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With power comes responsibility: Human rights protection in United Nations sanctions policy

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Abstract

The ability to violate and the duty to protect human rights have traditionally been ascribed to states. Yet, since international organizations increasingly take decisions that directly affect individuals, it has been alleged that they, too, have human rights obligations. Against this background, we can witness a trend among international organizations establishing provisions to prevent human rights violations and to enable individuals to hold them accountable for such violations. This can be seen as a specific manifestation of a more general trend that has been described as the spread of good governance standards to, or the constitutionalization of, international organizations. The purpose of this article is to reveal the mechanisms that can account for the introduction of human rights protection provisions in international organizations. The empirical basis of the article forms a case study on the evolution of such provisions in United Nations sanctions policy. I first develop a conceptual framework that draws on diffusion mechanisms that have been used to explain the spread of norms and institutional design among states and to trace reform processes in international organizations. The empirical analysis suggests that shaming, defiance, litigation and instances of learning can account for the advancement of human rights protection provisions in United Nations sanctions policy: the Security Council was exposed to and responded to various forms of pressure from a variety of different actors. At the same time, it was approached with arguments concerning why it should institute reforms and advice in terms of how such reforms should look and engaged in a learning process.

Keywords

diffusion mechanisms, human rights, international organizations, sanctions, United Nations

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Introduction

According to the classical interpretation, it is states that violate human rights but also bear the responsibility for their protection. Indeed, the Universal Declaration of Human Rights (UDHR) of 1948 and the landmark International Covenants on Human Rights of the mid-1960s were drawn up with the idea that the state represents the greatest threat to human rights, on the one hand, but that it is the foremost protector of its citizens' human rights, on the other. In recent years, however, as international organizations (IOs) have begun to intervene ever more deeply in states' domestic affairs, the authority of states has eroded to some degree (Zürn, 2004). As IOs take decisions that affect individuals directly, states increasingly cease to function as filters between IOs and their citizens. With regard to the United Nations (UN), scholars have pointed out that 'the screen which originally separated the United Nations from the man on the street disappeared' (Tomuschat, 2003: 87).

Against this background, it has been alleged that IOs can also violate human rights, or at least that they can negatively affect the enjoyment of these rights. For instance, the structural adjustment programmes of the World Bank and the International Monetary Fund (IMF) are said to have aggravated poverty in states whose governments were forced to reduce public spending on basic social services; downsizing social welfare provisions and increasing poverty, it is argued, curtails an individual's enjoyment of economic and social rights (Global Exchange, 2001). Further examples of alleged human rights violations by IOs include UN peacekeepers in the Democratic Republic of Congo, who were accused of sexually abusing women and children; and, similarly, contractors hired by the North Atlantic Treaty Organization (NATO), who were implicated in human trafficking in the Balkans (Grady, 2010; Mendelson, 2005). At the same time, international law scholars have begun to assert that the duty to respect international human rights law has broadened to include IOs (Clapham, 2006). It has been argued, for instance, that human rights obligations in the meantime also apply to UN organs; this is so not just because human rights are firmly embedded in international law, but also because the UN has taken over so many functions that have a direct impact on the rights of individuals (Fassbender, 2006: 26).

Recent academic work has documented the adverse effects of IO policies on human rights (Abouharb and Cingranelli, 2007; Foot, 2007). A recent study also shows that various IOs have introduced provisions designed to prevent harm to individuals and to be answerable to individuals who nevertheless suffer injury (Blagescu et al., 2005). But there is still less knowledge available on the mechanisms that could account for the creation of such provisions (Heupel and Zürn, 2010). Do IO decision-makers establish human rights protection provisions because they are shamed into doing so by norm entrepreneurs who document human rights violations attributable to IOs or who frame their behaviour as scandalous? Are such reforms a reaction to defiance, be it by states who stop implementing IO decisions or by civil society groups who practise civil disobedience? Do IO decision-makers agree to reforms because individuals sue IOs or states implementing IO decisions before the courts? Or does the advancement of human rights protection provisions result from learning processes within IOs or in conjunction with epistemic communities outside or at the boundaries of IOs?

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The purpose of this article is to gain empirical and theoretical insights on what mechanisms account for the emergence and refinement of provisions in IOs that aim to ensure the protection of the human rights of those individuals affected by IO policies. The article builds on the assumption that fundamental human rights norms are firmly established in world culture when it comes to their applicability to states. It seeks to elicit the mechanisms that can explain why IOs, too, increasingly accept being bound by human rights norms. Put more succinctly, it wants to show how human rights norms travel from one arena to another. Insights will be derived from a case study of the evolution of UN sanctions policy. Sanctions policy is one of the prime examples of the UN Security Council expanding its authority and executing policies that affect individuals directly. The study is restricted to the post-Cold War period when the Security Council, which not only has the authority to authorize sanctions regimes, but also to determine their specific design, made use of its new scope of action and started to regularly impose sanctions on states as well as entities and individuals it deemed to be a threat to international peace. Over time the Council has established and refined provisions (rules and arrangements to implement the rules) related to the protection of two sets of rights. It has advanced provisions concerning the protection of the *right to life, food and health* of residents of states upon which it has imposed comprehensive or specific trade embargoes, and of blacklisted individuals singled out for targeted measures. It has also advanced provisions concerning the protection of the *right to due process* of blacklisted individuals. Despite persistent shortcomings in these provisions, the case study on UN sanctions policy is therefore most suitable for exploring the question at hand.

I conclude that there is no mechanism which by itself can account for the advancement of human rights protection provisions in UN sanctions policy. Rather, a combination of several mechanisms, namely shaming, defiance, litigation and learning, has been at work. On the one hand, the Security Council has introduced reforms as a response to various forms of pressure from other UN bodies, UN member states, non-governmental organizations (NGOs) as well as individuals taking court action. On the other hand, the Council has absorbed causal and normative beliefs provided by experts within and outside the UN system and, over the years, it has created by itself conditions conducive to learning. Thus the Council did not act because it realized independently that reforms were due or because it perceived competitive pressure or simply copied the provisions of other IOs. Rather, it agreed to reforms because of the public debate over the appropriateness of its behaviour. Powerful Council members, particularly the United States (US), who were reluctant to agree to restrictions to the Council's room for manoeuvre, stood in the way of more far-reaching reforms. Nonetheless, the four mechanisms together did facilitate the advancement of protection provisions despite the resistance.

I develop the article as follows. First, I set out the conceptual framework. Next, I delineate the evolution of protection provisions regarding the right to life, food and health in UN sanctions policy and show what combination of mechanisms accounts for these developments. I then go on to trace the evolution of protection provisions regarding the right to due process and reveal the mechanisms underlying this progression. Finally, in the concluding part of the article, I summarize and discuss the results.

