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Article

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Christian von Soest Individual Sanctions: Toward a New Research Agenda



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INTRODUCTION

Individual sanctions are an important subcategory of economic sanctions, and an inextricable part of the global security and human rights regime that has informed international and national politics since the end of the Cold War. Shaping the international trend of individualizing accountability (Sikkink 2009), the United Nations, the United States, and the European Union, as the main global sanction senders, blacklist individuals to hold them accountable for the proliferation of weapons of mass destruction (WMDs), the instigation of armed conflict, the trafficking of narcotics, or the violation of human rights.

In all its current 14 sanctions regimes, the UN has blocked the travels and frozen the assets of purported perpetrators (Biersteker et al. 2016). The US for its part has implemented a list of ‘Specially Designated Nationals and Blocked Persons’ since 1994, which has grown tremendously over the years and presently contains over 1,200 pages of designated individuals and companies. Recently, an undersecretary of the US Treasury dubbed its Office of Foreign Assets Control (OFAC), which is responsible for blacklisting, “the beating heart of US sanctions authorities [...] to change behavior, disrupt illicit finance, and advance foreign policy priorities across the globe” (Mandelker 2019). Even the EU, which only started to impose sanctions autonomously in 2004, now runs a consolidated sanctions list that comprises almost 500 pages of listed persons and entities (as of November 2019).

However, we still lack fundamental knowledge about the selection criteria and indeed the effects of this important subcategory of economic sanctions. In response, this article sets out to provide the basis for a new research agenda that focuses on the specificities of individual sanctions.

THE MOVE TOWARD INDIVIDUAL ACCOUNTABILITY

The emerging international human rights regime of moving from state responsibility to the individual (criminal) accountability of rulers for crimes that they commit while in office has, in tandem with the 9/11 terrorist attacks, acted as a major boost for sanctions targeting specific individuals. They also appear more humane alternatives to comprehensive sanctions that fall on the entire population of a targeted country. Following Wallensteen and Grusell

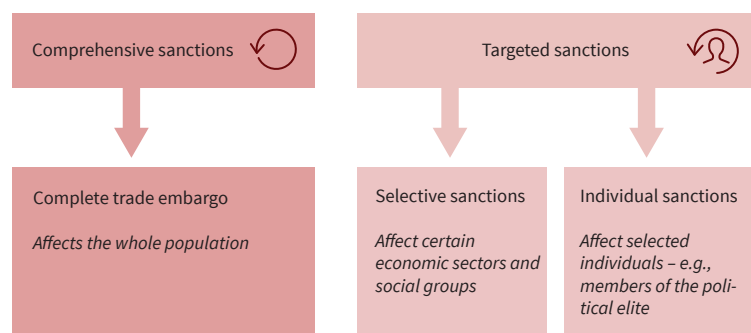
(2012, 208), “[t]he idea of targeting sanctions at individuals not only was an innovative way for making sanctions legitimate in the international system. [...] It was morally appealing to demonstrate that decision-makers were not personally exempt from the impact and reactions that their policies were causing”.

The main idea is to impose personal costs that coerce listed decision-makers, terrorists, or regime supporters into changing their behavior, to constrain their room for maneuver, or simply to send signals of disapproval to them – as well as to an international and domestic audience (Giumelli 2013). However, the use of these individual sanctions varies considerably: while in the Central African Republic, for instance, grave human rights violations and atrocities resulted in only 13 individuals being put on blacklists, the US and the EU designated more than 200 high-level Zimbabwean decision-makers – including former president Robert Mugabe and almost all government ministers – to protest electoral manipulation in that country. Even though scholars and practitioners alike deem sanctions that target top decision-makers most effective in changing the policies in question, as well as in sending strong signals about international norms, only rarely are presidents blacklisted. Currently, just Venezuela’s Nicolás Maduro and Syria’s Bashar al-Assad have asset freezes and travel bans imposed on them, while other heads of government who have committed the same or even more egregious human rights violations are not targeted by the UN, the US, or the EU. What accounts for these vast differences? As of now, we are unable to systematically explain this variance in the selection of individual sanctions targets.

Important analyses that focus on the ethical and legal implications of individual sanctions listings do not contain comprehensive scrutiny of the number and characteristics of designated individuals. The same holds true for assessments – most often from a legal perspective – of judicial challenges to individual designations, most notably the 2008 Kadi case heard before the European Court of Justice (Kokott and Sobotta 2012), and regarding the rights of listed persons (for example, Heupel 2013). Thus, despite their ubiquitous use and the emergence of an intense debate about the legal and normative implications of imposing individual sanctions, we still know little about how and why the UN and Western powers target specific individuals. Nor are we sufficiently aware of what effects – intended and unintended – individual sanctions (in conjunction with more comprehensive economic sanctions) have.

