Università degli Studi di Padova
School of Economics and Political Science
Department of Political Science, Law and International Studies
Human Rights Centre

Master's Thesis

Instrumentalizing Human Rights through Sanctions: Iran (2006–2025) and the Limits of Humanitarian Exemptions

Candidate: Zoha Amiri
Supervisor: Prof. Mariavittoria Catanzariti

Academic Year: 2025/2026

Abstract

Economic sanctions have become one of the most widely used instruments of international pressure, ostensibly designed to promote human rights and compel compliance with international norms. The Iran-related sanctions regimes imposed by the United Nations Security Council and the European Union between 2006 and 2025, operating within a financial environment profoundly shaped by United States secondary sanctions, present a case in which the declared humanitarian commitments of sanctions diverge sharply from their foreseeable consequences for civilian populations. While these humanitarian costs are increasingly documented, the structural mechanisms through which civilian harm is produced, and the legal frameworks that simultaneously acknowledge and fail to prevent it, remain insufficiently examined.

This thesis asks to what extent the UNSC and EU sanctions regimes against Iran, through the structural inadequacy of humanitarian exemptions, selective enforcement and tolerated circumvention, and the amplifying effect of authoritarian governance, foreseeably harm civilians while distributing legal responsibility so diffusely that no single actor is fully accountable, providing legal cover for both the sanctioning powers and the sanctioned State to evade accountability. Drawing on doctrinal analysis of Security Council resolutions, EU restrictive measures, US secondary-sanctions instruments, and the law of State responsibility, alongside UN Special Rapporteur reports and economic and human-rights documentation, it argues that the regime constitutes not merely a case of implementation failure but a system of legitimated harm: an architecture that speaks the language of humanitarian protection while foreseeably producing civilian harm, relying on private over-compliance and de-risking, and dispersing responsibility across sanctioning States, international institutions, private actors, and the Iranian State.

The thesis develops an analytical framework combining the instrumentalization of human-rights discourse, understood as political-economic co-optation rather than individual bad faith, diffused responsibility, and authoritarian amplification, through which external pressure is redistributed onto civilians and exploited domestically for legitimation. Tracing the mechanisms of harm, from correspondent-banking withdrawal and payment bottlenecks to pharmaceutical supply disruptions, it identifies a cyclical accountability vacuum in which foreseeable civilian harm is owned by no one. Criticizing the sanctions does not defend the Iranian State; rather, the same harm becomes usable by

both sides while answerable by neither. The thesis accordingly argues for an account of sanctions accountability that moves beyond the state-centric frame and ensures that humanitarian exemptions operate as genuine protections rather than instruments of geopolitical legitimation.
Keywords: Iran-related Sanctions; Instrumentalization of Human Rights; Humanitarian Exemptions; Foreseeable Civilian Harm; Diffused Responsibility; Legitimated Harm

Contents

Acronyms

ARSIWA – Articles on the Responsibility of States for Internationally Wrongful Acts

CFSP – Common Foreign and Security Policy

CNCDH – French National Consultative Commission on Human Rights

DG ECHO – Directorate-General for European Civil Protection and Humanitarian Aid Operations

DG FISMA – Directorate-General for Financial Stability, Financial Services and Capital Markets Union

EU – European Union

GPSSBHR – Guiding Principles on Sanctions, Business and Human Rights

HRC – Human Rights Council

IAEA – International Atomic Energy Agency

ICESCR – International Covenant on Economic, Social and Cultural Rights

ILC – International Law Commission

IMF – International Monetary Fund

INSTEX – Instrument in Support of Trade Exchanges

JCPOA – Joint Comprehensive Plan of Action

NGO – Non-Governmental Organization

OFAC – Office of Foreign Assets Control

SWIFT – Society for Worldwide Interbank Financial Telecommunication

UK – United Kingdom

UN – United Nations

UNSC – United Nations Security Council

US – United States

Table of Legal and Institutional Instruments

Table 1- UN Security Council instruments

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
Resolution 1696 (S/RES/1696)	2006	UN Security Council	Nuclear/non-proliferation; first binding demand to suspend enrichment (Ch VII Art 40)
Resolution 1737 (S/RES/1737)	2006	UN Security Council	Nuclear sanctions; asset freezes and listings; Sanctions Committee established
Resolution 1747 (S/RES/1747)	2007	UN Security Council	Asset freezes/listings extended; Iranian arms-export ban
Resolution 1803 (S/RES/1803)	2008	UN Security Council	Financial-channel vigilance; expanded dual-use controls; further listings
Resolution 1835 (S/RES/1835)	2008	UN Security Council	Reaffirms prior resolutions; no new restrictive measures
Resolution 1929 (S/RES/1929)	2010	UN Security Council	Arms embargo; shipping and financial measures; Panel of Experts established
Resolutions 1984, 2049, 2105, 2159, 2224 (monitoring and Panel of Experts renewal)	2011-2015	UN Security Council	Mandate continuation/monitoring only; no new restrictive measures
Resolution 2231 (S/RES/2231)	2015	UN Security Council	JCPOA endorsement; suspension of prior measures; snapback mechanism
Resolution 2664 (S/RES/2664)	2022	UN Security Council	Standing humanitarian exemption across asset-freeze regimes

Table 2- European Union instruments

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
Council Regulation (EC) No 2271/96 (Blocking Statute)	1996	Council of the EU	Counters US secondary sanctions; bars compliance with listed US extraterritorial measures
Council Common Position 2007/140/CFSP	2007	Council of the EU	EU autonomous sanctions; implements UNSC Resolution 1737
Council Common Position 2007/246/CFSP	2007	Council of the EU	Amends Common Position 2007/140/CFSP to implement UNSC Resolution 1747
Council Regulation (EC) No 423/2007	2007	Council of the EU	Gives Union-law effect; asset freezes and restrictions
Council Regulation (EU) No 961/2010	2010	Council of the EU	Financial restrictions; prior-authorization regime for dealings with Iran
Council Decision 2010/413/CFSP	2010	Council of the EU	EU autonomous measures beyond Resolution 1929 (CFSP basis)
Council Decision 2011/235/CFSP	2011	Council of the EU	Human-rights sanctions; asset freezes and travel restrictions
Council Regulation (EU) No 359/2011	2011	Council of the EU	Human-rights sanctions; gives Union-law effect to the freeze
Council Decision 2012/35/CFSP	2012	Council of the EU	Oil/energy sanctions; Iranian oil import ban (amends 2010/413)
Council Regulation (EU) No 267/2012	2012	Council of the EU	Operative backbone of the EU regime; comprehensive restrictions
Commission Delegated Regulation (EU) 2018/1100	2018	European Commission	Amends Blocking Statute Annex to add US Iran measures
Council Decision (CFSP) 2025/1972 of 29 September 2025 amending Decision 2010/413/CFSP concerning restrictive measures against Iran	2025	Council of the EU	Snapback/reactivation; restores CFSP basis
Council Regulation (EU) 2025/1975 of 29 September 2025 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran	2025	Council of the EU	Snapback/reactivation; reinstates operative restrictions

Table 3- United States instruments

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
Iran Sanctions Act of 1996	1996	US Congress	Oil/energy sanctions; original sectoral framework
Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA)	2010	US Congress	US secondary sanctions; correspondent-banking restrictions (s 104)
National Defense Authorization Act for Fiscal Year 2012	2011	US Congress	Dollar-clearing/financial secondary sanctions; targets the Central Bank of Iran
Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHRA)	2012	US Congress	US secondary sanctions; expanded designation authority
Iran Freedom and Counter-Proliferation Act of 2012 (IFCA)	2012	US Congress	US secondary sanctions extended to whole economic sectors
Iranian Transactions and Sanctions Regulations (ITSR), 31 CFR Part 560	2012	OFAC (US Treasury)	Primary US embargo; core trade/financial prohibition (s 560.201)
Executive Order 13846	2018	US President	US secondary sanctions; reimposition after JCPOA withdrawal

Table 4- International legal instruments

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
Charter of the United Nations (Arts 40-41)	1945	United Nations	Legal basis for binding Chapter VII measures
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966	UN General Assembly	Economic and social rights standard (health art 12; food and living standard art 11)
Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA)	2001	International Law Commission	State responsibility; countermeasure proportionality, attribution, complicity
Joint Comprehensive Plan of Action (JCPOA)	2015	E3/EU+3 and Iran	Basis for suspension and snapback (non-binding political commitment)
HRC Resolution S-35/1, "Deteriorating situation of human rights in the Islamic Republic of Iran, especially with respect to women and children"	2022	UN Human Rights Council (special session)	Institutional response to the 2022 protest crackdown

Table 5- Human rights interpretive materials / soft-law materials

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
CESCR General Comment No 12: The Right to Adequate Food (art 11)	1999	CESCR	Authoritative interpretation of ICESCR art 11 (food)
CESCR General Comment No 14: The Right to the Highest Attainable Standard of Health (art 12)	2000	CESCR	Authoritative interpretation of ICESCR art 12 (health)
Maastricht Principles on Extraterritorial Obligations of States	2011	Expert group (restatement)	Soft-law standard on extraterritorial human-rights obligations

Table 6- Table of cases

Title / Instrument	Year	Issuing authority	Main area of restriction / legal relevance
Kadi v Council and Commission (Kadi I), Joined Cases C-402/05 P and C-415/05 P	2008	Court of Justice of the EU	Fundamental-rights review of sanctions listings, including SC-implementing measures
Commission and Others v Kadi (Kadi II), Case C-584/10 P	2013	Court of Justice of the EU	Standard and intensity of review of listings
Council v Fulmen and Mahmoudian, Case C-280/12 P	2013	Court of Justice of the EU	Annulment of EU restrictive measures for insufficient evidence
Council v Bank Mellat, Case C-176/13 P	2016	Court of Justice of the EU	Annulment of listing; Council appeal dismissed

Introduction

Since 2006, when the United Nations Security Council first rendered its non-proliferation demands on Iran legally binding, Iran has been subject to successive and overlapping sanctions regimes imposed by the Security Council, the European Union, and the United States. The measures at issue originate in the dispute over Iran's nuclear programme. After successive reports by the International Atomic Energy Agency left unresolved whether that programme was exclusively peaceful, the matter came before the United Nations Security Council, which on 31 July 2006 demanded, in a decision binding under Article 40 of the Charter, that Iran suspend its enrichment-related activities.[1] When the demand went unmet, the Council moved from demand to sanction. Resolution 1737 (2006), adopted under Article 41, imposed the first restrictive measures, freezing designated assets and prohibiting transfers connected to proliferation-sensitive activity.[2] A sequence of further resolutions through 2010 then widened these into a comprehensive regime.[3] The Security Council's measures did not operate alone. The European Union gave them effect and progressively extended them through its own autonomous regulations,[4] while the United States added a far-reaching apparatus of secondary sanctions anchored in its dollar-clearing jurisdiction.[5] This trajectory was interrupted in 2015, when the Joint Comprehensive Plan of Action and its endorsement in Resolution 2231 (2015) suspended much of the multilateral regime in exchange for verified constraints on Iran's programme;[6] the United States track, however, resumed in 2018, when the United States withdrew from the agreement and reimposed the nuclear-related sanctions that had been lifted or waived under the JCPOA.[7] The regime examined here is therefore not a single

[1] UNSC Res 1696 (31 July 2006) UN Doc S/RES/1696.
[2] UNSC Res 1737 (23 December 2006) UN Doc S/RES/1737.
[3] After Resolution 1737, the Security Council progressively expanded and consolidated the Iran sanctions framework through a series of further resolutions adopted between 2007 and 2010. Resolution 1747 extended the listings and introduced an arms-related dimension; Resolution 1803 deepened financial vigilance and dual-use controls; Resolution 1835 reaffirmed the existing demands without adding new restrictive measures; and Resolution 1929 marked the most expansive phase of multilateral pressure, adding broader arms, financial, shipping, and monitoring measures.
[4] Council Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran (2007) OJ L61/49; Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (2007) OJ L103/1 (subsequently consolidated in Council Regulation (EU) No 267/2012).
[5] Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub L No 111-195 (22 USC 8501 et seq).
[6] Joint Comprehensive Plan of Action (14 July 2015); UNSC Res 2231 (20 July 2015) UN Doc S/RES/2231.
[7] Executive Order 13846 of 6 August 2018, 'Reimposing Certain Sanctions with Respect to Iran' (2018) 83 Fed Reg 38939.

instrument but a layered and shifting architecture, assembled across the Security Council, the European Union, and the United States over the period from 2006 to 2025.

The thesis does not resolve that paradox by impugning the exemptions as a sham. Its position is the more careful one that the humanitarian exemptions, savings clauses, and proportionality commitments are genuine legal recognitions of civilian vulnerability, acknowledgments, written into the architecture from its very first sanctions resolution, that the population's access to essentials is a protected concern the measures must accommodate. The difficulty is not that these protections are absent or feigned, but that they are structurally inadequate in practice: formally available yet operationally precarious, dependent for their effect not on their own text but on financial channels, licensing procedures, and the private compliance behaviour of intermediaries who, responding rationally to the incentives the architecture creates, withdraw from lawful humanitarian trade. The exemptions thus function in two registers at once, as protective devices and as legitimating legal cover for coercive measures whose foreseeable effects they do not in fact prevent. To hold both of these truths together, without collapsing into either apology or denunciation, is the analytical task the thesis sets itself.

That task responds to a gap in the way civilian harm under sanctions is ordinarily understood. Much of the legal and policy discussion treats such harm as an implementation problem, a matter of guidance, training, and compliance to be cured by better-drafted exemptions and more diligent administration, or else as an unintended collateral effect, a regrettable by-product of measures aimed elsewhere and beyond the reach of responsibility. Both framings concede the harm while containing it: the first locates the fault in execution, the second in misfortune. This thesis asks whether the problem is more deeply structural. It asks whether the structural inadequacy of humanitarian exemptions, the overcompliance and de-risking of private financial actors, the selective enforcement and tolerated circumvention that attend the regime's operation, and the amplifying effect of authoritarian governance together constitute a system in which civilian harm is foreseeable while responsibility for it is dispersed across so many hands that none is fully answerable. The significance of the question lies there: if the harm is structural rather than incidental, the reformist assumption that better implementation will dissolve it is misplaced, and the evaluation of sanctions must extend from the adequacy of their exemptions to the legitimating work those exemptions perform.

The thesis is accordingly organised around a single question. To what extent do the Iran-related sanctions regimes, through the structural inadequacy of their humanitarian exemptions, the selective enforcement and tolerated circumvention that accompany their operation, and the amplifying effect of authoritarian governance, constitute a system that foreseeably harms civilians while providing legal cover for both the sanctioning powers and the sanctioned state to evade accountability?

The thesis examines the Iran-related sanctions regimes over the period from 2006, when the Security Council first made its non-proliferation demand binding, to 2025. It focuses primarily on the multilateral measures of the United Nations Security Council and the autonomous measures of the European Union, while treating the United States' secondary sanctions and dollar-clearing jurisdiction not as its central object but as a structural multiplier that extends the practical reach of the regime far beyond its formal text. Several questions lie deliberately outside its frame. It does not assess the legality or the merits of Iran's nuclear programme, which supplies the regime's authorising rationale but is not its subject here; it does not defend the Iranian state, whose own contribution to civilian harm it examines directly; it does not claim that sanctions are the sole cause of suffering in Iran, treating them throughout as a foreseeable and legally significant contributor rather than the proximate author of every deprivation; and it does not attempt a comprehensive economic impact assessment of all the measures imposed. The harm with which it is concerned is macro-level and population-wide, inflation, currency depreciation, and the contraction of access to essential goods, rather than the individual due-process grievances of designated persons and entities, which it brackets throughout. Within those limits, its concerns are the humanitarian consequences of the regime, its legal and institutional architecture, the overcompliance and de-risking through which exemptions are defeated in practice, the diffusion of responsibility, the legitimated harm that retains a humanitarian idiom for its legitimating value, and the authoritarian amplification through which a domestic structure deepens and redistributes the foreseeable harm.

