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## IMPOSING SANCTIONS AGAINST STATES AND VIOLATION OF FREEDOM OF MASS MEDIA: THE CASE OF IRAN

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### Abstract

*Thorough U.S. and E.U. sanctions that ban the export of goods and services to Iran remain largely obsolete in recognizing how communications can benefit both the civilian population and serve broader Western States foreign policy goals against the mentioned state. Recent sanction against more than 20 TV and radio channels was indeed just an attempt by the West against Iranian media. It was a flagrant violation of freedom of speech and in contrast to the free flow of information by satellite providers as Eutelsat SA and Intelsat SA which stopped the broadcast of several Iranian satellite channels in October 2012. Because of the International recognition of dignity, equality and autonomy of all people that led to formulation of fundamental rights, particularly with regard to freedom of expression and access to information and by correlation existed between the right to express and freedom of all kinds of mass media; in this article we would examine the case of recent sanctions against Iran. It seems clear that the sanctions are both the violation of the human rights values and also contrary to the fundamental principles of democracy, International Co-operations and in contrast with object and purpose of International Telecommunication Union.*

**Keywords:** *Sanctions, U.S and European Union, Iran, Freedom of Mass Media, Free Flow of Information, Democracy.*

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## I. INTRODUCTION

The use of sanctions against Iran dates back to the post-1979 Revolution in Iran.<sup>1</sup> Starting as restrictions on the import of Iranian oil into the United States (US) and later developed into the banning of all imports of Iranian refined and non-oil products, and it expanded by an embargo of US exports in the 1980s which all seems to be against the nature of the treaty of amity between two states.<sup>2</sup> At the time, it seems that U.S. sanctions have been a major characteristic of U.S. Iran policy

<sup>1</sup> See John Mueller and Karl Mueller. «Sanctions of Mass Destruction.» *Foreign Affairs*. : 154-157. <http://www.jstor.org/stable/20049344> (18/11/2013).

<sup>2</sup> See Shahbazi Aramesh, «Some Considerations Regarding the Use of Treaty of Amity between Iran and the U.S.», *International Law Review*, 2010, pp.55-71.

since Iran's 1979 Islamic revolution. Thus U.N. and worldwide bilateral sanctions on Iran are a relatively recent (post-2006) development. Many of the U.S. sanctions enhance U.N. and multilateral sanctions in recent years by European and some of Asian countries. The goals of U.S. sanctions have evolved over time. It seems that in the mid-1980s, U.S. sanctions were planned to try to persuade Iran to stop supporting acts of terrorism and to limit Iran's authority in the Middle East. But since the mid-1990s, U.S. sanctions have generally focused on persuading Iran to limit its nuclear program. Particularly since 2010, the international community specially the European unity has been added to U.S. sanctions in the way of this goal. During Clinton's presidential time, by passing the Iran-Libya Sanctions Act, depicted that any investment in Iran's energy sector was strictly prohibited for more than twenty million dollar. Further sanctions, including Iran's Central Bank and Tejarat Bank, have tried to cut Iran off the global financial system and the Society for Worldwide Interbank Financial Telecommunication (SWIFT). As a result, oil customers can't transfer money to Iran in American dollars or export products as exchange for oil.

However while many believe that the sanctions on one hand have contributed to increasing inflation and on the other hand have also played a significant role in the negotiations between the Security Council and Iran over its nuclear program and uranium enrichment<sup>3</sup>, Iran has repeatedly affirmed the inefficacy of the sanctions against Iran and rejected this scenario.

We can speak more about the sanctions but despite the central role the media plays in the domestic and foreign policy-making processes, very few research examines the influence of international factors such as restrictions on international transactions on media freedom and the free flow of information. In this research we will analyze the sanctions against the right of Iran to freedom of mass media and violation of the access of Iranian to free flow of information. Therefore by taking a brief look at the specific sanctions of the U.S and European Union, as a coercive diplomacy in contemporary international law, we will examine whether sanctions have any major impact on the said rights.

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<sup>3</sup> Kern Alexander, «Economic Sanctions», Law and Policy, Palgrave, 2009, p. 11.

