

Members of the Council,
Ladies and Gentlemen,
Friends of human rights

This workshop has challenged us to look at the impact of unilateral coercive measures on Human Rights, particularly in respect of women and children – often the first victims of unilateral and multilateral coercive measures. We were reminded this morning of the resulting suffering in the targeted States of the Non-aligned Movement. We know that monitoring and assessment mechanisms are often missing, and desperately needed. Further, we are to address accountability. This is new and very welcome. I cannot recall the UN Security Council, particularly the five Permanent Members, ever being held accountable, including the appalling consequences of their decisions taken under Chapter 7, Articles 41 and 42. Thus to discuss accountability is almost revolutionary. And I am happy to hear the Moderator say we are moving towards tackling its absence.

In regard to the cost of no accountability, look no further than the Security Council sanctions regime imposed for more than 12 years on the people of Iraq. This was a coercive sanctions regime that was genocidal in its consequences. Only the issue of “intent” awaits ICC/ICJ consideration and pronouncement. Incredibly, no Member States or individual leaders have been held accountable for the catastrophic violations of Human Rights in Iraq, or for the State terrorism of military invasion or the deviant occupation that violated the UN Charter and other instruments of International Law.

In Session III, we are charged with considering basic principles to redress the adverse impact of Unilateral Coercive Measures. In my view, this task is inseparable from addressing the adverse impact of multilateral coercive measures or sanctions, anchored in Chap.7 Article 41 of the UN Charter. Simply put, unilateral coercive, as in violent, measures by their very unilateral nature, lacking UN approval, are a frontal violation of the Charter. Whereas Security Council imposition of sanctions are currently legal under Article 41, they are unquestionably illegal, amoral and unacceptable when their impact is, and consequences are, incompatible with the Purposes and Principles set out Articles 1 and 2 of the same Charter. UN sanctions kill and often take the shape of warfare, as in “siege”. As we were reminded this morning, sanctions are a form of collective punishment, and thus in violation of the Geneva Conventions. They do not respect Human Rights and other fundamental provisions of international law.

In considering illegal Unilateral Coercive Measures, it is hard to conceive of the Human Rights Council proposing standards and constraints without demanding change in respect of Security Council violations of its own Charter. We cannot expect States taking illegal unilateral action to be good boys and to respect the provisions of the UN Charter more than the Security Council itself. And the unaccountable Security Council is exposed and vulnerable. As mentioned by Haifa Zangani, can anyone forget the 1996 response of US Secretary of State Albright that the killing of 500,000 Iraqi children via UN sanctions was justified? Despite the appalled reaction of millions, the Security Council determined to continue these same sanctions until 2003. Many more innocent Iraqi children died as a consequence. There was no UN Security Council monitoring, no interest in Washington and London re loss of human life, and no accountability in respect of the killing of innocents.

Clearly what is needed to control the Security Council and to assist us in capturing unilateral coercive measures is a revised and binding Article 41 compatible with Articles 1 and 2. Time limitations, effective monitoring and rigid accountability provisions would form part of such a new constraint.

In respect of Unilateral Coercive Measures, this Session needs to establish that all such measures are illegal in violation of the UN Charter, and recommend complete cessation. Or must we face the reality that unilateral coercive measures happen, and are likely to continue, and that the Security Council lacks the capacity and credibility to halt them?

Perhaps there is an improved coercive model for us to consider. Does the demise of the open-ended, unmonitored and catastrophic Iraq model that led to “smart” sanctions under Article 41, represent a breakthrough that assists us?

Even were “smart” unilateral sanctions legal, I think not. The poor, the women and children of the most vulnerable to any coercive measure, “Smart” or not, inevitably pay the price. When banking is closed down, when import/export insurance is blocked, when trade is cut off ... food and fuel prices rise, medical care collapses, teachers cannot be paid, agricultural production suffers, unemployment hits the towns and cities, human rights are violated, lives may be lost.

“Smart” sanctions may aim at the leadership and the decision makers, but the trickle down of their inconvenience tends to be felt as acute pain and worse at the level of the most vulnerable. And experience shows that Heads of State, and Governments under international attack tend to gain greater support domestically. That is what happened in Bagdad in the 1990s.

Thus, in the short run, recognizing unilateral measures will be hard to stop, we must find a means to demand close monitoring and accountability in respect of those States that illegally continue to impose such measures. Perhaps devices such as UN suspension, loss of GA voting

rights, payment of reparations, and payment of individual citizen compensation could be considered. Tight monitoring by the Human Rights Council would be required with quarterly reporting to the General Assembly, or to a revitalized and operational International Court of Justice.

Or should we discard any form of punishment by applying a rewards system for cessation? That would require increased UN capability to anticipate bilateral problems, tensions and actions before coercive measures are begun. Also required would be the establishment of devices and means to encourage cooperation, assistance, support, even tolerance. International assistance might be needed. The UN System, and others could assist the two (or more) states involved in resolving differences including border disputes, water usage, trade disparities, energy opportunities, access to markets, technology development, shipping, communications, the environment, threats of violence, good governance etc.

In other words, given the dangers facing us all today, with state and non-state violence in many parts of the world, positive rather than punitive intervention might be more productive.

If our terms of reference allowed, we could discuss means to establish a democratically run Security Council, with full global and North/South representation. Such a Security Council would by necessity be more accountable to global representation. The Non Aligned Movement representing billions of citizens would have voice. The many indigenous people around the globe would have a voice. To attempt to create and sustain peace and security without these voices is nonsense. The number of seats could remain the same, but each region of the world would be represented by one State speaking for all.

Exclusion might be limited to those member states pursuing military aggression, unilateral coercion and which manufacture and sell weapons, as arms dealers. Some 85% of weapons sold worldwide come from the five veto powers – the same Permanent Members we entrust with Peace and Security! I refer to this Security Council arms trade because the resulting widespread availability of weapons in the hands of both State and non-State mercenaries can lead to conflicts, and “the threat or use of force” that can result in the imposition of coercive measures, unilateral and multilateral. With such reform, the Security Council could become a genuine device for peaceful coexistence and universal Human Rights.

Sadly, reforming the Security Council is outside our terms of reference, and we must continue live within the current bounds, but enhanced as suggested, of the UN Charter and other instruments of international law.

Few, if any, States appear to win when imposing, or as a victim of multilateral sanctions, or unilateral coercive measures. We may find that non-violent recognition, support, co-operation and commitment to the word and spirit of the UN Charter, rather than coercive and collective punishment, prove to be more rewarding. As George Lennon said, “imagine - peace all over the world”. Well, can we not imagine the globe where all enjoy Human Rights, and experience human well-being? If not, why not?

Thank you.

Denis J. Halliday, New York City, May 2014