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A Review of Sanctions in International Law

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Abstract: General laws pertaining to international contracts and also traditional sanctions specified in international law such as annulment, abolition and loss compensation are not qualified enough to manage capital market transactions. Non-performance of contract by set due date which is considered a breach of contract has sanction to serve the interests of the aggrieved party. That being said, can the sanctions present in most legal systems really have performance guarantee required by contracts? By signing agreements for peaceful settlement of disputes or accepting to refer disputes to international arbitration or juridical investigation over bilateral or multilateral treaties, states create an obligation for themselves which results in international liability upon breach. These sanctions have principles that consist of common and mutual interests of countries, reciprocal action, international law regarding state rights, sanctions in UN charter and in international organizations, ethical sanctions, financial sanctions and political sanctions. In the present study, we consider evolutional trend and theoretical definition of the above terms.

Key words: Sanctions, international law, breach of commitments, abrogation of contracts, principles of international contracts

INTRODUCTION

In conventional language, legal bonds are discussed in a typical and completely vague way. For instance, it is said that a right is ensured by constitution only if it has been predicted officially in the text of the mentioned law. However with such use of linguistics we will not be able to distinguish between granting a right and supporting it. A basic right can be granted without having an ensuing support or guarantee. For example when in Article 10 of bill of human rights it says that "every citizen can speak, write and publish freely", clearly a set of individual rights are given to citizens but it could not be confirmed that these rights are supported. A bond is exactly a support, bond acts as a buffer between authority and freedom and it has been implicit since the time of Locke and Montesquieu, when Article 16 of the 1789 bill was devised. Article 684 of Iranian civil code has defined bond as follows: "contract guarantee means that an individual undertakes the possession that is someone else's obligation." According to the above definition as soon as bond realizes, obligation of the indebted party becomes that of the guaranteeing party and thus debtor is freed from their debt, i.e., the creditor cannot demand their right from them (Emami, 1987). There are three parties involved in guarantee: first, the party that is obligated with a commitment or due, who is guaranteed against another party. This party is called the guaranteed or guarantee seeker or principle. The second party that undertakes that due or commitment is called guarantor.

The third party that is served by the guarantor's commitment is called the guaranteed. Literally, Dhamanah (Arabic for guarante) has been translated as palsy and performance by execution and in legal terminology, sanction is the support of official authorities in enforcing law and convention. To ensure enforcement of each legal rule certain measures are needed so that based on these measures appropriate reaction can be considered by the society against violation of these rules which backs performance of legal codes. In Americana encyclopedia, the definition under international sanction reads as follows: this term refers to punishments that is enforced by or in request of an international organization representing the international community against a state or a group that has violated an international commitment, especially if it deals with avoiding military invasion, Black's Law Dictionary defines sanction as punishment or any other mechanisms of performance that encourages abiding by the law, rules and regulations and also part of law that is intended to ensure performance by setting punishment on violation or rewarding obedience of the laws (Henry, 1990).

Realization of sanctions in each legal system depends on creating two elements: the legal element, i.e., measures predicted in law against violation of legal regulations and the executive authority superior to society powers that requires a power to ensure law enforcement across the whole society, being able to counter any rioting power and enforce predicted punishments. As mentioned, one of the very important subjects in contract law in legal

systems is violation of contract and its sanction. In contracts held parties, especially in international business, it is always possible that fort some reason, performance of contract will face problems in future so that one contract party concludes with justifying reasons that their party will not fulfill their contractual commitments in specified time. Thus, since the contract is likely to be violated by the both parties, the question is propounded that if one contract party considers it likely that the other party will not fulfill their commitments as per the contract, can they suspend their own commitments before the specified time for contract enforcement?

