



Book Review Symposium II: Legal but Illegitimate? Lessons for ECOWAS Law and Praxis in Joy Gordon, ed., Economic Sanctions from Havana to Baghdad

By:

[Obiora Chinedu Okafor](#)

July 31, 2026

I. Introduction:

Joy Gordon's twenty-one chapter edited volume is a massive contribution to the study of the character, legality, legitimacy, effectiveness, [and impacts of economic sanctions in our time](#) (Gordon, 2026). It is a major tome – certainly voluminous, seamlessly multidisciplinary, and quite encompassing. It is an excellent work of scholarship: thoroughly researched, written and edited; highly analytical; and very illuminating.

Of major interest in the current regard is that many of the chapters in the volume focus on or significantly engage questions concerning the legality or legitimacy of sanctions. This essay seeks to analytically discern how and to what extent the main points that are made in the volume about these two questions relate to the law and praxis of the Economic Community of West African States (ECOWAS) between 2021 and 2024.

II. The Legality of Sanctions:

The legality of the initiation of sanctions must be differentiated from the lawfulness of the kind of sanctions imposed on the target state or actor. Concerning these issues, one of the most important things that the volume under review teaches the reader is that [for sanctions to be lawful under international law](#) (Gordon, pp. 2-5), [the imposing state/organization must have the jurisdiction to do so under international law](#) (Dupont, pp. 273-276; Gordon pp. 478-487). Along the same lines, some chapters of the volume also highlight and systematically explain the oft-missed point that the lawfulness of sanctions under one sub-division of general international law does not always equate to [its legality under international human rights law](#) (Douhan, p. 295). Otherwise lawfully initiated sanctions may yet violate a relevant human rights standard, [for example due to their violation of due process rights](#) (Gordon, pp. 484-487), or excessively [harsh negative impact on the enjoyment of economic and social rights](#) (Douhan, p. 295). In what remains of this section of the essay, these issues are examined seriatim in a bit more detail, while being related to the specific case of ECOWAS law and praxis.

The Legality of the Initiation of Sanctions

As the volume well reiterates, the initiation of sanctions is lawful under international law in certain circumscribed circumstances. First, the initiation of multilateral sanctions regimes in a way that has been agreed by member states of an international organization is clearly legal, except to the extent that it violates the enabling legal regime or [other norms of international law](#) (Gordon, p. 2) Second, even sanctions unilaterally imposed by a state can be lawful in certain cases. [For one, retorsions \(i.e. otherwise lawful acts designed to injure a wrongdoing state\) are generally permissible in international law](#) (Douhan, pp. 292-293) And countermeasures are also generally lawful (Douhan, pp. 292-293)

The latter are ordinarily unlawful acts that are rendered lawful by the commission of a prior illegal act by the target state against the state imposing them. However, even retorsions and countermeasures have limits. Retorsions are unlawful if their real intent is to coerce the target state in respect of matters over which [each state has the right to decide freely](#) (Dupont, p. 275). The prohibition of “economic coercion” in the *UN Declaration on Friendly Relations*, itself now part of customary international law, is cited [as authority for this proposition](#) (Dupont, p. 271). The lawful initiation of countermeasures is limited by the requirements that they must not violate any jus cogens norm. Countermeasures cannot also be imposed by third party states against which [no harm was committed by the targeted state](#) (Dupont, pp. 275-276). There is also widespread agreement that states cannot lawfully impose sanctions extraterritorially, or [beyond their jurisdiction](#) (Dupont, p. 273)

While ECOWAS, as a multilateral body, is primarily governed and limited by the norms and rules agreed to by its member-states, it is noteworthy here that ECOWAS law and praxis have largely complied with the requirements for legality that are noted above and well-discussed in the volume under review.

The Legality of the Kind of Sanctions Imposed

[Regarding the legality of the kind of sanctions imposed, as the volume suggests](#) (Dupont, p. 273) five main issues are discernable. The first is that sanctions must not, due to their nature, violate the prohibition against the use of force in the UN Charter. The second is that sanctions cannot violate any jus cogens norm. The third is that the kind of measures imposed must not be disproportionate to the harm caused by the targeted state. The fourth is that sanctions must also comply with international human rights law as per the ILC *Articles on State Responsibility*. For example, as the volume teaches, there is good international legal authority to conclude that total or comprehensive sanctions are no longer legal, at least under international human rights law. The fifth, if interrelated, issue is that while humanitarian exemptions to sanctions are certainly lawful, to the extent that they do not in effect significantly attenuate or reduce the scope or harshness of the relevant measures, they will not “save” such a regime from illegality under international human rights law.

There is at least one important lesson that ECOWAS law and praxis can draw from the foregoing discussion. It is that the character of the sanctions it imposes must always be compliant with international human rights law. This is a normative imperative that ECOWAS does not seem to have adequately internalized. For example, while the measures it imposed on Guinea, Mali and Burkina Faso between 2021 and 2024 did not include cutting-off electricity supplies to these countries, and in fact exempted such power cuts in the case of Mali, the sanctions it later imposed on Niger mandated Nigeria to cut off electricity supplies to Niger. These power cuts were also imposed against Niger in spite of the fact that that country was dependent on Nigeria for close to 90% of its power supplies. What is more, ECOWAS also ordered the “suspension of *all* commercial and financial transactions” between each of these countries and other ECOWAS member states. It does not take much imagination to fathom the very [broad, immense and harsh impacts that such measures](#) could have, and did have, on economic activities, healthcare, and the [like, in these countries](#) (Reuters, 2023; Obasi, 2023) These overbroad measures most likely led to [violations of the basic human rights of the ordinary citizens](#) of these countries (Mednick, 2023).