Its answer, defended across the chapters that follow, is that the regime is not merely a case of implementation failure. It is a system of legitimated harm: a sanctions architecture that speaks the language of humanitarian protection and human rights while foreseeably producing civilian harm, relying upon private overcompliance and de-risking to deliver effects its formal text does not command, and dispersing responsibility across the sanctioning states, the international institutions that administer the measures, the private financial and commercial actors through whom the harm is transmitted, and the Iranian state on which the measures fall. This characterization carries a deliberate limit, which must be stated plainly because the argument invites a predictable objection: that to demonstrate the harm produced by sanctions is to excuse the government on which they fall. It does not, and the reason lies in how the thesis locates the harm. The civilian harm at issue is treated as jointly produced: external coercion generates a foreseeable harm, and authoritarian governance then distributes that harm downward across the population and converts it into a resource of legitimation. So understood, the Iranian state is not a victim the analysis sets out to defend but a second producer of the same harm, whose own contribution the thesis examines directly. To establish the responsibility of the sanctioning architecture is therefore not to subtract from the responsibility of the state: the two do not compete. Criticism of the sanctions and criticism of the state are, on this account, not alternatives but complements.

Methodology:

The thesis is a qualitative study in doctrinal and critical legal analysis. Its method is interpretive and analytical rather than empirical in the sense of original data collection: it employs no fieldwork and conducts no interviews, and it advances no quantitative findings of its own. It proceeds, instead, along three converging lines. The first is doctrinal: a close reading of the relevant international legal instruments, the Security Council resolutions and their juridical transformation, the European Union's restrictive measures, the humanitarian exemptions written into both, the economic and social rights of the International Covenant and their authoritative interpretation, and the law of State responsibility, to establish what the regime permits, what it protects, and where its protective architecture is left ambiguous or inert. The second is documentary: an analysis of institutional and human-rights materials, including United Nations and Special Rapporteur reports, World Bank and International Monetary Fund assessments, and independent human-rights documentation, to establish the character, scale, and foreseeability of the civilian harm. The third is theoretical: an engagement with the secondary literature on sanctions, overcompliance and de-risking, human rights, instrumentalization, authoritarian survival, and the critical political economy of rights, which supplies the conceptual apparatus through which the legal and documentary materials are read. These three lines converge in a case study: Iran is treated not as an isolated instance but as a legally and politically significant example through which the general structure of contemporary sanctions governance becomes visible. The method's distinctive move is thus to connect the legal instruments and their interpretation, institutional practice, the documentary record of harm, and critical theory in a single account of how foreseeable civilian harm is produced, legitimized, and rendered difficult to assign to any one actor.

The conceptual framework that accounts for this rests on a small set of interlocking concepts, developed at length in Chapter 1 and recalled here only for orientation. Implementation failure names the condition in which humanitarian protections exist but malfunction at the point of operation; structural inadequacy, the deeper condition in which the protective architecture is itself so designed that foreseeable harm is not prevented even by its fully compliant operation; and legitimating harm, the condition in which the formal apparatus of protection operates less as an effective constraint on coercive power than as a framework that preserves the regime's humanitarian and legal legitimacy while predictable harm persists. This latter category should be distinguished from instrumentalization as the broader process through which human-rights discourse is co-opted: legitimating contradiction names the specific condition produced when protective language remains in place while its protective function is not secured. To these the framework adds diffused responsibility, the dispersal of accountability across a chain of actors, each able to locate the cause of harm in another's conduct, and authoritarian amplification, the process by which a domestic authoritarian structure deepens, redistributes, and politically exploits the harm that external pressure produces. Binding these together is the concept from which the thesis takes its name: the instrumentalization of human rights. The term is used here in a precise sense, the political-economic co-optation of rights discourse, the retention of a humanitarian vocabulary for the legitimacy it confers rather than the protection it secures, and it is to be kept clearly distinct from the philosophical instrumentalism that treats rights as derivative of some goal whose worth is intelligible apart from them. It is instrumentalization in the first sense, and not the second, that the thesis sets out to demonstrate.

The argument unfolds across four chapters. Chapter 1 develops the conceptual and normative framework, disaggregating the registers of instrumentalization, fixing the distinction between implementation failure, structural inadequacy, and legitimating harm, and situating diffused responsibility and authoritarian amplification within it. Chapter 2 maps the legal and institutional architecture of the Iran-related regime across its three tiers, showing how its humanitarian exemptions are formally protective yet structurally dependent, and how selective enforcement and tolerated circumvention reveal it to operate as an instrument of geopolitical calculation rather than an impartial legal order. Chapter 3 turns to the humanitarian consequences, establishing through an identifiable transmission mechanism that the civilian harm is documented, foreseeable, and legally visible, and that the domestic structure amplifies and redistributes that harm rather than absolving the sanctions of it. Chapter 4 draws the argument to its conclusion, analyzing how authoritarian amplification, diffused responsibility, and legitimated harm converge upon a single harm to produce an accountability vacuum in which foreseeable civilian harm is, in the end, owned by no one. The framework on which the whole of that argument depends is the subject of the chapter to which we now turn.

Chapter I: Conceptual and Normative Framework: Instrumentalization, Humanitarian Exemptions, and Legitimated Harm

This chapter sets out the conceptual and normative framework on which the rest of the thesis rests. It addresses, at the level of theory, a single question: why does foreseeable civilian harm persist in sanctions regimes that are formally equipped with humanitarian protections? It answers that this persistence cannot be explained as implementation failure alone. The chapter develops a tripartite account that moves from implementation failure, through structural inadequacy, to legitimated harm, and adds to these the mechanism of diffused responsibility through which accountability for the resulting harm is dispersed across a chain of actors. Binding these levels together is the organizing concept that the chapter defines and operationalizes: the instrumentalization of human rights, understood as the co-optation of a humanitarian and rights-based vocabulary for the legitimacy it confers rather than the protection it secures. The aim here is to construct that framework, not yet to prove it; its application to the Iran-related regime is reserved for the chapters that follow. The discussion accordingly begins by situating the question within the existing critical literature, before disaggregating instrumentalization and operationalizing the three levels in turn.

The scholarly and policy literature on economic sanctions has long grappled with a paradox that lies at the heart of contemporary multilateral governance: measures designed to enforce international norms and protect collective security consistently produce humanitarian consequences that undermine the very rights framework from which they claim legitimacy. This paradox is not new. From the comprehensive sanctions imposed on Iraq throughout the 1990s, which contributed to food shortages, widespread hunger, and severely limited access to healthcare[8], to the complex, multi-layered architecture of restrictions targeting Iran since the adoption of UN Security Council Resolution 1737 in December 2006[9], the tension between sanctions as instruments of international law enforcement and their impact on civilian populations has generated a substantial body of

---

[8] UN Security Council, 'Security Council Hears Reports on Making Sanctions More Effective, Lessening Harm to the Innocent' (Press Release SC/7183, 22 October 2001) https://press.un.org/en/2001/sc7183.doc.htm.

[9] UNSC Res. 1737 (n 2).

critical scholarship.[10] Within this scholarship, the harm inflicted on civilian populations is often framed as simultaneously unforeseeable and, in principle, remediable through better design, more effective implementation, or more refined targeting. This framing, as this chapter argues, remains insufficiently attentive to the structural dimensions of how sanctions regimes operate.

What such framings overlook is the structural regularity of the harm itself. The persistence of foreseeable civilian harm across different sanctions regimes, over extended periods, and despite repeated efforts at institutional reform suggests something more fundamental than implementation failure or design inadequacy. It points, instead, toward a structural condition that this thesis terms legitimated harm: a condition in which the formal architecture of humanitarian protection functions not primarily as a constraint on coercive power, but as a technology of legitimation that preserves the appearance of legal and moral compliance while structurally predictable harm persists in practice.

UN Special Rapporteurs and humanitarian bodies have characterized certain unilateral coercive measures as amounting to unlawful blockades or collective punishment, and have called for legal counteraction and significant restriction of their extraterritorial application on the grounds of their cumulative humanitarian impact.[11] Yet such calls, however radical in their policy implications, continue to treat human rights as the privileged terrain for contesting the legitimacy of sanctions, thereby reaffirming, rather than interrogating, a framework whose protective capacity is itself in question.

The framework developed below traces the question of why humanitarian harm persists despite formal protection through three analytically distinct but practically interrelated levels of explanation: implementation failure, structural inadequacy, and, as the analysis will argue, legitimated harm. These categories are not mutually exclusive; in practice, they frequently overlap and reinforce one another. The argument advanced in this thesis

[10] Mosquera Marquez, ‘Empty Promises or Justiciable Rights: The Extraterritorial Reach of Economic, Social and Cultural Rights in the Context of Unilateral Sanctions’ (2024) 11(2) Groningen Journal of International Law

[11] See Idriss Jazairy, Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, UN Doc A/HRC/42/46 (5 July 2019) paras 9, 42, 61 (characterising certain sanctions regimes as amounting to unlawful blockades and as creating systematic human rights violations).

is that the first two levels, while accurate as far as they go, ultimately point toward the third.

Section 1.1 traces the concept of instrumentalization of human rights across moral philosophy, critical political economy and critical-cultural and operationalizes the tripartite framework introduced above through its application to humanitarian protections in sanctions regimes. Section 1.2 examines the specific mechanisms through which formal humanitarian protections fail in practice, focusing on de-risking, overcompliance, and the chilling effects of secondary sanctions on financial intermediaries. Section 1.3 engages with the international law of countermeasures and proportionality, interrogating whether sanctions regimes remain legally defensible once civilian harm becomes foreseeable, persistent, and systemically reproduced. Section 1.4 integrates structural violence theory with the concept of authoritarian amplification to examine how sanctions interact with pre-existing governance failures in ways that compound vulnerability for civilian populations.

1.1 Defining Instrumentalization: From Implementation Failure to Legitimated Harm

At its most general, the instrumentalization of human rights denotes the process by which a normative framework, one formally oriented toward the protection of rights, dignity, or welfare, is converted into an instrument serving purposes external to, and frequently in tension with, its stated objectives. This is the concept that organizes the chapter, and the question it pursues is whether the humanitarian protections attached to sanctions function as genuine constraints on coercive power or as instruments whose protective form is retained for the legitimacy it confers rather than the protection it secures. The concept, as applied to human-rights discourse in the context of economic sanctions, requires careful disaggregation: the term is invoked across distinct bodies of scholarship, political theory, moral philosophy, sanctions governance, and international human rights law, and in each it carries different analytical weight. What these usages share, however, is a common preoccupation: the conditions under which legal and normative frameworks that are formally oriented toward the protection of human dignity come to serve purposes that are indifferent or hostile to that end. Establishing an operational distinction among the modes

of instrumentalization is therefore a necessary preliminary to the substantive analysis that follows.
The term is invoked across distinct bodies of scholarship, political theory, moral philosophy, sanctions governance, and international human rights law, and in each, it carries different analytical weight. What these usages share, however, is a common preoccupation: the conditions under which legal and normative frameworks that are formally oriented toward the protection of human dignity come to serve purposes that are indifferent or hostile to that end. Establishing an operational distinction among the modes of instrumentalization is, therefore a necessary preliminary to the substantive analysis that follows.

The concept has distinct articulations in moral philosophy, where it designates a justificatory strategy that grounds human rights as derivative means for producing a good intelligible independently of the concept of rights[12], and in critical political economy, where it designates a political-economic process through which rights lend legitimacy to the practices and interests of powerful global economic actors[13]. These articulations are not reducible to one another, but they converge on a structural diagnosis essential for the analysis of sanctions: in both, the validity or operative force of rights becomes conditional on their service to an end external to the rights-bearer.

In the moral-philosophical scholarship, Zylberman offers the most precise formulation. Drawing on Dworkin's classification of normative theories, which divides them into goal-based, rights-based, and duty-based types. Zylberman defines instrumentalism as a justificatory strategy in which human rights are treated as morally derivative and grounded as means for producing a morally basic goal whose worth is intelligible apart from the concept of rights itself.[14] The validity of human rights is, on this view, conditional: their justification depends on whether they meet an external goal. The structural consequence is that the normative force of a right, and of the duty correlative to it, becomes empirically contingent rather than categorical. Whether others have duties

[12] Ariel Zylberman, 'Human Rights, Categorical Duties: A Dilemma for Instrumentalism' (2016) 28 Utilitas 368, 370 <https://doi.org/10.1017/S0953820815000539>.
[13] Tony Evans and Alison J Ayers, 'In the Service of Power: The Global Political Economy of Citizenship and Human Rights' (2006) 10 Citizenship Studies 289, 289 <https://doi.org/10.1080/13621020600772081>.
[14] Zylberman (n 12) 370.

of respect or protection on any given occasion depends on whether observing the right serves the external end in that instance.[15] This stands in contrast to non-instrumentalist accounts, which treat rights as morally basic and represent them as trumps or as aspects of the inviolable status of persons. The philosophical distinction matters for sanctions analysis because it determines whether humanitarian protections are understood as categorical constraints that override competing policy considerations, or as conditional instruments whose normative force fluctuates with strategic circumstances.

In the critical political economy scholarship, Evans and Ayers give the concept a different but complementary inflection. Their concern is not with the justificatory structure of rights in moral theory but with the political function of rights discourse in the global order. After the Cold War, they observe, the (neo)liberal approach to rights "has emerged as globally hegemonic".[16] Here, instrumentalization does not refer to a philosophical error in the grounding of rights but to a political condition: the deployment of human rights discourse to legitimise the practices and interests of powerful global economic actors. The mechanism operates through a definitional narrowing, the neoliberal consensus restricts the scope of legitimate human rights to civil and political rights, those compatible with free-market, laissez-faire economics, while relegating economic, social, and cultural rights to the status of aspirations rather than enforceable entitlements.[17] The discourse of human rights thereby performs a dual function: it provides the normative vocabulary through which the global order presents itself as legitimate, while simultaneously excluding the categories of rights, those codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR), that would impose substantive constraints on economic power.[18]

[15] Ibid 374–375.
[16] Evans and Ayers (n 13) 291.
[17] Ibid
[18] Ibid 294.

A third body of scholarship, critical-cultural rather than philosophical or political-economic, locates the source of instrumentalization not in the justificatory structure of rights nor in their macro-political function, but in the dispositions of the actors who administer humanitarian and rights-based interventions. This view's most influential statement is David Kennedy's, on which the present discussion draws as presented in Session's review of his work. On Kennedy's account, the darker consequences of humanitarian practice arise when the practitioner "averts his eyes from his own power": the humanitarian advocate remains reluctant to recognize himself as a ruler, even as he participates in global governance and exercises consequential power.[19] Two habits of mind sustain this blindness.