GUARANTEE IN INTERNATIONAL TRANSACTIONS

Typically to perform construction projects such as dams, roads, factory establishments, bridges, residential complexes and other similar works, big qualified companies whose capability is recognized inside the country or in international level are invited in order to provide the best circumstances both in terms of quality and price and execution period. By signing performance contract, a new chapter is developed in relations between the employer and the contract signer. The employer is concerned that the contractor might not fulfill their commitments with desired quality and abandon the job incomplete. For this purpose, the contractor is requested to submit a guarantee the value of which is typically 5-10% of the contract value to the employer and as long as such a guarantee is not delivered, the contract is not considered to be binding. This guarantee is called transaction performance guarantee or job execution guarantee or other terms with similar concepts. Due to big size of projects and in order to help contractors and encourage them to offer better conditions, they are typically allowed to receive part of contract value before doing anything or after introductory equipping of the workshop from the employer and after doing the task and deserving some fraction of the contract value, they should pay back in certain installments, the money they had received as prepayment to the employer. The mentioned prepayment is always given to the contractor in exchange for some kind of provision from them which might be a valid guarantee from a bank or credit institute accepted by the employer. Such a guarantee is referred to as prepayment guarantee. According to paragraph 3 of Article 11 of governmental transactions statute ratified on 1970, "the amount of prepayment must not exceed 5% of the deal price and it will only be paid in exchange for bank guarantee". Main difference between different types of mentioned guarantees is their issuance intention and thus their due date and how they get release. Guarantee for tender participation is intended to ensure the participants adherence to the contract and its time of release is to some extent concurrent with signing of contract by winner of the tender. Guaranteeing prepayment refund is intended to ensure repayment of money that is given to contractor as prepayment and the respective date of release of any part of it is the date when equivalent value has been refunded by the contractor to the employer. Guarantees for tender participation, good deal performance and prepayment refund for international projects form an important aspect of global business convention. The international chamber of commerce, besides cooperation with interested international and regional business organizations, especially with cooperation of UN Commission on International Trade Law (UNCITRAL) has prepared a collection by the name of uniform rules for contract guarantees. These rules have been published in the form of Issue 325 of ICC (Emami, 1987).

EVOLUTIONAL TREND OF SANCTIONS

In the past when war was the only criterion to distinguish right from wrong in interstate relations, rulers of various lands always fought each other and when their forces weakened or one defeated the other, they would reconcile and promise to forget their resentments; history is full of alternation of war and peace or treaty and breach. However, the concept of treaty developed credit in international relations and in a term of about one and half centuries has obtained an elite position for itself as the main instrument of international relations. In other words, treaty is a concept that has evolved in proportion of correlation of different states, general human interests and global efforts in creating a global culture and civilization and prominence of international public opinion (Falsafi, 2004).

After world war II as UN founding document, United Nations charter established fundamental rules of international relations. After UN establishment, various international treaties were designed in various fields. When the West, church and christianity on the one hand and feudalism on the other hand were enjoying the climax of power, a very important event occurred in the East which was the advent of Islam in the late 6th century in Arabia. Islam's advent affected international law evolution in two ways: one in terms of international laws that were present in Islamic Sharia and the other in terms of time of advent of Islam which was contemporaneous with union of the European society though Christianity and then occurrence of the Crusades.

Comprehensiveness of Islamic law is to such an extent that it not only has comprehensive laws on inner affairs but also in international terms, it has vary evolving legal rules. Recognizing islamic law as the sole religious legal system, one of the contemporary legal systems in the world's adaptive law studies, proves this claim. Goals of international law are not in parallel in terms of importance but sometimes some of them serve as introduction and background to some others, though they are not per se insignificant for instance in contemporary international law, providing truce is one of the major goals of international law. It is noteworthy that in practice, international law has to a great extent, been used as an influential factor by hegemonic powers and its main goals have been sacrificed by their interests and actually forgotten. For example, UN charter introduction reads, "we United Nations are determined to keep future generations from war which made humans suffer from inexpressible disasters twice over a human lifetime in order to facilitate friendship and reconciliation and living together peacefully with a good adjacency morale to unite our powers to keep international peace and security".

Among other goals of the UN commission is equality of communities, regarding which the charter pretends to adjust all international relations and activities on this basis. Although, parts of the charter suggests that equality of nations toward each other is one of the most important goals of international law and the charter, this principle has been violated obviously in many cases within the charter itself. For example, the veto right for several countries, permanent security council membership for certain countries, etc. In practice, also, non-adherence and disbelief of big countries in this principle is clear to all. On the other hand in the Medina constitution we see that Islam condemns tribalism and racism, considering human societies as equal. Undercover motives and agreements in development of the United Nations which is the biggest international contemporary organization by the developed treaty, leads the reader's mind to a direction to recognize that this charter is not aimed what is presented in the context of the treaty, here the question is how did the powers who used to loot weak states and even fight each other over the history, decide at once to abandon struggle and exploit all their force to develop weak nations? If this is the goal, then what is the veto right for? Isn't it the case that UN founders have taken the control of nations' fates through veto right and thus, they have blocked any decision against themselves which means mere injustice while in Islamic international law this is not the case, rather, the goal is to provide justice as the first goal (Falsafi, 2004).