## II. TYPOLOGY OF SANCTIONS

The scope of sanctions employed against target states especially by the Security Council has varied from sanctions regime to another regime insofar as the Council has expanded or contracted the measures applied in order to induce or reward a target's compliance. With the exception of regimes consisting of basic arms embargoes, no two sanctions regimes have been precisely the same.<sup>4</sup> Sanctions regimes usually contain a blend of different types of sanctions. These can be broadly divided into the categories of economic and financial sanctions,

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<sup>4</sup> For example in case of Iran see: United Nations Security Council Resolution 1696 passed on 31 July 2006. Demanded that Iran suspend all enrichment-related and re-processing activities and threatened sanction; United Nations Security Council Resolution 1737, passed on 23 December 2006 in response to the proliferation risks presented by the Iranian nuclear program and, in this context, by Iran's continuing failure to meet the requirements of the International Atomic Energy Agency Board of Governors and to comply with the provisions of Security Council resolution 1696 (2006), Made mandatory for Iran to suspend enrichment-related and reprocessing activities and cooperate with the IAEA, imposed sanctions banning the supply of nuclear-related materials and technology, and froze the assets of key individuals and companies related to the program; United Nations Security Council Resolution 1747; passed on 24 March 2007, Imposed an arms embargo and expanded the freeze on Iranian assets; United Nations Security Council Resolution 1803, passed on 3 March 2008; Extended the asset freezes and called upon states to monitor the activities of Iranian banks, inspect Iranian ships and aircraft, and to monitor the movement of individuals involved with the program through their territory; United Nations Security Council Resolution 1835, Passed in 2008; United Nations Security Council Resolution 1929, passed on 9 June 2010. Banned Iran from participating in any activities related to ballistic missiles, tightened the arms embargo, travel bans on individuals involved with the program, froze the funds and assets of the Iranian Revolutionary Guard and Islamic Republic of Iran Shipping Lines, and recommended that states inspect Iranian cargo, prohibit the servicing of Iranian vessels involved in prohibited activities, prevent the provision of financial services used for sensitive nuclear activities, closely watch Iranian individuals and entities when dealing with them, prohibit the opening of Iranian banks on their territory and prevent Iranian banks from entering into relationship with their banks if it might contribute to the nuclear program, and prevent financial institutions operating in their territory from opening offices and accounts in Iran; United Nations Security Council Resolution 1984, passed on 9 June 2011. This resolution extended the mandate of the panel of experts that supports the Iran Sanctions Committee for one year; United Nations Security Council Resolution 2049, passed on 7 June 2012, renewed the mandate of the Iran Sanctions Committee's Panel of Experts for 13 months.

and non-economic sanctions.<sup>5</sup> And in order to maintain the scope of a particular sanctions regime at a particular time, it is important to take into account both the range of prohibitions directed against a target, as well as any exemptions provided from those prohibitions.<sup>6</sup> In this research we have to be limited just to the notion of the sanctions generally and then we examine the case of Iran in special.

## A. THE SCOPE AND THE ELEMENTS OF SANCTIONS

Although international sanctions are modern phenomena, scholars have uncovered evidence which suggests that the use of sanctions as an instrument of foreign policy dates back to antiquity.<sup>7</sup> Some define sanctions as measures directed to political objectives, measures that consist of government-mandate limitations on customary trade or financial relations with the target country.<sup>8</sup>

However in a large category there are four main methods of applying sanctions by the States or international organizations against targets: trade controls, suspension of aid or technical assistance, freezing of the target's financial assets, and blacklisting of companies involved with bilateral business.<sup>9</sup>

First, trade controls (both goods and services) by the sender include one or more of the following elements: (1) on exports/imports; (2) restrictive exports/imports licensing; (3) limited or total export sanction (embargo); (4) limited or total import sanction (boycott); (5) discriminatory tariff policy (including denial of most favored nation status); (6) restriction or also cancellation of fishing rights; (7) suspension or cancellation of trade agreements; and (8) bans on strategic goods and

<sup>5</sup> Geoff Simons, "Imposing economic sanctions: legal remedy or genocidal tool?", Press, 1999, PP. 7-37.

<sup>6</sup> See Jeremy Matam Farrall, "United Nations Sanctions and the Rule of Law", Cambridge 2007, p.106.

<sup>7</sup> J. Cooper, «Sanctions and Economic Theory», South African Journal of Economics, 53(3), pp.287-296.

<sup>8</sup> R. Carbaugh & Wassink, «International Economic Sanctions and Economic Theory», Rivista Internazionale di Scienze Economiche e Commerciali 35: 217-225 cited in Brian Dollery, «Economic Sanctions and Economic Theory», policy, summer 1989, p. 53.

<sup>9</sup> Margaret P. Doxey, Economic Sanctions and International Enforcement, 2nd ed. (New York: Oxford University Press, 1980), pp. 14-5.

advanced technology exports.

Second, suspension of aid or technical aids by the sender includes one or more of the following elements: (1) reduction, suspension, or cancellation of credit facilities at concessionary or market rates; (2) reduction, suspension, or cancellation of technical assistance, military assistance, development assistance, and training programs; and (3) votes against loans, grants, subsidies, and funding for technical or other assistance from international organizations.

