

Sanctioning Non-State Armed Groups

Does it work?

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I. Sanctions Architecture and Non-State Armed Groups

Sanctions have become an increasingly popular method of discouraging groups, states and individuals from violating international law and norms. Blacklisting groups became particularly popular after 9/11, after which a number of anti-terrorist legislations were passed by the UN and its member states, including UN Security Council Resolution 1373, the US Patriot Act and the UK Anti-Terrorism, Crime and Security Bill.¹

This coercive approach, including freezing assets, arms embargoes and travel bans, is often accompanied by law enforcement at a national and/or international level.² It aims to harm the interests and capabilities of the target so as to modify behaviour and penalise those assisting them in breaking international law.³ These form 'direct' or 'targeted' sanctions, however they are nearly always assisted by indirect sanctions targeting international trade and assistance towards the non-state actor in question.

Non-state armed groups (NSAGs) are defined as 'groups that: have the potential to employ arms in the use of force to achieve political, ideological or

economic objectives; are not within the formal military structures of States, State-alliances or intergovernmental organisations; and are not under the control of the State(s) in which they operate.'⁴

International sanctioning of NSAGs has often come as a response to highly publicised acts of international crime or terrorism, notable examples include the reaction against Boko Haram in the wake of the kidnap of over 250 schoolgirls in Nigeria earlier this year.⁵ Using sanctions to tackle NSAGs primarily involves supranational institutions such as the UN and the EU; however states have often taken a more hard-line approach and enforced stricter sanctions for their own citizens and territories, the US and UK being notable examples.

Looking into the merits and limitations of sanctioning NSAGs is crucial. Their involvement in nearly all modern day conflicts means we must investigate if and how the existing architecture for dealing with international violations is applicable to these actors, or whether they need significant adaptation. Sanctions can have significant strategic importance in limiting funds, arms access and movement, whilst also contributing substantially to peace processes and post conflict stabilisation. However, the processes and the nature of NSAGs, alongside the limitations of sanctions as a lone blunt instrument, mean that their effectiveness in

¹ Berghof Conflict Research, Nov 2011 [[Link](#)]

² ICRC, Sept 2011 [[Link](#)]

³ Australian Government DFAT, [[Link](#)]

⁴ UNICEF, Jan 2006 [[Link](#)]

⁵ Reuters, June 2014 [[Link](#)]

changing the behaviour of non-state actors must be revisited and analysed to provoke debate on how best to adapt long standing systems to modern day issues.

II. Achievements

International sanctions have proved hugely significant in curtailing the funding, movement and military access of NSAGs, particularly those involved in terrorism and trafficking. Over the post 9/11 years, it has gradually been recognised that the conditions allowing terrorism to flourish, particularly funding, must be tackled, rather than relying on military/intelligence force alone.⁶ As a result there are a number of legal and quasi legal regimes that actively bolster counter-terrorism measures, primarily through sanctions. The Terrorist Financing Convention, ratified by 185 states, is one of the most universally applied anti-terrorism treaties in history.⁷

Some of the most notable successes have been in interdicting “blood diamonds” and related financial networks in many African internal wars, as well as capturing financial assets and locking down passport and travel networks relating to Al-Qaeda in the aftermath of 9/11.⁸ This clearly demonstrates the international support for tackling NSAGs involved in terrorism through alternative coercive methods rather than more controversial military methods. However, it must also be recognised that the use of sanctions often

result from an international impetus to ‘do something.’ International bodies in particular, notably the UN and the EU, often have to resort to the lowest common denominator between states that see military options as too unpopular and costly. This does not make their function less important, but it does highlight the limitations policy makers face when confronted with non-state actors.