The United Nations is not a strong reference for resolution of international disputes as this organization does not have required qualifications. Most importantly, still a few number of international cases are presented in the international court of justice. Therefore, if a claim is made that a treaty is abrogated because of violation of jus cogens, there is no international reference to give a certain assessment on such a claim. Nonetheless, in international law, definition of illegal act and expressing international liability of states and sanctions for violation of international laws have always been non-centralized and unilateral. Besides, authority of states in defining illegal actions has served as a weapon tempting the powerful and bullies in the unorganized international community to abuse it, thus, resulting in corruptions (Falsafi, 2004). But sanction of Islamic rules is not only a result of coherent governmental institutions but also in a higher level, belief in afterlife and day of judgment. Therefore, spiritual conscience-related and sin-deterring motives are much more effective than worldly orders and forbiddances. Therefore, everyone, not because of legal obligation but when even there is no obstacle for their request, consider themselves responsible to follow the law out of fear of disgrace and punishment. To put it otherwise, sanction for Islamic decrees and regulations is divine judgment in the here after and deciding which brings humans good to do or evil to eschew is only done by God and therefore, man has no discretion in this regard but to follow his Lord (Hamidollah, 1994).

Ratifying charter of the United Nations in 1945 which is an obvious representation of common agreements of governments in international law, human beings took the highest step to maintain peace and security for man and general order of the world. To achieve this goal, UN members practically delegated preliminary responsibility of maintaining international peace and security and in fact sanction of international law to the security council. To perform this duty as in chapter seven of the charter in case of verifying a threat to peace, peace violation or invasion, according to Articles 41 and 42 of the charter, the security council embarks on non-military and military actions in order to maintain or restore international peace and security.

SANCTIONS IN INTERNATIONAL LAW

In present age, due to the big size of international transactions and so that companies and individuals adhere to their agreements, they are requested to attach to their proposal a guarantee which is called bid guarantee in business affairs. Guarantees are always received ahead of holding project contracts in order to ensure adherence

of the bidder to the contract. The international court of justice which is one of the principal components of the United Nations has two types of qualifications, i.e., adversarial and advisory, based on which issues adversarial and advisory votes. Given the fact that the court's decree is binding and peremptory (paragraph 1 of Article 94 of the charter and Articles 59 and 60 of the court's constitution) and the fact that temporary agreement of the court according the court's view in the June 27, 2001 regarding the La Grand case was considered binding and the advisory vote of the original court has no requirement for the requesting component and countries, it should be considered what guarantees exist for implementing any of the above decisions. Simply put, when a breach of contract occurs, what sanction has been predicted in the international law? To answer this question, contract breach has to be defined first. Contract breach refers to refusal of contract parties to perform contractual commitments. Also, if time is delegated to the request of obligee or if they demand performance of commitment within conventional time or if due time for contract performance has not been specified if the contractual commitment is not fulfilled in conventional time proportionate to the subject of commitment, beach has occurred. In international contracts (1990) breach is defined as follows: breach without legal excuse in doing each commitment which comprises all or part of the contract. Violation in fulfilling the commitment might involve not doing it completely or refusing to perform the contract might deal with part of that. However, most sanctions included in the UN charter lack executive power, because UN's security council enforce sanctions in limited conditions and often this council is crippled due to veto authorities of the five permanent members of the council and on the other hand, the general assembly has no authority except recommendation and its decisions don't usually have a legal and mandatory nature. Thus, if we are witnessing many aggressions in the contemporary world, it is not surprising for the UN system has many faults that should be corrected in future. After WWI in Article 16 of the covenant of the League of Nations, sanction was predicted for international law, based on which member states of the League of Nations had to respect requisites before waging a war and in case of breach, financial and economic relations of other member states of the league would be cut with the breaching state and military or naval actions might be taken against it. In the UN charter also, after WWII, the international police system was proposed, so actions would be taken incase of threat against peace. Sanction of international law, unlike municipal law in which the criminal is subject is public and involves the whole. For instance, anti-international-law actions of a country's foreign minister or secretary general of an international organization have the result that instead of the mentioned persons, respective country or international organization will be held liable. Furthermore, sanction in municipal law manifests itself as criminal laws while in international law, excluding exceptional cases and based on specific agreement, it involves actions by the claimant to get their right. The reason for this is lack of judicial or executing power beyond countries and therefore, countries as judgment pillars, identify legal or illegal behavior of one another and in case of a right's breach, they take necessary actions. Lack of a an international organized institution has resulted in international law's not being able to adapt itself with evolutions of the international community, leading to weakened international law.