Third, freezing of the target's financial assets by the sender includes one or more of the following elements: (1) freezing bank assets of the target government or target nationals; (2) expropriation of other target assets, including the target's investment in the sender; (3) freezing interest or transfer payments; (4) refusal to refinance debt repayments toward (interest and principal); and (5) suspension or cancellation of joint projects.

Fourth, blacklisting of companies with bilateral business by the sender includes the following elements: (1) blacklisting of sender's or third parties' companies doing business with the target, including trade and investment; and/or (2) blacklisting of the target's companies that is doing business with the sender, including trade and investment.<sup>10</sup>

However, in contemporary international law the scope and the elements of the sanctions have been actually evolved and this included many recent pressures and imposing new sanctions that should be considered in details.<sup>11</sup>

### 1. The Purposes and the objectives of the Sanctions

The object of sanctions imposed under Chapter VII of the UN Charter by the Security Council, is the maintenance of international peace and security.<sup>12</sup> The basis for UN sanctions under international law derives more specifically, from Article 41, which covers enforcement measures not involving the use of armed force. Article 41 in United

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<sup>10</sup> The Anatomy of Economic Sanctions, p.98, available at [www3.nccu.edu.tw/.../Chapter%203%20%20Anatomy%20of%20Econo](http://www3.nccu.edu.tw/.../Chapter%203%20%20Anatomy%20of%20Econo), accessed on (11/9/2013)

<sup>11</sup> However in this article we have to be confined just to the sanctions against Iran and those specially against the Iranian media.

<sup>12</sup> For more details see <http://www.un.org/sc/committees>, accessed on (10/10/2013).

Nations charter doesn't specifically mention the word "sanctions", though it lists specific sanctions measures to be taken while at the same time making it clear that the list is not comprehensive:

"The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."<sup>13</sup>

The main theory is that pressure on the civilians of the targeted country will contribute into pressure on the government for change. The Secretary General of the UN, Kofi Annan, observed that the objective of sanctions is to change in specific ways the behavior of a government or regime ... and, in a conflict situation, to diminish the capacity of the protagonists to sustain a prolonged fight."<sup>14</sup>

Pressing pain on the target is a means to an end and the end being a change of behavior on the part of a third player that is the state. If close allies of an autocratic leader see their fortunes endangered by erratic behavior, they might apply pressure to change his foreign policy. The problem is that he is a dynamic actor, too. As fast as the sender can impose pain, the leader can deliver analgesics in the form of new contracts, while buying his allies' continued loyalty. If his economy is not growing, however, the autocrat cannot make the pain disappear. He can only impose it on others, exacerbating tensions between competing parts.

Sanctions are a common tool for foreign policy and have been extensively employed by Western states to targeted states in order to improve human rights conditions, adopting or maintaining democratic institutions, or respecting the rule of law within their borders, sanctions often fail to achieve these goals<sup>15</sup>. In addition to this, sanctions frequently

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<sup>13</sup> Art. 41 of United Nations charter.

<sup>14</sup> Secretary-General, Reviews Lessons learned during Sanctions Decade in remarks to International Peace Academy Seminar, April 17, 2000, Para. 3.

<sup>15</sup> See Hufbauer Gary C. Jeffrey J. Schott and Kimberly A. Elliott. 1990a. «Economic Sanctions Reconsidered: History and Current Policy», 2nd edition. Washington, DC:

impose significant economic and social costs on civilians. They may also contribute to adverse changes in the domestic political climate and policy decisions of the target state.<sup>16</sup>

However, as we know improving human rights is often an explicit goal of economic sanctions, particularly those by Western states, the human rights impact of sanctions is an important issue of policy. Therefore it's important to determine that whether sanctions improve the human rights practices in the target state or if they perhaps make an already problematic situation even worse. It's important to examine whether the sanctions unintentionally or intentionally contribute to increase in repression or make worse the human rights conditions in targeted states.

In this article after examining the sanctions of the European Union against Iran, we will take look at the violation of the freedom of mass media by a dual perspective: first human rights aspects and democracy.

## **B. EUROPEAN UNION SANCTIONS AGAINST IRAN**

The Iran sanctions regimes by EU have developed in multilateral political, strategic, and also legal contexts that have applied increasing pressure on Iran over the last decade in response to that country's nuclear program.

