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Beyond “yes” and “no”: Syrian civil society and the sanctions challenge

Beyond “yes” and “no”: Syrian civil society and the sanctions challenge

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On the debate within Syrian civil society regarding international sanctions.

Many issues in the past ten years have been dealt with by Syrian civil society as black or white; forcing people into a “for” or “against” binary. Still, it has also been possible at

times for principled, independent, and objective Syrian civil society groups, especially human rights organizations, to form a position on, and advocate for, such concepts as justice, accountability, fighting impunity, and victim reparations. They express this position with a line or two, both in terms of these as values, as well as many of the tools needed to get to these values, such as court processes, condemnations, documenting of crimes, statements, and so on.

One exception is economic sanctions. Even those with a human rights compass may find it difficult to form a principled, clear, and concise position that they can adopt long-term. This is why it took almost a full year to get one position paper agreed on sanctions by more than 20 prominent civil society organizations. There were many debates, for example, as to how to deal with the unintended consequence of sanctions, and whether the paper should state things like “sanctions should not have an impact on civilians,” when we all knew this would not be fully possible.

Even though they have been imposed in a substantial manner since 2011, economic sanctions have become particularly central to the Syrian debate in the last two years. We have seen this in public campaigns such as, “Don’t exclude Syrians,” and also in meetings and workshops, including civil society spaces such as the Civil Society Support Room organised by the UN Envoy. However, it is worth noting that sanctions did not start in 2011. The United States, for example, imposed economic measures against Syria in 1979, when the latter was listed as a state sponsor of terror; a list on which it has remained ever since. Even during the Bashar al-Assad era after 2000,

further sanctions were imposed by Executive Orders 13338 and 13460 of 2004 and 2008, respectively; the latter including Rami Makhlouf, Bashar's first cousin.

The debate amongst Syrian civil society today, however, is no longer about those who support the regime versus those who wish to see it held accountable for its crimes. Even among a homogenous group of Syrians with a proven record of human rights work, and with the intention of demanding justice and a better future for Syria and Syrians, disagreements on sanctions have become heated. The [debate](#) following the so-called "Caesar" sanctions was only one example.

This article discusses the dilemmas facing this group of principled people when taking a position on economic sanctions imposed on Syria. It also suggests ways of resolving these difficult questions.

The paper does not express a position on the sanctions themselves, but rather the conversation that is needed when dealing with them. Before turning to the dilemmas, it is vital first to understand the context surrounding the sanctions debate.

The context of the emergence of the sanctions debate

Given that significant sanctions had already been imposed after 2011, why has the debate grown so much fiercer in recent times?

Firstly, when the military conflict was at its most intense, many Syrians did not have the "luxury" to discuss economic sanctions, as the crimes committed by the Assad regime,

such as the bombing of hospitals and markets; the forced displacement; and the use of chemical weapons kept them preoccupied with dealing with these abuses and their aftermath.

Secondly, after these crimes hit their peak, the regime and its allies controlled most of Syria's territory. This meant that conversations, activities, panels, and conferences moved beyond documenting and advocating for the prevention of war crimes to an increased focus on accountability, preventing war profiteers from benefiting from reconstruction, and fighting the legitimization of the regime at the international level. For those seeking accountability, sanctions were seen as a tool to achieve all of the above, particularly because the listing criteria of many Syrian sanctions regimes are based on human rights grounds.

Thirdly, the economic situation in Syria has begun deteriorating even faster in the last couple of years. Extreme poverty is on the rise amongst Syrians, which the regime and its allies have sought to blame on sanctions. At the recent Brussels Conference held virtually this June, Lebanon as well as other regime allies all mentioned the issue of sanctions. Not so long ago, the regime allowed the UN Special Rapporteur on Unilateral Coercive Measures to visit Syria; something the regime did not do for other UN human rights procedures; in an attempt to increase the attention given to sanctions. Additionally, now that the regime controls more land, more UN agencies and international aid NGOs have started operating in government-held areas. Some of these actors have called for a review of sanctions regimes to assist in delivering aid; an example is a report issued by the Norwegian Refugee Council in April 2020. This brought the sanctions debate

further to the forefront.