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Conceptual framework

Mechanisms are 'recurrent processes linking specified initial conditions and a specific outcome' (Mayntz, 2004: 241). The analysis of mechanisms is undertaken in studies which go beyond correlation analysis and expose the intermediate steps or micro-foundations that lie between initial conditions and an outcome (Checkel, 2006). There is no agreed-upon set of mechanisms which is presumed to be able to account for institutional or policy change in IOs. Yet there are sets of mechanisms scholars have developed to account for the diffusion of norms and institutional features among states (Holzinger et al., 2007; Simmons et al., 2008). Empirical studies on reform processes in IOs have also revealed the workings of specific mechanisms (e.g. Conant, 2006; Zippel, 2004). I draw on four of these mechanisms — namely shaming, defiance, litigation and learning — to account for the evolution of human rights protection provisions in UN sanctions policy (see also Heupel and Zürn, 2010).[1] In the following, for each mechanism, I will explicate an ideal-typical sequence of observations as well as additional indicators which serve as clues that the mechanism is at work. I will also briefly explain why two mechanisms mentioned in the literature on mechanisms — competition and emulation — are not applicable to the study at hand.

Because they are ideal types, the chronological sequences of observations are necessarily simplified. In fact, mechanisms can only be translated into linear processes in which inputs, for example, pressure or knowledge, eventually lead to outputs, that is, institutional or policy change. In practice, change is more likely to be an interplay of input and output, with the Security Council gradually responding to consecutive inputs. It is also quite likely that some steps in the sequences are skipped. For instance, it might well be the case that the Council responds pre-emptively to a pending court judgement instead of waiting for it to actually be handed down. Unlike research that treats mechanisms as competing alternatives or focuses on the working of one specific mechanism, I also assume that mechanisms do not occur in isolation, but interact with one another. For example, it is conceivable that shaming facilitates learning if pressure on Council members leads them to search for new knowledge. The following empirical analysis does not aim to disclose mechanisms in 'pure form'; rather, the successive observations and additional indicators assigned to each mechanism serve as clues to guide the empirical analysis and reveal the interplay of different mechanisms and their components.

Shaming refers to actors exposing and/or making scandalous the negative implications of IO policies. It refers to actors punishing deviant behaviour by IOs by eliciting painful emotion caused by a sense of embarrassment or feelings of guilt. The underlying assumption is that IO bodies or member states acting in and through IOs care about reputation.[2] The following observations serve as indicators that the mechanism is at work. Initially, pressure on the Council slowly builds up. Norm entrepreneurs, be they NGOs, states, UN bodies or other IOs, document sanctions-related human rights violations. Over time, pressure grows as norm entrepreneurs go beyond documentation and frame the lack of reliable protection provisions as a scandal. Meanwhile, the effectiveness of UN sanctions policy decreases as the organization's legitimacy erodes. Finally, the Security Council improves its provisions to ensure the effectiveness of its sanctions policy. Additional indicators that reforms result from shaming include the similarity between Council reforms and the demands of actors who engage in shaming, references

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in Council documents and statements of Council members to such demands, and the assessment of scholars.

Defiance refers to states or non-state actors disobeying the IO decision-making body or refusing to cooperate with it. The underlying assumption is that IOs depend on support, especially from their member states, in order for their policies to be effective.[3] The following observations are indicators that the mechanism is at work. Pressure on the Council increases as some states veto Council decisions or refuse to comply with them or support their implementation. Civil society actors practise civil disobedience to derail implementation. As pressure continues to grow, more states veto Council decisions or disengage from their implementation; acts of civil disobedience multiply. In the meantime, the effectiveness of UN sanctions policy decreases, either as a direct consequence of obstructive behaviour by states and/or non-state actors or via legitimacy crises. Eventually, the Security Council advances its human rights protection provisions to secure the effectiveness of its sanctions policy. Extra indicators that reforms follow from defiance are the similarity between the Council's steps and recalcitrant actors' calls, references in Council documents and statements by Council members to such calls, and the evaluation of scholars. Note that the defiance mechanism can also work conversely; member states who prefer the status quo can veto reform proposals or refuse to comply with IO decisions that provide for reforms.

Change facilitated by *litigation* refers to court judgements influencing IOs in such a way that failure to comply would be costly. Court proceedings can influence IOs if their purpose is to assess whether these organizations and their member states apply their own rules correctly or act in compliance with *jus cogens* and customary law.[4] The following observations are indicators that this mechanism is at work. At first, courts accept cases and issue non-binding legal opinions that question Council practice or local implementation modalities. Gradually, the pressure takes on more weight as courts begin to issue binding judgements that challenge the lawfulness of existing provisions. As a consequence, the effectiveness of UN sanctions policy decreases against the background of its declining legitimacy. In the end, the Security Council amends its human rights protection provisions to guarantee the effectiveness of its sanctions policy. Additional indicators that reforms arise from litigation can be seen in the similarity between Council reforms and the reforms called for in court judgements, references in Council documents and statements by Council members referring to court judgements, and the assurance of scholars that litigation has played a role.

Learning refers to changes in beliefs brought about by information processing. Change in causal beliefs takes place if Security Council members gain new insights into how provisions for human rights protection need to be designed and how the lack of such provisions can undermine the overall effectiveness of sanctions regimes. Change in normative beliefs occurs if Council members conclude that they have a moral obligation to introduce reliable protection provisions, that is, if their normative convictions change.[5] The following observations indicate that the mechanism is at work. First, external actors (e.g. epistemic communities) process information and present new ideas to the Council in an ad hoc fashion. As this procedure gains momentum, more external actors produce increasingly sophisticated causal and/or normative knowledge and professionalize the means by which they convey this knowledge to the Council. Next, the Council sets up institutional structures (e.g. standing expert bodies) to process information by itself.

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Finally, the Council introduces reforms reflecting its new insights and in order to fulfil its convictions. That reforms come about through learning is further indicated by the similarity between Council measures and the insights generated in the learning process, references in Council documents and statements by Council members attesting to the learning process and its results, and conclusions in scholarly work.

There are two more mechanisms, namely competition and emulation, that are mentioned in the institutional and policy change literature; however, neither of these mechanisms is applicable to this study. *Competition* refers to the vying between functionally equivalent actors for specific assignments.[6] Applied to UN sanctions policy, this would mean that the Security Council improves its human rights protection provisions because member states transfer sanctions-related assignments to other IOs with better provisions. However, the Council does not actually have any competitors when it comes to the adoption of sanctions. The only reasonably plausible rival would be the European Union (EU), but EU sanctions are binding only for EU member states. Moreover, there are few incentives for EU member states to opt for the EU over the UN in sanctioning, as the latter distributes the costs among a greater number of senders (Portela, 2005). Finally, the EU can hardly serve as a model IO of unimpeachable integrity because it has also faced serious criticism regarding its alleged violation of due process rights of blacklisted individuals (Heupel, 2009).

