

Symposium | Third World Approaches to International Law & Economic Sanctions

Weapons Against the Weak: International Law and the Political Economy of Coercion[†]

Aslı Bâli^{††}

INTRODUCTION

Economic sanctions are often presented as an alternative to, and distinct from, the use of force or military intervention. For this reason, they are also often seen as normatively preferable—conveying a strong message without directly threatening lives through armed force. As the public has expressed exhaustion with America’s “forever wars”¹ following nearly a quarter century of the “war on terror,”² the argument that sanctions are preferable to further military entanglements has contributed to an accelerating proliferation of sanctions regimes.³ From conflicts in Ukraine⁴ to the Middle East⁵ to the South China Sea,⁶ sanctions have become a policy tool of first resort ostensibly to signal that the use of force should remain a measure of last resort.

Revisiting an earlier debate, one that long predates contemporary sanctions practice, offers a reminder of alternatives to the permissive international legal

[†] This article is an expansion of Aslı Ü. Bâli, *Weapons Against the Weak*, YJIL ONLINE (June 29, 2023), <https://www.yjil.yale.edu/weapons-against-the-weak/>.

^{††} Professor of Law at Yale Law School. I am grateful to the editors at *YJIL* for their meticulous work and the skill, care and patience they brought to the production of this symposium, with particular thanks to Chisato Kimura and Ali Hakim. I would also like to thank Zohra Ahmed, Heike Krieger, Dustin Lewis, Naz Modirzadeh and Ntina Tzouvala for their comments on an earlier draft.

1. See, e.g., Harold Hongju Koh, *Finally Ending America’s Forever War, Part I: Diagnosis*, JUST SECURITY (Sept. 11, 2023), <https://www.justsecurity.org/88131/finally-ending-americas-forever-war-part-i-diagnosis/>.

2. On two decades of the “war on terror,” see *The Legacy of 9/11 and the ‘War on Terror’: A Special Series*, INT’L CRISIS GROUP (2021), <https://www.crisisgroup.org/legacy-911-and-war-terror-special-series>.

3. For a discussion of sanctions as a preferred policy tool that serves as an alternative “between diplomacy and war,” see Jonathan Master, *What Are Economic Sanctions?*, COUNCIL ON FOREIGN RELS. (Aug. 12, 2019), <https://www.cfr.org/background/what-are-economic-sanctions>.

4. *What are the sanctions on Russia and have they affected its economy*, BBC (Feb. 23, 2024), <https://www.bbc.com/news/world-europe-60125659>.

5. Statement, Statement from President Joe Biden on Iran Sanctions, White House Briefing Room (Apr. 18, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/18/statement-from-president-joe-biden-on-iran-sanctions/>.

6. Matthew Lee, *US imposes new sanctions on Beijing over South China Sea*, PBS NEWSHOUR (Jan. 14, 201), <https://pbs.org/newshour/politics/u-s-imposes-new-sanctions-on-beijing-over-south-china-sea-violations>.

order that enables the pervasive use of unilateral and multilateral sanctions. In the midst of decolonization, newly independent states understood that *de jure* sovereign equality was married to vast material inequalities that, uncontrolled, would entrench, *de facto*, ongoing relations of subordination. In the context of the colonial encounter, these states had experienced economic coercion as destructive and immiserating in ways that were continuous with, or even an extension of, the use of force. As a result, decolonized states sought to use their hard-won seats in international organizations to negotiate rules that would regulate and limit economic coercion.

These arguments provide a fresh vantage point from which to consider the contemporary use of sanctions. Their insistence that economic coercion was, in effect, a form of war by other means is resonant a half-century later, as economic and military coercion are becoming more and more explicitly interchangeable and interlinked. In what follows, this Essay examines the contradictions intrinsic to an international legal order that purports to prohibit recourse to force while licensing economic coercion. The promise of the United Nations (UN) security order for decolonized states was that it would protect the equal sovereignty of fundamentally unequal states. But the prohibition on force in the U.N. Charter is a protection from *non-consensual* uses of force. If economic coercion is permissible, then the much-vaunted sovereignty of weaker states inevitably becomes permeable. With the option of inducing consent through threat or use of sanctions, the prohibition on non-consensual force is reduced to little more than words on paper. To explore this contradiction, the next section begins with an overview of the accelerating imposition of sanctions by states of the Global North since the end of the Cold War. To understand how the international legal order came to abet sanctions, the following section considers the arguments advanced by newly decolonized states in the 1960s and their defeat. The third section turns to an example that illustrates how economic and military coercion are co-constituted. The circumstances surrounding the assassination of a high-ranking Iranian military official on Iraqi soil and its aftermath demonstrates how states of the Global North preside over a political economy of violence in their relations with both allies and adversaries in the Global South. The final section of the essay returns to the question of economic coercion to consider the implications of a shifting geopolitical order that is increasingly multipolar.

I. SANCTIONS IN A POSTCOLONIAL WORLD

Unregulated sanctions are a valuable instrument in the postcolonial arsenal of economic statecraft. This tool, the epitome of an international legal order that legitimates economic coercion, is disproportionately available to states in the Global North.⁷ Sanctions, particularly as they have operated since the end of the Cold War, offer a means for relatively united Western powers—led by the United

7. Joy Gordon, *The Hidden Power of the New Economic Sanctions*, CURRENT HISTORY (January 2019), https://ecommons.luc.edu/cgi/viewcontent.cgi?article=1048&context=philosophy_facpubs.

States—to dictate terms to weaker states in the Global South.⁸

The advantages that accrue to states of the Global North from the relative size of their economies—itsself a legacy of colonial extraction—has long enabled the coercive imposition of their preferences. Conversely, the same asymmetries explain the vulnerability experienced by states of the Global South, whose weaker economies are easily targeted with punitive measures.⁹ And given the target states' relatively small share of global economic activity, the collateral costs to the world economy of imposing sanctions on them remains low, as does the likelihood that any adverse consequences will redound to the states imposing the sanctions.

States with relatively smaller economies are also unable to generate any leverage through the imposition of reciprocal sanctions against the powerful.¹⁰ The greater the asymmetry between the state(s) imposing sanctions and the target, the more intrusive and damaging punitive economic measures can be. A quick review of the states that have been targeted with the broadest packages of economic sanctions to date reflects the degree to which weak economies are prey to this logic: Iraq, Iran, North Korea, Cuba, and Venezuela.¹¹ Add to this list the sanctions against Afghanistan since the U.S. withdrawal in 2021, a stark example of the devastating costs to civilians of the discretionary imposition of collective punishment (by a state, no less, that bears disproportionate responsibility for conditions in the target state).¹² A lawful instrument of coercion that imposes

8. For an empirical review of the scope of humanitarian suffering inflicted by sanctions, and the ways in which they contribute to greater inequality between the imposing states and target states, see Bryan R. Early and Dursun Peksen, *Does Misery Love Company? Analyzing the Global Suffering Inflicted by US Economic Sanctions*, 2 *GLOB. STUD. Q.* 1 (2022).

9. See, e.g., *Afghanistan: Nearly 20 million going hungry*, U.N. NEWS (May 9, 2022), <https://news.un.org/en/story/2022/05/1117812>; Tatenda Karuwa, *How have sanctions impacted Iranian aviation over the years?*, SIMPLE FLYING (Feb. 15, 2024), <https://simpleflying.com/iranian-aviation-sanctions-analysis/>; Jalal Hejazi & Sara Emamgholipour, *The effects of the re-imposition of US sanctions on food security in Iran*, 11 *INT'L J. HEALTH POL'Y MGMT.* 651 (2022).

10. The implications of the use of sanctions by states in the Global South against one another lies, for the moment, beyond the constraints of this short sketch.

11. CONGR. RESEARCH SERVICE, U.S. SANCTIONS: OVERVIEW FOR THE 118TH CONGRESS (March 4, 2024), <https://crsreports.congress.gov/product/pdf/IF/IF12390>. Beyond states facing comprehensive sanctions today — Cuba, Iran, North Korea, and Syria — states face sectoral sanctions in the following states: Afghanistan, Belarus, Burma, Central African Republic, China, DRC, Ethiopia, Iraq, Lebanon, Libya, Mali, Nicaragua, Russia, Somalia, South Sudan, Sudan, Syria, Venezuela, the West Bank, Western Balkans, and Yemen. Apart from Belarus, China, and Russia, these are all countries of the Global South with weak economies facing an area of internal humanitarian crises.