Fourthly, the regime and its allies, many of whom are complicit in its abuses, started campaigning for sanctions to be lifted and for reconstruction funds to be provided in an amplified manner. This created a worry amongst human rights-driven Syrian civil society entities and individuals, who saw it as a move to ignore any sort of justice attempts and move towards a post-conflict scenario. They also saw the call to lift sanctions as potentially rewarding criminals.

Finally, at a time of no Western political leadership on Syria, sanctions were among the very few tools that Western states were prepared to use further. The Caesar Act and recent EU designations are examples of such willingness. This presented an opportunity for those who saw sanctions as an accountability tool to engage with those states. At the same time, even those who oppose sanctions, and are either unable or unwilling to engage with the parties that committed the crimes to cease their sanctioning behavior (i.e., the Assad regime and its allies), have still been able to access Western states to lobby for their removal. The discussion on sanctions with Western policy makers, regardless of where you stand on them, is more accessible.

The complex nature of the outlined context has imposed inevitable dilemmas on Syrian civil society vis-à-vis the sanctions. One of these concerns the complexity of sanctions, while another pertains to their cost.

Dilemma I: Complexity of sanctions

In order to effectively approach any topic, it needs to be well understood and analyzed. When it comes to sanctions imposed on Syria, however, they are an incredibly

complicated tool. The legal basis of sanctions, their listing criteria, modality, content, application, reach, impact, consequences, deployment strategy, and exemption clauses differ from country to country. The sectors, industries, and people they target and how they target them are also very different. All of the latter is contained in hard-to-find websites and documents running into the hundreds of pages. One need only look at the sheer number and content of the US Executive Orders and Laws and EU resolutions and decisions linked to sanctions to understand their complexity. There are more than 600 individuals listed on sanctions lists, let alone the entities, sectors, and prohibited activities. The number of humanitarian exemptions that also exist is very extensive. For example, Section 7432 of the Caesar Act related to waivers and exemptions lists a full page of conditions, which include the United States' other international treaties or humanitarian reasons. In addition, sections 7425 and 7426 of the Act define the rules specific to supporting the work of NGOs and providing humanitarian assistance. The Caesar Act is only one of the many sanctions tools on which the US relies. When we at the Syrian Legal Development Programme; an organization with a Human Rights and Business Unit; tried to create a summarized paper on sanctions, it was about 50 pages long. There is a reason why lawyers dealing with sanctions are amongst the most senior, given the complexity of the matter.

And this is only to consider the complexity of the system as written on paper. When analyzing the impact of sanctions on Syria, in terms of both the intended and unintended consequences, understanding them becomes a nightmare. For one thing, there are so many factors that have a similar impact to sanctions on the economy, such as war,

corruption, poor governance, and regional instability. Nevertheless, the practical complexity and ambiguity of the sanctions add another layer to the struggles of Syrians. This manifests mainly in the bank transfers conducted by humanitarian organizations or even private businesses, whose activity is not subject to sanctions. For example, in a recent article on Syria's wheat sector, Syria Report showcased how sanctions affect wheat production in Syria. While shortages of pesticide can be attributed to the ban on exporting chemicals to Syria, sanctions also hinder the importation of goods and spare machinery parts, because of the reluctance of foreign companies and banks to deal with Syrian parties.



Finally, there are simply too many variables surrounding sanctions. In a country with such limited data, there is a precedent of distortion of facts by the Damascus authorities and incredibly loud propaganda attempting to link every negative consequence in Syria to sanctions. The most recent example is the COVID-19 crisis, whereby the regime blames sanctions for its inability to handle the virus' spread. However, a study published by the Conflict Research Programme of the London School of Economics on 28 July identifies six challenges facing the Syrian authorities in dealing with the health crisis, only one of which is the economic sanctions.

Dilemma II: A cost either way

Justice, freedom, accountability, and fighting impunity are all values and goals that many Syrian civil society actors call for and work towards. All are subjects that one could

have a principled stance on, such as “we are for accountability,” and “we stand for justice,” while knowing that such positions do not harm civilians. The same is not the case when it comes to taking a stance on sanctions.