Houck (1986) showed hypothetically that considering traditional assumptions of international commerce theory which has been specifically considered in transactions, export credits in the form of export subsidies might not be agreed upon by exporting countries, because part of subsidies flow to importing countries and due to improper use of market symbols, it results in improper allocation of resources in importing and exporting countries. Also, insurance and credit guarantee are goals that can, by reducing risk, encourage export to countries with low payment power. Lack of legislative authority in international law resulted in some 19th century philosophers' denying international law, claiming that international law is not a branch of law, however, this deficiency is not much important nowadays. What contemporary pessimists point to is lack of sanctions such as lack of obligating judicial methods and lack of centralized executive force to enforce judicial votes. Recognizing the theory of contract breach which is rooted in common law in 1980, the international convention on goods sale gave positive answer to this question and in Articles 71 and 72 and paragraph of Article 73 have specified sanctions for suspension and abrogation of contract in case of possible breach.

COMPONENTS OF SANCTION IN INTERNATIONAL LAW

Common and reciprocal interests for countries: Today in most municipal regulations of countries, especially in constitutions, international law has been recognized. On the other hand, implementation of international law by municipal judicial authorities endorses the recognition of international law in municipal law of countries. This is one of the most important sanctions of international law which has resulted in various dependencies of countries to each

other and therefore, they legislate proportionate rules, making the rules obligatory among themselves. In this regard, peremptoriness of international law rules is resulted by respecting performance commitments of parties.

Recognition of international law in law of countries' laws: Most countries have membership of international conferences, communities and organizations and merely participation of countries in these communities and conferences leads to recognition of a reality called international law in interstate relations. In other words, membership of countries in these communities and conferences results in recognition of international law explicitly or implicitly and development of common interests and relations and respecting international law considerations in their relationships which is a strong support for international law and its sanction. Today, membership of majority of countries in UN general assembly denotes that the countries demand international law and its sanction because as mentioned, today, respecting international law is beneficial for the governments as their interests are guaranteed through reciprocal actions and relations. In basic laws of some countries, international law has been considered as beyond municipal laws. For example in the US constitution, contracts in which the government is one of the parties have been announced as supreme law of the land. Generally speaking, it could be said that most countries respect international laws both in terms of international conventions and international contracts like their municipal laws.

Sanction in UN charter: In chapter seven of the charter, especially Articles 41 and 42, this subject has been discussed. Article 41 reads: the security council can decide to take actions that do not involve military action and invite UN members to implement those actions. The above mentioned actions might involve interrupting in part or in whole of economic relations or railway, naval, aerial, postal and telegraphic connections or those via other communication tools as well as cutting political relations.

Sanction in international and regional organizations: International organizations which have more specific sanctions might enforce a more effective control on their members, especially if these organizations provide basic services, e.g., international monetary fund. Regional organizations can also enforce a more accurate discipline on their members. For instance, the European court of Justice has obligatory authority over its member states that are charged with breaching EEC rules.

Ethical sanction: Deals with fulfilling international commitments which is originated from pressure of public opinion. This type of sanction is the same as satisfying a country, victim to the breach of international laws, e.g. by expressing condolence or apology of various countries towards the victim country.

Financial sanction: Such as paying compensation such as economic siege or embargo for import of certain goods to other countries or embargo on export of some goods of other countries to that country.

Reciprocal sanctions: One of the major factors that facilitate the implementation of international law are reciprocal actions. These actions include legitimate defense, retaliating actions and finally, mutual deal. Also, Article 42 says, "if the security council verifies that actions predicted in Article 41 might have been inappropriate or if their inappropriateness is verified in practice, it can take actions it deems necessary to keep international peace and security through aerial or naval or terrestrial forces. These operations might involve military maneuvers and besiege and other operations of aerial, naval or terrestrial forces of UN members. In many diplomatic negotiations between countries, international laws are recognized explicitly or implicitly. For example as states demand respecting of their own sovereignty, they must respect sovereignty of other countries alike. And as demand respecting of their own nationals they must respect nationals of other countries explicitly or implicitly. Also, if in international law, the breaching party does not agree to pay compensation or refer the dispute to the court, the other party can personally take action. Military forces of a country guarantee implementation of international law.

