongyang's attempts to dodge sanctions, can weaken the effectiveness of sanctions.<sup>21)</sup> It should also be taken into account,

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17) Suk-Jin Kim, "With Heightened External Dependence, the North Korean Economy under a Prolonged Sanctions Regime May be Dragged to a Downturn," *Korean Reconciliation*, vol. 91 (2018), pp. 30-33. (in Korean)

18) KOTRA, "2017 Annual Report on North Korea's International Trade," (KOTRA Material no. 18-038, July 2018), pp. 3-4. (in Korean)

19) IBK Center for North Korean Economy Studies, "Latest Developments in North Korea-China Trade Statistics in December and the Entire Year (2018)," January 23, 2019. (in Korean)

20) UN Doc. S/2018/171 (2018), para. 49.

21) Taehee Whang, Jungkun Seo, A Young Chun, "Analyzing Economic Sanctions of the United States," *Korean Political Science Review*, 51(4) (2017), p. 197. (in

however, that countries under tough, long-term sanctions in the past eventually ended up being hit by a severe economic blow despite their evasion efforts, such as changing trade patterns and adopting various detour measures.

## 2) *Ripple Effects of Washington's Secondary Sanctions*

In unilateral sanctions, the higher the economic interdependency between the sanctioning and sanctioned countries is, the more threatening the sanctions' expected impact can be. If the two countries' economic interactions barely exist, sanctions are likely to have a minimal impact. To address this issue, the U.S. introduced secondary sanctions, an approach that aims to intensify the economic isolation of the target country by transforming unilateral sanctions into de facto collective ones. A concern is increasingly growing over the ripple effects of secondary sanctions on the innocent people living in the target nation. For example, the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights pointed out in a 2018 report that comprehensive sanctions in combination with secondary sanctions are spreading, giving rise to major human rights problems.<sup>22)</sup> In this regard, the Special Rapporteur expressed a special concern on the case of U.S. sanctions against Iran.<sup>23)</sup> Since Washington recently introduced secondary sanctions against Pyongyang, it is necessary to closely monitor their ripple effects on the DPRK's economy and its people. The results of secondary

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Korean)

22) UN Doc. A/HRC/39/54 (2018), p. 8.

23) *Ibid.*, pp. 9-13.

sanctions that target North Korea may not resemble what happened in Iran, since the sanctions are softer than those imposed on Iran. The difference in international trade structure between North Korea and Iran may also affect the outcome of sanctions.<sup>24)</sup>

### **3) Growing Unemployment and Implications of Market Downturn**

Economic sanctions can drive up unemployment in a specific industry, leading to a decline in household income and purchasing power. In the DPRK, where the official rationing and salary systems are currently not functioning, many residents live on informal economic activities such as commerce or small patch farming. Under these circumstances, a surge in unemployment may have relatively limited impact on the economy. In fact, including those working for relatively better-off state enterprises, North Koreans often find their ration or salary insufficient to make ends meet and, as a result, engage in extra economic activities.<sup>25)</sup> Losing the official job, therefore, would hardly cause a significant damage to such worker's household income.

Obviously, there might be exceptions: overseas workers and employees of the Gaesong Industrial Complex. Since they were given a considerable amount of salaries, losing those jobs probably incurred a significant loss in their household income. As of late December 2015, shortly before the Complex's operation was halted,

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24) Baran Han, "Implications for the International Community's Economic Sanctions Against Iran on the Introduction of Secondary Sanctions in the Sanctions Regime Against the DPRK," *KDI North Korea Economy Review*, October 2016 (2016), p. 22. (in Korean)

25) Dong-ho Han, *et al.*, *White Paper on Human Rights in North Korea 2018*, (Seoul: Korea Institute for National Unification, 2018), p. 267.