Emulation refers to the awareness that the dictates of the *zeitgeist* oblige IOs to have reliable human rights protection provisions in place.[7] Applied to the case study examined in this article, this would mean that the Security Council establishes such provisions because it assumes that there is a norm according to which it is appropriate for IOs to ensure that their policies do not violate human rights. But there are no indications that such a norm exists. Human rights per se are commonly ascribed the status of norms, but that IOs are bound by them has yet to be translated into common practice. There are some signs that such a norm is emerging because the number of IOs taking steps to avert human rights violations has risen. Two cases in point are the World Bank Inspection Panel which concerns itself with whether World Bank-funded projects comply with certain standards and the UN guidelines prohibiting sexual exploitation by its peacekeepers (e.g. Chesterman, 2004). These developments are nevertheless not indicative of there being a widely accepted norm that obliges IOs to create human rights protection provisions. The steps that have been taken do not go very far. Furthermore, some prominent IOs, most notably the IMF and the World Trade Organization, have so far refrained from taking any meaningful steps to render their policies human-rights-proof (Clapham, 2006: 161–177).

In sum, the following sections will trace whether shaming, defiance, litigation and learning drove the evolution of protection provisions related to the right to life, food and health and the right to due process in UN sanctions policy.

UN sanctions and the right to life, food and health

The evolution of protection provisions

Sanctions can curtail the right to life, food and health of innocent individuals whose behaviour is not considered a threat to peace if comprehensive economic sanctions entail

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food and health care shortages or if targeted sanctions on strategic commodities deprive them of vital revenues. Sanctions can also have a negative effect on the right to life, food and health of blacklisted individuals who have been deliberately targeted if an asset freeze or a travel ban denies them access to basic goods and travel on humanitarian grounds.[8] Since the early 1990s, when the UN Security Council began to regularly adopt sanctions, provisions for the protection of the right to life, food and health have significantly advanced (Farrall, 2007). Although some shortcomings persist, overall the progress achieved is remarkable.

The most obvious evolution was the replacement of comprehensive trade sanctions by targeted sanctions. During the first half of the 1990s, imposing comprehensive trade embargoes on states was an available policy tool for the Security Council. The Council responded to three crises by banning all trade to and from Iraq,[9] the Federal Republic of Yugoslavia (Serbia and Montenegro)[10] and Haiti.[11] Since the mid-1990s, however, all new sanctions have been targeted sanctions. This term refers to selective measures such as embargoes on arms and commodities like diamonds and timber, asset freezes, as well as aviation, travel and diplomatic sanctions. Given their focus on specific individuals and groups whose behaviour is deemed a threat to international peace and security, targeted sanctions are believed to cause less suffering among innocent civilians. The Council used targeted sanctions in the early 1990s alongside comprehensive trade embargoes; but from the mid-1990s onward, with Iraq remaining the sole exception until comprehensive sanctions were finally lifted in 2003, targeted sanctions became the only type of sanction the Council applied.[12]

Provisions for humanitarian exemptions from sanctions have also improved. The idea behind exemptions is to allow the import of humanitarian goods and to permit otherwise banned activities for humanitarian purposes in order to avoid undue suffering among civilians. More recently awareness has risen that blacklisted individuals should also not be denied the fulfilment of basic humanitarian needs. The Security Council now routinely provides for humanitarian exemptions and authorizes Sanctions Committees composed of Council member state representatives to approve requests. The comprehensive sanctions regimes against Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro) and Haiti had already exempted medical supplies and foodstuffs from the outset or, in the case of Iraq, from 1991 onwards. Over the years, the Council expanded the scope of these provisions. For instance, in the mid-1990s, it established the Oil-for-Food Programme that allowed Iraq to export oil and import humanitarian supplies in exchange.[13] The practice of granting humanitarian exemptions has also spilled over to targeted sanctions. For most of the 1990s, resolutions imposing arms embargoes or financial and travel sanctions typically did not provide for exemptions. But since the late 1990s, arms embargoes tended to routinely exclude non-lethal military equipment.[14] Likewise, financial and travel sanctions against individuals exempt assets needed for basic expenditures and travel on humanitarian grounds.[15]

Provisions for humanitarian impact assessment of sanctions have also been advanced, albeit to a lesser degree. Some comprehensive economic sanctions regimes have provided for such assessment and even expanded it over time, while others contained no formal provisions. Targeted sanctions regimes also fail to consistently provide for humanitarian impact assessment, although some progress has been made. Again, for

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most of the 1990s, resolutions enacting targeted sanctions did not mandate an assessment of the impact of sanctions on the humanitarian situation of civilians. Nor did the resolutions provide for an assessment of the ability to meet the humanitarian needs of blacklisted individuals. After that time, such provisions emerged more frequently. The Liberia sanctions regime is demonstrative in this regard. The Security Council requested the 1343 Liberia Sanctions Committee and the related Panel of Experts to report regularly on the humanitarian impact of the sanctions.[16] It also requested the Secretary-General to assess the possible humanitarian impact of timber sanctions.[17] But the one weakness which remains in all sanctions regimes is that the recommendations of the bodies carrying out impact assessments are not binding.

Thus far, all provisions related to the protection of the right to life, food and health apply to specific sanctions regimes. There are no binding guidelines on how the Council is to devise its sanctions regimes generally. The Council and its Informal Working Group on General Issues of Sanctions have drawn up a set of non-binding recommendations. A Council non-paper, for instance, recommended 'minimiz[ing] unintended adverse side-effects of sanctions on the most vulnerable segments of targeted countries' and highlighted the importance of assessing the humanitarian consequences of sanctions (UNSC, 1995). The Working Group suggested in a non-paper standardizing humanitarian exemptions in all targeted sanctions regimes (UNSC, 2006a). Thus, although in practice protection provisions are regularly established in sanctions regimes, there are no binding guidelines that would prevent the Council from reversing present achievements.

What accounts for the evolution?

The improvement of provisions for the protection of the right to life, food and health can be ascribed to a combination of shaming, defiance and instances of learning. Early on different actors had already put the Security Council to shame but also provided recommendations for why it should initiate reforms and how such reforms should look. In the late 1990s, pressure on the Council increased as states and non-state actors openly defied the Council and undermined sanctions implementation. Finally, the Council was prepared to look into the recommendations and establish a forum that facilitated learning.