Political (diplomatic) sanction: Political sanction that lacks any legal characteristic can involve publishing documents showing international law breach, cutting or reducing diplomatic and consulate relations, summoning diplomatic and consulate officials and eventually, abrogating consulate visa of the breaching country by the admitting country are examples of this type of performance guarantee.

Sanction of global public opinion: Attracting the attention of global public opinions in the wake of breaching international laws and its effect on performance of countries is one of the factors that can be considered one of the major sanctions of international law, since, today, public opinion is very important in a global level. On the one hand, governments don't want manifest themselves in different to international law which shows the

significance of public opinion. On the other hand, "increasing awakening of nations about history" has led to emerging of public human conscience and formation of the new phenomenon of "global public opinion" in international relations. Oppression, inequality, aggression, betrayal, bullying and invasion are condemned by public opinion and thanks to this conscience, the human society does not easily forget aggression and bullying and does not allow the doers of those crimes to remain unpunished. Therefore, every government tries as much as possible to get the support of public opinion. On the other hand, this component which is considered as one of the most important elements of performance guarantee in international law is also recognized in the international criminal court as its major and effective performance guarantee, both in terms of governments' commitment to cooperate with this criminal institution and in terms not committing international crimes. In fact, rarely will a government subject it self to the criticism of the world's public opinion by disrespecting or violating international principles and rules. Even in such cases, governments still have strived to manifest their actions as compatible with international principles and rule. This is because of the importance that in the current age is given to attracting and persuading public opinion (Ziayi and Reza, 2006).

It should be noted that decisions made by components such as the UN's council and general assembly have a political nature, thus being related to the interests of big countries and as seen in practice, if it has bias toward a country, it might refuse to take action. Establishment of international criminal court in July 1st, 2002 as an objective manifestation of joint agreement among states in international law has sanctions in the sense of international law. Before founding ICC, we deal with three types of international criminal courts. Post-WWII courts, post-cold-war courts, courts with national and international characteristic and finally, the international criminal court.

INTERNATIONAL CRIMINAL COURT

Among characteristics of the criminal court of justice. Is not temporary. Principle of legitimacy of crime and penalties is respected in it. Judgement principles that have been defined and justly set in it are considered as sanction of international law.

Qualification of this court is complementary, i.e. if member states cannot resolve crimes, the ICC will. Intrinsic qualification of the court is limited to dealing with crimes recognized in international public law which is considered a specific characteristic of this court.

Unlike post-WWII and post-cold-war courts which dealt with past crimes, qualification of CC deals with future, involving all crimes after commencement of the statute. However, regarding sanction of this international criminal institution, it should be noted that its sanction is like that of international law. For as I mentioned, the ICC is an objective manifestation of joint agreement of states in international law, so, it has sanctions in the sense of international law. For instance, sanctions established before founding the court included criminal courts of Former Yugoslavia and Rwanda which had been established during resolutions 808, 827 and 955 of the security council and according to chapter 7 of UN charter. Choosing chapter 7 of UN charter as legal framework for forming the courts of ormer Yugoslavia and Rwanda has been very useful in creating appropriate mechanisms toward countries and in encouraging them to cooperate. That being said, the security council sates in paragraph 4 of resolution 827: all countries will have required cooperation with the international court and its organizations. And punishment of states' not cooperating in implementing the decrees given by the courts of Former Yugoslavia and Rwanda is notifying the security council

SANCTION IN THE INTERNATIONAL CRIMINAL COURT

Sanction in ICC is to some extent in accordance with cooperation of member and nonmember states who have signed an agreement with the court. On the other hand, the intimidation among the public opinion due to that can also be considered as a sanction of this court. First, it should be noted that the preliminary principle in the in the constitution is the necessity of cooperation of member states with nonmember states basically having no commitment to cooperate with the court. Nonetheless, if nonmember states sign an agreement with the court, they will be obligated to cooperate with the court (paragraph 5 Article 87). Among major commitments of member states is returning individuals wanted by the court, who might be within the territory of the member state. Returning the individual is mandatory if the court has verified the subject as assessable. Member states can reject request for cooperation with the court only if there are reasons regarding document preparation and publication that concern national security of that country (paragraph 4 of Article 93). Nonetheless, the mentioned states must announce their reasons without delay to the court and judge (paragraph 6 of Article 93). If the member state, opposed to statute regulations, ignore cooperation request of the court, preventing the court from implementing its duties and authorities, the court can