Disappointingly, the ECOWAS Court appears to have completely missed this point in the [Zadi Philipe Case](#), where that court felt able to hold that the sanctions imposed by ECOWAS on Mali were legal under ECOWAS law, without any analysis of the constraints that might have been imposed on its legal reasoning by international human rights law (Zadi Philipe v. Authority of Heads of State and Government of ECOWAS & ECOWAS Commission, 2025). The court’s competent analysis of the lawfulness of the initiation of these sanctions on Mali and its lack of arbitrariness cannot substitute for such an international human rights analysis.

III. The Legitimacy of Sanctions:

The volume under review also teaches the reader that the issue of the legitimacy of sanctions is just as important as the question of its legality under international law. For, a sanctions regime can be legal yet illegitimate. The sense that a legal sanctions measure is illegitimate can be generated by its widespread perception as such among: international actors (states, international organizations and even ordinary people around the world), the

government or population of the targeted state, and even the population of the targeting state. It may also be produced by a widespread sense, especially among experts, states and the global public, that the sanctions at issue violate the spirit of [international human rights law or the Martens Clause](#) (Gordon, pp. 2-3) And the fact that the decision to initiate or target a particular state or actor tends to be [colored by politics](#) (Gordon, pp. 3-5) also heightens the vulnerability of sanctions to widespread perceptions of illegitimacy.

The Legitimacy of the Initiation of Sanctions

The fact that lawfully initiated sanctions can also be widely viewed as illegitimate is easily implied from the foregoing discussion. Along these lines, unilaterally imposed sanctions have tended to be viewed by the UN General Assembly and the Human Rights Council, and Global South states, as illegitimate, [if not illegal](#) (Douhan, p. 287). And their presumptive illegality aside, sanctions that are extraterritorial in reach, or otherwise beyond the jurisdiction of the targeting state, are also widely viewed as illegitimate. By contrast, multilaterally imposed sanctions tend to be presumed legitimate. However, even these measures have not at times escaped censure for [their perceived illegitimacy](#) (Gordon, p. 2)

ECOWAS sanctions, levied as they are by a multilateral body, have tended to enjoy a presumption of legitimacy. Its record in this regard is bolstered by the fact that it does not also have a history of imposing sanctions extraterritorially. However, the legitimacy of its record of initiating sanctions is challenged by the seeming aporia of sanctions being imposed on member states that experience military coups by an ECOWAS Authority of Heads of State and Government that is populated to a significant extent by undemocratic leaders.

The Legitimacy of the Kind of Sanctions Imposed

As the volume also teaches us, another factor that has often generated a sense that sanctions are illegitimate is their character. It is obvious that sanctions that in character are violative of a jus cogens norm would be widely viewed as at least illegitimate. Sanctions that are disproportionate are also likely to be viewed as illegitimate. And in more recent decades, comprehensive or broadly encompassing regimes that would harshly impact the lives of the populations of target states but which do not – as is mostly the case – include *effective*

humanitarian exemptions, [have now come to be widely viewed as at least illegitimate](#) (Gordon, p. 2). Even the kinds of “smart” sanctions that have tended to be deployed in more recent years, as an alleged solution to both the [inhumaneness of sanctions](#), (Gordon, p. 2) may also be seen as illegitimate when they, in reality, turn out to [also impact civilians unduly](#) (Gordon, p. 480), at times quite harshly (Bull and Rosales, p. 346)

It appears that ECOWAS law and practice can learn at least one important lesson from the foregoing discussion. First, ECOWAS institutions need to pay much greater attention to the question of the legitimacy (not merely legality) of ECOWAS sanctions. One way of doing so is for ECOWAS law and practice to make greater explicit effort to respect the spirit of international human rights law and the Martens Clause. That corpus of law also needs, as a result, to avoid imposing excessively broad and harsh measures such as cutting-off Niger from most of its electricity supply. IV.

Conclusion:

In conclusion, while the prima facie legality of the initiation of sanctions measures by ECOWAS is largely settled, that organization still needs to take into account questions as to the (non)compliance of its sanctions law and praxis with international human rights law. As importantly, it ought as well to pay much greater attention to the legitimacy of the sanctions it imposes. As Joy Gordon well put it in the volume under review, “we should acknowledge that legitimacy of sanctions cannot be assumed, and the question of [legality cannot be dismissed](#)” (Gordon, p. 490). This sage advice ought to be wholeheartedly embraced by all those who enact ECOWAS sanctions.

View online: [Book Review Symposium II: Legal but Illegitimate? Lessons for ECOWAS Law and Praxis in Joy Gordon, ed., Economic Sanctions from Havana to Baghdad](#)

Provided by Afronomicslaw