In the early 1990s, humanitarian agencies, academics and concerned individuals, both within and beyond the UN system, started to concern themselves with the impact of sanctions on the well-being of civilian populations. The bones of contention were the comprehensive trade embargoes against Iraq and, to a lesser degree, the Federal Republic of Yugoslavia (Serbia and Montenegro). Within a few months of the adoption of sanctions against Iraq, reports were published that documented the adverse impact of the embargo on the well-being of the Iraqi population. A mission led by UN Under-Secretary-General Martti Ahtisaari, for instance, reported that the sanctions 'adversely affected the country's ability to feed its people' (UNSC, 1991: 6). The adverse impact of the embargo against the Federal Republic of Yugoslavia (Serbia and Montenegro) on the humanitarian situation of civilians has also been documented (Minear et al., 1994).

Preconditions for learning among Security Council members did not exist in the early 1990s. However, actors who documented the impact of sanctions on innocent civilians

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already began to develop recommendations for how sanctions regimes ought to be designed in order to avoid undue human suffering. A report by the Watson Institute for International Studies of Brown University, for example, suggested drawing up a list of humanitarian goods that would be exempted from any future sanctions regime (Minear et al., 1994).

From the mid-1990s to early 2003, when the Council terminated its trade embargo against Iraq, pressure on the Council increased markedly. Efforts at shaming by documenting the negative effects of UN sanctions grew as more reports exposed sanctions-related suffering among Iraqi civilians. A report by the UN Food and Agricultural Organization, for instance, claimed that more than 500,000 Iraqi children under the age of five had died as a consequence of maintaining economic sanctions (Zaidi and Smith Fawzi, 1995). Other incriminating reports were published, documenting the negative effects of comprehensive trade embargoes that had in the meantime been lifted. An article in the *American Journal of Public Health*, for example, pointed to the devastating impact of the trade embargo against Haiti on children's access to health care (Gibbons and Garfield, 1999).

Efforts to label UN sanctions policy as scandalous also increased notably. UN bodies and prominent UN representatives were among the harshest critics. A former UN humanitarian coordinator in Iraq stated that the sanctions were a 'disaster' (Hawkins and Lloyd, 2003: 447). A paper by the Commission on Human Rights considered the possibility that the sanctions against Iraq were a form of 'genocide' (ECOSOC, 2000: 18–19). Academics also became involved. An article in *Foreign Affairs* titled 'Sanctions of mass destruction' argued that the sanctions regimes of the 1990s killed more people than did weapons of mass destruction throughout all of history (Mueller and Mueller, 1999).

The Iraq sanctions also provoked defiance. In the late 1990s, civil society groups started to openly flout the sanctions. The advocacy group Voices in the Wilderness delivered humanitarian aid from Jordan to Iraq in violation of the sanctions regime. Pressure mounted when humanitarian groups chartered planes to fly doctors and humanitarian supplies to Baghdad without approval from the Iraq Sanctions Committee (Associated Press, 2001). State support for the sanctions also eroded. Oil was smuggled out of Iraq through neighbouring countries. France, Russia and other states allowed humanitarian flights to take off to Iraq without consent of the Committee (New York Times, 2000). Increasingly the US and the United Kingdom (UK) were becoming the only steadfast supporters of the Iraq sanctions regime.

Parallel to the increase in pressure, preconditions for learning among Council members improved from the mid- and especially late 1990s onwards. Many different norm entrepreneurs — states, NGOs, academics, UN bodies — made efforts to generate knowledge. Over time they came to interact more closely with one another. The most salient knowledge-producing endeavours were the Interlaken (1998–2001), Bonn-Berlin (1999–2001) and Stockholm Processes (2001–2002) which evolved under the patronage of the Swiss, German and Swedish governments. To run the scientific and practical work, each government engaged an academic institution, namely the above-mentioned Watson Institute, the Bonn International Center for Conversion and the Department of Peace and Conflict Research of Uppsala University. The objective of these initiatives was to develop recommendations for the design of targeted sanctions. Issues related to the protection of

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the right to life, food and health were an important item on the agenda. The Processes consisted of several meetings at which information was exchanged among various actors, including representatives of Security Council members. Each initiative culminated in the publication of a report with policy recommendations (Brzoska, 2001; Wallensteen et al., 2003; Watson Institute, 2001).

Knowledge also became more detailed. For instance, reports drafted on behalf of the UN Secretariat's Office for the Coordination of Humanitarian Affairs provided comprehensive recommendations for ways to improve humanitarian impact assessment (Bruderlein, 1998). Instrumental and normative arguments were developed for why human rights protection provisions should be devised in the first place. Some argued that suffering among civilians undermines the credibility and, consequently, the effectiveness of UN sanctions. International law scholars referred to the legal obligation of the Council to uphold certain standards when devising sanctions. It was asserted, for example, that the Council, as it is bound by *jus cogens*[18] principles, must respect the right to life of civilians in targeted states and of blacklisted individuals (Geiss, 2005).

The way that knowledge has been transmitted to the Council has 'professionalized' over time and the Council has started to take an active part in the processing of information. The sanctions reform initiatives are a telling example of this development. During gatherings, representatives from Security Council members brought in their experiences. The final reports resulting from this exchange contained guidelines with specimen texts on provisions for humanitarian exemptions and impact assessment. The Council also held meetings in which the Swiss, German and Swedish representatives gave open briefings on the results of the Interlaken, Bonn-Berlin and Stockholm Processes (e.g. UNSC, 2000). Finally, in 2000, the Security Council created the abovementioned Working Group on General Issues of Sanctions whose members were regularly briefed by experts (UNSC, 2005). Concerns about humanitarian implications of sanctions featured prominently in Working Group discussions.

After 2003, when comprehensive sanctions against Iraq were lifted, pressure on the Council to further improve its provisions lost momentum (Geiss, 2005). In light of the emerging practice of designing sanctions in such a way that hardship among civilians is at least minimized, it should also come as no surprise that further efforts to refine recommendations and provide normative arguments have declined. Accordingly, the Council's Working Group languished due to differences on issues mostly unrelated to the humanitarian impact of sanctions and was dissolved in 2006.

There are additional indications that the Security Council's improving of protection provisions related to the right to life, food and health in UN sanctions policy can be attributed to shaming, defiance and instances of learning. First of all, there are similarities between the demands of critics and recommendations of norm entrepreneurs, on the one hand, and actual reforms, on the other. This becomes visible in the overall direction of the reforms which have focused exclusively on the prevention of adverse humanitarian impacts. Accountability provisions that would have enabled individuals to hold the Council responsible were not introduced. This direction reflects the demands and recommendations the Council has been approached with. Although since the early 2000s UN human rights bodies have occasionally called for accountability provisions (e.g. ECOSOC, 2000: 25), the overwhelming majority of demands and recommendations has

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referred just to prevention provisions. Specific demands and recommendations of critics and specific reforms by the Council also show remarkable similarity. For instance, the Interlaken, Bonn-Berlin and Stockholm Processes called for greater transparency in the management of exemptions; they also developed lists of items that should be exempted from every sanctions regime. These recommendations were taken up in reforms to existing sanctions regimes and the design of new ones. For example, the 1343 Liberia Sanctions Committee developed clear and detailed provisions for the administration of exemptions (Biersteker et al., 2005). Finally, there are signs not only that the Security Council has taken up specific practical reform proposals but also that it acknowledges the normative expectations with which it has been confronted. As stated above, an early Council document explicitly commits to 'minimiz[ing] unintended adverse side-effects of sanctions on the most vulnerable segments of targeted countries' (UNSC, 1995). This suggests that, to some extent, the Council accepts the responsibility to protect the rights of individuals affected by sanctions regimes.

