

STATEMENT ALFRED de ZAYAS – UN WORKSHOP ON THE HUMAN RIGHTS  
IMPACTS OF UNILATERAL COERCIVE MEASURES

PALAIS DES NATIONS, ROOM XX, 23 MAY 2014

Dear Professor Gowland, colleagues, ladies and gentlemen,

In my 2013 report to the General Assembly (A/68/284) I referred to unilateralism and exceptionalism as anachronisms, incompatible with the spirit and letter of the UN Charter and with a democratic and equitable international order, which necessarily requires a culture of dialogue and openness to compromise.

Although sanctions, in particular unilateral sanctions, are sometimes imposed with spurious human rights justifications, they frequently have opposite effects. In paragraph 40 of my GA report I recalled General Comment 8 of the Committee on Economic, Social and Cultural Rights, which states in part: “Economic sanctions are being imposed with increasing frequency, both internationally, regionally and unilaterally....such sanctions ... often cause significant disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water, severely interfere with the functioning of basic health and education systems, and undermine the right to work.”<sup>1</sup>

Bearing in mind that the most frequent victims of sanctions are not governments but innocent populations, it is important to test the legality of sanctions regimes on a case by case basis. This can be done through the individual complaints procedures established pursuant to several human rights treaties, including the Optional Protocol to the International Covenant on Civil and Political Rights (articles 6: right to life; 12: freedom of movement; 17 and 23: right to identity and family life; 24, rights of the child; 26: non-discrimination); the Optional Protocol to the Covenant on Economic Social and Cultural Rights (articles 6: right to work; 11: food, clothing and housing; 12: physical and mental health; 13: education), and the Optional Protocol to the Convention on the Rights of the Child. Sanctions should also be systematically tested in the context of State reporting procedures before the UN human rights treaty bodies and under the Universal Periodic Review of the Human Rights Council.

Although this workshop focuses primarily on unilateral coercive measures, I would like to invite a future workshop to address the effects of ill-founded multilateral sanctions that can and do cause grave injustice to populations without achieving any positive improvement in human security. For instance, the sanctions regime imposed by the Security Council against Iraq and continuing through 2003, caused much suffering to the Iraqi population, the

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<sup>1</sup> E/C.12/1997/8

situation being so serious that FAO officials<sup>2</sup> in 1995 and UNICEF estimated that at least 500,000 children had died as a consequence of the sanctions<sup>3</sup>, and two Assistant Secretary Generals of the United Nations, Denis Halliday (1997-1998)<sup>4</sup> and Hans-Christof von Sponeck (1998-2000)<sup>5</sup>, both of them Humanitarian Coordinators for Iraq, resigned in protest. These resignations may have been dismissed by some as irrelevant, but the courage and intellectual honesty of these two Assistant Secretary Generals did remind us of the need to ensure that the Organization lives up to the Purposes and Principles of the UN Charter. Indeed, the objective suffering imposed on the Iraqi population manifested grave system dysfunction, and proved that sanctions regimes can be counter-productive.<sup>6</sup> There the “medicine” imposed by the Security Council proved to be worse than the disease.

The bottom line is that sanctions regimes must never be open-ended, but limited in time and aimed at correcting government policies while avoiding harm to innocent people, especially the most vulnerable. Sanctions, even in the context of anti-terrorism, should be reviewed periodically and discontinued if shown to be ineffective or if the negative effects are disproportionate. Sanctions must not aggravate imbalances in income distribution nor generate illegal and unethical business practices, including black markets and bribery. A mechanism to redress the injustices done to innocent parties as a result of sanctions must be established.