The first is a fetishizing of institutions, in which legal platforms, councils, and rights instruments are treated not as one step toward transformation but as the transformation itself, so that institutional means are confused with humanitarian ends.[20] The second is cynicism, which functions as a device through which practitioners displace the power and responsibility entailed in their interventions onto the tools and institutions with which they work.[21] On this account, instrumentalization is neither merely a theoretical error nor merely a structural condition of the global order; it is a practiced disposition, reproduced through the self-understanding of those who deploy the vocabulary of rights and humanitarianism while imagining their work as exceptional and apolitical.

These three scholarships, the philosophical, the political, and the critical-cultural, converge on a common structural insight: when rights function as instruments in the service of goals that are external to the rights themselves, their protective capacity is systematically undermined, even as the formal apparatus of rights protection is maintained and expanded. It is this convergence that the concept of instrumentalization, as deployed in the present thesis, is designed to capture. Applied to economic sanctions, the concept directs analytical attention not only to the question of whether humanitarian exemptions work in practice, but to the deeper question of whether they are constituted

[19] Noni Session, 'The Dark Sides of Virtue: Reassessing International Humanitarianism' (2004) 27 PoLAR: Political and Legal Anthropology Review, 150 <https://doi.org/10.1525/pol.2004.27.2.150>.
[20] Ibid 151.
[21] Ibid 152.

as the kind of normative commitments, categorical, unconditional, pre-emptive,[22] that could effectively constrain coercive power, or whether they function as conditional instruments whose normative force is structurally subordinated to strategic objectives. The tripartite framework that follows operationalizes this question across three levels of analysis.

To treat humanitarian protections as categorical, unconditional, and pre-emptive is, however, to invite an obvious objection, which the chapter takes seriously rather than assumes away: why should rights be unconditional at all? Neither moral theory nor positive human-rights law generally regards them as absolute. Most rights are subject to limitation, proportionality, and derogation, and are routinely balanced against competing public aims, security among them; on this view the conditioning of rights by external goals is not a pathology but the ordinary structure of rights reasoning, and an account that treated every humanitarian protection as an inviolable trump would prove too much, rendering impermissible any coercive measure whatever its foreseeable civilian cost. The objection has real force, and the thesis does not dispute the general point. Its claim is narrower: what instrumentalization identifies is not the conditioning of rights as such, but the conditioning of a specific subsistence floor, access to food and medicine, the minimum core of the protections at issue, which both the architecture's own humanitarian exemptions and the human-rights and humanitarian limits the law of countermeasures imposes already place beyond ordinary trade-off (see Section 1.3). It is when protections the architecture itself marks out as inviolable are operated as though they were ordinarily balanceable that their protective capacity is undermined. The unconditionality the analysis presupposes is thus not a claim about all rights, but a targeted one about the humanitarian minimum.

This section proposes a tripartite framework. The first category, implementation failure, describes situations in which humanitarian protections exist within a sanction's architecture but malfunction in practice, through administrative delay, bureaucratic complexity, or the failure of intermediary actors to operationalize available exemptions. The second, structural inadequacy, identifies cases in which the exemption mechanisms themselves are designed in terms sufficiently ambiguous, fragmented, or procedurally

[22] Zylberman (n 12) 372.

burdensome that their ineffectiveness is foreseeable at the point of design. The third, legitimated harm, denotes a condition in which the formal apparatus of humanitarian protection, the language of exemptions, the architecture of licensing, the rhetoric of proportionality, operates not primarily as a constraint on coercive power but as a legitimating device that sustains the appearance of legal and moral compliance while structurally predictable harm persists. This category is not a synonym for instrumentalization but its sharpest instance: where the first two levels describe protections that fail to work, the third describes a failure that is retained because it works, the humanitarian idiom doing legitimating service even as the harm it disclaims continues. These three categories are not mutually exclusive; in practice, they frequently overlap and reinforce one another. But they are analytically distinct, and their distinction is essential if the normative evaluation of sanctions regimes is to move beyond the reformist assumption that better implementation will resolve the problem.

1.2 Implementation Failure and Financial De-risking

The first and most readily observable form of instrumentalization is implementation failure. The condition in which humanitarian exemptions formally exist within a sanctions regime yet fail to produce their intended protective effect in practice. This is the gap between the law on paper and the conduct of the actors who must operationalize it. The most extensively documented site of this failure is the conduct of the global banking sector, on which the delivery of humanitarian goods overwhelmingly depends. Drawing on approximately eighty interviews with treasury officials, sanctions experts, and compliance officers, Mallard, Sabet, and Sun identify two distinct but related practices through which exemptions are nullified at the point of application: overcompliance and de-risking.[23] Both share a common feature: they exceed the actual legal requirements imposed by sanctions, but they operate differently. Overcompliance results in significant impediments to lawful activities such as humanitarian aid, whereas de-risking entails the complete or partial withdrawal from engagements perceived as risky, even where those

[23] Grégoire Mallard, Farzan Sabet and Jin Sun, 'The Humanitarian Gap in the Global Sanctions Regime: Assessing Causes, Effects, and Solutions' (2020) 26 Global Governance: A Review of Multilateralism and International Organizations 121, 131–132 <https://doi.org/10.1163/19426720-02601003>.

activities are lawful and fall squarely within existing exemptions.[24] The critical analytical point is that neither practice reflects a defect in the exemptions themselves; the exemptions exist and are, in principle, available. The failure lies in the structurally conditioned unwillingness of intermediary actors to rely on them.

Because both terms carry technical meanings that are easily conflated, they warrant precise definition. De-risking, in the formulation adopted by the UN Special Rapporteur on the negative impact of unilateral coercive measures, denotes the "complete or partial disengagement" from any activity with a person or entity under sanctions, or merely under the risk of sanctions, adopted out of fear of negative repercussions.[25] Overcompliance is the broader condition of which de-risking is the formal expression, both rest on the same underlying logic of exceeding what the law actually requires.[26] The conceptual distinction worth preserving is one of register rather than kind, overcompliance names the general disposition to do more than the rules demand, while de-risking names the specific operational strategy of withdrawal through which that disposition is enacted. Importantly, de-risking is not a phenomenon original to sanctions. It emerged within the transnational governance of finance, in the fields of anti-money laundering and counterterrorism financing, where global banks responded to compliance uncertainty not by conducting case-by-case risk analysis but by severing entire categories of relationships.[27] Its effects are visible well beyond the sanctions context: the number of active correspondent banking relationships, the channels through which banks in the Global South clear payments in foreign currencies, declined measurably over the early 2010s, with documented consequences for remittance-dependent economies.[28] Sanctions, on this view, are not the origin of de-risking but a powerful accelerant of a pre-existing structural tendency in global finance.

The mechanism driving this withdrawal is not irrational caution but a calculated response to a specific structure of incentives. Three features of that structure are particularly

[24] Katarzyna Urszula Gałka, 'Making Exceptions Not Exceptional: Humanitarian Exemptions in Sanctions Regimes under International and EU Law' (2025) 27 International Community Law Review 459, 465 <https://doi.org/10.1163/18719732-bja10154>.

[25] UN Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, 'Guiding Principles on Sanctions, Business and Human Rights: Commentary' (United Nations Human Rights Special Procedures 2025) 25.

[26] Ibid 29.

[27] Mallard, Sabet and Sun (n 23) 129.

[28] Ibid 133.

consequential. First, the asymmetry of penalties: where global banks face the prospect of substantial fines and deferred prosecution agreements with US authorities for sanctions violations, the revenue foregone by withdrawing from humanitarian trade in a sanctioned jurisdiction is comparatively negligible. As Mallard, Sabet, and Sun observe, "banks are, after all, for-profit organizations",[29] and the rational calculation under such asymmetry favors blanket disengagement over case-by-case risk assessment. Second, the extraterritorial reach of US sanctions law: even where a transaction takes place outside the United States, the centrality of the US dollar to international clearing, combined with the personal criminal liability of US citizens employed by foreign banks, extends US regulatory authority globally. Third, the cascading pressure of secondary sanctions: global banks transmit their own caution downstream, pressuring smaller correspondent banks in Europe, Asia, and the Middle East to sever ties with sanctioned jurisdictions, lest they themselves become targets.[30] Taken together, these features convert what is formally a permission, the humanitarian exemption, into a practical prohibition. The exemption remains on the books; the rational actor declines to use it.

The most credible objection to this framing holds that the harm is neither structural nor systemic but a residual, and diminishing, side-effect of an architecture that has already corrected itself. On this view, the migration from comprehensive embargoes to targeted or "smart" measures, asset freezes, listings, travel bans, and financial restrictions aimed at elites rather than populations, represents precisely the humanitarian correction that the Iraq experience demanded, so that whatever harm persists is a matter of implementation to be refined rather than a defect to be theorized.[31] The objection has real force, and this thesis does not dispute that the targeted turn was a genuine normative advance. Yet it does not answer the Iran case, for two reasons. First, the smart-sanctions logic assumes that

[29] The empirical magnitude of this deterrent is well documented. Between 2009 and 2018, over twenty-seven banks were investigated by the US Office of Foreign Assets Control (OFAC), the Department of Justice, and the New York State Department of Financial Services for Iran-related sanctions violations, the majority of them European. The fines imposed illustrate the scale of the asymmetry between US regulatory penalties and the revenue available from trade with sanctioned jurisdictions: HSBC was fined US$1.92 billion, Standard Chartered US$1.1 billion, Société Générale US$1.4 billion, and BNP Paribas US$8.9 billion. The spread of de-risking practices that followed has been documented across multiple international bodies, including the IMF, the Financial Action Task Force, the World Bank, and the Financial Stability Board, and is reflected in a measurable contraction of correspondent banking relationships: the number of active relationships declined by approximately six per cent across all currencies between 2011 and 2016 according to SWIFT data. Ibid 130; Table 2 at p.131-133.

[30] Ibid 132.

[31] Daniel W Drezner, 'Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice' (2011) 13 International Studies Review 96, 96–100.

precision in designation translates into precision in effect; the Iran regime shows that nominally targeted measures, once routed through correspondent-banking exclusion and private overcompliance, generate population-wide economic harm that is comprehensive in effect if targeted in form, the very mechanism the framework was not built to capture (see Chapter 2). Second, the leading review of that literature concedes that the framework has been, in its own terms, "too successful": because targeted measures are presented as minimizing humanitarian cost, they attract only muted criticism and can be sustained indefinitely at minimal political cost, resolving the sender's problem of being seen to act while leaving the underlying coercive aim unmet.[32] Drezner advances this as a critique of effectiveness; read alongside the financial-channel harm documented in this study, however, the same observation describes the legitimating function the thesis sets out to trace, a humanitarian idiom that secures political cover even as the measures' civilian costs persist.

What this analysis brings into view is the inadequacy of treating implementation failure as a problem of compliance to be solved through better guidance or clearer rules. The actors charged with operationalizing humanitarian exemptions are not failing to act on a clear obligation; they are responding rationally to an incentive structure in which the cost of error is concentrated on them and the cost of withdrawal is borne by populations whose protection the exemption formally guarantees. Within the conceptual framework introduced in section 1.1, this is the signature of implementation failure: the protective form remains, but its operative content is hollowed out at the point of contact between rule and actor. Yet the analysis already gestures beyond its own category. Mallard, Sabet, and Sun argue that the humanitarian gap cannot be explained by banking behavior alone, but is rooted in what they describe as the hybrid and contradictory governance of sanctions, a system in which transnational expert bodies and US hegemonic authority operate in parallel, generating fragmented rules, contradictory sources of authority, and definitional uncertainty about what "humanitarian" trade actually encompasses.[33] The moment one asks why the rules governing exemption are themselves ambiguous, fragmented, and inconsistent across jurisdictions, the inquiry passes from implementation

[32] Ibid 96, 104.
[33] Ibid 125–127.

failure into a different register of analysis, that of structural inadequacy, to which the next section turns.

1.3 Structural Inadequacy

The second category of instrumentalization is structural inadequacy. Where implementation failure describes a defect that arises at the moment of operation, the rational withdrawal of intermediary actors from exemptions that exist on the books, structural inadequacy locates the defect one level earlier, in the design and architecture of the protective mechanisms themselves. The distinction matters because it carries different normative implications. If protective failure were purely a matter of implementation, the appropriate remedy would lie in clearer guidance, better training, or improved compliance procedures: the existing framework would remain sound, requiring only better execution. Structural inadequacy advances a stronger claim. It maintains that even fully compliant operation of existing humanitarian protections would not, in many cases, prevent foreseeable harm, because the protective architecture is itself ambiguous, fragmented, and disproportionate to the coercive force it purports to constrain. The analysis that follows develops this claim along three connected axes: the fragmentation and contradictory layering of overlapping sanctions regimes; the formal availability but practical inertia of the international legal framework on countermeasures and proportionality; and the empirically demonstrable gap between the protective standards inscribed in law and the human rights consequences observed on the ground.

The first dimension of structural inadequacy is the fragmented and contradictory architecture within which humanitarian protections are situated. The sanctions landscape that humanitarian actors must navigate is not a single regime with a single set of exemptions but a layered field of overlapping authorities. At present, the UN Security Council operates fourteen active sanctions regimes, the European Union maintains roughly thirty autonomous regimes, and over forty individual states implement sanctions of their own. Each regime carries its own definitions, its own exemption clauses, and its own procedural requirements. The protective consequence of this multiplication is perverse. When several regimes apply simultaneously to the same transaction, humanitarian actors must satisfy the requirements of all of them: an activity permitted under most regimes but unauthorized under one becomes, in practice, prohibited. The response to the 2023 earthquake in Turkey and Syria,[34] where the absence of a coherent cross-cutting humanitarian framework across overlapping sanctions regimes significantly obstructed the delivery of essential aid, illustrates the operational cost of this fragmentation.[35] At a deeper level, Mallard, Sabet, and Sun characterize the underlying problem as a hybrid form of governance in which sanctions exemption is "governed by a variety of actors according to multiple and contradictory logics".[36] The fragmentation observable at the surface is not an accidental feature awaiting harmonization; it is the structural signature of a system in which transnational expert bodies and hegemonic state authority operate in parallel, each generating rules without a shared definitional framework. Within such an architecture, even a properly designed exemption in any single regime cannot guarantee protection, because the operative environment is defined by the intersection of all regimes simultaneously.

The second dimension of structural inadequacy lies within the formal international legal framework that, in principle, should constrain the design of sanctions, the law of countermeasures as codified in the International Law Commission's Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA). Three provisions are particularly relevant. Article 50(1)(b) prohibits countermeasures from affecting obligations for the protection of fundamental human rights; Article 50(1)(c) extends this prohibition to obligations of a humanitarian character prohibiting reprisals; and Article 51 imposes a proportionality requirement, mandating that countermeasures be

[34] In the weeks following the catastrophic earthquakes that struck southeastern Turkey and northwestern Syria in February 2023, humanitarian organisations attempting to deliver life-saving assistance to affected populations in Syria encountered substantial obstacles arising from the multiple overlapping sanctions regimes in force against the country. The principal sanctioning actors, the United States, the European Union, and the United Kingdom, responded by issuing time-bound general licences intended to ease restrictions on humanitarian transactions. These measures, however, proved insufficient to address the underlying problem: persistent overcompliance by banks and other intermediary actors meant that humanitarian deliveries continued to be impeded despite the formal availability of exemptions. The French National Consultative Commission on Human Rights (CNCDH) identified this episode as a paradigmatic illustration of the structural problem at stake: when overlapping sanctions regimes lack a coherent and cross-cutting humanitarian exemption framework, even well-intentioned emergency relaxations cannot guarantee unobstructed access. For an analysis of how the EU, US, UK and Switzerland amended their sanctions regimes relevant to Syria on humanitarian grounds after the 2023 earthquake, see: Erica Moret, Effectiveness of Humanitarian Exceptions to Sanctions: Lessons from the Syria Earthquake, The Carter Centre, July, 2023 - https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/syria-conflict/2023/effectiveness-of-humanitarian-exceptions-to-sanctions-syria-earthquake-lessons.pdf

[35] Gałka (n 24) 464–465.