The history resort to economic sanctions against Iran by the European countries shows that limits of the sanctions employed by member states of the European Union covered different aspects of mutual economic, political and cultural relations from export and import of goods, technical cooperation to some other restrictions on traveling and transportation fields as well. In comparison to those have been implied by the Security Council against Iran because of basic differences, it seems that a notable difference has been occurred among the others, Sanctions against importing Iran's crude oil by countries including prohibition on buying Iran's oil in any way; banning insurance coverage for tankers carrying the Iranian oil and financial resources related to Iran's imports; banning investment in Iran's petrochemical industry; enforcing sanctions against

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Institute for International Economics, cited in Reed M. Wood, «Economic Sanctions and State Repression», 1976-2001, *International Studies Quarterly*, 2008, 52, p.490.

<sup>16</sup> Ibid.

the Central Bank of Iran within the European Union; prohibiting sales of metals to Iranian governmental institutions and the Central Bank of Iran; banning delivery of banknotes to Iran's bank; prohibiting sales of all goods with dual use to Iran; and expanding the list of persons covered by sanctions compared to previous resolutions are as such notable examples of the restrictive measures of European union.

The Treaty on European Union includes restrictive measures as one of the potential tools that could be maintained to follow the goals of the Common Foreign and Security Policy. The Council imposes sanctions also when exerted by the Security Council of the United Nations and according to the terms of the Partnership Agreements and there are three internal important documents that are relevant for the EU's restrictive measures policies.

The first document is the 'Basic Principles on the Use of Restrictive Measures (Sanctions)' (hereafter referred to as 'Basic Principles') approved in June 2004 by the Political and Security Committee to address a request by the Council to develop a policy framework. This principle states that Union should impose sanctions in accordance with the UN, but also autonomously whenever 'necessary'. ['Basic Principles on the Use of Restrictive Measures', 2004]. This document is for the use of targeted sanctions, and the second and the third documents were adopted to maintain this objective.

The second one is the 'Guidelines on Implementation and Evaluation of Restrictive Measures (i.e. Sanctions) in the framework of the EU Common Foreign and Security Policy' (i.e. Guidelines') of 2003 and updated in 2005, 2009 and also 2012, including definitions and some directives on how to design and implement restrictive measures, and also important information according to the different typologies of restrictions that can be imposed and on how to measure their effectiveness.

And finally, 'The EU Best Practices for the Effective Implementation of Restrictive Measures' ('the Best Practices'), of 2008 which includes the relevant information on identifying the correct designated entities, and on the administrative modalities for freezing assets, including the procedure on how to grant exceptions to the measures.

It's good to mention that imposing sanctions is considered as a

foreign policy decision, therefore the EU can adopt them in order to maintain any of the goals of Article 21, Paragraph 2 of the TEU: for the improvement of ‘democracy, the rule of law, the universality of human rights and fundamental freedoms, respect for human dignity, the principles of equality, and respect for the principles of the United Nations Charter and international law as well.’ The ‘Basic Principles’ deals with this issue as well and states that EU restrictive measures should be adopted in supporting efforts to fight terrorism and to prevent the proliferation of weapons of mass destruction, and to uphold respect for human rights, democracy, the rule of law and good governance. Those ‘Guidelines’ as well contain various important elements, stating that ‘the restrictive measures do not have an economic motivation’. In specific terms, restrictive measures have been accepted to support democracy and human rights, to manage conflicts, to help democratic transitions, to counteract the proliferation of weapons of mass destruction and to combat with terrorism.<sup>17</sup>

The case of Iran indicates many problems that exist in measuring the effectiveness of sanctions: various senders, resilience of targets, conflict of interests among different important players (i.e. the US, China, the EU) and unsuitability of main goals between senders and targets. In this article, the decision of the EU to impose additional sanctions on top of those decided by the Security Council could seem unsuitable, but if one looks at the different players of the same game, including the audiences and how sanctions can effect on them, then the assessment may result in some interesting conclusions.

Iran made its plans unclear to enrich uranium and was accused by the international community of violating the Non-Proliferation Treaty. The response of the International Atomic Energy Agency and the international community was to convince Teheran to make its plans clear and to follow the principles glorified in the NPT that would allow Iran to process uranium for simply peaceful purposes. Despite several offers, such as building a nuclear power plant in Russian territory to replace the site in Bushehr, the United Nations imposed sanctions in December 2006 when it became clear that Iran didn’t intend to cooperate with

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<sup>17</sup> See Francesco Gumelli: «How EU Sanctions Works?» A Narrative, EU Institute for Security Studies, 2013, p.8-11.

the IAEA. The Council of the European Union received the sanctions imposed by the UN such as travel ban, commodity boycotts and arms embargo but decided to interpret vastly the guidelines intended by Resolution no.1737 approved by the Security Council of United Nations and extended the freeze of assets and the travel ban to 23 new target countries. The EU mentioned list was related to the UN and extended several times in 2008 and 2009 to reach 79 targets with Council decision no.413 of June 2010.<sup>18</sup>