Second, Council documents and statements by its members contain references to efforts to provide knowledge on how UN sanctions policy can be improved. Some references take the form of recommendations. The Chairman of the Council Working Group on Sanctions and the Security Council President emphasized that the Group should avail itself of all expertise on the humanitarian impact of sanctions. The UN Secretariat was urged to prepare model language for Council resolutions, drawing on the specimen texts in the Interlaken and Bonn-Berlin Process reports (Informal Working Group of the Security Council on General Issues of Sanctions, 2002; UNSC, 2005). Other references indicate that causal and normative beliefs transmitted by external actors have been taken into account. In a Council meeting in 2000, for example, several members acknowledged the work on sanctions done by the General Assembly and the Secretary-General and drew attention to the briefings and debates in the context of the Interlaken and Bonn-Berlin Processes. Input by scholars and NGOs also received mention (UNSC, 2000).

Finally, scholars attest to the fact that shaming, defiance and learning have played a decisive role in the evolution of UN sanctions policy. With regard to shaming and defiance, scholars claim that the shift from comprehensive to targeted sanctions can be traced back to steady pressure by a network of individual activists, NGOs and IOs (Cortright and Lopez, 2002; Hawkins and Lloyd, 2003). Reforms to specific sanctions regimes have also been linked to pressure. For example, modifications in the design of the Iraq sanctions regime — the authorization of the distribution of humanitarian aid and the introduction of the Oil-for-Food Programme — have been attributed to a transnational advocacy network comprising NGOs and IOs documenting and criticizing the negative humanitarian impact of the sanctions (Hawkins and Lloyd, 2003). Furthermore, scholars assert that reforms were precipitated by a learning process on the part of Security Council members (Farrall, 2007: 239). The shift to targeted sanctions has been portrayed as a 'direct result of a series of expert meetings, commissioned investigations, and policy exercises intended to improve the use of the sanctions instrument' (Cortright and Lopez, 2002: 4). For example, practitioners attending a Watson Institute workshop in which scenario technique was experimented with reported that they had learned from this experience (Biersteker et al., 2004).

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UN sanctions and the right to due process

The evolution of protection provisions

UN sanctions can also have a negative impact on the right to due process of blacklisted individuals. Due process rights are violated if listed individuals are prevented from learning why they have been singled out for targeted sanctions — a precondition for individuals to challenge their listing. They are also violated if listed individuals are deprived of an effective remedy, that is, if they are not granted the right to lodge a complaint against what they consider to be a wrongful listing.[19] Since 1997, when the Security Council first published lists of individuals subject to targeted sanctions, provisions for the protection of due process rights have advanced (Farrall, 2007). Today there are still important shortcomings but overall the progress achieved is significant.

Progress is most visible when it comes to provisions regulating the access of blacklisted individuals to information. The Sanctions Committees of the Council take formal decisions on listings, usually based on suggestions brought forward by UN member states. The requirements regarding information which states must provide to substantiate nominations have become more stringent over time. When the Council compiled its first lists of individuals in the context of its Angola (1997) and Sierra Leone (1998) sanctions, it failed to publish guidelines on what information was required to justify nominations to the list. In the 2000s, the requirements have been expanded. The evolution of the Al Qaida/Taliban sanctions regime is a telling example. When the Sanctions Committee drafted its first list in the early 2000s, states did not have to provide detailed information to support their suggestions for blacklisting. The Committee's first public guidelines of 2003 already required states to provide 'to the extent possible, a narrative description of the information that forms the basis or justification for taking action' (1267 Committee, 2003). By 2006, states had to submit statements of case and indicate on what information listing nominations were based.[20] Such improvements have not been limited to the Al Qaida/Taliban sanctions regime alone. Since the mid-2000s, the Security Council and its Sanctions Committees have routinely ordered listing suggestions to be substantiated by 'narrative descriptions' or 'detailed statements of case' (e.g. 1591 Committee, 2007).

Just as the requirements have expanded for states to present Sanctions Committees with appropriate justification, so, too, have the requirements for the Committees to share information with listed individuals. In the late 1990s, the Council's sanctions regimes against Angola and Sierra Leone did not require the Committees to publish justifications. Likewise, for many years, individuals included in the Al Qaida/Taliban Sanctions Committee blacklist were not granted the right to be informed of their alleged offences. By 2006, things had begun to change; the Council called upon states to make publicly releasable parts of their statements of case available to listed individuals.[21] Two years later, it directed the Committee to publish on its website a narrative summary of the reasons for each listing.[22] Similar guidelines have since emerged for various other sanctions regimes. Increasingly Committees like those for the Democratic Republic of Congo and Somalia have been directed to publish narrative summaries of the reasons for each listing.[23] Today, most sanctions regime blacklists contain a section called 'justification' that provides reasons for each listing.

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Another noteworthy step in the evolution was the introduction and refinement of provisions enabling blacklisted individuals to raise objections. Decisions on delistings are formally taken by the Sanctions Committees. Up to the early 2000s, no sanctions regime featured provisions that would have allowed blacklisted individuals or other actors on their behalf to request delisting. Since then, various reforms have been undertaken. The Al Qaida/Taliban Committee developed guidelines in late 2002 and early 2003 that arranged for a diplomatic delisting procedure. Accordingly, a state whose citizen or resident was listed (the petitioning state) was permitted to enter negotiations with the state that had designated the person in question. Provided that the designating state could be convinced to drop its allegations, the petitioning state could file a delisting request to the Committee (1267 Committee, 2003). Similar provisions were also introduced in other sanctions regimes. In a subsequent step, provisions emerged which enabled blacklisted individuals to file delisting requests without having to rely on their state of nationality or residence. For instance, the Liberia Sanctions Committee stipulated in its 2004 guidelines that in exceptional cases it would consider requests from individuals directly (1521 Committee, 2004). In 2006, the Council established a Focal Point that was to receive petitions from individuals listed under any sanctions regime. Its task was to forward each petition to the state of nationality or residence of the petitioner and to the designating state and to encourage both states to discuss the petition. If both states agreed that the petition was justified, then the petition was to be forwarded to the respective Sanctions Committee which in turn was to take the formal decision on delisting.[24] The most recent development is the appointment of an Ombudsperson in 2009 to assist the Al Qaida/Taliban Committee in considering delisting requests. Its task is to receive requests from petitioners, help petitioners navigate the delisting process and facilitate dialogue between all actors involved.[25]