[36] Mallard, Sabet and Sun (n 23) 128.

"commensurate with the injury suffered".[37] Taken together, these provisions appear to install a robust normative architecture: coercive measures may not infringe fundamental rights, must not violate humanitarian norms, and must remain proportionate. The structural problem is that this architecture, though formally available, exhibits two systemic weaknesses that limit its protective force. The first is doctrinal indeterminacy. The line between countermeasures and sanctions is, as Steinbach and colleagues observe, "blurry, especially if punitive and compliance motives coexist",[38] and the legal status of third-party countermeasures, those taken by states not directly injured, in defence of collective interests such as human rights, was expressly left open by the ILC, which deferred resolution of the matter to the further development of international law. The second weakness is the absence of operational standards. Proportionality under Article 51 demands commensuration with injury, but international jurisprudence has not, the authors note, supplied a precise standard for weighing the measure against the collateral damage inflicted on civilian populations.[39] The result is that the legal framework most often invoked to discipline sanctions is one in which the protective principles are formally robust but operationally inert: they impose limits without supplying criteria sufficient to determine when those limits have been crossed.

The third dimension of structural inadequacy is the empirically demonstrable gap between the protective standards inscribed in law and the human rights consequences observed in practice. If the law of countermeasures is, as the preceding discussion suggests, formally robust but operationally inert, the empirical record reveals how little that architecture in fact constrains. The most systematic evidence comes from Steinbach and colleagues, who subject the proportionality premise to econometric testing across all United States sanction episodes between 1976 and 2012, a dataset of 235 sanction-years and 34 targeted countries.[40] Their central finding is pointed: sanctions imposed explicitly to improve human rights not only fail to advance any human rights dimension but produce statistically significant deteriorations in basic and political rights, on the order of twenty and ten percent of a standard deviation respectively. Because such measures fail the

[37] International Law Commission, 'Responsibility of States for Internationally Wrongful Acts (2001)' 13 <https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf>.
[38] Jerg Gutmann and others, 'Economic Sanctions and Human Rights: Quantifying the Legal Proportionality Principle' [2018] SSRN Electronic Journal 7 <https://doi.org/10.2139/ssrn.3175885>
[39] Ibid 11.
[40] Ibid 4.

effectiveness test while inflicting collateral harm, the authors characterize them as "tantamount to ineffectiveness and disproportionality of these sanctions". The deeper lesson, however, is not this verdict but their demonstration of why the proportionality standard resists application even under rigorous quantification: the effects of sanctions are heterogeneous rather than uniform, political rights deteriorating while women's rights, in certain configurations, improve, and Article 51's requirement that countermeasures be commensurate with the injury suffered presupposes a measure the data cannot supply, since the analysis can quantify the collateral damage of sanctions but not the initiating injury against which it must be weighed, and the law has never fixed a common metric by which the two might be compared.[41] That this is no merely abstract gap is confirmed by the documentary record. In his fifth annual report, the Special Rapporteur on the negative impact of unilateral coercive measures, Idriss Jazairy, surveys eight sanctioned states and finds the collateral burden falling squarely on civilian populations: the measures imposed on the Syrian Arab Republic are, in his assessment, "clearly indiscriminate, and thus arguably unlawful under international law"[42], while in Venezuela he relays an estimate, drawn from Weisbrot and Sachs, of more than 40,000 deaths attributable to sanctions in 2017 and 2018, framed there as a form of collective punishment. The convergence is telling. Rigorous econometrics and country-level documentation alike register substantial, patterned harm to those not responsible for the initiating wrong, yet the proportionality standard most often invoked to discipline that harm furnishes no criterion by which it might be judged excessive. The inadequacy is thus structural rather than evidentiary: the limit exists and the harm is visible, but the threshold at which the one is crossed by the other remains, by the standard's own terms, indeterminable.

Taken together, these three dimensions describe a protective architecture that fails not at the point of execution but at the point of design. The fragmentation of overlapping regimes denies humanitarian actors any single, coherent standard to satisfy; the law of countermeasures supplies principles that are formally binding yet operationally indeterminate; and the empirical record discloses harm that is real and patterned but that

[41] Ibid 20–24.

[42] Idriss Jazairy, 'Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development' (2019) 42 <https://doi.org/10.1163/2210-7975_HRD-9970-2016149>

the governing proportionality standard possesses no criterion to judge excessive. What unites these dimensions is a single structural feature: the framework lacks the capacity to register, to measure, or to prevent the very harm it purports to constrain. Structural inadequacy, in this sense, is a defect of the instrument rather than of the hand that wields it, and it cannot be cured by clearer guidance or fuller compliance, because the deficiency is inscribed in the architecture itself. Yet to describe the failure as one of capacity is to leave a further question unanswered. A framework that cannot measure harm is one thing; a framework whose protective principles are invoked, suspended, and reactivated in accordance with the strategic interests of those who wield them is another. The preceding analysis has shown that the protective architecture does not work; it has not yet shown that its not working may be, for certain actors, precisely the point. That possibility, that the selective deployment of humanitarian and human rights norms is not an incidental shortfall but a systematic feature of how coercive power represents itself, marks the passage from structural inadequacy to the third and most searching category of instrumentalization: legitimated harm.

1.4 Diffused Responsibility and the Legitimation of Harm

The first two dimensions of this chapter located the failure of the protective architecture in its implementation and its design; the present section turns to a third and more searching register, in which that failure appears not as incapacity but as a structured feature of how coercive power conducts and represents itself. Two analytically distinct mechanisms operate here and must be kept apart. The first is diffused responsibility: the dispersal of accountability across a chain of actors, sanctioning states, enforcing states, international organizations, banks, and private firms, each of which can point to another as the proximate cause of harm, so that no single actor is ever decisively answerable. The second is legitimated harm: the recurring discrepancy between a humanitarian and human-rights idiom in which coercive measures are justified and the coercive practice that idiom accompanies. The two travel together, diffusion supplies the structural conditions under which hypocrisy becomes sustainable, but they are not identical: the first concerns the location of responsibility, the second the function of justificatory discourse. This section treats them in turn before closing the chapter.

Diffused responsibility is most concretely visible at the level of bureaucratic mandate. In the European Union, Manfredi and Jugl identify a standing tension within the Commission itself between DG FISMA,[43] charged with overseeing effective sanction implementation in line with the treaties, and DG ECHO,[44] charged with delivering humanitarian assistance in line with humanitarian principles, two bodies that, in their account, hold "different core beliefs".[45] Because humanitarian consequences register, for the dominant actors, as "a secondary, technical and largely disregarded aspect" of sanctions policy, the harm falls into the interstice between mandates rather than within any one of them. What this intra-institutional friction discloses in miniature, international law records at the level of the wider sanctions chain. The Guiding Principles observe that the continual shifting of responsibility between sanctioning states and businesses, and back again, produces both human rights violations and the impunity of those who commit them, with the result that it becomes difficult even to identify the accountable actor or the competent court. Responsibility, in other words, does not disappear across these levels; it is distributed until it can no longer be assigned.[46]

This dispersal acquires a deeper conceptual grammar in Kennedy's account of humanitarian practice, introduced earlier through Session's review, which can now be drawn upon for a purpose beyond its initial one. There it served to define instrumentalization as a practised disposition; here its diagnosis does further work. Kennedy holds that even well-intentioned humanitarian work generates harmful consequences at the moment its practitioners refuse to recognise themselves as wielders of power, declining, in his formulation, to see that the humanitarian advocate is himself a ruler who participates in global governance and exercises consequential power. Encompassing the lesser habits of mind that produce this blindness is what Kennedy terms a fetishizing of institutions, whereby legal platforms, coalitions, and councils are treated

[43] DG FISMA is the European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union, responsible within the Commission for overseeing the implementation of EU restrictive measures.
[44] DG ECHO is the Directorate-General for European Civil Protection and Humanitarian Aid Operations, responsible for the delivery of EU humanitarian assistance.
[45] Simone Manfredi and Marlene Jugl, 'Tackling Unintended Consequences of EU Sanctions: NGOs' Advocacy for Humanitarian Exceptions' (2024) 62 JCMS: Journal of Common Market Studies 1519, 1526 <https://doi.org/10.1111/jcms.13606>.
[46] 'Guiding Principles On Sanctions, Business And Human Rights, Mandate of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights' (2025) 106.

not as the first step toward transformation but as if they already were the transformation sought. Session's own contribution sharpens the point for the present argument: cynicism functions as the cultural device by which actors shift the power and responsibility entailed in their interventions away from themselves and onto the tools and institutions with which they work.[47] Transposed to the sanctions context, a move that is mine rather than Kennedy's, this furnishes the missing mechanism for diffused responsibility: the very existence of an institutional apparatus of exemptions, guidelines, and humanitarian contact points allows each actor to treat the apparatus, rather than its own conduct, as the bearer of responsibility for civilian harm. In this sense, the institutional apparatus itself comes to function as a displacement mechanism: so long as exemptions, guidelines, and humanitarian procedures formally exist, each actor can deny personal responsibility for the civilian harm that nevertheless continues in practice.

If diffused responsibility concerns the distribution of accountability across institutional actors, legitimated harm concerns the discourse through which coercion is represented and legitimized. Here Bob's analysis of the strategic uses of rights is instructive. On his account, rights are Janus-faced: rather than transcending politics, they may serve not only to protect vulnerable populations but also to advance the interests and influence of powerful actors. The point is not that rights claims are necessarily insincere, but that the language of rights can accompany and legitimize coercive forms of governance. Bob illustrates this pattern through cases in which economic pressure is justified in the register of rights protection, including the withholding of development assistance in response to discriminatory domestic legislation. His broader observation is that actors invoking rights may ultimately undermine them in practice.[48] Applied to unilateral coercive measures, this dynamic helps explain how humanitarian and human-rights discourse can function simultaneously as a protective framework and as a legitimating vocabulary for coercive policies that produce foreseeable civilian harm. In this sense, the discrepancy between declared humanitarian objectives and material humanitarian consequences is not necessarily evidence of insincerity, but of a system in which the language of protection

[47] Session (n 19) 150–152.
[48] Clifford Bob, Rights as Weapons: Instruments of Conflict, Tools of Power (Princeton University Press 2019) 3–4.

becomes intertwined with the exercise of coercive power. This is precisely the contradiction captured by the category of legitimated harm.

That such representation succeeds, that it is not merely asserted but accepted, requires a final, legitimating move, which Evans and Ayers locate in the hegemonic standing of the (neo)liberal conception of rights.[49] Drawing on Marcuse, they describe how tolerance can perform the work of "closure" by excluding the voices that would contest the prevailing order, not least by recasting human rights as a narrowly legal problem rather than a question of global political economy. What Marcuse termed repressive tolerance, the toleration of dissent only so long as it does not pass from word to deed, thus describes the discursive condition under which a coercive measure can be challenged in principle while remaining unchallengeable in effect.[50] The justificatory idiom is, on this reading, not a failure of the system but one of its operations. Humanitarian exemptions and procedural safeguards may therefore function not only as protective mechanisms, but also as forms of institutional reassurance that preserve the legitimacy of the sanctions regime without fundamentally altering its coercive effects.

The three categories developed in this chapter describe a single object viewed through different analytical registers. Implementation failure showed that the protective framework is frequently not operationalized in practice; structural inadequacy showed that the framework itself often lacks the coherence and capacity necessary to register, measure, or prevent foreseeable civilian harm even when formally applied; and the analysis of diffused responsibility and legitimated harm demonstrated how fragmented institutional structures and legitimating rights discourse together enable coercive policies to persist without clearly assignable accountability. What emerges from these sections is a multi-layered critical governance framework structured around five interconnected dimensions: the instrumentalization of rights discourse, the operational failure of humanitarian protections, the fragmented governance of sanctions implementation, the diffusion of responsibility across institutional actors, and the legitimating function of humanitarian and human-rights language within coercive regimes.

[49] Evans and Ayers (n 13) 291.
[50] Ibid 303.

This is what the present thesis means by the instrumentalization of human rights: not the absence of humanitarian norms, but their transformation into instruments that accompany, justify, and stabilise forms of coercive governance whose harmful consequences remain structurally foreseeable. The decisive analytical move traced across this chapter is therefore the passage from a framework that fails to constrain coercive power in practice to one in which the persistence of that failure itself performs a legitimating function. The question thus shifts from whether the protective architecture works as intended to whose interests are ultimately served by its continued operation.

To test whether this account is merely conceptual or descriptively accurate, the argument must now leave the theoretical register and confront a concrete sanctions regime. The measures imposed on Iran between 2006 and 2025 provide a paradigmatic case: a layered architecture of UN and EU sanctions formally equipped with humanitarian exemptions, yet one in which foreseeable civilian harm has persisted across two decades even as all actors involved continue to document their formal compliance. It is to the structure, operation, and contradictions of that regime that the next chapter turns.

Chapter II – The Architecture of Sanctions: UNSC & EU Sanctions on Iran (2006–2025)

If Chapter 1 attempted to **reconstruct how** the invocation of human rights can be turned against the very interests it claims to protect, this chapter grounds that argument in the most fully elaborated sanctions architecture of the post-2001 era: the measures imposed on Iran between 2006 and 2025. At every formal layer, the Security Council's Chapter VII rationale of international peace and non-proliferation, the European Union's parallel human-rights designations, and the humanitarian exemptions written into both, the regime presents itself as compatible with, and even solicitous of, the rights of the Iranian population. The chapter's central claim is that the persistent gap between this formal protective commitment and the foreseeable harm visited upon civilians is not an artefact of imperfect implementation but a property of the architecture itself: of how the regime is designed, where it is left deliberately ambiguous, and how it is selectively enforced.

This reframing matters for the thesis's larger argument about instrumentalization. Human rights do not merely fail to constrain the Iran regime; they are enrolled into its operation. Civilian-protection rationales legitimate the measures externally; a dedicated EU human-rights track lends the architecture a self-correcting appearance; humanitarian carve-outs[51] supply a ready answer to the charge of indiscriminate harm. Yet the same structure that advertises these protections renders humanitarian access structurally precarious. Human rights thus function in two registers at once, as the regime's legitimating vocabulary and as its predictable casualty, which is the precise sense in which this thesis speaks of their instrumentalization.

This argument locates the cause of civilian harm in the structure of the regime rather than in the intentions of those who operate it. To argue that civilian harm is "by design" is not to attribute malice to any particular drafter or enforcing authority; it is to observe that the

[51] In sanctions practice, "carve-outs" refer to narrowly framed exceptions or exclusions designed to preserve specified categories of otherwise prohibited activity, most commonly humanitarian trade such as food, medicine and medical devices.

harm is foreseeable, recurrent, and built into the interaction of legal instruments, financial dependencies, and enforcement incentives, even where each actor in the chain can plausibly disclaim direct responsibility for the outcome.

In this respect the chapter operationalizes, on a single case, the categories developed in Chapter 1: structural inadequacy in the design of protections (Section 1.3), diffused responsibility across a multilayered regime (Section 1.4), and legitimated harm in the distance between declared and actual purposes (Section 1.4).