In addition the Council went beyond the UN ruling by extending the list of targets, by making a detailed list of technologies that were not intended to be sold to Iran because of the risk of them in using to support either the nuclear or the missile programs as well, and by imposing a number of financial restrictions on Iranian financial institutions and on oil and gas in 2012.<sup>19</sup> Given the structure of the EU sanctions regime specially concentrating on certain specified parts, there isn't an obvious need in the U.S. regime for express exemptions to support humanitarian trading. However an exception is found in the EU financial sector-related sanctions. For instance, Regulation 1263/2012 exempts from the limitations on EU banks' participation in transactions with Iranian financial institutions "transfers regarding healthcare, medical equipment, or for agricultural purposes," in cases that they have undergone authorization procedures.<sup>20</sup>

Thus EU has indicated about 350 targets beyond those UN list, including the Islamic Revolutionary Guard Corps and the Islamic Republic of Iran Shipping Lines. Moreover, following the violent repression of the 2010/2011 protests in Iran, the Council decided to impose a freeze of assets and a travel ban as well and with Council decision 235 of 11 April 2011 on individuals responsible for the repression and a ban on trade of equipment that could have been used by the government to that goal. It's good to note that October 2011 listing indicated 59 individuals.<sup>21</sup>

<sup>18</sup> See Council Decision 413 of 26 July 2010, 2010/413/CFSP.

<sup>19</sup> See Council Decision 35 of 23 January 2012, 2012/35/CFSP.

<sup>20</sup> See Council Regulation (EU) No 1263/2012 of 21 December 2012 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran, [2012] OJ L 356/34.

<sup>21</sup> See Council Implementing Decision 670 of 10 October 2011, 2011/670/CFSP].

It's obvious that over the time a legal intention has been replaced by some prejudices on behalf of the EU member States in case. While the government of Iran has insisted on the peaceful nature of its Nuclear Programs, the question is whether restrictive measures taken by the European Union against Iran has violated the right Iranian to mass media.

## **C. SANCTIONS AND VIOLATION OF FREEDOM OF MASS MEDIA**

### **1. Freedom of media and human rights**

It's important to note first that Sanctions could also lead to serious political consequences that were not originally intended by sender countries, such as worsening the level of human rights and democratic freedoms in the sanctioned countries.<sup>22</sup> The first example of the preface to the universal declaration of human rights provides: 'whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.' The second sentence of the preface states '...the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspirations of the common people.'

Article 1 of the universal declaration of human rights provides that: 'all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood.' The first sentence of article 2 presents: 'everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social, property, birth or other status.' The first sentence of article 7 states that 'all are equal before the law and are entitled without any distinction to equal protection of the law.'

In addition the Preamble to the UN International Covenant on

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<sup>22</sup> Drury, AC and Li Y . U.S. "economic sanction threats against China: Failing to leverage better human rights",*Foreign Policy Analysis* 2(4),2006, 307–24.

Civil and Political Rights<sup>23</sup>, which was adopted by the UN in 1966 (came into force in 1976), approves that ‘recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world’ and, consequently, that rights ‘derive from the inherent dignity of the human person’. International recognition of the basic dignity, equality and autonomy of all people has affected on the formulation of fundamental rights, especially with respect to freedom of expression. Also International recognition of the basic dignity, equality and autonomy of all people has impacted strongly upon the formulation of fundamental rights, particularly with regard to freedom of expression. Freedom of expression is seen as a basic human right and is protected internationally (as discussed later in this chapter) because the concepts of dignity, equality and individual development or fulfillment need that when human beings talk or otherwise express themselves, what they are expressing is a reflection of who they are, and thus worthy of respect and protection.

It is clear from the international human rights instruments that the right to freedom of expression requires not only that everyone is free to express but that they are free to do so in a range of different types of media, such as the print or broadcast media, related to licensing requirements in respect of the broadcast media. Indeed, one academic, Michael Bratton, has said: ‘in order to be politically active, citizens require means to communicate with one another and to debate the type of government they desire for themselves. Civic discourse can take place in various forums, the most important of which are the public communications media, both print and electronic’.<sup>24</sup>

However the right to freedom of expression hasn’t passed to serve the movements of the 1970s and early 1980s in favor of <right to communicate>. This movement was aimed to state the problem of small numbers of media products in a top-down manner by governments operating in days before direct citizen participation in decision-making had developed. It sought to find mechanisms to involve larger numbers

<sup>23</sup> <http://treaties.un.org/doc/db/survey/CovenantCivPo.pdf>, accessed on (5/9/2013).