12. The imposition of sanctions and asset freezes on Afghanistan following the end of twenty years of war and occupation of that country by a U.S.-led coalition is an especially stark example that I am interested in working through as part of a fuller contribution. It exemplifies the “rogue states” logic undergirding the imposition of sanctions as well as another dimension of the reductionism through which such punitive and damaging economic measures are imposed in the name of international law on already deeply vulnerable societies. By anthropomorphizing an entire country into a single targeted rogue actor — in this case the Taliban — a population of forty million is presented as both the legitimate target of profound immiseration and also the “victims” in whose name sanctions must be imposed. Terrifying reports of acute food insecurity impacting half the population — nearly twenty million Afghans — have occasioned no moderation in the economic coercion with which the country is targeted. The U.N. Special Rapporteur, the ICRC, and major human rights organizations have all documented a direct relationship between these punitive economic measures and the risks of famine across the country. See, e.g., *Economic Causes of Afghanistan's Humanitarian Crisis*, HUM. RTS. WATCH (Aug. 4, 2022),

virtually no costs on those that wield it—while inflicting untold and often indiscriminate damage on its targets—amounts to what Manu Karuka has called “contemporary imperialist siege warfare.”¹³

The humanitarian consequences of sanctions¹⁴ against states with small economies have long been chronicled,¹⁵ rarely occasioning more than sympathetic hand-wringing.¹⁶ Understanding the role that sanctions play in an imperial geopolitical order helps explain their overuse despite evidence of ineffectiveness¹⁷ and humanitarian harm.¹⁸ As critical scholars have noted, the unrivaled hegemony of the United States in economic and military terms since the mid-20th century has meant that for three-quarters of a century, the United States has been uniquely positioned to enforce its preferences through sanctions with little consequence for its own economy.¹⁹

If unipolarity served as a permissive condition since the 1990s, the return of multipolarity brings the imperial character of American-led sanctions into sharper focus. For the United States, sanctions have served as a means of disciplining actors who resist its geostrategic or geo-economic preferences, that is, as a governance tool in the management of empire. But imperial governance of this kind requires an acute asymmetric advantage. Today, in an age of inter-imperial rivalry, sanctions are becoming a less effective lever to enforce American preferences where potential targets might seek assistance from U.S. rivals, and those rivals, in turn, are better able to resist when threatened with sanctions themselves.

<https://www.hrw.org/news/2022/08/04/economic-causes-afghanistans-humanitarian-crisis>; *Afghanistan: nearly 20 million go hungry*, U.N. NEWS (May 9, 2022), <https://news.un.org/en/story/2022/05/1117812>; *Funding drought forces U.N. food agency to cut rations in Afghanistan*, U.N. NEWS (Mar. 17, 2023), <https://news.un.org/en/story/2023/03/1134722>. Meanwhile, U.S. citizens continue litigation in U.S. courts to gain access to frozen Afghan Central Bank funds as compensation for their losses in the September 11th attacks. Charlie Savage, *Judge Rejects Bid by Sept. 11 Families to Seize Frozen Afghan Central Bank Funds*, N.Y. TIMES (Feb. 21, 2023), <https://www.nytimes.com/2023/02/21/us/politics/judge-sept-11-afghan-central-bank.html>. The U.S. plaintiffs plan to appeal the decision, but regardless of the fate of the litigation, the fact that individual U.S. citizens have more direct access to the assets of Afghanistan’s central bank than the immiserated population of Afghanistan is illustrative of the dynamics unleashed by the economic weapon of sanctions.

13. Manu Karuka, *Hunger Politics: Sanctions as Siege Warfare*, in *SANCTIONS AS WAR: ANTI-IMPERIALIST PERSPECTIVES ON GEO-ECONOMIC STRATEGY* 51 (Stuart Davis ed., 2021).

14. Asli U. Bâli and Aziz Rana, *Sanctions Are Inhumane — Now, and Always*, BOS. REV., March 26, 2020, <https://www.bostonreview.net/articles/aziz-rana-asli-u-bali-sanctions-are-inhumane-now-and-always/>.

15. See, e.g., *POLITICAL GAIN CIVILIAN PAIN: HUMANITARIAN IMPACTS OF ECONOMIC SANCTIONS* (Tom Weiss et al., eds., 1997); and JOY GORDON, *INVISIBLE WAR: THE UNITED STATES AND THE IRAQ SANCTIONS* (2012).

16. *Concerned by Unintended Negative Impact of Sanctions, Speakers in Security Council Urge Action to Better Protect Civilians, Ensure Humanitarian Needs Are Met*, U.N. NEWS (Feb. 7, 2022), <https://press.un.org/en/2022/sc14788.doc.htm>.

17. Nicholas Mulder, *How America Learned to Love (Ineffective) Sanctions*, FOREIGN POL’Y (Jan. 30, 2022), <https://foreignpolicy.com/2022/01/30/us-sanctions-reliance-results/>.

18. *UN experts urge States to consider humanitarian impacts when imposing or implementing sanctions*, U.N. NEWS (Mar. 25, 2022), <https://www.ohchr.org/en/press-releases/2022/03/un-experts-urge-states-consider-humanitarian-impacts-when-imposing-or>.

19. See, e.g., *SANCTIONS AS WAR: ANTI-IMPERIALIST PERSPECTIVES ON AMERICAN GEO-ECONOMIC STRATEGY* (Stuart Davis ed., 2021).

The increasingly apparent limits of the utility and scope of sanctions deployed against states with relatively stronger economies demonstrate the parasitic relationship between sanctions and asymmetry. The case of sanctions against Russia since 2022 is instructive. As a U.S. government report notes, Russia has the world's eleventh largest economy and is relatively well-integrated into the global economy, with a particularly large share in agricultural and energy commodity markets.²⁰ As a result, sanctions against Russia (following its most recent aggression against Ukraine)²¹ have the potential to impose massive collateral consequences—on global food and energy supplies—affecting even the architects of those sanctions. The possibility of such collateral impacts alters the cost-benefit calculus of sanctions substantially. This is evident in the side agreements negotiated to blunt the force of damage to the global economy (but which also blunt the effect of sanctions for the targeted state).²²

Unlike most countries in the Global South, Russia also has many additional strategies both for evading the impact of sanctions and for imposing reciprocal costs on those that impose them.²³ In a word, Russia is less vulnerable to economic coercion than most states that have faced substantial unilateral and multilateral sanctions in the post-Cold War era. As one congressional assessment notes: “[S]anctions have created challenges for Russia but, to date, have not delivered the economic ‘knock out’ that many predicted.”²⁴ The reality of the relative ineffectiveness of sanctions in the Russian case and growing geopolitical competition with China may mean that the era of peak sanctions has passed.²⁵ The United States may soon have little choice but to adapt its resort to economic

20. CONG. RSCH. SERV., THE ECONOMIC IMPACT OF RUSSIA SANCTIONS I (Dec. 13, 2022), <https://crsreports.congress.gov/product/pdf/IF/IF12092>.

21. Few sanctions were imposed on Russia following its proclaimed annexation of Crimea and suspected military incursions in eastern Ukraine in 2014, despite widespread condemnation amongst Western states. The narrow sanctions that were applied targeted individuals and entities involved in the annexation and those doing business in Crimea rather than Russia more broadly. The eight years between the annexation and Russia's invasion of Ukraine in February 2022 witnessed Russia amassing foreign currency reserves of over \$600 billion and “de-dollarize-ing” its central bank assets to protect its economy from U.S.-led sanctions. These steps reflect both the absence of meaningful constraints on the Russian economy during that eight-year period and its capacity to resist sanctions, as compared to countries with smaller economies facing more immediate punitive measures when deemed to be rules-violative by powerful states. On the measures taken by Russia between 2014 and 2022, see Adam DuBard, *2014 and Now: Will Sanctions Change Putin's Calculations?*, FRIEDRICH NAUMANN FOUND. (Mar. 3, 2022), <https://www.freiheit.org/2014-and-now-will-sanctions-change-putins-calculations>.

22. See, e.g., Alexandra Prokopenko, *How the Ukraine Grain Deal Went From Boom to Burden for the Kremlin*, CARNEGIE ENDOWMENT FOR INT'L. PEACE (Mar. 17, 2023), <https://carnegieendowment.org/politika/89307>; *EU sanctions tweak to unblock Russian oil deals with third countries*, REUTERS (July 22, 2022), <https://www.reuters.com/business/energy/eu-sanctions-tweak-unblock-russian-oil-deals-with-third-countries-2022-07-22/> (describing a decision by EU member states to allow Russian oil to ship to third countries to limit risks to global energy security).

23. See, e.g., Joe McDonald, *China's Russia dealings irk U.S., but don't breach sanctions*, ASSOC. PRESS (Jun. 1, 2022); *Russia's sanctions-dodging is getting ever more sophisticated*, THE ECONOMIST (Mar. 2, 2023), <https://www.economist.com/finance-and-economics/2023/03/02/russias-sanctions-dodging-is-getting-ever-more-sophisticated>.