a total of 54,998 North Koreans were working at the Gaesong Industrial Complex. Their minimum wage was 73.87 USD, and the average wage including overtime pays stood at around 169.2 USD.<sup>26)</sup> South Korean firms in the Gaesong Complex sent the payroll in USD to a tax office controlled by the General Bureau for Central Guidance, the state agency in charge of managing the special economic zone. The General Bureau, after deducting funds for social and cultural policies (30% of the total labor income) distributed wages in the forms of coupons redeemable for goods and in the North Korean currency.<sup>27)</sup> On the other hand, it is difficult to measure the average income of dispatched overseas workers, as their salaries vary by country and the required payment and other fees should be submitted to the State under multiple pretexts. Still, given that many of them make extra income from “commissions” (private work contracts), the financial situation of dispatched workers must have been quite badly damaged after sanctions forced them to return home.

Again, only few in North Korea live on rations or official salaries. Therefore, a downturn in the market economy, rather than a rise in unemployment, is likely to make a bigger impact on reducing household income. Sluggish markets may put a significant burden on many North Koreans who are living on market activities.

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26) Kang-Taeg Lim and Gang-woo Lee, Actual Operation and Development Plan for the Gaesong Industrial Complex: Lessons Learned from 11 Years of Operation (2005-2015) in the Gaesong Industrial Complex, (Seoul: KINU, 2017), pp. 55, 97. (in Korean)

27) *Ibid.*, p. 104.

#### *4) Shrinking Humanitarian Activities for North Koreans*

When a country is under economic sanctions, humanitarian efforts for its residents, especially vulnerable groups, are severely affected both in quantity and quality. With tough sanctions enforced, humanitarian assistance for North Koreans has substantially contracted.

The UN Office for the Coordination of Humanitarian Affairs totaled up the international community's financial support to humanitarian causes on North Korea in 2018 at around 33 million USD, which is less than one fourth of the goal.<sup>28)</sup> On this subject, Herve Verhoosel, a spokesperson of the World Food Programme, said in a briefing on October 9, 2018 that "humanitarian needs across the country remained high (...) more than 10 million people—40 per cent of the population—were undernourished and required humanitarian assistance in North Korea." Stating the difficulties arising from financial shortages, he said "humanitarian issues were too pressing to wait for political issues to be resolved."<sup>29)</sup>

Aside from insufficient funding, humanitarian agencies seem to face a number of other difficulties as they operate in North Korea. The biggest factor is over-compliance, a phenomenon that stems from the lack of understanding of the sanctions regime and humanitarian exemption mechanism. Reportedly, multiple agencies and institutions providing humanitarian assistance and relief aid to North Korea are struggling to find suppliers or transport companies for needed goods. Another restraint on humanitarian activities is

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28) UN OCHA's Financial Tracking Service, <<https://fts.unocha.org/countries/118/summary/2018>> (data accessed on February 27, 2019).

29) The United Nations Office at Geneva, Regular Press Briefing by the Information Service, October 9, 2018.

inefficiency in the humanitarian exemption grant process. From purchasing goods and to transporting them into the DPRK typically takes quite a long period of time due to its complicated supply chains. Some criticize that the approval process for humanitarian exemption has made it even more challenging.

In short, the humanitarian exemption mechanism is evaluated to have had little impact on alleviating the suffering of the civilian population in North Korea. It remains to be seen if the Guidelines for Obtaining Exemptions to Deliver Humanitarian Assistance to the Democratic People's Republic of Korea (hereinafter referred to as "the Guidelines for Humanitarian Assistance to the DPRK"), adopted by the 1718 Sanctions Committee in August 2018 will substantially promote humanitarian actions for North Koreans.