<sup>24</sup> Michael Bratton, «Civil Society and Political Transition in Africa». Institute for Development Research Reports, 11(6), 1994, p 2. Available at <http://worlded.org/docs/Publications/idr/pdf/11-6.pdf>, accessed on (14/12/2013).

of people in the decision-making structures that governed by advocating for ‹the right to take part in public communication›. It aimed to balance the allocator and “repressive” communication that was aimed to prevail in mass media at the time. The right to communicate movement became linked with the debate within UNESCO on the New World Information and also Communication Order that served to balance the global flow of news again in favor of the disadvantaged South. Doomed to flounder on cold war controversies over whether this was in fact a hidden agenda for subverting freedom of expression for authoritarian goals, the movement came a generation too early, petering out before what some rightly refer to as the “great democratic triumph” brought by the internet.<sup>25</sup>

Thus it seems clear now that the right to communicate was misled in its strategy, however glorified its aims, the solution has come not from reform of the international human rights architecture but from technological developments which succeeded in doing what the ‹May 1968 generation› had requested by opening the media space and creating opportunities for all, at least many in the developed world, to be owners of their own little press.

## 2. Freedom of media and democracy

Foreign economic pressures as sanctions against countries and the growing exclusion of the target countries will potentially create new incentives for the political leadership to do state censorship and accordingly resort to media repression.

While we are focused on the concept of the ‘imposed’ sanctions, coercion will be unlikely to disturb the repressive capacity and legitimacy of the target political leadership, and hence will not promote more freedoms, including greater freedoms of association, speech, and communication, especially in less-democratic systems. It seems that on the contrary *inter alia* sanctions are likely to worsen the level of press freedom in the sanctioned countries by (1) increasing governmental restrictions and repression against the media following

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<sup>25</sup> Helen Darbishire, «Freedom of Expression, A Flexible and Open Right, the right to public expression», available at <http://mediapolicy.org/wp-content/uploads/Freedom-of-Expression-a-flexible-and-open-right.pdf>, p.8., accessed on (2013/07/17)

the growing economic and political isolation of the target regimes and (2) reducing the economic viability and development of independent media outlets.<sup>26</sup> So the issue is that the media repression by the government might be more common during international crises and employment of sanctions because limiting the exposure of the public to diverse news and controlling information is crucial for government to maintain public opinion and reserve the status quo.<sup>27</sup> Many believe that the use of repressive measures against media helps the political leadership enhance the regime's ideology and policies in controlling relations with the world outside. Thus it is true about the states with minimum levels of democracy or even nondemocratic States. These regimes may provide several methods for the media repression, such as applying strict state censorship over the coverage and publication of public information, calling off the licenses of reform, and limiting foreign broadcasts.<sup>28</sup> In these conditions the sanctions may exacerbate the anarchical environment of the state and intensify the circumstances which may be clearly different with end objectives of the economic sanctions.

Therefore sanctions will likely impose significant damages on media independence especially when the targeted countries are in a less democratic situation. In addition the vast groups of sanctions cause greater damages to press freedom than small numbers of sanctions. Because extensive sanctions pose a greater challenge for the sustainability of independent media opening, there will be more dependence on state subsidies and more concentrated media ownership, which results in reduced exposure of the public to diverse news and opinions. On the other hand multilateral sanctions lead to more deterioration of press freedom than unilateral sanctions. It is evident that multilateral sanctions significantly restrict the economic and political exchanges of the target state with the outside world, which allows the political leadership to have stricter control over flows of public information and the operations

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<sup>26</sup> Dursun Peksen, «Coercive Diplomacy and Press Freedom: An Empirical Assessment of the Impact of Economic Sanctions on Media Openness, international political science review», p.451, available at <http://ips.sagepub.com/content/31/4/449>.

<sup>27</sup> See Gunther R and Mughan A, *Democracy and the Media: A Comparative Perspective*. Cambridge: Cambridge University Press, 2000, p.70.

<sup>28</sup> Samii WA, *Middle East Review of International Affairs* 4(3), 1999, pp.1–11.

of local and international media sources.<sup>29</sup>

Accordingly because of side damage to press freedom caused by sanctions, policymakers should also consider the negative outcomes caused by coercion as well as debating whether sanctions succeed in achieving their goals. This aspect of the case is of course in complementary with other human rights sides of the situation as the threats to right to medicine or food or right to a safe environment.