24. *Id.*

25. See, e.g., Agathe Demarais, *The End of the Age of Sanctions?*, FOREIGN AFFS. (Dec. 27, 2022), <https://www.foreignaffairs.com/usa/end-age-sanctions>.

coercion under the weight of a shifting global distribution of power.²⁶ Yet the international legal order that permits such coercion will likely endure.

II. NEGOTIATING THE LAW OF COERCION

The topic of economic coercion was a hotly debated issue as the framework for the postwar international legal order was first being negotiated. In 1949, the International Law Commission (ILC) began work on a draft treaty to codify the rules for interpreting, enforcing, and invalidating treaties in the new United Nations era. Over nearly two decades, leading scholars of international law—at the time drawn almost entirely from the West—served as special rapporteurs to the ILC, weighing in on the contents of the draft Vienna Convention on the Law of Treaties (VCLT).²⁷ By the time the initial 75 draft articles of the VCLT were adopted for negotiation in 1966, the U.N. had admitted more than sixty new members, the overwhelming majority of which were newly decolonized states with their own distinctive perspectives on international law, sometimes at odds with that of the ILC.²⁸

VCLT treaty negotiations took place over two sessions in 1968 and 1969, with the Vienna Conference adopting the final text on May 23, 1969.²⁹ One of the most contentious issues concerned the breadth of the definition of “coercion” as a basis for invalidating a treaty. Article 52 of the VCLT permits the invalidation of a treaty “if its conclusion has been procured by the threat or use of force.”³⁰ Delegations from newly decolonized states argued for a broader definition of coercion to encompass forms of economic pressure used to impose unequal treaties. Proponents of this broader definition cited colonial-era treaties or those concluded in the midst (and immediate aftermath) of decolonization as premier examples of the problem. Specifically, they viewed treaties that granted metropolitan states excessive rights of trade or access to natural resources as coercive in the relevant sense. If international law preserved the right to impose such treaties, they argued, it would serve as a vehicle to entrench the economic domination of former colonies and establish a system of neocolonialism.³¹

26. In many ways, a decline in U.S. unilateral (and U.S.-led Western multilateral) sanctions will track both the proliferation of new opportunities to evade sanctions (most notably as a consequence of alternative trade and financial opportunities offered by China and others) and the erosion of the capacity of the United States to compel compliance with its preferred tool of economic statecraft (as even allies hedge their bets in the context of geopolitical competition). See, e.g., Stephen M. Walt, *Friends in Need: What the War in Ukraine Has Revealed About Alliances*, FOREIGN AFFS. (Feb. 13, 2023), <https://www.foreignaffairs.com/ukraine/friends-in-need-war-in-ukraine-alliances-stephen-walt>.

27. For a list of all of the Special Rapporteurs to the ILC from 1949 to 2023, see the International Law Commission’s Membership List (Annex 3), at <https://legal.un.org/ilc/guide/annex3.shtml>.

28. For an overview of the growth of the UNs’ membership from 1945 to the present, broken out by decade, see *Growth in United Nations Membership*, UNITED NATIONS INFORMATION OFFICE, at <https://www.un.org/en/about-us/growth-in-un-membership>.

29. Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, 1155 UNT.S. 331.

30. *Id.* art. 52.

31. Among the clearest contemporaneous examples of this argument can be found in a book written by President Kwame Nkrumah, Ghana’s first post-independence president. KWAME NKUMAH, *NEOCOLONIALISM: THE LAST STAGE OF IMPERIALISM* (1965).

Nineteen newly decolonized states proposed an amendment to Article 52 that would have defined “force” to encompass economic or political pressure. The travaux préparatoires for the VCLT reflects the views of the amendment’s proponents.³² For one example, the delegation from the Philippines argued that the failure to regulate economic coercion would produce a system of international law in which “there would be no protection against measures such as economic strangulation, to which, many countries, and especially the developing countries, are particularly vulnerable.”³³ Western states—including both the U.S. and U.K. delegations—rejected the inclusion of economic coercion as a basis for invalidation, arguing that the concept of “unequal treaties” was vague and would undermine the stability of treaty relations.³⁴ These states claimed that “strangling the economy of a country” could not be deemed to rise to the level of coercion contemplated by the U.N. Charter.³⁵ In the end, opposition by First World countries and closed-door negotiations led to the withdrawal of the amendment in exchange for the adoption of a non-binding draft declaration condemning the use of economic pressure.³⁶

The concerns voiced at the Vienna conferences of the late 1960s were prescient. Newly decolonized states recognized that public international law might serve to authorize and legitimate forms of economic pressure that were profoundly coercive. Conversely, Western states precluded recourse to international law to delegitimize the advantages they had preserved for themselves in a highly asymmetric postcolonial order. Both sides understood that because decolonization was not accompanied by reparations or restitution, formal equal sovereignty was a legal fiction in a world of deeply unequal units.³⁷ The asymmetries of material power and resource distribution that make sanctions so effective are themselves legacies of enslavement,³⁸ expropriation,³⁹

32. THE VIENNA CONVENTION ON THE LAW OF TREATIES: TRAVAUX PRÉPARATOIRES, Volume 44 of Hamburg University Institute for International Affairs Documents (AMA Metzner, 1978).

33. I.L.C. Report, U.N. General Assembly, 21st Sess., Official Records, Supp. 9 at 18, U.N. Doc. A/6309/Rev. 1 (1966) (citing comments of the delegation from the Philippines).

34. I.L.C. Report, U.N. General Assembly, 21st Sess., Official Records, Supp. 9 at 16, U.N. Doc. A/6309/Rev. 1 (1966) (“The United Kingdom Government...shares the view of the Commission that the notion of coercion should be confined to a ‘threat or use of force in violation of principles of the Charter.’ In its opinion, to widen that notion might lessen the effectiveness of the article.”).

35. *Id.* (“The United States Government...agrees with the Commission that the rule should be restricted to the threat or use of physical force since, in its view, it is this which is prohibited by Article 2, paragraph 4, of the Charter.”).

36. For a discussion of this history, see Richard D. Kearney and Robert E. Dalton, *The Treaty on Treaties*, 64(3) AM. J. INT’L. L. 495 (1970): 495-561. For the text of the declaration, see Declaration on the Prohibition of Military, Political or Economic Coercion in the Conclusion of Treaties, United Nations Conference on the Law of Treaties, Vienna, Austria, Document A/CONF.39/26 (1969), at 285, https://legal.un.org/diplomaticconferences/1968_lot/docs/english/conf_docs/a_conf39_26.pdf.

37. See, e.g., Ann van Wynen Thomas and A. J. Thomas Jr., *Equality of States in International Law. Fact or Fiction?*, 37 VAL. REV. 791 (1951).

38. For a calculation of the value of expropriated labor that resulted from enslavement, see WILLIAM A. DARITY & A. KRISTEN MULLEN, FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY (2022).

39. On the relationship between colonial conquest and global inequality, see JASON HICKEL, THE DIVIDE: GLOBAL INEQUALITY FROM CONQUEST TO FREE MARKETS (2018).

colonialism,⁴⁰ and imperialism,⁴¹ as TWAIL scholars have shown.⁴² De jure equality offered newly independent states little protection from the de facto reality that former colonial powers possessed an array of lawful instruments to exploit the profound inequalities in the distribution of wealth and resources of the postcolonial world they created. These lawful instruments furnished former colonizers with a means of bypassing the newfound sovereignty of the formerly colonized.

The VCLT negotiations reflected and reinforced an international legal order that permits the use of economic coercion. This permissive environment, in turn, has provided legal cover and even legitimacy to the strategies by which countries of the Global North have imposed increasingly punishing sanctions regimes against targets in the Global South, often paving the way to even more coercive measures including recourse to force. The pattern of economically powerful states using material asymmetries to impose ad hoc and discretionary regimes to enforce their preferences,⁴³ clothed in the language of international norms or values, exceeds even the dire warnings by Ghanaian statesman Kwame Nkrumah in the 1960s.⁴⁴ In short, sanctions are a form of coercion that is quintessentially neocolonial and often every bit as violent as the forms of coercion nominally prohibited at the founding of the United Nations.

III. COERCING CONSENT

More than half a century after the Vienna negotiations, the normative case for sanctions turns, in part, on distinguishing them from acts of military coercion. Yet, the framing of sanctions as “nonviolent” can only be sustained by obscuring their far-reaching and often deadly consequences on the humanitarian welfare of civilian populations in target states.⁴⁵ Indeed, comprehensive sanctions may occasion greater civilian harm than would be permissible under laws of war principles because of their indiscriminate character when restricting access to essential goods, services, and healthcare.⁴⁶ But they do retain the distinct

40. For an overview of the relationship between colonialism and the logics of economic development that have entrenched global asymmetries of wealth through international law, see SUNDHYA PAHUJA, *DECOLONISING INTERNATIONAL LAW: DEVELOPMENT, ECONOMIC GROWTH AND THE POLITICS OF UNIVERSALITY* (2011).