discuss the problem within the assembly of member states or in case the security council has referred to the court, it discuss the problem with the council (Article 7, paragraph 7). The statute is silent regarding decision of member states or the security council. However, it appears that given the security council roles within the framework of chapter 7 of UN charter issuing resolutions is necessary according to Articles 41 and 42. Among the institutions that can implement votes issued by the court are peacekeeping forces of the security council. Given the fact that the council according to paragraph 2 of Article 13 can refer the situation in which crimes have een committed to the attorney general, resolution can be issued by the council to dispatch peace keeping forces to troubled region in response to the request of the international criminal court. One of the areas in which ICC and the security council are related is to prosecute and investigate the crimes under the qualification of the court. These two institutions are interrelated in following cases: according to Article 15 of the court's statute, the attorney general of the court obtains extra information from UN components (including the security council) for prosecution and investigation of international crimes. According to Article 86 of the court's statute, member states will have ultimate cooperation with the court in prosecuting and investigating the crimes under the court's qualification and the court is in a position that can request cooperation from member states. Now, if states refuse to cooperate in response to the court's request of cooperation, preventing it from prosecuting and investigating crimes under its authority, what tools do the court have to enforce on the refusing state? What roles can the security council play in this case? In cases that the security council itself refers the case if one of member states in opposition to the regulations of this statute, ignores the court's cooperation request thus preventing the court from enforcing the duties and authorities it has according to this statute, the court can present the problem to the security council. This situation also applies when a nonmember who has signed a cooperation agreement with the court refrains from cooperation (Ziayi and Reza, 2006).

Generally speaking, legal reactions to a country which has not done their cooperation duty appears in two forms in the rome statute (intra-institutional and extra-institutional reactions).

Reaction enforced by attorney general and preliminary court and finally the general assembly which is in fact, done inside the ICC and we can call them intra-institutional reactions.

Reactions enforced by the security council. Since, the security council is an institution outside the ICC, it could be said that this is an extra-institutional reaction to non-cooperation with the court. The European union was the first regional organization that in April 2006 signed cooperation agreement with ICC. This union's policy in its statements is perfect support for ICC because principles of the rome statute are in complete accord with the union's principles and goals. This organization is committed to guarantee the totality of the rome statute, expecting its member states to fulfill their commitments toward the court and in this regard, the EU has developed a set of instructions for member states. The international civil society also as the new player of the international field, serves in the ICC, though its role is quite peripheral and informal but in cases, it has been effective. The international civil society which consists of non-governmental international and national organizations and specialized UN agencies was present in 1998 with other countries in rome statute negotiations and is considered a permanent supporter of the court upon its establishment, the coalition for the ICC that monitored states' commitments for creating the court and changed its direction to supporting the court before its formation. Examples of actions performed by the civil society are as follows: general improvement of support for the court and helping to create consensus through providing sufficient training on the court to states, striving to persuade states in the statute's ratification, giving assistance to attorney general office to form operational framework and policy of the court and activities to refer cases to the court.

CONCLUSION

Suggestions and approaches: To ensure effective sanctions for this international criminal institution, several recommendations and approaches are given as follows:

- Reducing flexibility of form rules in international criminal trials and determining specific regulations and criteria to create balance between interests in criminal process
- Necessity of coordination with Islamic countries and non-aligned states regarding different court issues and especially announcement of judges from them
- Complete independence of ICC from the security council
- Lack of toleration toward powerful country nationals
- Making more explicit statute articles regarding effects of non-cooperation of member and nonmember states

And finally, several approaches are given for non-interference of the security council in the court to enforce effective sanction as follows.

Isagreement between permanent members of the security council: In order for the council to suspend a case in the court, first, it should announce the court investigation a threat to peace and then request suspension in the court in order to remove threat. Making decisions in these cases require decision making in the security council and the veto right plays an important role in posing an obstacle to this agreement.

The UN general assembly: The UN general assembly as the official delegate of international community's public opinion can play a crucial role in security council decisions. Naturally, the general assembly can have a considerable role in un-suspending a case within the court by the security council by giving advice.

International public opinion: Today, as mentioned, public opinion plays a very important role in the world as nowadays, public opinion has appeared as an international law observer and it is very difficult for the security council to adopt a suspension during a prosecution. This is due to the awakening role of public opinion. Also, legal approaches include.