Despite such improvements, there are still important shortcomings. In many cases, justifications for listings are thin. Moreover, the right to lodge objections is constrained by there being no independent and impartial body to which individuals can file complaints. They have to make do with submitting complaints to political bodies in which designating states can reject requests without having to provide any evidence to justify their resistance. Finally, the Council did not establish binding guidelines which would apply to all sanctions regimes operating with blacklists. The Council and its Working Group on Sanctions did agree on a few vague recommendations. The Working Group Chairman suggested, for instance, that Sanctions Committees develop guidelines for delisting based on fair and clear procedures (UNSC, 2006a). However, the Council did not commit itself to consistently reproducing provisions which had emerged in past practice for future sanctions regimes. With the notable exception of the Focal Point, all provisions were exclusively designed for specific sanctions regimes.

What accounts for the evolution?

Improving the provisions to protect the right to due process can be traced back to a combination of shaming, litigation, defiance and instances of learning. The Security Council had already come under pressure in the early 2000s, when different actors began to expose and frame as scandalous the detrimental implications of targeted sanctions, when

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individuals started to file complaints in the courts, and when civil society groups opposed sanctions implementation. Against this background, states increasingly refused to cooperate with the Council, especially with regard to its terrorism-related sanctions regime. At the same time, the Council began a learning process, drawing on the 'learning infrastructure' that was already in place from the earlier sanctions reform process (see previous section).

The sanctions regime against Al Qaida, the Taliban, associated individuals and groups blacklisted more persons than had all of the other sanctions regimes combined. With regard to due process, the Al Qaida/Taliban sanctions regime has also been the most controversial. Sanctions against individuals are normally imposed on members or supporters of a particular government or armed group. The circle of addressees of the Al Qaida/Taliban sanctions was more blurred, given the diffuse organizational structure of the Al Qaida network. Moreover, many entries in the Al Qaida/Taliban blacklist were questionable. Most of the names had been added to the list shortly after 9/11; this was done at the behest of the US at a time when other states were not asking for solid justification. Accordingly, the criticisms facing the Council were related mainly to shortcomings of the Al Qaida/Taliban sanctions. Efforts to generate knowledge on how and why due process deficits could or should be addressed also concentrated on these sanctions. The Al Qaida/Taliban sanctions regime was thus, in many respects, the precursor as regards the introduction of due process rights provisions, with other Sanctions Committees modelling their reforms on those undertaken by the Al Qaida/Taliban Committee (Biersteker and Eckert, 2006). To account for the evolution of protection provisions, I therefore focus mainly on the drivers of reforms in the Al Qaida/Taliban sanctions regime.

From the early 2000s and especially mid-2000s onwards, various actors pressured the Council to establish provisions to ensure that the right to due process of individuals blacklisted by the Al Qaida/Taliban Committee was safeguarded. Norm entrepreneurs made efforts to shame the Council into ensuring that the Committee's listing and delisting provisions were in compliance with due process standards. UN bodies and NGOs stated that the procedures for managing the blacklist were neither fair nor clear (HRW, 2002; UNGA, 2005). Others documented the real-life consequences of these procedures. For instance, the Council of Europe's Parliamentary Assembly detailed the restrictions an Italian businessman faced who had not been able to effect his delisting although judicial proceedings in Switzerland had produced no evidence against him (Marty, 2007a). Over the years, increasingly harsh wordings were used to discredit the sanctions. The Eminent Jurists Panel (EJP) on Terrorism, Counter-terrorism and Human Rights declared the Council's procedures to be 'unworthy' of the UN (EJP, 2009: 13). The Council of Europe's Parliamentary Assembly argued that the infringement upon fundamental rights was tantamount to 'handing the terrorists their first victory' (Marty, 2007b: para. 93). A Canadian Federal Court judge argued in a judgement that the plight of the complainant who had tried to challenge his nomination for the UN blacklist reminded him of Kafka's *The Trial* (Biersteker and Eckert, 2009: 18).

In striking contrast to the way in which provisions for the protection of the right to life, food and health evolved, provisions to safeguard due process rights were also driven by litigation. Thus far, no court has challenged the Council's decision-making authority. However, national and regional courts have issued judgements which relate to the duties

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of national authorities whenever they nominate individuals for Al Qaida/Taliban Sanctions Committee blacklisting, as well as to the responsibilities of national and regional authorities as implementing agencies. The legal issues at stake were access to information, fair hearing, effective remedy and notification of listing. Between 2001 and October 2009, courts heard 36 cases in which listed parties contested their nomination for the list or related issues. Fifteen cases were heard before the European Court of Justice (ECJ), the remaining cases before the European Court of Human Rights and national courts (Von Kalckreuth, 2009). Only a few cases were decided in favour of the plaintiff. Yet the fact that courts around the globe accepted sanctions-related complaints undermined the legitimacy of the sanctions. Some individuals won their cases. The judgement in the case *Yassin Abdullah Kadi/Al Barakaat International Foundation* v. *EU Council and Commission* at the ECJ in 2008 was a landmark decision since used as a precedent. In this case, the ECJ ruled that EU courts were competent to review the lawfulness of EU regulations that implement UN Security Council resolutions. In so doing, the ECJ annulled the EU regulation obliging EU member states to implement sanctions against Kadi and Al Barakaat, arguing that the regulation violated their fundamental rights — namely, the right to be heard and the right to effective judicial review — as guaranteed by EU law (ECJ, 2008).

Another form of pressure on the Council was disengagement with the Al Qaida/Taliban sanctions regime on the part of UN member states and outright obstruction of the regime by civil society groups. Both forms of defiance undermined the effectiveness of the sanctions. In the first half of the 2000s, many states stopped submitting names to the list because they were concerned about the lack of effective provisions to protect due process rights (Van den Herik, 2007). This apprehension was most widespread among European states but other non-European states expressed concern as well. At present, only very few states regularly submit names to the list (Cortright, 2009).[26] Civil society groups opposed the sanctions regime by practising civil disobedience. In 2002, a group formed in Sweden to financially support three Swedes who had been placed on the Al Qaida/Taliban sanctions blacklist (Vlcek, 2009). Other Sanctions Committees were also struggling to put together credible lists. To date, the Hariri Sanctions Committee has not published a blacklist and the lists from the Côte d'Ivoire and Sudan Committees each contain only a handful of names. Even before concerns about the Al Qaida/Taliban Sanctions Committee's procedures began to garner attention, critical debate was going on within the Angola, Sierra Leone and Liberia Committees over the criteria for blacklisting (Cameron, 2002). It is believed, however, that the limited engagement with other sanctions regimes is due to factors other than due process concerns (Cortright, 2009).