### ***5) Policy for Vulnerable Groups***

It is often vulnerable groups—women, children, senior citizens and impoverished population—that suffer the most under the sanctions regime. In North Korea, too, the implementation of sanctions, if prolonged, may bring even greater challenges to vulnerable groups. Obviously, the elite and the middle class, which have benefitted from recent economic rebound in the DPRK, might feel the effects of sanctions to a considerable extent. For vulnerable people, however, their suffering must be greater in absolute terms since their already-precarious situation has even more deteriorated. In this regard, it is worth mentioning that the government's response to sanctions-induced economic damage will determine the impact of that damage on the civilian population. A case in point is the Iraqi government's introduction of a rationing system to

ensure the supply of essential food at lower prices. Cuba also implemented new policies to prioritize vulnerable groups and increased the public health budget. Although North Korea's efforts fall short of Iraq or Cuba's policy measures to tackle sanctions' implications, Pyongyang is noteworthy in its relatively active attitude in supporting vulnerable groups. In particular, the Kim regime has adopted multiple strategies and action plans to improve the health and nourishment of women and children, including the Strategy for Expansion of Integrated Management of Childhood Illnesses (2005-2020) and the Strategy and Action Plan to Control Child and Maternal Mortality (2014-2018). If tough sanctions last for a long time in the DPRK, such domestic policies will be rendered insufficient to address the issues to the full extent. Still, they may be helpful in delaying or relaxing the unfavorable impact of sanctions on vulnerable people to some extent.

## **B. Policy Recommendations**

### *1) Monitoring Focused on the Impact of Sanctions*

From a methodological perspective, monitoring the impact of economic sanctions on the human rights of ordinary citizens poses daunting challenges. It is not only difficult to separate the implications of sanctions from a variety of other factors that affect the human rights conditions of civilians, but also to collect data on the actual impact of sanctions. Those are part of obstacles getting in the way of understanding North Koreans' situation under the current sanctions regime. Nevertheless, it appears feasible to approach this issue by focusing on whether sanctions have worsened the situation

of ordinary people. One of the methodologies is to accumulate a comprehensive set of data through varied approaches including statistics, trends in North Korean media, in-depth interviews with defectors and people in regular interaction with North Koreans, and consultation with officers at international institutions and experts. In collecting and analyzing relevant data, one needs to be aware that a host of factors may work as variables: the economic and social system of the target country, countermeasures to mitigate the impact of sanctions, resources in reserves, humanitarian assistance and attempts to evade sanctions, and parties assisting those attempts.

At the moment, parties imposed sanctions on the DPRK need to enhance monitoring on the country's economic situation and the living conditions of its people. To this end, it is necessary to closely observe the trends in key economic indicators in comparison with 2016 as the standard point, the year sanctions were toughened, and comprehend how the standard of living has changed in individual households. Market trends might be of particular interest since, as mentioned earlier, a majority of North Koreans depend on markets for a living. In this regard, it is important to find out the current situation of former employees of the Gaesong Industrial Complex, overseas workers repatriated to North Korea, and employees of state enterprises that were paid some wages due to their production of key export items. Their unemployment and subsequent drop in income probably may deflate the demand, which in turn could bring a significant impact on the informal economy. Reportedly, a large number of North Koreans are living on cottage industries and smuggling in the border regions. It is important to see how sanctions are affecting their lives. On the other hand, elites such as party leaders may seek to increase their

benefits by transferring burdens of sanctions to ordinary citizens. This possibility calls attention to whether income inequality by class is intensifying.

If tough sanctions continue for an extended period of time, an active monitoring should be in place on whether economic damage spurs negative consequences for the social rights of North Koreans. Previous cases show that the rights to health and an adequate standard of living were especially compromised among civilians when sanctions were maintained for a relatively long time. These findings illuminate why it is important to closely monitor the situation of those rights in North Korea. In such a monitoring, special attention is recommended on the availability of food; accessibility to food and the means of food procurement; the availability of and accessibility to healthcare facilities, goods and services; the nutritional and health situation of vulnerable groups; the availability of water pump equipment and disinfectants; and a change of trends in water supply and sewerage system management. Another negative aspect of economic sanctions is its damage on the right to education by undermining functions of the education system, which calls for a monitoring of recent developments in North Korean people's right to education. Key indicators would include a change of trends in school admission rates, dropout rates, the share of women in each stage of education, and changes in professional exchanges before and after the sanctions' strengthening. Since social rights are closely connected with humanitarian actions, there is a need to keep an eye on how the activities of humanitarian organizations are affected.