41. For a trenchant analysis of the legacies of imperialism in international law, see ANTONY ANGHIE, *IMPERIALISM, SOVEREIGNTY AND THE MAKING OF INTERNATIONAL LAW* (2012).

42. For an analysis of the ways in which international law entrenches market logics that render decolonized countries particularly vulnerable to strategies that leverage material inequalities, see NTINA TZOUVALA, *CAPITALISM AS CIVILISATION: A HISTORY OF INTERNATIONAL LAW* (2020). *See also Id.*; PAHUJA, *supra* note 40.

43. For a discussion of this pattern, see Dursun Peksen, *Economic sanctions and political stability and violence in target countries*, in *RESEARCH HANDBOOK ON ECONOMIC SANCTIONS 187* (Peter A.G. van Bergeijk ed., 2021).

44. *See, supra* note 31.

45. Joy Gordon, *The Brutal Impact of Sanctions on the Global South*, *YALE J. INT'L L.* (June 28, 2023), <https://www.yjil.yale.edu/the-brutal-impact-of-sanctions-on-the-global-south/>; Vasuki Nesiiah, *Sanctions and 'Bio-Necro Collaboration'*, *YALE J. INT'L L. ONLINE*, May 2024.

46. Armin Steinbach et al., *Economic Sanctions and Human Rights: Quantifying the Legal Proportionality Principle*, 36 *HARV. HUM. RTS J.* 1, 6 (2023) (noting that “the indiscriminate nature of

political benefit of imposing indirect costs on civilians, rendering invisible the coercion at play in the catastrophic harms resulting from deprivation. However deliberate the decisions to inflict such conditions on a civilian population, the causes will often seem over-determined, the perpetrators obscure.

Moreover, when economic coercion is considered on a spectrum with military coercion, the imagined context is one involving adversaries. Yet, economic coercion is often deeply imbricated with uses of force, even in relations between countries of the Global North and their *allies* in the Global South. The conventional presentation of sanctions as a tool wielded against rivals understates their insidious (and invidious) effects. Examining the threat and use of sanctions against nominal allies demonstrates the degree to which such coercion undermines the foundations of a positive international legal order that purportedly depends on state consent. In these contexts, sanctions represent a more subtle threat to de jure sovereignty: by inducing consent through the threat of economic sanctions, powerful states legitimize what would otherwise be unlawful — uses of force on the territory of their ostensible allies.

The following discussion focuses on one famous instance in which the United States engaged in a high-profile drone strike so contentious that it elicited a rare rebuke from an ally that had otherwise acquiesced in the actions of American forces on its territory. The case of the U.S. assassination of Qassem Soleimani on Iraqi soil and the subsequent thwarted attempt by the Iraqi parliament to expel the American military provides a useful foil for examining the co-constitution of economic and military coercion.⁴⁷ After describing the strike and ensuing economic threats, I will turn in the next section to the question of how best to think about the relationship between economic and military coercion.

A. *The Soleimani Strike*

On January 3, 2020, the United States attacked a convoy carrying Qasem Soleimani, a commander of Iran's Revolutionary Guards, Abu Mahdi Al-Muhandi, a deputy commander of the Iraqi Popular Mobilization Forces, and eight other people near Baghdad's airport.⁴⁸ The administration of President Donald Trump presented the attack as an act of self-defense,⁴⁹ but the legality of

economic sanctions and their detrimental effects on target populations inspired the view that economic sanctions should be treated like weapons of warfare.”); Nathanael Tilahun & Obiora Okafor, *‘Humanizing’ Economic Sanctions? Lessons from International Humanitarian Law*, YALE J. INT’L L. ONLINE, May 2024.

47. Zohra Ahmed’s work has demonstrated a similar political economic logic in the context of Pakistan’s purported consent to drone strikes on that country’s territory. Zohra Ahmed, *Strengthening Standards for Consent: The Case of US Drone Strikes in Pakistan*, 23 MICH. STATE INT’L L. REV. 459 (2015). The slight distinction in the Iraqi case discussed here is that the state formally and explicitly denied consent and then was subject to a very public record of economic coercion that induced a change of position.

48. *Qasem Soleimani: US strike on Iran general was unlawful, U.N. expert says*, BBC NEWS (July 9, 2020), <https://www.bbc.com/news/world-middle-east-53345885>.

49. *U.S. Drone Strike in Iraq Kills Iranian Military Leader Qasem Soleimani*, 114 AM. J. INT’L L. 313, 316 (2020) (“[T]he United States has undertaken certain actions in the exercise of its inherent right

the attack under international law was widely questioned.⁵⁰ The U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnès Callamard, found the attack to be unlawful. In a report to the U.N. Human Rights Council, she wrote:

[I]n light of the evidence that the U[nited] S[tates] has provided to date, the targeting of General Soleimani[] and the deaths of those accompanying him[] constitute an arbitrary killing for which, under IHL, the U[nited] S[tates] is responsible. The strike was in violation of Art. 2(4) of the U.N. Charter with insufficient evidence provided of an ongoing or imminent attack . . . *no evidence has been provided that Iraq was consulted* on how to alleviate any threats posed to the U[nited] S[tates] arising from the visit of General Soleimani.⁵¹

As the special rapporteur underscored, there was no indication that the Iraqi government had consented to the strike.⁵² Instead, the Iraqi government quickly condemned the U.S. attacks, which the Iraqi permanent representative to the United Nations said “violate[d] the sovereignty of Iraq and the principles of international law” and were a “flagrant violation of the terms under which United States forces are present in the country.”⁵³

The basis for the presence of U.S. forces is itself worth detailing. U.S. President Joe Biden’s promise to end America’s forever wars in 2021 (with the withdrawal of U.S. forces from Afghanistan) was preceded a decade earlier by a similar commitment by then-President Barack Obama. Obama had announced the withdrawal of U.S. troops from Iraq in 2011 as a means of fulfilling this promise.⁵⁴ Yet, U.S. troops returned to Iraq as part of a new military mission to fight the Islamic State (ISIS) within three years of their withdrawal.⁵⁵ The legal basis for the return of U.S. forces was the Iraqi government’s consent, which was provided in the form of a letter from the Permanent Representative of Iraq to the United Nations, formally acknowledging a request for military assistance in its battle against ISIS.⁵⁶ Thus, Iraq consented to the stationing of U.S. forces on its

of self-defen[s]e.”).

50. *Qasem Soleimani: US strike on Iran general was unlawful, U.N. expert says*, *supra* note 45. For a compilation of States’ reactions relevant to the jus ad bellum dimensions of the strikes, see Mehrmusch Anssari & Benjamin Nußberger, *Compilation of States’ Reactions to U.S. and Iranian Uses of Force in Iraq in January 2020*, JUST SEC. (Jan. 22, 2020), <https://www.justsecurity.org/68173/compilation-of-states-reactions-to-u-s-and-iranian-uses-of-force-in-iraq-in-january-2020>.

51. Agnès Callamard (Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution), *Rep. on the Use of Armed Drones for Targeted Killings*, U.N. Doc. A/HRC/44/38 (Aug. 15, 2020) (emphasis added).

52. *U.S. Drone Strike in Iraq Kills Iranian Military Leader Qasem Soleimani*, *supra* note 49, at 317.

53. Permanent Rep. of Iraq to the UN, Identical Letters Dated 6 January 2020 from the Permanent Representative of Iraq to the United Nations Addressed to the President of the Security Council, U.N. Doc. S/2020/15 (Jan. 6, 2020), <https://undocs.org/en/S/2020/15>.

54. *Barack Obama announces total withdrawal of US troops from Iraq*, THE GUARDIAN (Oct. 21, 2011), <https://www.theguardian.com/world/2011/oct/21/obama-us-troops-withdrawal-iraq>.

55. Tim Arango, *U.S. Troops, Back in Iraq, Train a Force to Fight ISIS*, N.Y. TIMES (Dec. 31, 2014), <https://www.nytimes.com/2014/12/31/world/us-troops-back-in-iraq-train-a-force-to-fight-isis.html>.

56. Letter dated 20 September 2014 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, U.N. Doc. S/2014/691 (Sept. 22, 2014).

soil beginning in 2014 as part of a specifically defined military campaign against a particular non-state actor. Six years later, U.S. forces remained in Iraq as the Trump administration formulated its plan to assassinate Soleimani.