The Security Council was also confronted by actors who produced knowledge on how and why the Council ought to amend its provisions in order to effectively protect due process rights. Such activities expanded greatly from the mid-2000s onwards. Some recommendations applied specifically to the Al Qaida/Taliban sanctions regime, others to any sanctions regime. Diverse actors — NGOs, academics, groups of states, IO bodies — frequently worked together to develop recommendations. In many cases, actors who had already developed recommendations on the design of provisions to protect the right to life, food and health started to develop recommendations for provisions to protect due process.

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Reasoning in terms of why the Security Council was to establish such provisions followed an instrumental and a norms-based logic. Instrumental reasoning held that due process shortcomings in the Al Qaida/Taliban sanctions regime undermined the legitimacy and ultimately the effectiveness of UN sanctions policy (UNGA/UNSC, 2008). Norms-based arguments held that it was normatively right and the legal duty of the Council to ensure that its policies did not violate human rights. After all, IOs have been granted the authority to execute policies which have a direct impact on individuals and that had formerly been the prerogative of states (Fassbender, 2006; Marty, 2007b). Therefore even IOs must respect customary human rights law (Bothe, 2008).

Other recommendations referred to how protection provisions ought to be designed. Experts on international and human rights law specified which concrete rights were to be protected in order to ensure that due process would be safeguarded. Accordingly, the Security Council was to establish provisions guaranteeing 'equality before the law, the right to be informed of the reasons behind the imposition of sanctions, the right to prepare a defense, the right to be heard, the right to view evidence, and the right to obtain a review' (Wallensteen et al., 2003: 22).[27] In addition, proposals were developed for what steps the Council should take to ensure the protection of these rights. Authors frequently explained the advantages and drawbacks of different options as regards both compliance with international human rights law and political feasibility (Biersteker and Eckert, 2006; Cameron, 2002).

The transmission of ideas to the Council took place in a fashion similar to that of the evolution of provisions related to the protection of the right to life, food and health. Recommendations coming out of the Interlaken, Bonn-Berlin and Stockholm Processes were presented in the form of manuals. They were also put forward in Security Council meetings. States and NGOs organized workshops to enable Council members, other state representatives and experts to rehearse the implementation of such proposals. Finally, the Council took a proactive stance by establishing the above-mentioned Informal Working Group, the members of which also discussed proposals on ways to protect due process rights.

Again, there are additional indications that the readiness of the Security Council to introduce reforms can be traced back to shaming, defiance, litigation and instances of learning. There is some similarity between the reforms that the Council undertook and the demands and practical recommendations with which it was approached. Although the Council still neglected some important points, the most obvious of these being the rigorous demands and elaborate recommendations for an independent appellate body, more modest reforms were nevertheless instituted, reflecting specific areas of concern and recommendations. For instance, much criticism has been levelled against the Sanctions Committees for not providing sufficient information on why individuals were blacklisted, the most prominent being the ECJ's seminal judgement in the Kadi/Al Barakaat case. The Council's reforms reflect this criticism insofar as it adopted many of the corresponding proposals. The Focal Point and the Ombudsperson also adopted some of the features that had been promoted as essential for an effective complaint mechanism.[28] The provisions of the 1521 Liberia Sanctions Committee, which permitted direct appeals to the Committee, conformed to widely expressed demands. In this case as well, similarities between the proposals with which the Council had been approached and its

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response to them suggest that it has also been responsive to normative arguments. For instance, the final report of the Council's Informal Working Group explicitly endorses the value of fair and clear procedures for listing and delisting (UNSC, 2006a). Again, this indicates that the Council acknowledges certain human rights norms as applicable to its sanctions policy.

Despite such similarities, not many explicit references to the sources that have inspired the reform process can be found in Council documents or Council members' statements. But there are some notable exceptions. The resolution establishing the Ombudsperson for the Al Qaida/Taliban sanctions regime stated that the Council '[took] note of challenges, both legal and otherwise, to the measures implemented by member states'.[29] And the UK representative stated in Council meetings that 'we welcome the paper produced by the Watson Institute … [which] provides a good quarry for practical and sensible improvements to existing procedures' (UNSC, 2006b: 10–11) and 'improved procedures for listing and de-listing individuals in order to address concerns that have been raised' (UNSC, 2008: 7).

The assessment of scholars on the drivers of the reform process also lends support to the conclusion that shaming, defiance, litigation and instances of learning have facilitated the improvement of protection provisions. Some authors have argued that the Council introduced reforms *inter alia* because it was concerned that legal challenges might undermine the legitimacy and effectiveness of its sanctions tool. It was also argued that the growing reluctance of many UN members to submit names to the Al Qaida/Taliban blacklist put the Council under pressure (Van den Herik, 2007). It was asserted that the Council could not easily rebuff criticism resting on the argument that it must not violate human rights because it is committed by the UN Charter to further human rights and regularly claims to meet this commitment (Foot, 2007). As regards learning, within the Al Qaida/Taliban Sanctions Committee 'a form of institutional learning' is said to have occurred. The results of learning in this context were then taken up by other Committees which, in turn, drew upon one another's examples (Biersteker and Eckert, 2006). Finally, others assert that reforms to the provisions of the Al Qaida/Taliban sanctions regime can in part be attributed to the persuasiveness of the arguments brought forward by those who campaigned for changes (Foot, 2007).

Conclusion

The evolution of human rights protection provisions in UN sanctions policy cannot be traced back to just a single mechanism. Rather, the empirical analysis has shown that four mechanisms –shaming, defiance, litigation and learning — have been at work and that these have interacted with one another. The UN Security Council was exposed to and responded to various forms of pressure from a variety of different actors. At the same time, it was approached with instrumental and normative arguments concerning why it should institute reforms and given advice on how such reforms should be designed and, over time, engaged proactively in a learning process. In terms of sequencing, it is striking that instances of learning were always preceded or accompanied by different forms of pressure. The Council appeared to be ready to engage in learning processes and search for appropriate solutions to the problems at hand only when shaming, defiance and/or

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litigation made it a necessity to act. Overall, different mechanisms seem to reinforce each other. Most obviously, defiance by states has been triggered by the decreasing legitimacy of UN sanctions policy, which in turn has been brought about by shaming and rising numbers of court proceedings. The case study therefore indicates that different mechanisms are not to be treated as competing alternatives but rather that they tend to account for institutional and policy change in IOs in combination.