The nature of targeted sanctions means that they can weaken group infrastructure by curtailing funding and movement that a group require to function effectively. This often takes time; however when combined with other factors (sometimes military intervention) it can effect change in group tactics. A notable example is UNITA (National Union for the Total Independence of Angola), where, combined with the death of their leader Jonas Savimbi, the long running sanctions regime significantly weakened their ability to continue armed struggle and contributed to the consequential decision to participate in political life without conflict.⁹

Sanctions are not only punitive - in several cases they have been used to support Governments in post conflict transitions and peacekeeping.¹⁰ In Liberia, post the peace agreement that ended the 1989-2003 civil war, sanctions were imposed by the UN on individuals and groups that represented a threat to Liberia’s peaceful

⁶ UNSC, [\[Link\]](#)

⁷ UN, 1999 [\[Link\]](#)

⁸ Harvard International Review, Fall 1999 [\[Link\]](#)

⁹ Weinstein, J, 2006; *Inside Rebellion: The Politics of Insurgent Violence*. Cambridge University Press

¹⁰ UN DSG, May 2014 [\[Link\]](#)

transition,¹¹ alongside a long running arms embargo and commodity bans. The measures were successful in curtailing the flow of arms and are generally believed to have supported the country's stabilisation process.¹²

Sanctions are deemed crucial in making the life more difficult for NSAGs; furthermore, the impact of indirect sanctions on state and business behaviour is significant. These sanctions are designed to indirectly influence the NSAG's behaviour by directly influencing that of others. Recent UN sanctions against Islamic State have targeted those funding and supporting the group, notably banning any UN member states from purchasing oil from reserves held by IS fighters.¹³

The sanctions demonstrate how, although influence over groups themselves have inevitable limits, international organisations have the capacity to influence states, governments and companies which can limit the flow of funds to NSAGs considerably. In our globalised world, sanctions can exploit our interdependence as coercing isolation can be a key resource in bringing about change in behaviour. However, it must be recognised that this has to be combined with other measures dependent on the context, be they diplomatic, military or economic.

Given that NSAGs operate within sovereign territory of states, sanctions can provide a viable international alternative to military action.

¹¹ Government Offices of Sweden, Sept 2012 [[Link](#)]

¹² Uppsala University, 2006 [[Link](#)]

¹³ Deutsche Welle, Aug 2014 [[Link](#)]

Military intervention - particularly 'boots on the ground' - is often highly controversial and frequently undesired by both the host state and those providing the 'boots.' Sanctions therefore provide an alternative that, although not without its limitations, proves far more popular with civilians and governments. Even in a situation that requires military action, sanctions are a key strategic element. Limiting a group's access to arms, resources and travel can significantly curtail their military capability.

III. Limitations

The nature of NSAGs - fluid and transnational with a tendency to embed within a civilian population - makes sanctioning them notoriously difficult. Sanctions against a group that is violating international law need extremely comprehensive international support to be effective.¹⁴ Without it, state proxies and other avenues are easily found to provide groups with the material support they require - Hezbollah being one of the most notable examples. Whilst several countries, most prominently the US and most recently the EU,¹⁵ have designated Hezbollah's military wing a 'terrorist organisation' and sanctioned accordingly, the lack of international consensus means that others can support the group through military and financial means.

Sanctions on NSAGs can also have detrimental

¹⁴ Harvard International Review, Fall 2007 [[Link](#)]

¹⁵ Foreign Policy, Jul 2013 [[Link](#)]

effects on civilian populations. Although less severe than the impact of comprehensive sanctions, targeted sanctions can propel greater violations during conflict. For example, States may see sanctions as validating harsher methods against their adversary, a now sanctioned entity. It has been suggested that the Syrian regime, in response to the proliferation of radical Islamist opposition groups fighting the civil war, is attempting to validate its brutality against civilians and moderate groups by claiming they are allied with those blacklisted by the international community. The international community must recognise this and work towards ensuring legitimate groups and innocent civilians are not indirectly harmed by a sanctions regime.

The process of listing and de-listing individuals and NSAGs has provoked considerable criticism. The de-listing process for NSAGs is extremely difficult and rarely explained to those targeted, reducing incentives to modify behaviour.¹⁶ Many have claimed, particularly after 9/11, that they were wrongfully targeted and that the blacklisting thus constitutes a violation of their human rights. More than 50 UN member states have filed concerns about the lack of due process and absence of transparency involved in the listing process.¹⁷

These difficulties are illustrated by the case of the People's Mujahedin Organization of Iran (PMOI).