### III. THE CASE OF IRAN

The sanction against Iranian media is an attempt by the West countries. It is on top of another notable breach of freedom of speech by satellite providers namely Eutelsat SA and Intelsat SA which stopped the broadcasting of several Iranian satellite channels in October 2012.

In November, the Asia Satellite Telecommunications Co. Ltd. (AsiaSat) in Hong Kong also took all Iranian channels off air in East Asia under pressure from the US.

In a similar way in December, Spain's top satellite company Hispasat ordered its satellite provider over to take Iranian channels Press TV and Hispan TV off the air.<sup>30</sup> And all of these limits on Iranian media were maintained as an attempt to press Iranian media as a kind of political pressure in accordance with sanctions to force Iran to stop its nuclear energy programs as well.<sup>31</sup>

Thus while Europe's largest satellite provider Eutelsat provides it

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<sup>29</sup> Dursun Peksen, *Coercive Diplomacy and Press Freedom*, op.cit, p. 462.

<sup>30</sup> See <http://www.presstv.com/detail/2013/01/04/281682/us-imposes-sanction-on-iranian-media/> accessed on (09/12/2013).

<sup>31</sup> While some believe that these sanctions are because of some U.S pressers and relevant to some recent decisions of the U.S Congress concerning the new set of sanctions against Iran. See for example New Executive Order Regarding Iran and Other Activities Related to U.S Sanctions against Iran, October 15, 2012. section 3 of the order authorizes the blocking of property of persons determined to have engaged in censorship or other activities ,the date of Iran's [disputed] presidential election, that(1) prohibit, limit or penalize the exercise of freedom of expression or assembly by citizens of Iran ; or (2) limit access to print or broadcast media ( including the facilitation or support of international frequency manipulation by government of Iran or an entity owned or controlled by the government, that would jam or restrict an international signal).

has withdrawn the European broadcasting licenses for nine Iranian TV channels and ten radio stations deciding to improve the EU sanctions against Iran.

It's good to note that the active authorities of the mentioned Medias have all condemned these attacks against Iranian as a part of war against freedom of speech. The attacks to Iranian mass media are the clear breach of 19<sup>th</sup> article in Universal Declaration of Human Rights that highlights the human rights to express their ideas in a free and clear way. Also in the mentioned article: 'everyone has the right of free expression and that right includes of not having any stress and fear according to those ideas and be free in maintaining information and thoughts and broadcasting them.'

Iran also has continuously provided that these breaches of the human right in freedom of speech and freedom of mass media are illegal. And also it threatened to sue the EU for what it needs compensation of damages, both material and spiritual.<sup>32</sup>

The EU has responded that the decision taken by Eutelsat is not part of the EU's new sanctions agreed in Luxemburg on Monday. Maya Kochiyanchich, spokeswoman for the EU declared that 'It is a decision taken by Eutelsat, the decision that the EU has taken note of and the EU has adopted indeed this week a new set of restrictive measures against Iran but they focus on finance, energy, trade and transport and not telecommunication.'<sup>33</sup>

These misguided activities of satellite providers are also the extensive breaches of International Telecommunication Union laws and regulations. The basic rules of which are related to maintenance of cooperation with regard to the use of telecommunication on the international arena. ITU coordinates the shared use of the radio, promotes international cooperation in organizing satellite orbits, works

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<sup>32</sup> Press TV, Iran's English language news service and one of the channels banned released this statement. (*"The reason given, that Eutelsat is following sanctions is a lie. There are no sanctions against Press TV or other news sources, no UN vote supports it and I would like to see the issue taken before the General Assembly."*)

<sup>33</sup> Voice of Russia, "Iran Eutelsat Sanctions Violate Freedom of Speech," [http://voiceofrussia.com/2012\\_10\\_17/Iran-Eutelsat-sanctions-violate-freedom-of-speech/](http://voiceofrussia.com/2012_10_17/Iran-Eutelsat-sanctions-violate-freedom-of-speech/) accessed on (28/12/2013).

to develop telecommunication infrastructure in the developing world, and helps in the development and coordination of worldwide technical standards. The ITU is also active in areas including broad Internet, recent wireless technologies, maritime and aeronautical navigations, satellite-based meteorology, Internet access, data, TV broadcasting, and new generations of networks. The unlawful sanctions against Iran were exactly contrary to the main aims of ITU accordingly. It's worthy of note that coordination among people in the world is facilitated through the use of global networks and without these people are likely to be disabled who couldn't express freely and gather information from around the world and also use them.