Academics and practitioners seeking to gain new insights about the targeting and the effects of sanctions therefore need to focus on individual sanctions as an important subcategory of the overall phenomenon. Currently, even the existing empirical

Figure 1
Comprehensive, Targeted, and Individual Sanctions



Source: Author's own compilation.

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work on targeted sanctions (Biersteker et al. 2016) bundles together different measures – namely, those against specific economic sectors and those against individuals – instead of looking at the specific characteristics, logic, and processes underlying the sanctioning of individuals (Figure 1).

Systematically analyzing the *number* of blacklisted individuals and their *proximity to political decision-making* in the target country would allow for the detailed examination of UN, US, and EU listings. Only if we better understand these selection processes can we say more about whether and how individual sanctions actually work (Hufbauer et al. 2007; Pape 1997).

ANALYZING THE TARGETING OF INDIVIDUAL SANCTIONS

When a decision to impose travel bans and asset freezes is made, decision-makers in the UN, the US, and the EU choose how many and which persons they target. The blacklisting decisions comprise two dimensions that need to be assessed: (1) the number of blacklisted individuals, and (2) their closeness to political decision-making in the target country (the ‘position’).

A New Analytic Framework

From the research on comprehensive and targeted sanctions, we can infer that the choice to impose individual sanctions is strategic, and determined by a complex combination of threat perceptions, domestic and international pressures, and relationships with the target (Nossal 1994; von Soest and Wahman 2015). Sanction senders weigh the potential benefits of achieving their goals through individual sanctions against their political/security-related, social, and economic costs. To account for the decision-making process in the UN, the US, and the EU, sanctions research should take into consideration four crucial dimensions that together all potentially shape the decision to blacklist individuals: trigger events, issue salience, sender-target

relations, and sender characteristics.

Trigger Events

The pressure to sanction individuals will be especially strong when drastic trigger events – such as the killing of the Saudi Arabian regime critic Jamal Khashoggi in 2018, or the annexation of Crimea by Russian forces in 2014 – draw global attention and provide justification for

foreign intervention. Terrorist attacks or successful coups d’état (Powell and Thyne 2011) are further blatant signals to the international arena that global peace and security are being threatened, and human rights and democratic norms violated (Peksen et al. 2014). In these instances, we would expect to see particularly decisive action taken against the involved individuals by the UN, the US, and the EU.

Issue Salience

The readiness to impose individual sanctions also depends on the nature of the ‘disputed policy’ (Dorussen and Mo 2001) – as seen from the perspective of the senders. The UN, the US, and the EU will be particularly inclined to impose sanctions on individuals who directly threaten their direct interests and/or who are characterized as ‘a threat to international peace and security’ (United Nations 1945). Ending the proliferation of WMDs, terminating armed conflict, and countering terrorism will therefore be particularly salient goals that from the perspective of senders necessitate the imposition of sanctions on – potentially – responsible individuals, be they the politically responsible decision-makers, members of the security apparatus, the engineers needed to construct nuclear facilities, or arms dealers. Addressing issues such as money laundering and drug trafficking also have direct repercussions for sanction-sending entities.

Sender-target Relations

Senders take geostrategic reasoning as well as their political and economic costs into consideration when deciding how many and which individuals to target. The senders’ potential costs for issuing sanctions vary greatly depending on (a) the existing political, military, economic, and social relations between sender and target; as well as (b) the target’s political strength and standing within the global economy. In the economic realm, earlier research emphasized the importance of trade links

(McLean and Whang 2010) and foreign direct investment (Lektzian and Biglaiser 2013). This calculation should also influence the propensity to sanction (high-ranking) individuals from particular countries, most notably the president and members of their cabinet – as powerful states could retaliate. A prominent example are the agricultural sanctions that Russia imposed in response to Western measures in 2014 (Timofeev 2018). Western senders might also be reluctant to target top policymakers and a high number of individuals from regimes that are generally supportive of Western security and broader political objectives.