The United States offered little explanation of the legality of its strike on Soleimani at the time of the assassination. Over the following weeks, various Trump administration officials offered an array of rationales under both domestic and international law. In February, the House Foreign Affairs Committee released a two-page memo provided by the Trump administration outlining the legal justification for the drone strike. The domestic legal basis for the strike cited in the memo was the 2002 Authorization for Use of Military Force (AUMF) (passed to authorize the 2003 Iraq war), together with the president's constitutional authority to protect national security.⁵⁷ The international legal justification appeared to be that the United States was acting in self-defense in response to an “escalating series of attacks in the preceding months by Iran and Iran-backed militias” on U.S. forces and interests in the Middle East.⁵⁸ The administration did not cite an imminent threat or ongoing attack—something various officials had asserted in public statements over previous weeks without evidence—thus failing to meet the basic international law requirement for a self-defense justification.⁵⁹ The memo did not address the basis for the use of force, specifically on Iraqi territory. However, public statements by Trump officials relied on the underlying consent for the stationing of U.S. troops in Iraq.

The Iraqi parliament responded to the Soleimani strike by voting to expel American troops.⁶⁰ In an “extraordinary parliamentary session” two days after the strikes, the “parliament called on the government to end all foreign troop presence in Iraq and to cancel its request for assistance from the U[.]S[.]-led coalition which had been working with Baghdad to fight the Islamic State.”⁶¹ The Iraqi government was instructed to “work to end the presence of any foreign troops on Iraqi soil and prohibit them from using its land, airspace or water for any reason.”⁶² The resolution passed overwhelmingly, though it was non-binding

57. Rebecca Kheel, *Trump administration outlines legal justification for Soleimani strike*, THE HILL (Feb. 14, 2020), <https://thehill.com/policy/defense/483135-trump-administrtrtion-outlines-legal-justification-for-soleimani-strike/>.

58. *Id.*

59. *U.S. 'self-defense' argument for killing Soleimani meets skepticism*, REUTERS (Jan. 3, 2020), <https://www.reuters.com/article/us-iraq-security-blast-legal-analysis-idCAKBN1Z301R>. At least one scholar cited, Scott Anderson, suggested that if Iraq did not consent to the strike the administration could rely on the “unwilling or unable” doctrine. For a clear analysis of the applicable international law, see Mary Ellen O’Connell, *The Killing of Soleimani and International Law*, EJIL:TALK! (Jan. 6, 2020), <https://www.ejiltalk.org/the-killing-of-soleimani-and-international-law/>. For a discussion of the (surprising?) variation in assessments by other international law scholars, see Luca Ferro, *Killing Qasem Soleimani: International Lawyers Divided and Conquered*, 53 CASE W. RESV. J. INT’L L. 163 (2021).

60. Eric Levenson et al., *Iraqi Parliament votes for plan to end US troop presence in Iraq after Soleimani killing*, CNN (Jan. 5, 2020), <https://www.cnn.com/2020/01/05/world/soleimani-us-iran-attack/index.html>.

61. Arwa Ibrahim, *Iraqi Parliament Calls for Expulsion of Foreign Troops*, ALJAZEERA (Jan. 5, 2020), <https://www.aljazeera.com/news/2020/1/5/iraqi-parliament-calls-for-expulsion-of-foreign-troops>.

62. *Id.*

(as with all resolutions of the Iraqi parliament).⁶³

Despite asserting that the Soleimani strike was a violation of its sovereignty and requesting the withdrawal of U.S. troops, Iraq was neither able to secure the withdrawal of U.S. forces nor pursue accountability for the nonconsensual use of force on its territory.

B. *A Political Economy of Coercion*

When the United States learned of the impending parliamentary vote, U.S. officials first attempted to persuade Iraqi leaders to stop the vote. Once the parliamentary resolution passed, the United States expressed “disappointment” at the outcome of the vote.⁶⁴ President Trump threatened to sanction Iraq in response:

If they do ask us to leave, if we don't do it [o]n a very friendly basis, we will charge them sanctions like they've never seen before ever. It'll make Iranian sanctions look somewhat tame . . . We have a very extraordinarily expensive air base that's there. It cost billions of dollars to build. Long before my time. We're not leaving unless they pay us back for it . . . If there's any hostility, [t]hey do anything we think is inappropriate, we are going to put sanctions on Iraq, very big sanctions on Iraq.⁶⁵

The threat of sanctions against Iraq by the United States was far from idle. Beginning in 2012, the United States has imposed sanctions on Iraq at various junctures for its relations with Iran. On July 31, 2012, the U.S. Treasury Department imposed sanctions under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), against Elaf Islamic Bank, a privately-owned Iraqi financial institution for financial transactions with a sanctioned Iranian bank.⁶⁶ The United States lifted the sanctions against the bank on May 17, 2013, after it reduced its exposure to the Iranian financial sector.⁶⁷ Far more damaging sanctions were later imposed in 2015 when the United States restricted Iraq's access to its foreign currency accounts, held in U.S. dollars as the global currency of oil markets.⁶⁸ Iraq held these accounts with

63. Tamara Qiblawi et al., *Iraq Has Voted to Expel US Troops. Whether They'll Actually Be Kicked Out Is Far From Clear*, CNN (Jan. 6, 2020), <https://www.cnn.com/2020/01/06/middleeast/iraq-us-troops-explainer-intl/index.html>; Jane Arraf, *Iraqi Parliament Votes To Expel U.S. Troops, Trump Threatens Sanctions*, NPR (Jan. 6, 2020), <https://www.npr.org/2020/01/06/793895401/iraqi-parliament-votes-to-expel-u-s-troops-trump-threatens-sanctions>; Ibrahim, *supra* note 61.

64. Levenson et al., *supra* note 60 (“US officials tried to persuade Iraqi leaders to stop the parliamentary vote Sunday, according to two sources familiar with the discussions. Despite US officials claiming it would be harmful for Iraq to follow through on such a move and hold the vote at all, ultimately the argument fell flat.”).

65. Joanna Tan, *Trump Threatens to Slap Sanctions on Iraq 'Like They've Never Seen Before'*, CNBC (Jan. 5, 2020), <https://www.cnbc.com/2020/01/06/trump-threatens-to-slap-sanctions-on-iraq-like-theyve-never-seen-before.html>. See also *Trump Threatens Sanctions on Baghdad After Lawmakers Call on U.S. Troops to Leave*, REUTERS (Jan 5, 2020), <https://www.reuters.com/article/uk-iraq-security-trump/trump-threatens-sanctions-on-baghdad-after-lawmakers-call-on-u-s-troops-to-leave-idINKBN1Z5014>.

66. Press Release, U.S. Dept. of the Treasury, Treasury Removes Sanctions on Iraqi Bank (May 17, 2013), <https://home.treasury.gov/news/press-releases/j11949>.

67. *Id.*

68. Michael Greenwald, *The Effect of US Sanctions on the Iran-Iraq Alliance*, ATLANTIC

the Federal Reserve Bank of New York on the basis of an arrangement first put in place by U.S. authorities occupying Iraq in 2003. At that time, the Coalition Provisional Authority consolidated Iraqi foreign currency assets—including those from the U.N.-administered Oil for Food Program and Iraq’s own frozen sovereign assets—into an account with the New York Federal Reserve, ostensibly to be used to finance development initiatives in post-war Iraq.⁶⁹ The 2015 sanctions would have cut Iraq off from critical resources to fund the government. Shortly after being imposed—based on allegations of ties between the Iraqi central bank and Iranian banks—the sanctions were lifted. One commentator noted that the restrictions were designed as a “powerful incentive to change Baghdad’s behavior . . . The need for action was serious, but shortly thereafter, Iraqi authorities deepened their engagement with Washington[,] and the restrictions were rolled back.”⁷⁰

President Trump’s threat to impose sanctions on Iraq was followed by concrete warnings from the U.S. State Department that Iraq would once again lose access to the funds in its New York Federal Reserve account. Since that account holds Iraq’s international oil sale revenues, cutting off access to those funds would have caused what the *Wall Street Journal* characterized as a “cash crunch in Iraq’s financial system.”⁷¹ The ability of the United States to make this threat, in turn, is an entailment of the centrality of U.S. banks to the global financial order, magnified by the peculiar Iraqi dependency on U.S.-held accounts that is a legacy of the belligerent occupation of the country (following an unlawful invasion) some 17 years earlier.

While the threat to cut Iraq off from its Federal Reserve accounts was conveyed diplomatically, U.S. officials continued, in the days following the drone strike, to emphasize publicly the economic cost Iraq would pay for insisting on troop withdrawal. For example, U.S. State Department spokeswoman Morgan Ortagus said that the United States “strongly urges Iraqi leaders to reconsider the *importance of the ongoing economic and security relationship between the two countries and the continued presence of the Global Coalition to Defeat ISIS.*”⁷²

The Pentagon, for its part, seemed uncertain what course of action to take following the Iraqi Parliamentary vote. Iraq’s Defense Ministry received a letter

COUNCIL (Jan. 16, 2020), <https://www.atlanticcouncil.org/blogs/new-atlanticist/the-effect-of-us-sanctions-on-the-iran-iraq-alliance>.