Some argue that economic sanctions reinforce oppressive political power, while others believe otherwise. Empirical studies and

multiple previous cases indicate that the right to freedom of DPRK civilians may be further compromised under the sanctions regime. Condemning the sanctions as an external threat to the nation, Pyongyang may arrest and detain more civilians who express their opposition to government policy. Therefore, it is necessary to focus on signs of deterioration in the right against torture and other inhuman treatment; the right to life, liberty and security of person; and freedom of speech in North Korea. Given that Pyongyang is encouraging residents to overcome the sanctions crisis with “self-help,” it might be important to observe whether the forced mobilization of labor has visibly increased since sanctions were elevated in 2016.

In case the impact of current sanctions against North Korea is assessed as highly threatening to the enjoyment of human rights for innocent civilians in the country, it will be an obligation of sanctioning parties to seek to mitigate the unintended effects by expanding the scope of humanitarian exemption or modifying sanction measures. The impact of economic sanctions takes a considerable amount of time for full elimination. Thus, the ripple effects of the sanctions need to be monitored even after the current sanctions are relaxed or lifted in large part. Furthermore, research and discussion should follow on how the international community can cope with the damage that the sanctions inflicted on the civilian population.

## **2) *Enhancing Humanitarian Assistance***

Deemed as highly strong, the current UNSC sanctions regime in the DPRK includes a wide range of measures that may affect the

civilian population. Therefore, there might be a greater emphasis on the importance of the humanitarian exemption mechanism in the sanctions regime against Pyongyang than in other regimes. The 1718 Sanctions Committee needs to update data on the impact of the sanctions on North Korean civilians and the functions of exemption mechanism, while continuously seeking to improve the mechanism's efficiency and promote humanitarian operations in the country. To that end, the 1718 Sanctions Committee should closely cooperate with international agencies and non-government organizations engaged in North Korea-related activities. Currently, the 1718 Sanctions Committee approves humanitarian exemptions on a case-by-case basis. To take a step forward, it needs to review the possibility of introducing an alternative: standing humanitarian exemptions, which were included in sanctions regime against Somalia/Eritrea.

To address issues surrounding humanitarian assistance for North Korea at least to some extent, it is crucial to take a full advantage of the humanitarian exemption mechanism to maximize the number of cases in which the mechanism enables the operation of international aid in the DPRK. In the Guidelines for Humanitarian Assistance to the DPRK, the 1718 Sanctions Committee stipulates that, unless the exemption-seeking party requests the Committee not to do so, the Committee's approval letter and its detailed statement shall be published on the 1718 Committee's website upon the issuance of humanitarian exemption for six months. Those contents can be a highly useful reference for parties who wish to engage in humanitarian activities in North Korea. If accumulated, previous approval cases are expected to help reduce over-compliance arising from insufficient understanding of the

humanitarian exemption mechanism. In addition, they can be useful in preventing the 1718 Committee from an arbitrary or inconsistent operation of the mechanism. Therefore, if deemed necessary for humanitarian operations in the DPRK, UN member countries, international institutions, and non-governmental organizations are recommended to actively apply for an exemption under the Guidelines.

The governments of UN member countries including South Korea are parties primarily eligible to submit an exemption request to the Committee on behalf of international institutions<sup>30)</sup> and non-governmental organizations. Such status implies that they should provide practical assistance to institutions and organizations that wish to operate humanitarian aid programs in North Korea. In this context, practical assistance might include offering exemption request templates by key areas, assigning support personnel specialized in the writing of exemption requests, collecting past exemption approvals by the 1718 Committee and providing an analysis on them, delivering to the 1718 Committee concerns and issues surrounding the humanitarian exemption mechanism in general, and raising awareness of humanitarian exemption for companies and banks and asking for their cooperation.