It's important to mention about the contracts made between Iran and the satellite providers in the west. These private companies haven't had any attention to those contracts according to *pacta sunt servanda*, the basic principle of international law. In its most common sense, the principle refers to private contracts, highlighting that clauses are law between the parties and implies that nonfulfillment of respective obligations is a breach. With reference to international agreements, every treaty in force is binding upon the parties to it and must be performed by them in good faith and the only limit to *pacta sunt servanda* are *jus cogens*, the peremptory norms of general international law.

Although all the mentioned sanctions on mass media have been cleared and also two related sanctions of Intelsat and Utelsat satellites in the August of 2014 but unfortunately the effects of those grave breaches of regulations and clear breaches of Human Rights international principles wouldn't let the countries round the world to change their attitudes toward the policies of western countries as well.

While it seems obvious that sanctions against States are in conflict with many human rights basic norms like the freedom of mass media, the question remains that what is the actual difference between unilateral act of Eutelsat and unilateral economic sanctions of the EU by breaching of the mentioned rights of Iranians to freedom of mass media?<sup>34</sup>

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<sup>34</sup> However European satellite provider Eutelsat SA says it has stopped the broadcast of several Iranian satellite channels following an order by the European Commission, Press TV reports, see <http://saebpress.com/2012/10/eu-bans-broadcast-of-iranian-tv-channels/> accessed on (17/12/1213).

## IV. CONCLUSION

1. Freedom of media is the freedom of expression and communication through the mass media including various electronic media and published materials. The Universal Declaration of Human Rights states: 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference, and impart information and ideas through any media regardless of frontiers.' Therefore the relation between freedom of mass media and right to freedom of express and access to free flow of information isn't deniable and reinforcing the latter may enforce the implication of the former.

In this article we took a look at the violation of freedom of mass media which shows the need for deep analysis. The U.S and E.U sanctions obviously violate Articles 18, 19 and 20 of the universal declaration on human rights which are on freedom of thought and expression as the most important rights that especially Western countries highlight more on them. During the past few years in numerous cases Iranian TV channels have been removed from Satellites. This is expressly violation of freedom of mass media and access to free flow of information.

2. Generally the sanctions may make worse the level of freedom of press in the countries under the sanctions and the situation in less-democratic States is poorer. However, Iran as a democratic State has condemned sanctions and has tried to provide a more proper environment for a mutual dialogue between states. In this situation, freedom of mass media and access to free flow of information will improve the relations between people around the world and may reinforce the establishment of the basic norms of human rights, accordingly.
3. The contracts between Iran and some western satellite providers are between a state and some foreign companies. Therefore they are valid and the parties should respect the contents of the contracts such as the basic principle of *pacta sunt servanda*.
4. In accordance with principle of non-intervention in domestic affairs of the states<sup>35</sup> and principle of cooperation among states<sup>36</sup>, violation

<sup>35</sup> <http://www.un.org/en/sc/repertoire/principles.shtml>, accessed on( 8/12/2013)

<sup>36</sup> See Articles 1(3), <http://www.mfa.gov.tr/data/Kutuphane/MultilateralConventions/>

- of the obligations by satellite providers is considered as flagrant breach of their obligations and is obviously condemned indeed.
5. While fully recognizing the sovereign right of each State to regulate its telecommunication and having regard to the growing importance of telecommunication for the protection of peace and the economic and social development of all States, article 1 of the statute of the International Telecommunication Union request the States facilitate the peaceful relations, international cooperation among people and economic and social development by means of efficient telecommunication services. The acts of satellite providers against Iran could be the grave breach of the object and purpose of this organization.
  6. The issues remain are whether Iran could sue the satellite providers and their policy-makers in international or regional forums such as European Court of Justice<sup>37</sup>, European Court for Human Rights<sup>38</sup> or the others? This needs to be scrutinized in future studies.

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CharteroftheUnitedNations.pdf, accessed on (10/10/201).

<sup>37</sup> European Court of Justice is the highest court in the European Union in matters of European Union law. As a part of the Court of Justice of the European Union it is tasked with interpreting EU law and ensuring its equal application across all EU member states. For more about jurisdiction of the court see [http://europa.eu/about-eu/institutions-bodies/court-justice/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/court-justice/index_en.htm), accessed on (6/9/2013).

<sup>38</sup> European Court for Human Rights is international court established by the European Convention on Human Rights. It hears applications on a case that a contracting state has breached one or more of the human rights provisions concerning civil and political rights in the Convention and its protocols. An application can be lodged by an individual, a group of individuals or one or more of the other contracting states and the Court can also issue advisory opinions. The Convention was adopted within the context of the Council of Europe, and all of its 47 member states are contracting parties to the Convention, for information about its jurisdiction see more in <http://www.echr.coe.int/Pages/home.aspx?p=home>, accessed on (12/7/2013).

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