Literal interpretation of Article 16 of the court's statute regarding suspending investigation within the court by the security council and accurate respecting of suspension terms and limits has a critical role in limiting investigation suspension within the court.

Objection of the court to suspension request: by predicting the court's right for objection to suspension request from the security council in judgment statute and proofs and acts of the court's judges, an important step can be taken to unsuspend court's investigation. Therefore, in the last word and as a general conclusion we can note that since, the international criminal court is an objective manifestation of joint agreements between states in international law has sanctions in the sense of international rights which are mostly based on mutual satisfaction, cooperation and joint agreements between both member and nonmember countries and it is required but not sufficient due to the nature of international law.

Basically, when we want to discuss sanction in international law, we first have to distinguish our view regarding sanction of international law from municipal law. In municipal laws, like criminal law, the basic criterion is obedience, since according to Charles De Montesquieu, individuals in the municipal law have to reduce their power to some extent and delegate this power with general consensus to one person. Therefore, in municipal law the basis is obedience and conformance because the main addressee of municipal law is individuals, who have reduced their authority to some extent, giving it to representatives who set municipal laws. Thus, in municipal law as mentioned, the basic criterion is conformance. That being said, non-conformance with this principle faces confrontation from executing axes within municipal law. But with respect to international law the basis is not conformance as in municipal law, since main addressees of international law are states and international organizations. Therefore, conformance gap in international law will be filled by discussing mutual actions and mutual agreement between countries. Unlike municipal law, international law lacks triple powers. On this basis, everything in international law is conducted based on mutual procedures and reciprocal agreement.

Principally, setting laws could not be imagined without financial sanction which is aimed at guaranteeing them to be respected. If a legal rule lacks sanction, it is stripped off the peremptoriness characteristic. Therefore, sanction is an inseparable component of a legal rule. Sanction of law is specific to the law itself, being different from other social sciences, especially ethics. As Kelsen put it, legal rule is a result of union of two items, one being "harmful and illegitimate social behavior" and the other sanction with the two being dependent on each other. As a result, one of them is inevitably start of the other. Sanction is a "social reaction". So, it is certain that sanction is not a characteristic of legal rule, rather, it is merely a method aimed at guaranteeing effectiveness of the legal rule. On the other hand, executing authority and sanction, unlike many rules of municipal law are present in international law. Individuals don't avoid homicide out of fear of punishment. Rather, it is probably due to the fact that they have been brought up in such a way that they cannot imagine killing people. Thus, it seems that when making comparisons, the role of habit, conscience, morality, feelings, tolerance and their effects is much more important than sanctions of legal rules.

Basically, not every legal system should be studied merely based on its sanction. It is better that law be studied as a collection of rules that are typically followed, rather than focusing simply on answering what reactions will be shown in case of breaching those rules. Basically, some critics of international law who have considered war as the only guarantee of implementing international rights have been wrong, because today in contrast to law which is known as a value, war is an anti-value. As a result, an anti-value cannot guarantee implementing a value. Therefore, it is concluded from the above discussion that sanction is not considered a characteristic of legal rules. Rather it is a factor of effectiveness of a legal rule. Thus, in the international system, due to lack of international executing authority on the one hand and deficiency of guaranteeing legal international rules, it could not be

expected that sanction is as organized and mature as municipal law. Nowadays, in most municipal laws of countries, especially in constitutions, international law has been recognized. On the other hand, implementing international law through local juristic authorities also endorses international law in countries' municipal laws. In many diplomatic negotiations taking place between countries, international law is recognized explicitly or implicitly because recognizing international laws benefit the countries. For instance as states demand respecting their sovereignty they must respect sovereignties of other countries. And as countries expect their nationals to be respected in other countries they must also respect nationals of other countries both explicitly (through agreements) and implicitly. Recognizing international law via participation and membership of in international conferences, communities and organizations (especially the United Nations), majority of countries have membership of international conferences, societies and organizations (especially United Nations), leading to recognition of a reality called international law in interstate relations. In other words, countries' membership in these communities and conferences results in international law being recognized both explicitly and implicitly and creation of joint interests and relations and international law observations in their relations. This serves as a strong support for international law and its sanction. Today, membership of many countries in the UN general assembly indicates that countries demand international law and its sanction, since as mentioned, today, respecting international law benefits governments as their interests are assured via mutual actions and relations.

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