69. So, Mr. Bremer, *where did all the money go?*, THE GUARDIAN (July 6, 2005), <https://www.theguardian.com/world/2005/jul/07/iraq.features11>; Eamon Javers, *NY Fed’s \$40 Billion Iraqi Money Trail*, CNBC (Oct. 25, 2011), <https://www.cnbc.com/2011/10/25/ny-feds-40-billion-iraqi-money-trail.html>.

70. Greenwald, *supra* note 68.

71. Ian Talley & Isabel Coles, *U.S. Warns Iraq It Risks Losing Access to Key Bank Account if Troops Told to Leave*, WALL ST. J. (Jan. 11, 2020), <https://www.wsj.com/articles/u-s-warns-iraq-it-risks-losing-access-to-key-bank-account-if-troops-told-to-leave-11578759629>; Emma Newburger, *Trump administration warns Iraq could lose New York Fed account if US troops forced to leave*, CNBC (Jan. 11, 2020), <https://www.cnbc.com/2020/01/11/trump-administration-warns-iraq-could-lose-new-york-fed-account-wsj.html>.

72. Levenson et al., *supra* note 60 (emphasis added).

from U.S. General William Seely that appeared to acknowledge an obligation to withdraw troops a day after the vote. The letter stated that the U.S.-led coalition troops would leave Iraq “in due deference to the sovereignty of the Republic of Iraq, and as requested” by Iraq’s prime minister and parliament.⁷³ In an immediate about-face, the Pentagon claimed the letter was a mistake, and the Secretary of Defense confirmed that the United States “is not withdrawing from Iraq.”⁷⁴ Perhaps considerations of force protection and a more conventional understanding of international law led to the momentary acknowledgment by the U.S. Defense Department of Iraq’s sovereign authority to determine whether foreign troops may remain in its territory.

Days after the parliamentary resolution passed, U.S. State Department and National Security officials announced plans “to meet with Iraqi officials” on January 13 and 14 in Washington to discuss the vote.⁷⁵ However, on January 10, the State Department announced it would not hold discussions with Iraq about withdrawing U.S. troops, writing that “America is a force for good in the Middle East.” The statement also said:

At this time, any delegation sent to Iraq would be dedicated to discussing how to best recommit to our strategic partnership — not to discuss troop withdrawal, but our right, appropriate force posture in the Middle East There does, however, need to be a conversation between the U.S. and Iraqi governments not just regarding security, *but about our financial, economic, and diplomatic partnership*. We want to be a friend and partner to a sovereign, prosperous, and stable Iraq.⁷⁶

This statement was released after Iraqi Prime Minister Abdul Mahdi stated that he “had asked Secretary of State Mike Pompeo during a telephone call to begin talks about a ‘mechanism’ to implement [the previous] week’s Iraqi parliamentary vote demanding the withdrawal of all foreign troops.”⁷⁷ Mahdi had also told Pompeo that U.S. forces were in Iraq “without the permission of the Iraqi government . . . contrary to the agreements in force.”⁷⁸

Four months later, Iraq named a new prime minister, Mustafa al-Kadhimi, to take over from Abdul Mahdi.⁷⁹ Kadhimi reaffirmed Iraq’s invitation for U.S.

73. Amanda Macias et al., *US military says general’s letter announcing Iraq withdrawal was a mistake: ‘This is not what’s happening’*, CNBC (Jan. 6, 2020), <https://www.cnbc.com/2020/01/06/letter-announcing-iraq-withdrawal-was-mistake-us-says.html>.

74. Amanda Macias, *State Department Tells Iraq It Will Not Discuss US Troop Withdrawal*, CNBC (Jan. 10, 2020), <https://www.cnbc.com/2020/01/10/state-department-tells-iraq-it-will-not-discuss-us-troop-withdrawal.html>.

75. Levenson et. al., *supra* note 60.

76. *Id.* (emphasis added).

77. Karen DeYoung et al., *Trump Administration Refuses to Heed Iraq’s Call for Troop Withdrawal*, WASH. POST (Jan. 10, 2020), https://www.washingtonpost.com/world/middle_east/iraq-asks-united-states-to-set-up-mechanism-for-troop-withdrawal/2020/01/10/794058ea-32f8-11ea-971b-43bec3ff9860_story.html.

78. *Id.*

79. Louisa Loveluck, *Iraq Names New Prime Minister, Paving the Way to Tackle Nation’s Deepening Crisis*, WASH. POST (May 7, 2020), https://www.washingtonpost.com/world/middle_east/iraq-names-new-prime-minister-paving-the-way-to-tackle-the-deepening-crisis/2020/05/07/2340e600-9039-11ea-9322-a29e75effc93_story.html.

troops to remain stationed in the country.⁸⁰ During a visit to Washington in August 2020, Kadhimy said, “We definitely don’t need combat troops in Iraq, but we do need training and capacity enhancement and security cooperation.”⁸¹ U.S. officials reportedly “sought to highlight energy and economic cooperation rather than the sensitive issue of U.S. troops” during the Prime Minister’s visit to Washington.⁸² President Trump also emphasized the economic relationship with Iraq in his messaging during the Prime Minister’s visit, noting that: “We’re making very big oil deals. Our oil companies are making massive deals [in Iraq] . . . and that’s basically the story.”⁸³

After coming to office, President Biden, too, met with Kadhimy to reconfirm the mission of U.S. forces stationed in Iraq.⁸⁴ In July 2021, the two governments announced that the U.S.-Iraqi security relationship would continue with a U.S. military presence in the country, albeit for advising and training rather than combat purposes.⁸⁵ United States support for Israeli military operations in Gaza led to renewed pressure for a U.S. troop withdrawal in 2024.⁸⁶ But when the Iraqi prime minister visited the United States in April 2024, State Department officials insisted that the emphasis of the visit would be economic ties between the countries rather than an end to the U.S. military presence in the country.⁸⁷

IV. SANCTIONS IN A MULTIPOLAR WORLD

Until recently, mainstream international law scholarship suggested that tools of economic coercion may be a *normatively desirable* means of enforcing international law unilaterally⁸⁸ and even of refashioning or redefining

80. CHRISTOPHER M. BLANCHARD, CONG. RSRCH. SERV., IF 10404, IRAQ AND U.S. POLICY (2021).

81. Missy Ryan & Karen DeYoung, *During Washington Visit, Iraqi and U.S. Officials Talk of Partnership But Avoid Details on U.S. Troops*, WASH. POST (Aug. 20, 2020), https://www.washingtonpost.com/national-security/during-washington-visit-iraqi-and-us-officials-talk-of-partnership-but-avoid-details-on-us-troops/2020/08/20/95dad5c4-e325-11ea-ade1-28daf1a5e919_story.html

82. *Id.*

83. *Id.*

84. Statement, U.S. Dept. of State, Joint Statement on the U.S.-Iraq Strategic Dialogue (April 7, 2021), <https://www.state.gov/joint-statement-on-the-u-s-iraq-strategic-dialogue/>.

85. Crispin Smith, *Still at War: The United States in Iraq*, JUST SEC. (May 18, 2022), <https://www.justsecurity.org/81556/still-at-war-the-united-states-in-iraq/>.

86. Dana Taib Menmy, *Iraq’s parliament pushes for US-led coalition troop withdrawal amid rising tensions*, THE NEW ARAB (Feb. 11, 2024), <https://www.newarab.com/news/iraqs-parliament-draft-law-us-coalition-troop-exit>.

87. Arshad Mohammed & Simon Lewis, *Defense relationship part of US-Iraq talks in Washington next week, US official says*, REUTERS (Apr. 11, 2024), <https://www.reuters.com/world/middle-east/defense-relationship-part-us-iraq-talks-washington-next-week-us-official-says-2024-04-11/>. The joint statement released by the United States and Iraq following the talks held on April 15 confirmed that discussions had focused on economic and security cooperation between the two countries. Joint Statement, White House Briefing Room, Joint Statement from the Leaders of the United States and the Republic of Iraq (Apr. 15, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/15/joint-statement-from-the-leaders-of-the-united-states-and-the-republic-of-iraq/>.

88. See, e.g., Oona Hathaway & Scott Shapiro, *Outcasting: Enforcement in Domestic and*

international law through the singular acts of hegemonic actors.⁸⁹ These accounts of sanctions, presented as a nonviolent means of enforcement—or imposition—of norms, are misleading. First, as discussed above, far from being nonviolent, sanctions produce the violence of hunger,⁹⁰ preventable epidemics,⁹¹ and related excess deaths⁹² by the hundreds of thousands. The proliferation of sanctions has long depended on obscuring their violence while treating the purported lawfulness of economic coercion as a source of legitimacy. Second, the relatively benign depiction of sanctions also depends on a presumption that economic coercion can be clearly distinguished from military force.