¹⁶ Berghof Foundation, Jan 2011 [[Link](#)]

¹⁷ Harvard International Review, Fall 2007 [[Link](#)]

This Iranian opposition movement, although eventually removed from the blacklist, repeatedly yet unsuccessfully sought to be removed from the EU's list for many years. This despite favourable rulings by EU courts in 2006, and the UK-based Proscribed Organisations Appeal Commission in 2007, which provided evidence that the group had ceased military action since 2001 and called the group's listing "perverse".¹⁸

Another significant strategic criticism is the impact of the proscription process for conflict mediation. The effectiveness of sanctions is partly dependent on how the NSAG chooses to respond; terrorist blacklists, despite having the advantage of expressing disapproval, can be perceived by the proscribed group as an attempt to delegitimize their goals rather than their methods. This can entrench their position and make them less willing to engage in negotiation and conflict resolution.¹⁹

International mediators also face the threat of diplomatic and legal ramifications when engaging with sanctioned NSAGs. The Holder vs Humanitarian Law Project ruling saw the US Supreme Court rule against the non-for-profit organisation that sought to advise the PKK on human rights.²⁰ By punishing organisations for attempting conflict resolution, sanctions can inhibit those willing and able to mediate some of the world's most intractable conflicts, raising

¹⁸ UNIDIR, 2008 [[Link](#)]

¹⁹ Conciliation Resources, 2008 [[Link](#)]

²⁰ US Supreme Court, Oct 2008 [[Link](#)]

questions regarding their strategic effectiveness.

Despite the numerous advantages of sanctioning NSAGs they often lack the flexibility required, leaving gaps such as online activity, propaganda and the black market economy. In conflict affected areas, preventing black market trade in particular can be near impossible despite international sanctions. The economic challenges and shady dealings involved in Somalia's arms trade and Al-Shabaab's acquisition of weapons²¹ demonstrate the difficulties in areas where economic, group interests and economic degradation can override international sanctions initiatives. Another vital area that sanctions struggle to reach in relations to NSAGs is online propaganda. Groups such as Islamic State have advanced and technologically flexible online machinery, using alternative servers and apps to spread their message.²²

Despite the fact that sanctions have become more 'smart' in recent years, this forum remains out of significant reach and requires an additional approach of counter-narratives that can keep up with such a fast moving and changing actor. Here again the strategic choice of sanctions without other approaches must be questioned. Sanctions have important functions yet their reach is limited; these examples clearly demonstrate the importance of additional approaches that are able to tackle the root causes of NSAGs' behaviour and their ability to function outside the international

²¹ Jamestown Foundation, Feb 2014 [[Link](#)]

²² TIME, Sept 2014 [[Link](#)]

economic and political sphere.

IV. Reactive Nature

Sanctions have been inherently reactive, gathering international resolve and attention in response specific events that sparks international fury or humanitarian outrage. In the case of Boko Haram, the UN sanctions following the abduction of 250 school girls in Nigeria²³ was clearly necessary. Nonetheless, the sanctions regime may not actually influence the funding of the group, which appears to rely predominantly on armed robberies, racketeering and extortion. Some actually argue that designating the group in this way could serve its cause by increasing its profile and recruitment and conferring legitimacy in the light of such a highly publicised event.²⁴

However, it must be noted that sanctions, however reactive, rarely shows the full picture of international involvement in coercing NSAGs to modify their behaviour. In the case of Boko Haram, international assistance in terms of negotiation/military expertise, surveillance and humanitarian relief may prove the international community's most useful asset.

The main issue with the reactive approach to sanctions is that it does not endeavour to fulfil their potential. In our technological age, with considerably advanced and globalised security services, we have the knowledge at our disposal like never before to act pre-emptively regarding

²³ New York Times, May 2014 [[Link](#)]

²⁴ Chatham House, Sept 2014 [[Link](#)]

NSAGs. A similar precedent has been set regarding states, notably with Iran,²⁵ and could be extended to NSAGs once there is clear and undeniable intelligence demonstrating the threat they pose. By the time the international community establishes sanctions against NSAGs that threaten international security, groups have often already become established with substantial arms, communications and recruitment drives.