The 2025 snapback controversy offers a fitting entry point. That the legality of reactivating the measures could be contested among the regime's own architects, and that their practical reach turned on who was positioned to enforce or circumvent them, illustrates in miniature the chapter's claim: this is an architecture whose operation tracks discretion and power as much as legal text.

The chapter proceeds in three steps. Section 2.1 maps the legal architecture across its three tiers, the Security Council resolutions of 2006–2010, their 2015 suspension under the JCPOA and Resolution 2231, and their 2025 reactivation; the European Union's autonomous proliferation and human-rights regimes; and the United States' secondary-sanctions statutes and executive orders. It argues that the US measures, by leveraging the centrality of the dollar and the US financial system, function as a structural multiplier: they extend the regime's practical reach far beyond its formal text, inducing extraterritorial compliance and risk-averse overcompliance among actors who are not themselves the regime's nominal addressees. Section 2.2 turns to the humanitarian exemptions, arguing that their formal availability coexists with their operational inaccessibility, and that the ambiguity, administrative burden, and enforcement risk surrounding them are not incidental defects but design features that make civilian harm foreseeable without targeting civilians directly; Resolution 2664 (2022) is examined as a normatively significant but, for Iran, materially limited corrective. Section 2.3 addresses selective enforcement and covert complicity, the divergence between formal enforcement and actual state practice, the toleration of circumvention where geopolitical or economic interests so dictate, and the signaling function of arrangements such as INSTEX,[52] to

[52] INSTEX (Instrument in Support of Trade Exchanges) was established by France, Germany and the United Kingdom in 2019 as a special-purpose vehicle intended to facilitate legitimate, particularly humanitarian, trade with Iran outside the dollar-based financial system and without direct exposure to US secondary sanctions. Its limited operational use and eventual winding-down became widely understood as

show that the regime operates as an instrument of geopolitical calculation rather than an impartial legal order.

Taken together, these three steps substantiate the chapter's argument. Each supply one element of a single mechanism: the layered design of the architecture (2.1) makes civilian harm foreseeable without targeting civilians; the built-in ambiguity of its humanitarian exemptions (2.2) ensures that the protection it promises is not the protection it delivers; and the selective enforcement and tolerated circumvention through which it operates (2.3) show that its application tracks geopolitical interest rather than impartial legality. What these three together produces is a regime whose formal legal legitimacy and whose human consequences are held apart by design, ambiguity, and discretion, the legitimated harm that gives the chapter its organizing concept, and a gap that the following chapter pursues into its concrete civilian and humanitarian effects.

2.1 Mapping the legal architecture: The UNSC Track, From Binding Demand to Juridical Transformation

The legal architecture of the Iran sanctions regime is best understood as three superimposed tiers rather than a single body of law: the multilateral measures of the UN Security Council, the autonomous measures of the European Union, and the secondary-sanctions apparatus of the United States. Each tier carries its own legal basis, its own enforcement logic, and its own relationship to the protective language it invokes. This section reconstructs them in turn. It begins with the Security Council track, whose trajectory from a binding demand to a juridically transformed and contested regime establishes the template onto which the other two tiers are layered.

2.1.1 The Security Council Track: From Binding Demand to Juridical Transformation

The Security Council's engagement with Iran did not begin as a sanctions programme; it began as the juridical capture of a non-proliferation dispute under Chapter VII, and only subsequently hardened into a layered regime of restrictive measures. Read functionally rather than as a chronological list, the resolutions do not simply "expand." They disclose

evidence of the practical inability of European actors to sustain commercial engagement with Iran in the face of US financial leverage.

an architecture that intensified incrementally and was then juridically transformed, a distinction on which much of this chapter's argument depends, because it is the transformation, not the mere accumulation, that allows coercion to persist even when sanctions are formally lifted.

Phase I: From dispute to binding demand

Resolution 1696 (2006) marks the threshold at which the Iranian file passes from diplomacy into the language of obligation. Acting under Article 40 of Chapter VII,[53] the Council framed the resolution as an effort "to make mandatory the suspension required by the IAEA", while demanding that Iran suspend all enrichment-related and reprocessing activities[54] and calls on all states to exercise vigilance over transfers that could feed Iran's enrichment or ballistic-missile programmes.[55] No restrictive measures are imposed; the resolution is a binding demand backed by the explicit threat of Article 41 action. What is established here is not yet pressure but the legal scaffolding for it, the moment at which the vocabulary of international peace and non-proliferation is fixed as the regime's authorising frame.

Phase II: The core sanctions regime

The substantive regime is built across four resolutions adopted between 2006 and 2008. Resolution 1737 (2006), adopted under Article 41 of Chapter VII,[56] supplies the template: it freezes the funds and economic resources of persons and entities designated in its Annex, prohibits the transfer to Iran of proliferation-sensitive nuclear and missile-related items, bars Iran's export of listed items, and creates the sanctions Committee that will

---

[53] Article 40 of Chapter VII authorizes the Security Council to order provisional measures prior to the adoption of enforcement measures under Article 41 or Article 42, with the aim of preventing further escalation of a threat to international peace and security.

[54] United Nations Security Council Resolution 1696 (2006), UN Doc S/RES/1696 (n 1), adopted on 31 July 2006: Acting under Article 40 of Chapter VII of the Charter of the United Nations in order to make mandatory the suspension required by the IAEA, 1. Calls upon Iran without further delay to take the steps required by the IAEA Board of Governors in its resolution GOV/2006/14, which are essential to build confidence in the exclusively peaceful purpose of its nuclear programme and to resolve outstanding questions; 2. Demands, in this context, that Iran shall suspend all enrichment-related and reprocessing activities, including research and development, to be verified by the IAEA.

[55] Ibid para 5

[56] Article 41 of Chapter VII authorizes the Security Council to adopt non-military enforcement measures, including economic sanctions, asset freezes, and restrictions on trade, finance, and transportation, where measures under Article 40 are deemed insufficient.

administer the regime thereafter. Crucially for this thesis, humanitarian protection is written into the architecture from the very first sanctions resolution: the asset freeze exempts funds necessary for foodstuffs, rent, medicines and medical treatment, and item restrictions may be waived for food, agricultural, medical or other humanitarian purposes on a case-by-case basis.[57] The protective vocabulary, in other words, is not a later concession but an original design feature, a point to which Section 2.2 returns.

The three resolutions that follow intensify the regime along distinct axes. Resolution 1747 (2007) extends the asset-freeze and listing measures to new designees imposes a ban on Iran's own arms exports and requires all states to refuse procurement of arms from Iran, calls for restraint in supplying major conventional weapons to Iran, and discourages new grants, financial assistance and concessional loans except for humanitarian or developmental purposes.[58] Resolution 1803 (2008) then turns to the financial channel, alongside further listings and expanded dual-use bans, it calls on states to exercise vigilance over export credits, guarantees and insurance and, most consequentially, over their financial institutions' dealings with Iranian banks, naming Bank Melli and Bank Saderat.[59] Resolution 1835 (2008) adds no new restrictive measures, it reaffirms the preceding resolutions and the Council's demands, and matters here for continuity rather than content. The cumulative movement is unmistakable from items, to arms, to banks and it proceeds while the regime continues to advertise its humanitarian carve-outs.[60]

Phase III: Maximum multilateral pressure

Resolution 1929 (2010), adopted at the Council's 6335th meeting on 9 June 2010, represents the qualitative peak of the multilateral regime. It prohibits Iranian investment abroad in uranium mining and related nuclear and missile activities; converts the earlier "restraint" on conventional arms into a comprehensive embargo covering the major weapons categories of the UN Register; bars Iran from any activity related to nuclear-

[57] UNSC Res. 1737 (n 2), preamble and paras 3,7,9,12,13,18

[58] United Nations Security Council Resolution 1747 (2007), UN Doc S/RES/1747, adopted on 24 March 2007. Paras 4,5,6,7

[59] United Nations Security Council Resolution 1803 (2008), UN Doc S/RES/1803, adopted on 3 March 2008. Paras 7,8,9,10

[60] United Nations Security Council Resolution 1835 (2008), UN Doc S/RES/1835, adopted on 27 September 2008.

capable ballistic missiles; and broadens the travel measures applied to designated individuals.

Decisively, the same resolution builds a standing enforcement apparatus and drives the regime deep into the financial system. It authorises cargo inspection in national territory and, with flag-state consent, on the high seas, together with the seizure and disposal of prohibited items; and it requires states to exercise vigilance in their dealings with Iranian entities, to deny financial services where there are reasonable grounds to suspect a proliferation nexus, and to bar their institutions from opening offices, subsidiaries or accounts in Iran on the same suspicion. Although still formally grounded in Article 41 as measures "not involving the use of armed force," the architecture had by this stage evolved into a deeply intrusive system of financial and commercial exclusion. With 1929 the regime thus shifts in kind, not merely in degree, from targeted designations to securitised, financialised pressure on Iran's banking and energy lifelines.[61] This is the inflection point onto which the United States' secondary-sanctions overlay (treated in Section 2.1.3) later fastens, converting multilateral pressure into something with far greater extraterritorial reach than its text alone commands.

The intensification of Phase III was matched by the construction of a standing monitoring apparatus, and it is here that the regime's continuity is secured. Resolution 1929 created the Panel of Experts to gather and analyse information on implementation and incidents of non-compliance;[62] its mandate was thereafter renewed on a near-annual cycle, through a succession of monitoring-extension resolutions, until the regime's suspension in 2015.[63] These renewal resolutions imposed no new restrictions, but they kept the regime operationally alive across the years in which no new sanctions resolution was adopted. The point is registered in the Panel's own final report, which records that throughout the negotiation period all Security Council sanctions remained fully in effect, with only limited relief flowing from separately suspended unilateral measures. Continuity was

[61] United Nations Security Council Resolution 1929 (2010), UN Doc S/RES/1929, adopted on 9 June 2010.
[62] Ibid, Para 29
[63] The Panel of Experts established under paragraph 29 of Resolution 1929 (2010) saw its mandate successively renewed by Security Council resolutions 1984 (2011), 2049 (2012), 2105 (2013), 2159 (2014) and 2224 (2015), the latter extending the mandate until 9 July 2016. Each resolution was adopted under Article 41 of Chapter VII for the limited purpose of maintaining the monitoring and reporting mechanism established by Resolution 1929, without introducing additional restrictive measures. They are therefore treated here as instruments of administrative continuity rather than substantive escalation. (SC Res 2224 (2015) UN Doc S/RES/2224, para 1)

sustained not through the adoption of new coercive measures, but through the administrative reproduction of the regime via monitoring and implementation mechanisms, an administrative persistence that matters for the structural-ambiguity argument developed below.

Phase IV: Managed suspension and juridical transformation

Resolution 2231 (2015) endorses the Joint Comprehensive Plan of Action (JCPOA)[64] and terminates the provisions of the preceding resolutions: 1696, 1737, 1747, 1803, 1835, 1929 and the monitoring-mandate resolution 2224, subject to reimposition.[65] The transformation lies in the mechanism substituted for outright dissolution, and the JCPOA supplies its logic first-hand: under the agreement's Dispute Resolution Mechanism, a participant that regards an unresolved compliance dispute as significant non-performance may refer it to the Security Council, whereupon the prior resolutions are reimposed unless the Council affirmatively votes to continue the sanctions-lifting.[66] Resolution 2231 operationalises this: within thirty days of such a notification the Council must vote on a draft resolution to continue the terminations, and if it adopts none, all provisions of the prior Chapter VII resolutions, 1696, 1737, 1747, 1803, 1835 and 1929 automatically reapply. The JCPOA's Annex V fixes the temporal scaffolding, Adoption Day, Implementation Day, Transition Day, and a Termination Day ten years after Adoption Day, while its Annex II enumerates the EU and US measures to be lifted.[67]

A revealing asymmetry appears within Resolution 2231 itself. Paragraph 7(a) terminates Resolutions 1696, 1737, 1747, 1803, 1835, 1929 and 2224; yet paragraph 12, which governs reapplication in the event of snapback, lists only the first six and omits 2224. The more defensible reading is not that monitoring was deliberately excluded from reactivation, but that the institutional consequences of reactivation were left textually less determinate than the coercive measures themselves. The coercive prohibitions were expressly enumerated for revival; the monitoring machinery was not, and its fate turned

[64] Joint Comprehensive Plan of Action (Vienna, 14 July 2015) annexed to Letter dated 16 July 2015 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council, UN Doc S/2015/544, annex (JCPOA)
[65] SC Res 2231 (2015) UN Doc S/RES/2231, para 7(a); JCPOA, para 18.
[66] JCPOA (n 6), paras 36–37.
[67] JCPOA (n 6), Annex V; Annex II.

on how the revived 1929 framework would be construed. The ambiguity is structural rather than accidental: the Panel of Experts was created by Resolution 1929 in paragraph 29, which does reapply under paragraph 12, but its mandate had been sustained only through the successive renewal resolutions, of which 2224 was the last and none of which snaps back. Whether reviving 1929 also revives the supervisory apparatus built upon it is, therefore a question the text does not resolve. This asymmetry is analytically important because it shows that the architecture preserved coercive capacity more clearly than it preserved the mechanisms designed to supervise its operation.

Read across its four phases, the Security Council track does more than impose and lift measures, it establishes the legal grammar of the entire regime. A binding demand under Chapter VII fixes the authorizing frame; a sequence of targeted resolutions builds a regime that hardens, at its 1929 peak, into securitized financial pressure; and Resolution 2231 then transforms that regime juridically, suspending its measures while preserving, through the snapback and the monitoring continuum, the capacity to reactivate them. The 2025 controversy shows that this capacity is not merely latent but contestable, its exercise governed by political alignment rather than by textual command. Two features therefore carry forward: the persistence of coercion beneath formal suspension, and the structural ambiguity that allows the regime's very existence to turn on interpretation. Neither is resolved at the multilateral level, and, as the subsections that follow argue, both are amplified once the European Union's autonomous measures and the United States' secondary-sanctions apparatus are layered onto this multilateral spine, extending the regime's reach, and its human consequences, well beyond anything the Council's text alone prescribes.

2.1.2 The European Union Track: Autonomous Measures and the Two Faces of Rights Protection

The European Union did not merely transpose the Council's resolutions into Union law; from 2007 onward, it built a parallel and progressively more expansive regime of its own, reaching into the financial, energy, trade and transport sectors well past what the Council had mandated. Two features of this autonomous construction make it central to the present argument. First, the EU's measures are doubly sourced: they implement binding Council decisions while simultaneously exercising the Union's own foreign-policy discretion, so that the line between obligation and choice, between what the Union must do and what it elects to do, is blurred from the outset. Second, and more revealingly for a study of instrumentalization, the Union operates two distinct Iran tracks: a proliferation track addressed to the nuclear programme, and a separate human-rights track addressed to individuals and entities held responsible for serious human-rights violations. The coexistence of these tracks is where the Union's protective vocabulary is most explicit, and, as the analysis will show, most equivocal, since the same Union that sanctions in the name of Iranian rights administers a regime whose financial reach predictably constrains the very population those rights are invoked to protect.

2.1.2.1 From Implementation to Autonomy (2007–2010)

The European Union's Iran regime began as an exercise in implementation. Common Position 2007/140/CFSP[68] and Council Regulation (EC) No 423/2007[69] transposed the obligations of Resolutions 1737 (2006) and 1747 (2007) into Union law, freezing designated assets and prohibiting proliferation-sensitive transfers in terms that tracked the Council's text closely. For three years the Union's measures moved broadly in step with the multilateral regime, presenting themselves as its European implementation.