The problem with sanctions is that, if they exist, civilians will always be affected, given that the regime and its cronies control large portions of the economy and state. If removed, on the other hand, they will impact the victims who are looking for some measure of accountability for perpetrators, and make it easier for the latter to get away with their crimes. The difficulty is then to push for something knowing that it will cause some sort of damage, even if it brings about some good. It takes a lot of courage to say one is able to live with this damage due to the greater good or lesser evil argument. While realistic and practical, such arguments have little place among Syrian civil society today. It is not easy to adopt an acceptable collateral damage approach due to the pressure to choose a stance that does no harm. As a result, many choose not to engage in the topic at all, yet this arguably brings further harm, as the perpetrators and their allies are already engaging rather loudly. This is very clear in the case of dual-use (civilian and military) materials. Among many other reasons, the sanctions play a role in the current fuel crisis in Syria, since the regime has lost control of the country’s oil fields and mainly relies on oil imports. The shortage led most recently to long queues at petrol stations, bringing traffic to a halt. However, the reason given for sanctioning oil trade with Syria is to stop the regime’s war machine, which is being used against civilian populations, whether under its control or not.

There are many geopolitical, economic, and humanitarian

variables around sanctions that shift over time that influence the efficiency of the sanctions. In an ideal situation, therefore, Syrian civil society members should be able to retract or change their previous position on sanctions. However, in the current climate and culture, such a back-track would be seen not as reflective, but rather as hypocritical, inconsistent, and therefore damaging.

The debate on sanctions goes further than mere positions and advocacy, also affecting the programs and activities of principled civil society members. For example, those working on court-based accountability are relevant to the debate on sanctions. A person who is sanctioned is held to account by virtue of an inability to travel or trade with the country that sanctioned them; the EU sanctions are an example. This may, however, impede the ability to hold them to account through a judicial process, if their arrest warrants were not disclosed in an attempt to take them by surprise. There are Syrian NGOs using the domestic courts of the countries that have sanctioned perpetrators to try and bring court cases against them. However, given that these perpetrators are sanctioned, they would not be able to travel to these countries to appear in court. This is of course assuming that they would travel to the country to appear in court in the first place.

Possible solutions

For a start, sanctions should not be oversimplified. When it comes to how they work, experts need to be consulted and sufficient material read. When it comes to their impact, it is important to know that no one has the full picture or is able to make an accurate analysis. However, research can contribute to the understanding of sanctions. Research

needs to be conducted with a critical eye, considering biases in methodology, sources and integrity of data, whether this data is affected by parties to the conflict, relevant time periods, assumptions made, the types of sanctions involved and the perspective of the paper (political, human rights, economic, and humanitarian). Such research is crucial for informing policy on certain aspects of sanctions, but nevertheless the full picture cannot be gained from it alone. In short, sweeping statements should not be accepted, given the sheer complexity of the sanctions.

When possible, independent Syrian civil society should do its best to counter disinformation and propaganda on sanctions. One way to do so is to focus on why sanctions exist, which is linked to the conflict-related crimes and human rights violations committed by the regime in the first place, and how they could be lifted. However, this is no easy task, as those who contribute to disinformation campaigns use advanced and unethical tactics such as bots and paid mouthpieces.

Most importantly, there should be a shift in the space that currently exists to discuss sanctions. There is a need for a safe space for constructive and healthy debate, instead of the trading of accusations within Syrian civil society, all of which recognizes the crimes of the regime and wants it to be held to account. The space should allow for its members to explain the rationales behind their positions on sanctions and be met with tolerance, regardless if there is agreement with these positions or not. The space should also allow for its members to change their positions on sanctions if needed without reputational repercussions. Publicly, members of the space may of course express dissent with

one position or another, but without making accusations as to the motives, or labeling those with a different view as traitors. It needs to be accepted that there is no single right or wrong answer.

On an individual or organizational level, dealing with sanctions requires leadership, courage, and moving outside one's comfort zone. Knowing that no matter what your position on sanctions is, there will be some damage, and as a result going with the lesser evil or greater good argument, is not easy, but necessary. As Syrians, we need to put pride aside and have the ability to constantly reflect on our position, engage in difficult conversations, apologize when necessary, and adapt where required. We owe it to those who suffered and still do. Hopefully, a day will come when the conversation on sanctions will no longer be needed; when perpetrators are held to account; human rights abuses are no longer committed; and our Syria is premised on the rule of law. These two authors, at any rate, cannot wait for this article to become obsolete.