In conclusion I want to stress that sanctions should only be considered as an *ultimate ratio*, when good faith negotiation and friendly settlement fail. Moreover, the legitimacy of sanctions and the credibility of the country imposing sanctions stand and fall on their motivation, which must not be based on geopolitical interests falsely dressed up as human rights concerns. The same applies to the selective application of the R2P doctrine or selective referral of situations of war crimes and crimes against humanity to the International Criminal Court, because neither the protection of human security nor the fight against impunity can be preferential or pursued *à la carte*. Indeed, selectivity in the application of sanctions undermines their legitimacy. I wholeheartedly endorse the report of the 2013 workshop on unilateral coercive measures, and the earlier reports by Professor

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<sup>2</sup> Health of Baghdad's Children, S. Zaidi and M. C. Smith-Fawzi, *The Lancet*, (346):1485, 2 December 1995" [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(95\)92499-X/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(95)92499-X/fulltext) and [http://ac.els-cdn.com/S014067369592499X/1-s2.0-S014067369592499X-main.pdf?\\_tid=96207b30-f37f-11e2-9b60-00000aacb35f&acdnat=1374574188\\_cd1dd38b2f89967c98330ac1462be4be](http://ac.els-cdn.com/S014067369592499X/1-s2.0-S014067369592499X-main.pdf?_tid=96207b30-f37f-11e2-9b60-00000aacb35f&acdnat=1374574188_cd1dd38b2f89967c98330ac1462be4be)

<sup>3</sup> Sanctions and childhood mortality in Iraq, Ali MM, Shah IH, *The Lancet*, (355):1851–1857, 27 May 2000, available at: [http://ac.els-cdn.com/S0140673600022893/1-s2.0-S0140673600022893-main.pdf?\\_tid=aacffdf6-f3b8-11e2-a825-00000aab0f02&acdnat=1374598704\\_cb7484ab864b941dd7a5edb154e32d86](http://ac.els-cdn.com/S0140673600022893/1-s2.0-S0140673600022893-main.pdf?_tid=aacffdf6-f3b8-11e2-a825-00000aab0f02&acdnat=1374598704_cb7484ab864b941dd7a5edb154e32d86)

<sup>4</sup> Noam Chomsky, *Hopes and Prospects*, Penguin, London 2010, p. 129f.

<sup>5</sup> *A Different Kind of War: The UN Sanctions Regime in Iraq*. Oxford 2006.

<sup>6</sup> <http://www.guardian.co.uk/world/2001/nov/29/iraq.comment>.

Marc Bossuyt, notably his Sub-Commission study on *The Adverse consequences of economic sanctions on the enjoyment of human rights* (E/CN.4/Sub.2/2000/33).

I reaffirm the recommendation I formulated in my report (para. 69(c)) that States should practice multilateralism and abandon unilateral sanctions, precisely because they impact adversely on a democratic and equitable international order. The imposition of sanctions raises issues of relevance to several Special Procedures mandate holders, including the rapporteurs on the right to food, to drinking water and sanitation, on the right to the enjoyment of the highest attainable standard of physical and mental health, on the environment, on extreme poverty and human rights, and on the promotion of human rights while countering terrorism. The human rights impacts of sanctions regimes should be regularly evaluated by the Special Procedures of the Human Rights Council and the UPR.

#### INTERACTIVE DIALOGUE

Sanctions regimes appear to some as simple solutions, but they are far from being panaceas. Indeed, it is seldom possible to coerce States to improve their human rights performance by imposing sanctions, which more often than not cause untold suffering to innocent people.

I find added value in the idea of establishing a new Special Procedure in the Human Rights Council, an **Independent Expert on the Human Rights Impacts of Unilateral or Multilateral Sanctions**, who would report annually to the Human Rights Council and to the General Assembly and thereby give the problem greater visibility so as to encourage States to review their policies and consider other courses of action when appropriate.

I would also like to see the role of the media enhanced. The media must devote greater attention to the human rights consequences of sanctions regimes and alert the public about the suffering that sanctions bring to innocent human beings. Especially in democratic countries, citizens bear responsibility for the decisions taken by their democratically elected governments. If crimes are committed in the name of the citizens, it is the responsibility of citizens to protest and to demand accountability from their leaders.