A decisive turning point is Council Decision 2010/413/CFSP of 26 July 2010.[70] Adopted after Resolution 1929, it does not merely transpose that resolution: its preamble frames the Union's response as giving effect to Resolution 1929 "as well as accompanying measures" of the Union's own, mentioned in the preamble of Decision 2010/413/CFSP. The phrase is doctrinally telling. It marks the point at which the EU openly distinguishes what the Council requires from what the Union additionally chooses to impose, and the additional measures are far from marginal. Decision 2010/413 reaches into a sector the resolutions had left alone, restricting the supply of key equipment and technology for Iran's oil and natural-gas industry.[71] From this moment the Union's regime ceases to be derivative; it becomes autonomous, and, as the next subsection shows, its autonomy is exercised overwhelmingly in the direction of expansion. For the argument of this chapter, the significance is not simply that the EU went beyond the Council, but that it did so

[68] Council Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran (2007) OJ L61/49.
[69] Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (2007) OJ L103/1.
[70] Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (2010) OJ L195/39.
[71] Ibid Art 4

knowingly, under a vocabulary "accompanying" that preserves the appearance of multilateral fidelity while detaching the Union's discretion from any specific Council mandate.

2.1.2.2 Financial Deepening and Sectoral Expansion (2010–2012)

The autonomous regime deepened rapidly, and its centre of gravity shifted from the control of goods to the management of money. Council Regulation (EU) No 961/2010 [72] introduced a prior-authorization architecture for dealings with Iran, subjecting transfers and brokering to administrative control and drawing the Union's banks and insurers into the regime's enforcement.[73] Notably, the same regulation already presented itself as compatible with fundamental rights, invoking the Charter's guarantees of effective remedy, property and fair trial, a self-presentation whose tension with the regime's economic effects this chapter will return to.

The decisive escalation came in early 2012. Council Decision 2012/35/CFSP amended Decision 2010/413 to insert a prohibition on the import, purchase and transport of Iranian crude oil and petroleum products[74], an equivalent ban on petrochemical products,[75] and, decisively, the freezing of the assets of the Central Bank of Iran.[76]

These measures were then consolidated and extended in Council Regulation (EU) No 267/2012, which remains the operative backbone of the EU regime. Regulation 267/2012 prohibits the import, purchase, transport and related financing or insurance of Iranian oil and petroleum products,[77] and petrochemicals;[78] it freezes the funds of listed persons and entities,[79] and bars the supply to them of specialized financial messaging services, the legal hook for Iran's disconnection from international payment infrastructure; and it restricts fund transfers to and from Iran, banking relationships, insurance and dealings in

[72] Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (2010) OJ L281/1.
[73] Ibid Art 3
[74] Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (2012) OJ L19/22, Art 1, inserting art 3a into Decision 2010/413
[75] Ibid Art 3b
[76] Ibid Preamble
[77] Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (2012) OJ L88/1, Art 11.
[78] Ibid Art 13
[79] Ibid Art 23

Iranian sovereign bonds, while criminalizing participation in activities whose object or effect is to circumvent these measures.[80]

Two features of this consolidated regime matter for the argument. First, its target has changed. What began in 2007 as a set of export controls on proliferation-sensitive items had become, by 2012, a comprehensive instrument of financial-system management: the regime now operated less by interdicting specific goods than by progressively isolating Iran's central bank, commercial banks, insurers, and shipping lines, including IRISL, from the infrastructure of international finance and trade.[81]

This is coercion through infrastructural exclusion, pressure exerted not on a weapons programme but on the financial arteries through which an entire economy functions. Second, the regime carries its own humanitarian qualifier; the freezing of central-bank assets is expressly subject to derogations for trade in foodstuffs, healthcare, and medical equipment. As with the Security Council track, the protective exemption is written in from the outset, and, as Section 2.2 will argue, its formal presence does little to guarantee its practical availability.

2.1.2.3 Human Rights Sanctions and the Split Vocabulary of Protection

Alongside the proliferation regime, the Union built a second, formally distinct Iran regime, and built it in the explicit name of human rights. Council Decision 2011/235/CFSP of 12 April 2011 responded to the post-2009 repression in Iran,[82] citing the deterioration of the human-rights situation and the systematic repression of Iranian citizens, and directing measures against those responsible for grave violations committed in the suppression of peaceful demonstrators, journalists and human-rights defenders.[83] Its operative provisions impose a travel ban and an asset freeze on persons "responsible for serious human rights violations in Iran";[84] Council Regulation (EU) No 359/2011

[80] Ibid Arts 23, 30, 31, 34, 35, 41

[81] Ibid Recitals 12,13

[82] The reference is to the protests that followed the disputed 2009 Iranian presidential election "Green Movement" and the subsequent repression documented in reports of the UN Special Rapporteur on the situation of human rights in Iran and by international human-rights organisations. See UNGA Res 64/176, 'Situation of Human Rights in the Islamic Republic of Iran' (18 December 2009) UN Doc A/RES/64/176 and Human Rights Watch, The Islamic Republic at 31: Post-Election Abuses Show Serious Human Rights Crisis (11 February 2010).

[83] Council Decision 2011/235/CFSP of 12 April 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Iran (2011) OJ L100/51.

[84] Ibid Art 1,2

gives the freeze effect in Union law, immobilising the funds and economic resources of those listed.[85]

This is the subsection in which the thesis's central concept can be stated most precisely. The Union now operates two parallel Iran regimes, one justified by non-proliferation, the other by the protection of Iranian rights. Formally they are separate, distinct legal bases, distinct listing criteria, distinct annexes. Materially they converge upon a single object: the same national economy, the same financial environment, the same population. The human-rights regime is genuine in its own terms, it names real abuses and targets identifiable officials, but its coexistence with the proliferation regime produces a split vocabulary of protection. The Union sanctions, in one register, to vindicate the rights of Iranians against their government; in the other, it administers a financial architecture whose foreseeable effect is to constrain the welfare of those same Iranians. Human-rights discourse is thus not external to the coercive regime but lodged inside it: it supplies one of the regime's justificatory languages while the regime as a whole produces consequence that the language cannot easily account for. This is what this thesis means by the instrumentalization of human rights, not their cynical invocation alone, but their incorporation, as a legitimating idiom, into a governance structure whose aggregate operation works against the very interests the idiom names.

2.1.2.4 Due Process, Listing, and the Internal Contradictions of EU Legality

The analysis that follows shifts, for one subsection, into the individual register, the procedural and proprietary rights of the designated party, which this thesis otherwise brackets from its population-level focus (see the clarification of register in 2.2).

The EU regime is distinctive among the three tiers in subjecting itself to dense internal judicial review, and it advertises the fact: Regulation 267/2012 declares that it "respects the fundamental rights" recognised by the Charter of Fundamental Rights, "in particular the right to an effective remedy and to a fair trial, the right to property",[86] a self-presentation already present in its predecessor.[87] Nor is the declaration idle. The Court of Justice has repeatedly struck down individual Iran-related listings. In Fulmen and

[85] Council Regulation (EU) No 359/2011 of 12 April 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran (2011) OJ L100/1, Art 2.
[86] Reg (EU) 267/2012, (n 77), Recital 26
[87] Reg (EU) 961/2010, (n 72) preamble

Mahmoudian it dismissed the Council's appeal and upheld annulment because the Council had produced no evidence to substantiate the conduct alleged, placing the burden of proof on the listing authority.[88] In Bank Mellat it again dismissed the Council's appeal, the contested listing having been annulled for failure to state adequate reasons and for manifest error of assessment (Bank Mellat, C-176/13 P).[89] Both sit within the line opened by Kadi, where the Court held that even measures giving effect to Security Council decisions remain subject to full review for compatibility with fundamental rights.[90]

The lesson of this case law, however, cuts against the comfort it might seem to offer. The argument here is not that all listed entities were improperly designated, nor that concerns regarding proliferation or repression were fabricated. Nor does this chapter seek to assess the factual merits of the individual listings themselves. Rather, the significance of this jurisprudence lies in what the structure of judicial review renders visible, and what it leaves outside the frame. The cases are therefore examined not as vindications of the listed entities, but as illustrations of how the EU sanctions regime negotiates legality, evidentiary review and procedural protection within a broader coercive architecture.

EU legality does not dissolve the regime's coercion; it juridifies it. EU judicial review delivers real protection, but of a particular and limited kind, and recognizing its limits is not to deny its reality. The annulments are genuine: listed parties do secure the reversal

[88] In Fulmen and Mahmoudian, the Court of Justice upheld the annulment of EU restrictive measures imposed on an Iranian company and its director, holding that the Council had failed to substantiate the listing with sufficient evidence. The judgment forms part of the broader post-Kadi jurisprudence in which EU courts subjected sanctions listings, including those connected to Iran's nuclear programme, to meaningful judicial review grounded in due process, evidentiary scrutiny and the right to effective judicial protection. For a detailed discussion of the case and its implications for EU sanctions law, see Case C-280/12 P Council of the European Union v Fulmen and Mahmoudian EU:C:2013:775.

[89] In Bank Mellat, the Court of Justice dismissed the Council's appeal and upheld the annulment of restrictive measures imposed on the Iranian bank, finding deficiencies in the statement of reasons, evidentiary basis and adoption procedure underlying the listing. The case is significant within the broader post-Kadi jurisprudence because it confirms that even sanctions adopted in the context of non-proliferation and international security remain subject to substantive judicial review under EU law, including scrutiny for manifest error of assessment and compliance with procedural guarantees. For a detailed analysis, see Case C-176/13 P Council of the European Union v Bank Mellat EU:C:2016:96.

[90] The Kadi jurisprudence established that EU courts retain the authority to review sanctions measures for compatibility with fundamental rights even where those measures implement obligations deriving from United Nations Security Council resolutions. The cases became foundational for subsequent Iran-related litigation, including Bank Mellat and Fulmen, by reinforcing requirements of due process, evidentiary substantiation and effective judicial protection within the EU sanctions regime. See Joined Cases C-402/05 P and C-415/05 P Kadi and Al Barakaat International Foundation v Council and Commission [2008] ECR I-6351; Case C-584/10 P Commission v Kadi EU:C:2013:518.

of unlawful designations, and the Court's scrutiny of evidence and reasons imposes a real discipline on the Council. What that protection reaches, however, is the individual designation and the procedural and proprietary rights of the designated party; what it does not reach is the diffuse structural harm the financial architecture imposes on the civilian population as a whole. In this precise sense EU legality does not dissolve the regime's coercion so much as juridify it: it renders the individual listing contestable in law while leaving the population-level consequences outside the frame of any justiciable interest. What the Court reviews are the procedural and proprietary rights of the designated party: the right to reasons, to contest the evidence, and to proportionality in the individual case. What no applicant has standing to raise, and what no provision frames as a justiciable interest, is the diffuse structural harm that the financial architecture imposes upon the civilian population as a whole. The Court may annul the freezing of one bank for want of reasons; it will not, on the terms of this litigation, ask whether the cumulative effect of the regime on access to medicine, food and essential imports is itself proportionate. Judicial review thus produces a selective visibility, rendering the individual listing legible to law while leaving systemic civilian consequences in shadow. It is that consequence, structurally foreseeable yet largely invisible to the Union's own rights machinery, that Chapter 3 takes up.

2.1.2.5 The JCPOA, Suspension, and the Re-Activation of EU Measures

The European measures were the principal currency of the 2015 settlement. Annex II to the JCPOA itemizes the EU sanctions to be lifted, financial transfers, banking, insurance, financial messaging, sovereign bonds, the oil, gas and petrochemical bans and their associated services, by cross-reference to the very provisions mapped above,[91] with the sequence of lifting governed by the implementation plan.[92] Crucially, the Union's commitment was framed as terminating the provisions of Regulation 267/2012 and Decision 2010/413 "as subsequently amended", that is, by amending the existing instruments rather than dismantling the architecture.[93] The framework survived the lifting of its operative measures.

[91] JCPOA (n 6), Annex II, 1.1–1.2
[92] JCPOA (n 6), Annex V
[93] JCPOA (n 6), Annex II, 1; Reg (EU) 267/2012, (n 77), Reg (EU) 961/2010, (n 72), Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (2010) OJ L195/39.

The events of 2025 demonstrated what that survival was for. Following the multilateral snapback, the Union reactivated its own regime: Council Decision (CFSP) 2025/1972 restored the CFSP basis, and Council Regulation (EU) 2025/1975, amending Regulation 267/2012, reinstated the operative restrictions, with derogations and wind-down dates running into late 2025 and early 2026.[94] The parallel with the Security Council tier is exact in form. Where the Council preserved latent coercion through the snapback's reverse-veto, the Union preserved it through an autonomous reactivation machinery that required only a Council act to bring the suspended regime back into force. In both cases the conclusion is the same: coercion survives suspension institutionally, lodged not in any present decision but in the design of the architecture itself.

2.1.2.6 EU Autonomy versus US Secondary Sanctions[95]

A final feature of the EU tier both completes its portrait and opens onto the next. Confronted with United States secondary sanctions, measures threatening non-US persons with exclusion from the US market and financial system for dealing with Iran, the Union formally asserted its autonomy. The Blocking Statute, Council Regulation (EC) No 2271/96, prohibits EU operators from complying with the extraterritorial foreign laws listed in its Annex and provides for the recovery of damages caused by their application.[96] After the United States reinstated its Iran sanctions in 2018, Commission Delegated Regulation (EU) 2018/1100 added those measures, among them the National Defense Authorization Act for Fiscal Year 2012, the Iran Threat Reduction and Syria Human Rights Act of 2012, and the Iranian Transactions and Sanctions Regulations, to that

[94] Council Decision (CFSP) 2025/1972 of 29 September 2025 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (2025) OJ L, 2025/1972; Council Regulation (EU) 2025/1975 of 29 September 2025 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran (2025) OJ L, 2025/1975, art 28a.

[95] Secondary sanctions are measures through which a sanctioning State seeks to influence the conduct of third-country operators by restricting or penalizing their dealings with the sanctions target, even where those operators are not nationals of, or located within, the sanctioning State. See Tom Ruys and Cedric Ryngaert, 'Secondary Sanctions: A Weapon out of Control? The International Legality of, and European Responses to US Secondary Sanctions' (2020) 89 British Yearbook of International Law 1; see also Tom Ruys, Cedric Ryngaert and Felipe Rodríguez Silvestre (eds), The Cambridge Handbook of Secondary Sanctions and International Law (Cambridge University Press 2024).

[96] Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (1996) OJ L309/1, arts 5–6 and Annex.

Annex, so that Union operators were legally forbidden to obey them.[97] The Union also sought to operationalise its autonomy through INSTEX, a special-purpose vehicle designed to let legitimate trade continue outside the reach of the US financial system.[98] The gap between this formal resistance and its practical effect is the point. The Blocking Statute could forbid compliance; it could not alter the commercial calculus that made compliance rational. Faced with a choice between the Iranian market and continued access to the dollar and the US financial system, European banks and firms overwhelmingly chose the latter, de-risking out of Iran regardless of what Union law permitted or required; INSTEX, in the event, cleared only a negligible volume of trade before being wound down. The Union's autonomy, formidable on paper, dissolved at the point where it met the structural leverage of the US financial system, and it is precisely that leverage, the capacity of a non-party's law to reshape the conduct of actors the EU regime never addressed, that the next subsection analyses as the regime's structural multiplier.

