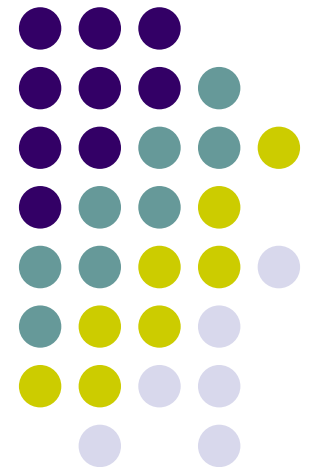


# AIDA 9<sup>th</sup> IHL Forum

## 7 March 2007

Boycott Divestment and Sanctions  
under International Law



# Regulation of international relations



1. Right to self-determination of peoples
2. Principle of state sovereignty/independence
3. Rule of non-intervention in domestic affairs of other states
4. State responsibility for internationally wrongful acts
5. Prohibition against economic coercion especially against developing countries
6. Prohibition against use of force...

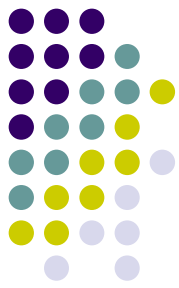
# Prohibition Against Use of Force



The UN Charter prohibits the threat or use of force in international relations when directed

“...against the territorial integrity or political independence of states, or in any other manner inconsistent with the purposes of the United Nations.” (art. 2(4))

# Permitted intervention- by whom?



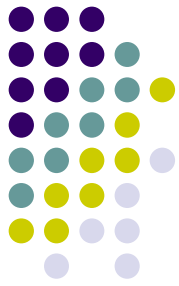
- By an attacked state – self-defence/reprisal
- By third states as collective measures (also regional) through UN Security Council resolution according to Chapter VII of the UN Charter or based on judicial decree



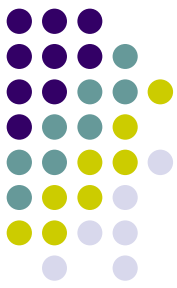
## Permitted intervention – when?

- When erga omnes principles are violated
- When there is a breach of international peace and security
- Obligation on states to “ensure respect” justifies intervention without use of force (art. 1 four Geneva Conventions)

# Collective Action by UNSC – in case of threat to peace and security



- Call the parties to comply with certain conditions or
- Make recommendations or
- Decide on mandatory actions to maintain and restore international peace and security



# Mandatory Actions by UNSC

- Use methods not requiring use of force—sanctions, including embargoes

And only when the above would be inadequate or proved to be inadequate

- Use force, including blockades

# Boycott Divestment and Sanctions - Methods not requiring use of force



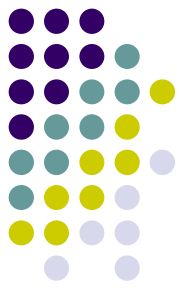
- Boycott and Divestment - Individual/institutional
- Sanctions – UN Charter, regional instruments such as EU law

# Boycott



- Consumer's boycott is part of basic freedoms
- Secondary and Tertiary boycotts are forbidden in US law except if follows US policy:
  - Primary boycott – a state boycotts another state and its companies follow it
  - Secondary – a state/company follows boycott decided by another state
  - Tertiary – A company does not work with states or its companies since they do not follow the boycott of another state
- Boycott as a coercive measure, unfriendly act or economic aggression under international law?

# Divestment/Disinvestment



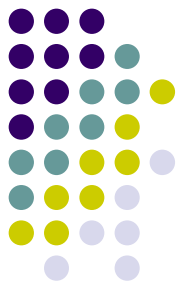
- A form of boycott
- Commercial measure directed towards government shareholders to sell their stocks and reduce their capital investment in companies that violate human rights and IHL
- Follows logic of corporate responsibility
- It was called for against for example – Northern Ireland, Cuba, Israel.

# Sanctions – what are they?



- Unilateral – individual states
- Collective/Mandatory measures by the UN Security Council
- Regional institutions

# Sanctions – why?



Widening range of purposes:

- Repel aggression
- Restore democracy and human rights
- Pressure regimes supporting terrorist activities and others charged with international crimes
- As part of state responsibility not to assist other states in the conduct of internationally wrongful acts

Studies dispute effectiveness

# Scope of sanctions



- The UN Charter does not define sanctions, their scope and duration.
- Sanctions are commonly:
  - Comprehensive/punitive or
  - Targeted/smart - seek to pressure regimes rather than people



# Types of sanctions

- Financial
  - Economic
  - Diplomatic
  - Military
  - Travel
  - Cultural
- 
- Embargoes – economic, arms



# Sanctions – the players

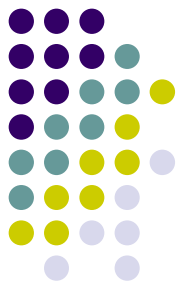
- **By whom?**
  - States – individual/collective
  - Regional bodies
- **Towards whom?**
  - States
  - Non-state actors
- **Sanctions mechanisms**
  - UNSC Sanctions Committees
  - UN General Assembly may take actions to maintain international peace when the UNSC cannot under “Uniting for peace” resolution no. 337 (1950)
  - Regional

# Criticism of sanctions regimes



- Economic coercion especially towards developing countries
- Humanitarian impact on civilians
- Political bias
- Lack of transparency in the UN sanctions committees
- Lack of effectiveness in reaching the goal
- Lack of monitoring (observers, licensing in national legislation)
- Impact on third states

# Limitations on sanctions



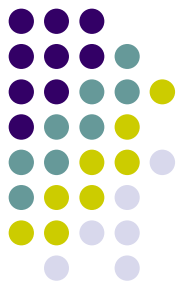
- UNSC needs to follow jus cogens obligations
- The UNSC needs to “act in accordance with the Purposes and Principles of the United Nations” (self-determination)
- IHL- prohibition against starvation, distinction, proportionality, humanitarian assistance
- Human rights – social and economic rights, ICCPR – right to life, proportionality, genocide, rights of the child

# Bossyut Report (2000)

## Evaluation test of sanctions regime



1. Are sanctions imposed for a valid reason – threat of or an actual breach of international peace and security?
2. Do the sanctions target the proper parties?
3. Do the sanctions target the proper goods or objects?
4. Are the sanctions reasonably time-limited?
5. Are the sanctions effective?
6. Are the sanctions free from protest arising from violations of the “principles of humanity and the dictates of the public conscience”?



THANK YOU!  
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“Easy Guide to International Humanitarian Law  
in the occupied Palestinian territory”

[www.diakonia.se/ihl](http://www.diakonia.se/ihl)