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30) UN agencies, the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), and the International Olympic Committee (IOC) may submit exemption requests directly to the 1718 Sanctions Committee.

## 5. Conclusion



Economic sanctions have been a frequent choice of the international community as an alternative to war or use of forces. They sometimes lead to a major policy change, their ultimate goal. Even when they do not, sanctions can make positive contributions to reaching a political compromise or alleviating a crisis in combination with other measures. At times, unfortunately, unintended consequences do occur. A negative impact on the human rights of innocent citizens in the target country is one of them.

Since the late 1990s, the UN human rights mechanisms have led discussions on the adverse impact of economic sanctions on human rights. At the heart of the discussion lies the belief that imposing sanctions against a nation that violated norms on international peace and security should not mean that the residents of that country are deprived of all their basic human rights. Therefore, both sanctioning and sanctioned parties are subject to certain obligations. Specifically, sanctioning parties must monitor how the sanctions affect civilians and take mitigation measures including the expansion of humanitarian exemption or the modification of sanction measures in order to address unwanted consequences. Sanctioned parties, too, are required to monitor the impact of sanctions on residents and take full advantage of the resources available in a bid to minimize negative effects of the sanctions. Legal controversies may arise over whether the UNSC or individual states that impose unilateral sanctions are bound to respect the human rights of the civilian population in the target country. It should be highlighted that, taking into account the relevant articles of the UN Charter, the UNSC is not immune to consideration on human rights. Also, it should be noted that the ICESCR stipulated the realization of social rights through

international assistance and cooperation and that the CESCR has specified relevant obligations of extraterritorial or international nature.

To understand what negative impacts may happen to civilians living under strict sanctions for a long period of time, this study reviewed four cases: those of Iraq, Cuba, Myanmar, and Iran. Here are several lessons derived from those cases. First, economic damage caused by sanctions has created a chain reaction that includes lowered quality of life for residents and other negative consequences for human rights. Second, the suffering of innocent civilians does not necessarily help realize the desired goals of sanctions. Third, the existence of humanitarian exemptions or impact-mitigation measures for residents during the implementation period alone fails to have a significant impact on reducing actual suffering. Fourth, it is vulnerable groups in the target country who are first and most afflicted by the negative impact. Fifth, economic difficulties facing civilians in sanctioned nations result from a combination of various factors. Obviously, this report focused on cases in which particularly severe negative impact on human rights and humanitarian situation were observed as unintended consequences of sanctions. Therefore, this report's conclusion should not be generalized and applied to all cases. Nevertheless, the four countries' stories are a cautionary tale on how economic sanctions can create adverse effects on civilians living in the target country. They also raise a fundamental question of what sanctioning and sanctioned parties should do to prevent such a situation from happening.

Since the international community expanded and intensified its sanctions against the DPRK in 2016, it might be premature to assess how the rigorous sanctions have affected the quality of life

and human rights at large for ordinary North Koreans. Yet the current tough sanctions, if extended, have potential to generate a chain reaction. It needs to be taken into account that the impact of economic sanctions can vary depending on a number of factors—the economic and social system of the target country, countermeasures to mitigate the impact of sanctions, resources reserved by the sanctioned party, humanitarian assistance, and attempts to evade sanctions by the target government and assisting parties.

The negative impact of sanctions against the DPRK on the life and human rights of innocent citizens can be minimized when both sanctioned and sanctioning parties monitor the implications of sanctions and make actions to ease them when unfavorable results are observed. Sanctioning parties, in particular, should acknowledge that they are obliged to take any possible measures available to protect essential social rights enjoyed by North Korea's innocent civilians. Based on this awareness, it is time for sanctioning parties to double down on humanitarian assistance for North Koreans.