2.1.3 The United States Track: Secondary Sanctions and the Structural Multiplier

The third tier completes the architecture, and it does so from outside it. The United States is not a co-author of the multilateral settlement in the way the Security Council and the European Union are; for much of the period under study it stood apart from, and after 2018 actively against, the bargain the other tiers had struck. Yet it is the US measures that have done most to determine what the Iran sanctions regime actually does, and the reason lies in the distinctive instrument on which they rely. Where primary sanctions bind a state's own nationals and territory, United States secondary sanctions reach the conduct of non-US persons, foreign banks, insurers and trading firms with no territorial presence in the United States, threatening them with exclusion from the US market and financial system unless they too cease dealing with Iran. By attaching that threat to the dollar and to the correspondent-banking channels through which most cross-border payments clear, the United States converts a formally national policy into a functionally global one. This

[97] Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (2018) OJ L199I/1, Annex.
[98] Cedric Ryngaert and Tom Ruys, 'Secondary Sanctions: A Weapon out of Control? The International Legality of, and European Responses to, US Secondary Sanctions' (2020) 65 British Yearbook of International Law 1.

is the sense in which, for the argument of this chapter, the US tier operates as a structural multiplier: it does not merely add a further layer of prohibition; it amplifies the reach of the entire regime, extending coercive pressure to actors that fall outside the scope of any multilateral instrument and producing a degree of isolation that the UN and EU measures, on their own terms, never required. The subsection traces this through four moves: the statutory architecture, the jurisdictional mechanism, the overcompliance it induces, and the consequences for responsibility, and in doing so explains why the European autonomy described above dissolved on contact with it.

The statutory architecture of the US tier is best read not as a chronological inventory but as the progressive deepening of a single coercive infrastructure, each instrument widening the circle of actors whose conduct the United States claims to govern. The Iran Sanctions Act of 1996 began sectorally, authorising sanctions against persons that made significant investments in Iran's petroleum resources,[99] pressure aimed at an industry, not yet at the global financial system. The decisive turn came with the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, whose section 104 reached, for the first time at scale, foreign financial institutions, a bank outside the United States that knowingly facilitated significant transactions for designated Iranian entities could be barred from US correspondent and payable-through accounts.[100] With that provision the lever of pressure shifted from the conduct of investment to access to the dollar itself. Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 then turned the mechanism against the Central Bank of Iran and the oil revenues cleared through it, threatening foreign financial institutions that transacted with the CBI with the same exclusion.[101] The Iran Threat Reduction and Syria Human Rights Act of 2012 extended exposure outward and upward, most strikingly by making US parent companies liable for the sanctions violations of their foreign subsidiaries,[102] and the Iran Freedom and Counter-Proliferation Act of 2012 carried the logic into whole infrastructural sectors, sanctioning dealings with Iran's energy, shipping and shipbuilding industries and the services that sustain them.[103]

[99] Iran Sanctions Act of 1996, Pub L No 104-172, 110 Stat 1541.
[100] Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub L No 111-195, §104, 124 Stat 1312.
[101] National Defense Authorization Act for Fiscal Year 2012, Pub L No 112-81, §1245, 125 Stat 1298.
[102] Iran Threat Reduction and Syria Human Rights Act of 2012, Pub L No 112-158, §218, 126 Stat 1214.
[103] Iran Freedom and Counter-Proliferation Act of 2012, Subtitle D of Title XII of Pub L No 112-239, §1244, 126 Stat 2004.

When the United States abandoned the JCPOA, Executive Order 13846 (2018) restored this accumulated apparatus wholesale, reinstating in particular the correspondent- and payable-through-account sanctions at its core,[104] the whole operationalized through the regulatory machinery the Office of Foreign Assets Control administers in the Iranian Transactions and Sanctions Regulations.[105] Read this way, the architecture's significance is not the quantity of conduct it forbids. Its power lies in what each layer reorganizes: secondary sanctions are formidable not because they prohibit more, but because they render dealing with Iran commercially irrational for actors the United States never had jurisdiction to command, recasting, through the leverage of the dollar, the incentives of the global economy as a whole.

2.1.3.1 How does the United States reach actors over whom it has no ordinary authority?

Under international law a state may prescribe rules for conduct only on recognized bases, principally territoriality, nationality and the protection of essential security interests,[106] and the foreign bank in Frankfurt or Shanghai that lends to an Iranian importer satisfies none of them. The United States, for the most part, does not meet this objection head-on; it sidesteps it. Rather than claiming prescriptive jurisdiction over the foreign transaction itself, it conditions the foreign actor's continued access to the US market and financial system on abstaining from that transaction. The indispensable hinge is the dollar. Because the overwhelming share of international payments clears in US dollars, and dollar-clearing routes through correspondent accounts held with US banks, a non-US bank financing trade with Iran ordinarily touches the US financial system at the point of settlement, the so-called U-turn[107], and so exposes itself to exclusion from the correspondent accounts[108] on which its global business depends.[109] The measure operates,

[104] Executive Order 13846 of 6 August 2018, ‘Reimposing Certain Sanctions with Respect to Iran’, §2.
[105] Iranian Transactions and Sanctions Regulations, 31 CFR §560.201.
[106] Ryngaert and Ruys (n 98) 6.
[107] The so-called "U-turn" referred to a mechanism through which dollar-denominated transactions involving Iran were temporarily routed through US correspondent banks before returning to offshore financial institutions for final settlement. Although later prohibited, the concept illustrates how even formally foreign transactions frequently touched the US financial system at the clearing stage.
[108] Correspondent accounts are accounts held by foreign banks with US banks in order to clear dollar-denominated international transactions. Because a substantial proportion of cross-border payments settle through these channels, exclusion from correspondent banking can effectively disconnect a foreign financial institution from large parts of the global financial system even where the institution itself has no territorial presence in the United States.
[109] Ibid 15

in other words, not as a command but as a restriction on access. This is why Ruys and Ryngaert can describe the device as a weapon whose jurisdictional foundations have slipped beyond control: the connections the United States relies upon are, on close inspection, thin,[110] yet their doctrinal weakness is immaterial to their effect. The United States does not need a sound jurisdictional claim over the foreign bank, because it does not need to govern the bank's conduct, only to price it. Jurisdiction, in the ordinary prescriptive sense, is almost beside the point; what does the work is control of a chokepoint through which the world's commerce must pass.

If the jurisdictional chokepoint supplies the threat, it is the private response to that threat that converts it into the regime's defining force. Faced with penalties reaching into the billions and with rules whose perimeter is deliberately uncertain, banks and corporations do not calibrate their conduct narrowly to what the law forbids; they retreat from anything that might conceivably attract liability. This is the phenomenon of overcompliance, and the broader practice of de-risking examined in 2.2.3, the rational decision to exit Iran-related business wholesale rather than bear the cost of distinguishing the permitted from the prohibited. The penalties that drive it are neither rare nor modest. BNP Paribas alone paid some 8.9 billion US dollars, a sum the French government protested as disproportionate,[111] to resolve US charges that included the routing of Iran-related transactions through the American financial system, at the time the largest sanctions-related settlement ever imposed.[112] The precise figure matters less than its pedagogy: a penalty of that magnitude, widely publicised, teaches every other institution that the safe course is not careful compliance but complete withdrawal. The result is a regime whose practical reach far exceeds its formal scope. The isolation Iran experiences is produced only in part by the prohibitions actually enacted; the remainder is manufactured by the aggregated risk-aversion of private actors who, rationally, over-comply. This is the structural multiplier in operation, coercion achieved not through the breadth of the rules but through the fear they rationally instill, and it is here, too, that the question of responsibility grows acute, since the harm now issues from countless private decisions, each individually defensible and deniable, that no single authority can be said to have commanded.

---

[110] Ibid 18

[111] Ibid 10

[112] Ibid 21

Three consequences follow, and together they close the account of the legal architecture. First, the US tier completes the picture of diffused responsibility this chapter has been tracing. The civilian harm the regime foreseeably produces cannot be traced to a single decision or a single author: it emerges instead from the interaction of a multilateral mandate, an autonomous European deepening and an American structural multiplier, refracted finally through the private risk calculations of thousands of banks and firms. Each actor in the chain can plausibly say that it did only what the law required, only what prudence dictated, or only what a non-party's statute compelled, and none need accept authorship of the aggregate result.

Second, the tier exposes at its widest the gap between the regime's formal sources and its practical reach. The most consequential layer of the Iran sanctions regime is imposed by the state least bound by, and, after 2018, openly opposed to, the multilateral settlement the other tiers embody; the mechanism that does most to isolate Iran is one no Security Council resolution authorized and no European decision formally required.

Third, the structural multiplier is what renders the regime's humanitarian promises so difficult to realize in practice. Carve-outs and exemptions are drafted against the formal scope of the rules, but the harm is generated by the over-broad private withdrawal those rules induce; an exemption that is legally available means little to a bank that has exited Iran altogether rather than parse it. The protective vocabulary running through all three tiers, civilian protection, humanitarian exception, the rights of the Iranian people, thus encounters an architecture engineered, across its interacting layers, to render that protection structurally precarious. It is to the fate of those protections, and specifically to the humanitarian exemptions on which the regime's claim to legitimacy most directly rests, that the chapter now turns.

2.2 Humanitarian exemptions: formal design and built-in ambiguities

Section 2.1 established that the coercive reach of the Iranian sanctions' regime exceeds its formal text. Secondary-sanctions exposure and dependence on dollar clearing convert a bounded set of legal prohibitions into a far wider field of private restraint, while responsibility for the resulting contraction diffuses across the Security Council that authorizes the freezes, the European Union that autonomizes them, the United States that multiplies them, and the banks, insurers and correspondent institutions that ultimately operationalize them. The harm, on this account, is generated not at the margins of the prohibition but beyond them, through the over-broad anticipatory withdrawal the architecture induces in private intermediaries.

It is against this backdrop that the regime's humanitarian commitments must be assessed. Each layer of the architecture is formally accompanied by carve-outs, licensing channels and humanitarian exemptions intended to preserve a protected space for medicine, food and humanitarian relief. Yet these protections are drafted against the formal scope of the rules, whereas the harm is produced through the private withdrawal those rules induce beyond that scope. The decisive question is therefore not whether humanitarian exemptions exist, they do, but whether formal legality, licensing and carve-outs are structurally capable of offsetting effects that operate outside the formal domain they govern. This section argues that they are not.

It proceeds from the formal design of humanitarian space across the UNSC and EU systems (2.2.1), to the architecture of uncertainty through which lawful trade becomes operationally difficult (2.2.2), to the behavioral response through which private actors withdraw altogether (2.2.3), before reading Resolution 2664 (2022) as a genuine yet architecturally constrained recognition of the problem (2.2.4).

A clarification of register is in order before the analysis proceeds. Throughout this chapter, "civilian harm" denotes harm at the aggregate, population level: the inflationary pressure, currency depreciation, parallel-market distortion, and contraction of ordinary access to essential goods that the architecture transmits to the Iranian population at large. It does not denote the position of designated persons and entities, whose individual rights, including the procedural legality of their listing, raise a distinct set of questions addressed separately in 2.1.2. The humanitarian protections examined below are therefore assessed not by whether they secure the personal entitlements of the listed, but by whether they keep open the channels through which medicine, food, and relief reach the unlisted population. It is against that benchmark that their structural adequacy is measured.

2.2.1 The Formal Design of Humanitarian Space

On its face, neither the UNSC nor the EU regime is indifferent to the population's humanitarian needs. Each is built so that essential civilian supply is, in principle, shielded from the prohibitions, and each shield it through the same two-tier device. The first tier is one of scope: the measures are addressed to proliferation-sensitive activity and to designated persons and entities, not to the ordinary trade in food, medicine, and relief on which the wider population depends, which the instruments expressly contemplate may continue. The second tier is one of channeling: where a measure would otherwise capture a humanitarian transaction, the architecture routes it through a dedicated lane, a notification or licensing channel administered by a gatekeeping authority. The protected space is therefore real, but it is conditional and procedural; it exists to the extent that the population's suppliers can route their transactions through the channel the architecture prescribes.

In the UNSC track, the population-facing channel is built into the foundational resolution. While Resolution 1737 (2006) directs the freeze at designated persons and entities,[113] it authorises the Sanctions Committee to permit, on a case-by-case basis, transfers serving "food, agricultural, medical or other humanitarian purposes".[114] The continued supply of essentials to the population is thus not prohibited outright; it is made to depend on a determination by a political organ of the Council, granted transaction by transaction. The architecture is, if anything, at its most solicitous where the individual designee is concerned: the same resolution carefully exempts the listed person's own "basic expenses", foodstuffs, medicines, rent, taxes, insurance, subject only to Committee non-objection within five working days, with "extraordinary expenses" requiring positive approval.[115] The protected entitlements of the sanctioned individual are, in this sense, more precisely drawn than the protected access of the population at large.

The EU track makes the population-facing channel more explicit still, while relocating the gate to the Member States. Regulation (EU) No 267/2012 imposes the asset freeze, but its regime for transfers of funds carves out a lighter lane precisely for civilian essentials: transfers connected to "foodstuffs, healthcare, medical equipment, or for humanitarian purposes" require no prior authorization and are subject only to advance notification above a EUR 10,000 threshold. As in the UNSC system, the Regulation simultaneously provides, through national competent authorities — for the basic needs and extraordinary expenses of the listed persons themselves.[116] The formal design, across

[113] UNSC Res. 1737 (n 2), para. 12
[114] Ibid para 9
[115] Ibid. para. 13(a) - para. 13(b)
[116] Reg (EU) No 267/2012, art 30(1)(a) - Reg (EU) No 267/2012, art 26(1)– (2)

both systems, is therefore unambiguous in intent: the population's access to medicine and food is meant to remain open, and the architecture supplies the channels to keep it open.
Two features of this design will matter for what follows. First, in every instance the protection is not an immunity but a permission: civilian supply is lawful only once it has been routed through, and cleared by, the prescribed channel, notification here, authorization there, a committee or a competent authority at the gate. Second, the architecture is, if anything, more exact about the personal expenses of the designated individual than about the population's access to essentials, which it secures only in the aggregate and only through the willingness of intermediaries to use the channel at all. The decisive question is therefore not whether these humanitarian channels exist, they plainly do, but whether a channel that is open *in law* is one through which medicine and food actually flow. That is the question the next section takes up.

2.2.2 The Architecture of Uncertainty

The previous section closed on a distinction between a channel that is open in law and one through which medicine and food actually move. That distinction is the subject of this section. The formal permissions mapped above are not self-executing; between "lawful" and "doable" lies a field of uncertainty that the architecture itself produces. Humanitarian trade does not become operationally difficult because the rules forbid it. It becomes difficult because the rules cannot tell the actors who must rely on them, in advance and with confidence, that it is allowed, and because the cost of guessing wrong falls entirely on those actors. The result is an architecture of uncertainty, in which the formal grant of permission and the practical capacity to use it come apart.
The first source of that uncertainty is definitional. The very category on which the protected space depends is indeterminate: there is a "lack of consensus among regulators over the scope of sanctions exemption and the vagueness of the notion of 'humanitarian exemption', to the point that, on one reading, no good can be safely authorized at all times, since whether an item counts as humanitarian may turn on context rather than on the nature of the product.[117] Compounding the problem, public regulators decline to share the burden of interpretation, leaving the determination to private banks who cannot properly be left to construe how exemptions will be administered, lacking the legal skill and

[117] Mallard, Sabet and Sun (n 23) 125.

political authority to do so. The meaning of the exemption is thus settled not by the lawmaker who enacted it but by the risk-bearing intermediary who must apply it.