Preventing the establishment of such threatening infrastructures is crucial to combatting the further proliferation of NSAG's. The level of pre-emptiveness is however important and there must be considerable debate amongst policy makers, legal and human rights professionals over how such infrastructure could be established in a way that respects the rights of individuals whilst also ensuring that actions do not serve the cause of those seeking to perpetrate violence.

V. Conclusions

The proliferation of sanctions used against NSAGs in the past few decades is indicative of their strategic importance. Sanctions are crucial in curtailing funding, arms flows and state proxy of NSAGs, without which many would have easy access to materials allowing them to further escalate violence and conflicts. The near universal application of UN sanctions treaties regarding the funding of terrorist groups demonstrates how

²⁵ Human Security Centre, August 2014 [[Link](#)]

sanctions have the ability to garner international support that military action can rarely attain. It also demonstrates the moral importance of sanctions in the face of sincere threats to international security and humanitarianism. International unity provides the catalyst for condemnation of violence, attempts at conflict resolution and is crucial to prevent further escalation.

However, despite the important advantages sanctions have over other available options, they themselves must adapt to become more flexible, pre-emptive and ensure they address areas such as online recruitment, resource exploitation and black market dealings. For such action to be effective, other supportive action is crucial and should preferably be integrated into a sanctions regime with universal application, loopholes being a notorious problem for the effectiveness of sanctions.

VI. Policy Recommendation

Policy makers and researchers must recognise that considerably more research must be done on determining the exact impact sanctions have had on NSAGs. While substantial work has been done on the impact of sanctioning states, given the proliferation and flexible nature of NSAGs, too little has been done to determine the impact of sanctions on them. A greater understanding of possible ways sanctions could target online recruitment, the black market economy and other loopholes should be examined to strengthen the

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viability of sanctions in this technological age. More comprehensive research will significantly aid policy makers when considering action against NSAGs in the future, be they on an international or domestic stage.

The nature of sanctions themselves has come under criticism in the past, notably from human rights campaigners arguing that the listing and de-listing processes fail on numerous fronts. Regarding the listing process, particularly that of the UNSC, many have argued that it essentially violates due process with regards to for example the presumption of innocence and the right to a fair hearing. The de-listing process on the other hand remains elusive and overtly lengthy. Former members of NSAGs and groups that have laid down their arms and chosen to enter into society without violence, alongside those who have been wrongly listed, should have access to a more transparent and effective de-listing process.

This provides a noteworthy incentive for groups to lay down arms and re-integrate back into society. The current crisis and tentative ceasefire in Ukraine demonstrates the importance of such infrastructure. Conflict resolution, mediation and re-integration must be allowed to take place. Despite the overarching need to stem Russian support of the NSAGs operating in the East through continuing sanctions, it is crucial to learn and implement lessons from the past and integrate them into any future settlement of the conflict. As part of this examination into defects

in sanctions architecture, it is vital to recognise the importance of conflict mediators and take action to allow their freedom of engagement.

The reactive nature of sanctions against Islamic State following their advances in Iraq and entrenchment in Syria demonstrates the need for more pre-emptive policy making regarding sanctioning NSAGs. By the time the international community took sufficient notice, IS were substantially equipped with arms, vehicles and men - alongside a propaganda arm that has proved elusive of Western attempts to counter the narrative. ISIL, as it was previously known, is not a new group and intelligence agencies globally warned of the threat it posed. More now needs to be done to target Islamic State's sponsors, state and civilian, clearly and quickly. Policy makers should note the lessons learnt from the sanctions, catch up of the past few months and work in the future towards disaster prevention rather than mitigation.

Sanctions have significant strategic limitations and alone are unlikely to be effective in preventing the emergence of NSAGs; nor can they be relied on as the sole measure in dealing with these groups. While sanctions have an important role to play in the international community's response to NSAG violations, they cannot be used as an excuse to ignore the additional issues that sanctions are simply unable to reach.

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