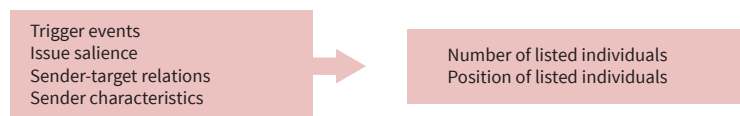
Sender Characteristics

Despite exhibiting similar basic threat perceptions and issue salience considerations, the three main global sanction senders – the UN, the US, and the EU – differ in terms of their (a) basic goals and (b) internal coherence, both of which influence their blacklisting behavior. Most fundamentally, we can expect more decisive individual sanctions listing (in terms of the number and position of blacklisted individuals) the greater the sender's internal coherence is.

- The UN is the prime international body seeking to guarantee international peace and security. General listing decisions are made by the United Nations Security Council (UNSC), “a highly politicized body” (Biersteker et al. 2016, 15) that is dominated by its five permanent (P5) members: China, France, Russia, the United Kingdom, and the US. As the P5 have diverging geostrategic interests and norms (with Russia and China generally being more ‘sanction skeptical’), UNSC members will generally agree only on the ‘lowest common denominator’ and target only individuals whose sanctioning is acceptable to all P5 members.
- Compared to the UN and the US, the EU is a new autonomous sanction sender. The ‘Basic Principles on the Use of Restrictive Measures (Sanctions)’ (European Union 2004) established the Union's own sanctions policy. Within the Union's complex legal framework, most sanctions are issued under its Common Foreign and Security Policy – which requires unanimity between all 28 (at the time of writing) member states for moving forward with its main decisions. Nevertheless, the EU has sought to swiftly react to transgressions and target responsible individuals. In addition, in line with its self-understanding as a union of liberal values, the EU

Figure 2

Summary of Main Factors Influencing Blacklisting Decisions



Source: Author's own compilation.

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has recurrently used its restrictive measures to strengthen human rights and democracy abroad.

- The US is by far the most coherent and active global sanction sender. Not only is it a key sponsor of UN sanctions but it also regularly applies unilateral individual (and comprehensive) ones too—that is, without the authorization of the UNSC. Since the 9/11 terrorist attacks, the US has entered into a ‘new era of financial warfare’ (Zarate 2013) and systematically uses the country's dominant position within the global financial system to block the funding of state and non-state actors whom it perceives as a threat to its security interests. In addition, the US regularly undertakes unilateral action for international democracy and human rights promotion. Since the passing of the 2012 Magnitsky Act, the US even has a special law that requires the government to freeze the assets of purported human rights offenders and ban them from entering the country. Furthermore, assistance must automatically be terminated in the event of a coup or with evidence of nuclear proliferation (Miller 2014). As the US is the most coherent actor, and also the one least constrained by due process concerns, the number of individuals targeted by it is significantly higher than by the UN or the EU.

Figure 2 below summarizes the four main factors that influence senders' decision to blacklist an individual, ones that should hence be analyzed closely in future research.

Steps to Overcome the Research Lacunae

The research agenda on individual sanctions can guide both large-N and small-N investigations on the topic. In recent years, the availability of digital trace data (often termed ‘big data’) has massively expanded, as has the possibility to automatically extract and systematically analyze this data with the help of computer processing. As the UN, the US, and the EU provide their blacklists in machine-readable formats on their websites, these could be used for the compilation of new data on individual sanctions targeting as well as for statistical analyses assessing the blacklisting of individuals. The individual entries could be linked to the legal documents that provide

the sanctions goal – meaning the reason why a specific individual was blacklisted.

Based on the considerations presented in this article, qualitative analysis would allow us to reconstruct in greater detail the complex decision-making processes that drive listing strategies. Semi-structured interviews could be used to assess the considerations and perspectives of decision-makers and administrators underpinning the listing strategies of the UN, the US, and the EU. The method is particularly suited to elucidating the multifaceted dynamics behind individual target selection and could therefore help to explain *how* listing decisions are being made.

CONCLUSION

The UN, the US, and the EU all have increasingly stressed the ‘individual accountability’ of policy-makers, human rights violators, arms traders, and countless other individuals who facilitate incriminated policies. The use and design of individual sanctions – and, more specifically, the selection of persons to be sanctioned – has important practical and normative implications for decision-makers from both state institutions and advocacy organizations, as well as for the general public.

In order to learn more about whether and how sanctions ‘work’, research and policy need to focus more on individual sanctions as a decisive subcategory of the overall phenomenon. A new research agenda on individual sanctions must start with identifying the listing patterns, taking into consideration at least four crucial dimensions: trigger events, issue salience, sender-target relations, and sender characteristics. This promises to provide new insights into which individuals are selected as sanction targets and why, how listed individuals react, and in turn, under what conditions individual sanctions lead to a hardening of positions or induce a change of behavior.

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