

# Sanctions will lead to tensions

Despite the United States and European Union (EU) being triumphant in getting their full support on imposing immediate sanctions on Russia, President Vladimir Putin and the oligarchy, the sanctions, unless multilaterally approved by the United Nations Security Council (UNSC), are debatable under international law.

The UN referred to sanctions as "a tool for all seasons" and former US president, Woodrow Wilson referred to it in the days of the League of Nations as a "peaceful, silent, deadly" alternative to war.

Since their acceptance, powerful states have been invoking sanctions beyond stopping war as a regime change is considered a justifiable package for a sanction.

Many scholars questioned the effectiveness of sanctions and argued the real need for imposing them if unwarranted to stop war.

Sanctions, as practised by states or a group of states, can be unilateral or multilateral.

However, international law only recognises collective or multilateral sanctions that can be found in Chapter VII of the United Nations Charter.

In accordance with the charter, UNSC is empowered with the primary responsibility of maintaining international peace and security. To fulfil that goal, UNSC can take measures to impose economic sanctions for combating threats or use of force or aggression against member states.

Multilateral sanctions, therefore, were intended to be used as part of a more sophisticated system of collective security, particularly under the aegis of the UN.

On the other hand, the permissibility of unilateral sanctions now remains to be resolved.

The second important issue regarding sanctions is the impact they will have on people.

Despite its quick-fit solution to stop war and regime change, it leads to bigger humanitarian issues that will cause severe damage to the affected country.

The rationale behind imposing sanctions is conflict resolution without mass suffering and other negative consequences associated with war.

In reality, economic sanctions are not an alternative to war, judging by their humanitarian impact.

Instead, it is similar to warfare.

Michael Reisman, a leading legal scholar in international law, clarified why economic sanctions are perceived as a soft approach, as they seem to offer non-violent and non-destructive ways of implementing international policy.

Such perception is unfounded, according to Reisman. The apparent reason for this persistent blind spot has been the incorrect assumption that only military instruments are destructive.

In reality, the basic human rights instrument is most severely affected when sanctions are imposed.

The Fifth Annual Report submitted to the Human Rights Council by the Special Rapporteur Idriss Jazairy, in 2019, on the negative impact of unilateral coercive measures on the enjoyment of human rights, revealed the need to review the imposition of sanctions that have their legal impact on basic human rights.

Particularly, under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 1970 (Resolution 2625 (XXV)).

Recently, there has been a legal argument that states may not be committed to recognising sanctions with extra-territorial jurisdiction and other secondary economic sanctions.

The well-established general principle of law, *ex injuria jus non oritur*, essentially translates into legal rights cannot derive from illegal acts that legally oblige states not to recognise economic sanctions of unlawful situations.

Further, it is argued that unilateral sanctions may constitute a breach of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, where common article 1 (2) provides that in no case may people be deprived of their own means of subsistence.

It has been noted in that respect that "the imposition of economic sanctions on a state may raise special risks of depriving a people of their means of subsistence".

The report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights further revealed that the recent application of economic sanctions worldwide creates tension in which millions of innocent people are affected directly.

To that end, sanctions can become a threat to international peace and security and further exacerbate inter-state tensions, leading to more violations of human rights.

**The writer is Prof. Dato' Dr. Rahmat Mohamad, Co-chair of Governance, Leadership and International Relations APM and member, Eminent Person Group, Asian-African Legal Consultative Organisation.**