The evolution of provisions in UN sanctions policy aimed at assuring the protection of the right to life, food and health, on the one hand, and the right to due process, on the other, thus appears to have been facilitated by the same mechanisms. On a more specific level, there are also differences that give rise to more general conclusions. First, pressure emanating from litigation was relevant only with regard to the evolution of due process protection. Obviously, it is much easier for blacklisted individuals to make the case that their rights have been violated than it is for persons who happen to live in a state targeted by comprehensive sanctions. More generally speaking, then, pressure arising from court proceedings probably has greater influence in those cases in which IO policies directly target specific individuals rather than in those cases where harm to random individuals occurs as collateral damage. Second, path dependence played a role. Efforts to facilitate learning among Security Council members with regard to the protection of the right to life, food and health seem to have buttressed efforts to facilitate learning with regard to due process protection provisions. In the former case, it took about a decade until effective forms of knowledge transmission had emerged and until the Council engaged in the reform debate. In the latter, there was no such delay because an active network was already in place consisting of actors who favoured human rights-related reforms to UN sanctions policy, transmission channels existed and even reluctant Council members were already sensitized to widespread concerns.

The findings of the article suggest that UN sanctions policy is highly politicized. This lends support to assertions that the shift of authority to supranational institutions tends to entail their politicization, that is, to generate a debate in the public sphere in which the actions of these institutions are contested (Zürn, 2004). The Council, which used its new leeway after the Cold War to regularly adopt sanctions and thus made use of its supranational prerogatives, did not institute human rights protection provisions of its own accord. It did not introduce reforms because it had a sudden flash of recognition that reform was necessary; nor did it introduce reforms because it was forced to do so in the face of competitive pressure or because it merely emulated the provisions of other IOs. Rather, the Council was highly influenced by actors who addressed it publicly with their demands. Societal actors, other UN bodies and individual UN member states concluded that because the Security Council exercises its authority in such a way that its instruments directly impact upon the lives of individuals, it must conform to good governance standards — and made themselves heard.

Yet the politicization of UN sanctions policy did not result in the establishment of human rights protection provisions as reliable as many critics had envisioned. There has been resistance in the Council to more far-reaching reforms because the five permanent members (P5), especially the US, have been reluctant to accept restrictions to their scope of action (Cortright and Lopez, 2002; Foot, 2007). The formal and informal decision-making rules of the Security Council and its subsidiary bodies (the veto of the P5, the informal consensus rules in the Sanctions Committees and the Sanctions Working Group)

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made it impossible to pursue reforms without the consent of the P5. Furthermore, Council members who opposed more far-reaching reforms benefitted from the lack of consensus among international law scholars on whether the Security Council is bound by international human rights law. While some support this claim (see above), others argue that the signatories to the UN Charter agreed that the Council is free to determine to what extent it is bound by human rights obligations (Alvarez, 2003). Council members who opposed the idea of restricting their room for manoeuvre could therefore defend their position behind a bulwark of legal arguments.

Two further peculiarities of the Security Council stood in the way of more extensive reform. First, the membership rules of the Council constituted a challenge to continuous learning. The changing composition of the Council — the 10 non-permanent Council members serve only two-year terms — is not conducive to sustainable learning. The same applies to shifting policy preferences among the P5 due to changes of government. Thus, although there have been instances of learning that were instrumental in the reform process, as shown above, overall learning has had its limits. Second, the special legal status of the Security Council constrained the impact of litigation. Proceedings in national courts against states implementing Council resolutions compromised the legitimacy of UN sanctions policy, as did the ECJ's seminal verdict in the Kadi/Al Barakaat case on the implementation of UN sanctions in the EU. However, had there been a court with jurisdiction over the Security Council itself, litigation would most likely have had far greater impacts.

This article focused on the evolution of human rights protection provisions in one specific IO with regard to one specific policy tool. To be able to impute more generalizable validity to the findings, a greater number of case studies is required. A desideratum for future research is therefore to examine whether the establishment of human rights protection provisions in other IOs or in the UN with regard to other policy tools has been brought about by a similar combination of mechanisms. Another worthwhile endeavour may be to examine the implications of the trend (albeit slow and uneven) towards establishing provisions in IOs to protect human rights. Does the spread of such provisions lead to a backlash in the sense that IO bureaucrats and powerful principals controlling IOs, for fear of loss of autonomy, thwart efforts to expand the authority of IOs? Or will IO decision-making bodies continue to interpret their mandates in such a way that the scope and depth of their actions expand but, at the same time, accept the co-evolution of provisions guaranteeing that the human rights of affected individuals are nonetheless effectively safeguarded? Both scenarios are plausible.

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Notes

1. The list of mechanisms is meant to be inclusive rather than exclusive.
2. For general accounts of the mechanism, see, for example, Keck and Sikkink (1998).
3. For general accounts of the mechanism, see, for example, Koremenos et al. (2001) and Tarrow (2005).
4. For general accounts of the mechanism, see, for example, Stone Sweet (2000).
5. For general accounts of the mechanism, see, for example, Argyris and Schön (1978).
6. For general accounts of the mechanism, see, for example, Aldrich (1979).
7. For general accounts of the mechanism, see, for example, Meyer and Rowan (1977).
8. The right to life, food and health is stipulated in the UDHR (1948) (Art. 3, 25), the International Covenant on Civil and Political Rights (ICCPR) (1976) (Art. 6) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1976) (Art. 11, 12).
9. S/RES/661(1990).
10. S/RES/757(1992).
11. S/RES/917(1994).
12. For an overview of past and current UN sanctions, see http://www.un.org/sc/committees/index.shtml
13. S/RES/986(1995). The programme has been accused of mismanagement and corruption, yet it is believed to have facilitated the supply of humanitarian relief at least to some degree.
14. For example, S/RES/1572(2004).
15. For example, S/RES/1636(2005).
16. For example, S/RES/1408(2002).
17. S/RES/1478(2003).
18. *Jus cogens* refers to overriding principles of international law. It normally includes prohibition of the use of force, genocide, crimes against humanity, racial discrimination, slave trade and piracy. Prohibition of torture and respect for fundamental human rights are sometimes also ascribed *jus cogens* status.
19. The right to due process is established in the UDHR (Art. 7, 10) and the ICCPR (Art. 2).
20. S/RES/1735(2006).
21. S/RES/1735 (2006).
22. S/RES/1822 (2008).
23. S/RES/1858(2008), S/RES/1844(2008).
24. S/RES/1730 (2006).
25. S/RES/1904 (2009).
26. Another reason for states' declining willingness to submit names is considered to be the recognition that the most important targets were already on the list. Another reason is believed to be scepticism vis-a-vis the effectiveness of sanctions as a counter-terrorism instrument.
27. For similar interpretations, see Fassbender (2006) and Marty (2007b).
28. Compare S/RES/1730 (2006), 1735 (2006) and 1904 (2009) and the recommendations in Biersteker and Eckert (2006).
29. S/RES/1904 (2009).

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