What the Soleimani assassination and the ensuing exchanges between U.S. and Iraqi officials make explicit is that sanctions are another means of prosecuting “forever wars” rather than an alternative to them. Far from being distinct from military coercion, economic coercion often serves to clear the way for uses of force, whether by inducing consent or weakening opponents.⁹³ As with Iraq, the purported consent of many states of the Global South to the stationing of U.S. forces on their territory is predicated not on shared security interests but rather on financial inducements and threats that the United States is disproportionately well-positioned to make. When the United States asserts its interests in the Global South, allies and adversaries alike may find themselves subject to a matrix of economic and military coercion.⁹⁴

In this context, arguments to “end endless war” must bring the law of economic coercion within their sights. The key to restraining discretionary violence rests in part with the financial architecture and international economic

International Law, 121 YALE L. J. 252 (2011).

89. Monica Hakimi, *Unfriendly Unilateralism*, 55 HARV. J. INT’L L. J. 105 (2014).

90. Michael Fakhri, *Situating Unilateral Coercive Measures Within a Broader Understanding of Systemic Violence*, YALE J. INT’L L., June 23, 2023.

91. See, e.g., Hashed Mozqer, *New sanctions hit remittances, adding to economic hardships in Yemen*, THE NEW HUMANITARIAN (Apr. 3, 2024), <https://www.thenewhumanitarian.org/news-feature/2024/04/03/new-sanctions-hit-remittances-adding-economic-hardships-yemen>; Beatrice Farhat, *Cholera resurges in Yemen as Houthis warn of ‘dangerous levels’ of famine*, AL-MONITOR (Apr. 18, 2024), <https://www.al-monitor.com/originals/2024/04/cholera-resurges-yemen-houthis-warn-dangerous-levels-famine>.

92. Murtaza Hussain, *The Silence — or Worse — of Human Rights Hawks on U.S. Sanctions Against Afghanistan*, THE INTERCEPT (Jan. 9, 2022), <https://theintercept.com/2022/01/09/afghanistan-sanctions-human-rights-hawks/>.

93. The nearly thirteen-year-long comprehensive sanctions imposed on Iraq in August 1990 were partially lifted in May 2003 after the invasion and occupation of the country. The remainder were finally lifted nineteen years after they were imposed in December 2010. U.N. *lifts sanctions against Iraq*, BBC (Dec. 15, 2010), <https://www.bbc.com/news/world-middle-east-12004115>. These unilateral and multilateral sanctions against Iraq remain perhaps the starkest example of the use of sanctions to weaken an adversary prior to an unlawful use of force. See, e.g., Joy Gordon, *The Enduring Lessons of the Iraq Sanctions*, MIDDLE E. REP. 294 (Spring 2020), <https://merip.org/2020/06/the-enduring-lessons-of-the-iraq-sanctions/>.

94. The case of Iraq in 2003 is, of course, the most extreme example of a state subjected to debilitating sanctions and then military invasion by the United States. But most examples of coercion — economic and military — are more subtle. A better example may be Syria, which faces not only sanctions but non-consensual uses of force on its territory by the United States without a declared armed conflict. See, for example, Ntina Tzouvala’s discussion of the “unable and unwilling” doctrine and American airstrikes in Syria. Ntina Tzouvala, *TWAIL and the ‘Unwilling or Unable’ Doctrine: Continuities and Ruptures*, 109 AM. J. INT’L L. UNBOUND 266 (2015).

law that underpins the projection of U.S. force globally. Some analysts predict the “twilight of America’s financial empire,” due in part to over-reliance on economic coercion,⁹⁵ and in part to the emergence of new rivals to U.S. financial power. If this is true, then greater multipolarity in the global financial order may introduce collateral constraints on the resort to coercion—both economic and military.

As the United States adapts its geo-economic strategies to address the shifting global distribution of power, a deep irony has emerged. On the one hand, even hawkish U.S. policy analysts now warn that the overuse of sanctions may backfire, encouraging countries to align themselves with other powers.⁹⁶ On the other hand, analysts in powerful states denounce economic aggression as worries mount that geopolitical asymmetries may not always favor the West.⁹⁷ At a recent G-7 meeting in May 2023, powerful Western and pro-Western states led by the United States gave voice to a complaint more typically associated with the countries of the Global South. As the BBC reported, “in not one but two statements, the leaders of the world’s richest democracies made clear to Beijing their stance on divisive issues... [with] the most important part of their message centered on what they called ‘economic coercion.’”⁹⁸

As we have seen, the phrase “economic coercion” has a particular place in the evolution of the contemporary international legal order.⁹⁹ Reviewing this history helps underscore a striking about-turn in the geopolitical order as we move from the sanctions decades¹⁰⁰ to an era of multipolarity and attendant imperial anxieties. The changing rhetoric of Western powers is one indicator of this dynamic. The G-7 statements reflect the reality that economic coercion may no longer be a unidirectional practice of imposition by the Global North against states in the Global South. The return of economic coercion as a pressing agenda item *for the G-7*, rather than as a preoccupation of the G-77, suggests a turning of tables that also foreshadows the end of sanctions as we have known them in the post-Cold War era.¹⁰¹ Perhaps in coming decades, targets of sanctions in the

95. Henry Farrell & Abraham Newman, *The Twilight of America’s Financial Empire*, FOREIGN AFFS. (Jan. 24, 2020), <https://www.foreignaffairs.com/united-states/twilight-americas-financial-empire>.

96. See, e.g., Max Boot, *Washington is Sanctioning 12,000 entities. It’s backfiring.*, WASH. POST (June 5, 2023), <https://www.washingtonpost.com/opinions/2023/06/05/sanctions-treasury-backfiring-china-russia/>.

97. See, e.g., Matthew Reynolds, *Congressional Testimony, Standing United Against the People’s Republic of China’s Economic Aggression and Predatory Practices*, CTR. FOR STRATEGIC & INT’L STUD. (May 18, 2023), <https://www.csis.org/analysis/standing-united-against-peoples-republic-chinas-economic-aggression-and-predatory>.

98. Tessa Wong, *G7 takes stand against China’s ‘economic coercion,’* BBC (May 21, 2023), <https://www.bbc.com/news/world-asia-65662720>.

99. Jessica Whyte, *The opacity of economic coercion*, LPE BLOG (June 21, 2023), <https://lpeproject.org/blog/the-opacity-of-economic-coercion/>.

100. The phrase “sanctions decade” was first captured in a volume about the expanding use of multilateral sanctions by the UN, led by the United States, in the post-Cold War “unipolar” decade of the 1990s. DAVID CORTRIGHT & GEOGE A. LOPEZ, *THE SANCTIONS DECADE: ASSESSING U.N. STRATEGIES IN THE 1990S* (2000).

101. The Group of Seven (G-7) is a forum to coordinate global policy among powerful states of the Global North, including the United States., Canada, France, Germany, Italy, Japan, and the U.K. The Group of Seventy-Seven (G-77) is a coalition of states of the Global South to promote their collective

Global South will be able to make recourse to multipolarity to find alternatives to the dominance of the U.S. dollar¹⁰² that has made unilateral financial sanctions by the United States and its allies so crippling. But more worryingly for the policymakers that until recently relied on the lawfulness and legitimacy of economic coercion to impose their preferences, countries of the Global North might now face blowback¹⁰³ or even become targets of sanctions in their own right.¹⁰⁴

Another implication of multipolarity is that small and medium-sized states may now revisit their earlier negotiating position concerning the propriety of economic coercion. The rise of new aspirants to hegemony in the global order affords weaker states fresh opportunities to leverage international law in their favor while diversifying their own alliances. These states may seek to use international law rules and institutions to delegitimize coercion by the Global North¹⁰⁵ and to shield themselves from it by seeking new partners or triggering reciprocal threats of coercion themselves.¹⁰⁶

economic and diplomatic interests by negotiating as an informal bloc. While the coalition was originally comprised of seventy-seven states, it currently includes 134 member states. For more on the G-77, see Kate Whiting, *What is the G77 and why does it matter?*, WORLD ECON. F. (Sept. 29, 2023), <https://www.weforum.org/agenda/2023/09/g77-intergovernmental-developing-countries/>.

102. See, e.g., Roher Huang, *China Is Trying To Erode US Dollar Dominance With A Worse Alternative*, FORBES (Apr. 21, 2023). Ntina Tzouvala has argued that “the unique position of the U.S. dollar as an international currency enables practices that undermine both the foundations of the international legal order and the preconditions of meaningful self-government in large parts of the world.” Ntina Tzouvala, *Successful Failures: Economic Sanctions, Humanitarianism and the Undoing of Post-Colonial Sovereignty*, YALE J. INT’L L. (June 26, 2023), <https://www.yjil.yale.edu/successful-failures-economic-sanctions-humanitarianism-and-the-undoing-of-post-colonial-sovereignty/>. Tzouvala’s argument underscores why any practical alternative to the dollar might prove to be an important, notwithstanding economists’ view of the merits of alternative currencies.

103. Natasha Bertrand & Jennifer Hansler, *China rejects US proposal for defense chiefs to meet in Singapore this week*, CNN (May 31, 2023), <https://www.cnn.com/2023/05/29/asia/china-rejects-us-defense-chief-meet-in-singapore-intl-hnk/index.html> (noting that “the Chinese Embassy in the US questioned the sincerity and significance of [an American] invitation [for military-to-military dialogue], pointing to US sanctions imposed on Chinese officials, institutions and companies.”).

104. Joe McDonald, *China imposes sanctions on Lockheed Martin and Raytheon over sales to Taiwan*, ASSOC. PRESS (Feb. 16, 2023), <https://www.pbs.org/newshour/world/china-imposes-sanctions-on-lockheed-martin-and-raytheon-over-sales-to-taiwan>.

105. This has been the South African strategy in bringing a case to the International Court of Justice (ICJ) against Israel. Despite overwhelming majorities of the U.N. General Assembly voting in favor of a ceasefire in Gaza, the United States and Israel’s other Western backers have effectively shielded it from binding measures imposing a ceasefire through the Security Council. *Veto of Security Council Resolution Calling for Ceasefire in Gaza Emboldens Israel to Continue Crimes against Palestinian People, Speakers Tell General Assembly*, General Assembly 78th Session, GA/12586 (Mar. 5, 2024), <https://press.un.org/en/2024/ga12586.doc.htm>. South Africa filed its case with the ICJ to seek an alternative to the Security Council in pursuing binding measures against Israel. The effect has been to delegitimize Israel’s military operations by establishing the plausibility of claims that they may constitute acts of genocide and incitement to genocide. Fatima al-Kassab, *A top U.N. court says Gaza genocide is ‘plausible’ but does not order cease-fire*, NPR (Jan. 26, 2024), <https://www.npr.org/2024/01/26/1227078791/icj-israel-genocide-gaza-palestinians-south-africa>. But Israel’s Western backers, too, have been put on notice that they might be held liable for complicity in and failure to prevent genocide. See, e.g., Celeste Kmiotek, *Could the US and other states be implicated in South Africa’s genocide case against Israel?*, ATLANTIC COUNCIL (Feb. 16, 2024), <https://www.atlanticcouncil.org/blogs/new-atlanticist/could-the-us-and-other-states-be-implicated-in-south-africas-genocide-case-against-israel/>.

106. For one example, see diplomatic overtures by Saudi Arabia to U.S. rivals. Christopher Chivvis et al., *Saudi Arabia in the Emerging World Order*, CARNEGIE ENDOWMENT FOR INT’L PEACE

While the legality of economic coercion may not be up for renewed debate, the legitimacy of sanctions is under real strain. This is significant because it enhances risks for states imposing sanctions. The most obvious risk is that such states will have difficulty persuading other states to support their policy preferences, as has been the case with sanctions against Russia over its aggression in Ukraine.¹⁰⁷ There is the further risk that states imposing sanctions will face opprobrium and eventually consequences for their actions. As one example, the plan to seize Russian sovereign assets for the purposes of funding the Ukrainian war effort has cast into doubt the basic comity principles of sovereign immunity.¹⁰⁸ When European officials decided that accrued interest from frozen Russian assets could be separated from the principal and used to assist Ukraine,¹⁰⁹ there was little immediate response internationally.¹¹⁰ Yet, Russia has made clear its intention to impose retaliatory sanctions,¹¹¹ and perhaps more importantly, the precedent set will be available to a broader range of actors, large and small. Such measures may ultimately accelerate the fracturing of the geopolitical order, with more competition and less integration producing a fraught new landscape in which a multiplicity of actors may wield the tools of economic coercion.

CONCLUSION

Would a multipolar order enable countries like Iraq to better resist the threat of Western sanctions? Diversifying investment portfolios might enable states to hedge against the risk of unilateral threats. A less integrated global financial architecture might have allowed Iraq to hold its oil revenues in a variety of accounts, not all equally at risk of being frozen at the discretion of one set of powerful actors. In short, a more plural distribution of geo-economic power may enable smaller states to take precautions that would leave them less vulnerable to the kinds of economic coercion that have been the hallmark of American global hegemony. At the same time, the possibility that states of the Global North may be losing their long-standing economic leverage over others is leading them to embrace restraints on forms of economic coercion that might boomerang against them.¹¹²

(Nov. 6, 2023), <https://carnegieendowment.org/research/2023/11/saudi-arabia-in-the-emerging-world-order?lang=en> (noting that “U.S. human rights criticisms, coupled with a Saudi view that the world is becoming increasingly multipolar, have compelled Riyadh to branch out beyond the U.S. security umbrella. It has not only deepened ties with Russia and China, but also with other powers.”).

107. See, e.g., David Adler, *The west v. Russia: why the global south isn't taking sides*, THE GUARDIAN (Mar. 28, 2022), <https://www.theguardian.com/commentisfree/2022/mar/10/russia-ukraine-west-global-south-sanctions-war>.

108. See, e.g., Chimene Keitner, *Sovereign Immunity and Reparations in Ukraine*, JUST SEC. (Feb. 21, 2024), <https://www.justsecurity.org/92531/sovereign-immunity-and-reparations-in-ukraine/>.

109. Jacob Knutson, *EU diplomats agree to use frozen Russian assets to aid Ukraine*, AXIOS (May 8, 2024), <https://www.axios.com/2024/05/08/eu-russian-assets-ukraine-aid>.

110. Mojmir Hampl, *What seizing Russian assets could mean for the West*, GIS REPORTS (May 7, 2024), <https://www.gisreportsonline.com/r/russian-asset-seizure/>.

111. Knutson, *supra* note 108.

112. See, e.g., Anh Nguyen, *Questioning the EU Anti-Coercion Instrument — Conflating the*

Decolonized states did not prevail in their arguments against economic coercion in Vienna, but the ensuing decades vindicated their concerns. While inter-imperial rivalry between the United States and its challengers will not alleviate the vulnerabilities engendered by systemic material inequality, it might ameliorate them somewhat. The availability of new alliances to shield the sovereign preferences of the Global South blunts the efficacy of sanctions and produces new tactical and strategic opportunities for small and medium-sized states.¹¹³ The shift towards a more multipolar order may one day place Iraq in a stronger position to negotiate the withdrawal of U.S. forces from its territory.

As the West faces rising powers capable of tilting the scales from economic asymmetry towards greater parity, the same states that once opposed international legal recognition of “economic coercion” have adopted the phrase as a strategy to contain China.¹¹⁴ In a context of inter-imperial rivalry, lawyers representing Western capitals will furnish new arguments to distinguish the “good” economic coercion of sanctions designed to enforce norms (and punish adversaries) in their own interests from the “bad” economic coercion they now seek to proscribe.¹¹⁵ For those interested in advancing anti-imperial agendas, exploring the contradictions in this endeavor offers a new window to resist sanctions and the forms of coercion that legitimate, legalize, and enforce an unequal and unjust neocolonial global order.

Curtailment of ‘Strategic Autonomy’ with the Erosion of Sovereignty?, EJIL: TALK! (Oct. 10, 2023), <https://www.ejiltalk.org/questioning-the-eu-anti-coercion-instrument-conflating-the-curtailment-of-strategic-autonomy-with-the-erosion-of-sovereignty/>.

113. The ability of Iran to maneuver around comprehensive sanctions on its oil sector provides one contemporary example. Kate Winston & Binish Azhar, *Newly passed US law on Iran sanctions may have limited impact in near term: experts*, S&P GLOBAL (April 24, 2024), <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/042424-newly-passed-us-law-on-iran-sanctions-may-have-limited-impact-in-near-term-experts> (noting that the flow of Iranian oil to China and Russia reduces effectiveness of U.S. sanctions).

114. See, e.g., Peter Martin & James Mayger, *US Creates Team to Counter China’s Trade ‘Coercion’ Tactics: Washington has accused Beijing of ‘economic coercion’*, BLOOMBERG NEWS (Apr. 28, 2024), <https://www.bloomberg.com/news/articles/2024-04-28/us-firm-steps-in-when-china-is-seen-as-a-bully-not-a-partner?embedded-checkout=true>.

115. The recent European Union anti-coercion instrument is an example of precisely this strategy. Press Release, European Commission, *New tool to enable EU to withstand economic coercion enters into force* (Dec. 27, 2023), https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6804.