The second source of difficulty is administrative, and it falls with particular weight on the financial intermediaries through whom any cross-border humanitarian transaction must pass. Even an activity that is, in principle, clearly permitted must be validated against a plurality of overlapping regimes, UNSC, EU, and US and the cost of that validation is borne by the actor who executes the payment. As Gałka observes, the burden rests on the operator to confirm that a transaction is lawful under every applicable framework, a requirement that demands prior authorization under different legal systems and produces administrative obstacles capable of "delay or even block critical humanitarian interventions".[118] For a bank, validation means running the layered and uncertain customer-, customer's-customer-, and transaction-screening procedures (KYC, KYCC, KYT)[119] that the transnational governance of sanctions demands, and clearing the payment through a chain of correspondent relationships at each link of which it may be refused.[120] Because due diligence may fail to detect a connection to a designated entity and beneficial ownership is rarely transparent, the intermediary cannot cheaply establish that a humanitarian payment is in fact clean. In the Iranian case, legal permission and practical capacity came apart precisely at this banking gate: even companies holding the requisite license to import food and medicine were, the UN Secretary-General reported, "facing difficulties in finding third-country banks to process transactions".[121] Pharmaceutical firms and their banks proved reluctant to engage at all, given exposure to secondary sanctions and the difficulty of receiving payment, while the banking process for those who persisted was itself complex and protracted;[122] and the exemption rules on which they were meant to rely were imprecise, poorly understood, and attended by no monitoring standard, so that humanitarian supplies were blocked in practice.[123] The same

[118] Gałka (n 24) 465.

[119] KYC ("Know Your Customer"), KYCC ("Know Your Customer's Customer"), and KYT ("Know Your Transaction") refer to layered compliance and due-diligence procedures used by financial institutions to identify clients, trace counterparties and beneficial ownership, and monitor the purpose and risk profile of transactions for anti-money-laundering and sanctions-compliance purposes.

[120] Mallard, Sabet and Sun (n 23) 132.

[121] UN Human Rights Council, 'Report of the Secretary-General on the Situation of Human Rights in the Islamic Republic of Iran' (11 March 2014) UN Doc A/HRC/25/75

[122] Fatemeh Kokabisaghi, 'Assessment of the Effects of Economic Sanctions on Iranians' Right to Health by Using Human Rights Impact Assessment Tool: A Systematic Review' (2018) 7 International Journal of Health Policy and Management 374, 387 <https://doi.org/10.15171/ijhpm.2017.147>.

[123] Ibid 389.

burden is visible in the humanitarian sector itself, where NGOs report dedicated screening software, specialized compliance staff, and the fragmented derogation procedures of different national authorities, at an annual cost running into the hundreds of thousands of euros per organization.[124] The financial intermediary, in short, becomes the reluctant operational gatekeeper of the protected space, and the cost and uncertainty of proving a transaction lawful, concentrated on that gatekeeper, is what converts a legal permission into an operational obstacle.

The third source, and the most consequential, is the asymmetry of enforcement risk. The intermediaries on whom humanitarian supply depends operate under the shadow of penalties that bear no proportion to the value of any individual humanitarian payment. Mallard's catalogue of global banks fined for Iran-related violations, Credit Suisse, BNP Paribas, Standard Chartered, and others, illustrates the magnitude of exposure, as does the threat of being cut from the US financial market through secondary sanctions, which can be devastating. The asymmetry is structural: the return on processing a payment for medicine is negligible, while the downstream cost of misjudging an exemption is potentially existential. It is for this reason that, even where the United States insists it observes a broad humanitarian exemption, a payment for medicine or food directed to an entity "even remotely controlled by a designated entity", Mallard's own example is the Revolutionary Guards, is treated by banks as unsafe.[125] The pervasiveness of the designated actor in the target economy thus radiates outward, rendering ordinary civilian trade suspect by association.

Taken together, definitional vagueness, administrative burden, and asymmetric enforcement risk constitute an architecture of uncertainty: the law permits, but it cannot reassure. This uncertainty is not yet the harm with which this chapter is concerned; it is the precondition for it. It explains why a transaction that is lawful is also doubtful, but not yet why the actors who face that doubt abandon the transaction altogether. The translation of doubt into withdrawal, which converts an architecture of uncertainty into a market that exits, is the subject of the next section.

[124] Manfredi and Jugl (n 45).
[125] Mallard, Sabet and Sun (n 23) 131.

2.2.3 The Behavioral Response: Overcompliance, De-risking, and Withdrawal

The architecture of uncertainty described above does not, by itself, halt a single transaction. What halts transactions is the response of the actors who must operate within that uncertainty, and that response is not to calibrate conduct to the legal line but to retreat well behind it. Faced with rules they cannot reliably interpret and penalties out of all proportion to the value of any single transaction, intermediaries do not ask how close to the prohibition they may lawfully go; they ask how far from it they must stay to be safe. The harm with which this chapter is concerned is generated in that gap: in the distance between what the law forbids and what private actors, anticipating the law's force, decline to do even where it permits.

The literature captures this behavior through two related concepts. Gałka distinguishes overcompliance, in which actors exceed the legal requirements of sanctions and thereby impede otherwise lawful activity, from de-risking, the "complete or partial withdrawal from engagements perceived as risky" undertaken even where the activity is lawful and falls within an existing exemption. What unites them is that both exceed what the law in fact demands, and both are driven, on her account, by the fear of legal, reputational, and financial consequences and by the absence of clarity in the regime itself.[126] The conduct is, by definition, a response to a risk the law does not actually impose.

The empirical record bears this out at the level of the global banking system on which all cross-border humanitarian supply depends. Mallard, Sabet, and Sun find that, rather than apply the uncertain customer - and transaction-screening procedures that a calibrated approach would require, global banks have chosen to de-risk on a mass scale, dropping clients from Iran and other sanctioned jurisdictions wholesale, including in the humanitarian field. The driver is again the asymmetry of stakes: the threat of a large US fine for engaging the wrong Iranian client far outweighs the modest cost of losing that client, and banks remain profit-seeking institutions. The settled posture that results is not risk analysis at all, but a blanket refusal of "any commercial relationship with any entity in that jurisdiction".[127] Nor does the withdrawal stop at the largest institutions: through their own exposure to secondary sanctions, global banks press smaller European, Middle

[126] Gałka (n 24) 465.
[127] Mallard, Sabet and Sun (n 23) 132.

Eastern, and correspondent banks to sever Iranian ties in turn, so that the exit propagates down the entire chain of intermediaries.

It is at this point that the behavioral response becomes civilian harm. The withdrawal is not confined to banks: Manfredi and Jugl document a parallel "chilling effect" through which NGOs, donors, and suppliers curtail humanitarian provision out of perceived legal and reputational risk.[128] As the intermediaries exit, the consequence for the population is direct. Mallard observes that the contraction of correspondent banking can cause the trade in vital goods to stop outright or to "enter through the black market at significantly inflated prices" that enrich opportunistic middlemen.[129] As Chapter 3 will show, this dynamic was not merely theoretical in the Iranian case: disruptions in banking and payment channels contributed directly to delays, shortages, inflated prices, and the increasing reliance on informal and parallel-market pathways for the procurement of medicines and other essential goods.

This operates alongside a broader macroeconomic channel, hard-currency shortage and the resulting depreciation of the rial, which raises the price even of domestically produced generic medicines that depend on imported inputs, though, as Mallard is careful to note, effects of that kind pervade every sector of a sanctioned economy and cannot be laid at the door of the financial mechanism alone.[130] The population's access to medicine and food is thus eroded from two directions at once, and the humanitarian exemptions mapped in 2.2.1 reach neither.

What emerges clearly from the foregoing analysis is that the financial mechanism cannot plausibly be treated as the sole source of the civilian harm associated with sanctions. The deterioration in access to medicine and essential goods is transmitted through multiple and overlapping channels, including oil restrictions, foreign-currency shortages, inflationary pressure, currency depreciation, black-market expansion, and domestic economic dysfunction, all of which interact within the wider sanctions' environment. Yet what is equally clear is that the financial architecture examined here functions as one of the principal mechanisms through which those broader pressures are translated into concrete obstacles to civilian access. Banking restrictions and correspondent-withdrawal dynamics do not exhaust the explanation for the resulting harm, but they materially

[128] Manfredi and Jugl (n 45) 1524.
[129] Mallard, Sabet and Sun (n 23) 133.
[130] Ibid 126.

intensify it by obstructing payments, delaying procurement, and rendering even formally lawful humanitarian trade operationally fragile.

The structural significance of all this lies in where the harm is generated. The exemptions are drafted against the formal scope of the prohibitions, against what the law forbids. The withdrawal, by contrast, occurs outside that scope, in the conduct private actors decline even where the law permits it; and a carve-out written against the formal scope cannot, as a matter of logic, reach behavior that takes place beyond it. The asymmetry is compounded by the structure of incentives: the regime punishes an intermediary that engages wrongly, but imposes no penalty whatever on one that withdraws unnecessarily, offering instead near-certainty that there will be no consequence for declining to engage with Iran at all. Protection of this design can therefore permit, but it can never compel; it can lower the legal barrier, but it cannot move the intermediary across it. This is the structural incapacity the section set out to demonstrate, and it is the precise problem the Security Council would later confront in Resolution 2664 (2022), whose limits are the subject of the final section.

2.2.4 Resolution 2664 (2022): A Partial Recognition

Against this background, Resolution 2664 (2022) represents a genuine development. Acting under Chapter VII, the Security Council converted the case-by-case, committee-gated model described in 2.2.1 into a standing exemption: the provision of funds, goods, and services necessary for the timely delivery of humanitarian assistance by United Nations bodies, humanitarian organizations, and NGOs participating in UN response plans is declared "permitted and... not a violation" of the asset freezes,[131] and that exemption applies by default to all future asset freezes absent an explicit decision to the contrary.[132] The resolution also embeds an unusually candid acknowledgement: its preamble affirms that sanctions are "not intended to have adverse humanitarian consequences for civilian populations"[133], and it requests the Secretary-General to report on the "unintended adverse humanitarian consequences" of the Council's own measures.[134] As the Commentary on the Guiding Principles on Sanctions, Business and

[131] UNSC Res. 2664 (2022), para. 1
[132] Ibid, para. 4
[133] Ibid, preamble
[134] Ibid, para 7

Human Rights (GPSSBHR) observes, 2664 "lays down a limited, standing humanitarian-related carve-out".[135] This is a real normative advance, and it should not be understated. Its limits, however, are equally structural, and they are of two kinds. The first is one of scope. By its terms, 2664 reaches only the asset freezes imposed by the Council and its Committees,[136] not travel bans or arms embargoes, and within that domain its application is, if anything, broad: paragraph 4 extends the carve-out by default to all future asset freezes absent a contrary decision, while only the most sensitive regime, the 1267/ISIL/Al-Qaida measures, received a time-limited application of two years pending a decision on extension.[137] What it does not reach at all are the European Union's autonomous measures and the United States' secondary apparatus. For the Iranian case this is decisive: as 2.1 established, the measures that generate the population-level harm are the EU and US layers, not the largely transformed UN track. A standing carve-out for UN asset freezes therefore leaves the harm-generating layers of the Iranian architecture untouched, which is why, in the GPSSBHR's assessment, an initiative of "limited scope (freezing of assets only)" may not produce an enabling environment for humanitarian actors even for the procurement of exempted food and medicine.

The second limit is more fundamental, because it concerns the register in which the resolution operates. Resolution 2664 acts on formal legality: it renders a humanitarian transaction "not a violation." But the harm traced in 2.2.3 is not produced by formal illegality; it is produced by the private, anticipatory withdrawal that occurs beyond the formal scope of the prohibitions. Declaring a transaction permitted does not make an intermediary willing to execute it. Indeed, the resolution's own paragraph 3 requires providers to "use reasonable efforts to minimize the accrual of any benefits prohibited by sanctions" and to strengthen risk management and due diligence,[138] adding a compliance obligation that mirrors, rather than relieves, the risk-aversion that drives de-risking.

The GPSSBHR commentary confirms the outcome: instruments implementing 2664 "do not provide any guarantees preventing over-compliance including the blocking of bank transfers," and leave humanitarian actors bearing the burden of proving the purely

[135] UN Guiding Principles on Sanctions, Business and Human Rights, Commentary on the UN Guiding Principles on Sanctions, Business and Human Rights (2025) 5.
[136] UNSC Res. 2664 (2022), para. 1
[137] Ibid, para 2
[138] Ibid, para 3

humanitarian nature of their deliveries. The carve-out moves the legal line; it does not move the intermediary across it.[139]

Resolution 2664 is therefore best read as a partial recognition, neither a solution nor an irrelevance. It is a genuine acknowledgement by the Security Council that humanitarian activity had become structurally endangered by sanctions-compliance practice, and a real improvement within the single layer it governs; yet it is constrained by the architecture in which it sits, correcting the formal-scope problem for UN asset freezes while leaving both the other layers and the extra-textual mechanism of harm intact. That the Council's most deliberate attempt to close the gap should leave the gap substantially open is not an accident of drafting. It is, rather, the clearest demonstration of this chapter's central claim: the distance between the regime's formal protective commitments and the foreseeable harm to civilians is a product of the architecture's design, not of imperfect implementation.

2.3 Selective Enforcement and Tolerated Circumvention

Section 2.2 established that the gap between the regime's protective commitments and the harm it inflicts on Iran's population is a matter of design: the humanitarian architecture is structurally incapable of offsetting the effects the sanctions generate. This section turns from design to operation. The same architecture is not enforced with uniform rigor; its enforcement bends to the geopolitical and economic interests of the states that wield it. Violations are pursued where rigor serves those interests and tolerated, or quietly relieved, where it does not. This selectivity is the second face of the hypocrisy the chapter describes: the regime's commitments, prohibitive and protective alike, are honored or suspended according to interest rather than principle. The section traces that selectivity through the uneven enforcement of the rules (2.3.1) and the circumvention that enforcing states knowingly tolerate, including the European Union's own failed attempt to remedy it (2.3.2), before asking where, in such a system, responsibility for the resulting harm can be located (2.3.3).

[139] GPSSBHR, p. 5

2.3.1 The Selectivity of Enforcement

Enforcement of the Iranian regime depends on the voluntary implementation and reporting of individual States, and the record reveals a systematic gap between the formal absence of reported violations and the documented reality of non-enforcement. The Panel of Experts recorded that it had received "no report regarding violations of Security Council financial sanctions," even as it continued to gather evidence of the concealment methods used to route Iranian financial transactions.[140] The travel ban tells the same story: although no Member State reported a single violation, the Panel logged media documentation, photographs and video, of the designated Quds Force commander, subject to the ban, travelling openly.[141] The lesson is not that enforcement is impossible but that it is discretionary; a flagrant and publicly evidenced breach produced no state report, because reporting and enforcement are governed by political will rather than legal compulsion.

That discretion tracks geopolitical interest. The same instruments are applied rigorously against some targets and relaxed for others as the strategic calculus shifts. The Special Rapporteur documented the European Union's decision in 2013 to "selectively lift its oil embargo" on the Syrian Arab Republic in relation to territories held by insurgent groups,[142] sanctions relief calibrated not to humanitarian need but to a desired political outcome. In the Iranian case the selectivity implicates the enforcing states' own commitments: the Special Rapporteur observed that the United States' reimposition of a comprehensive embargo purporting to bind third parties worldwide itself stood in violation of Security Council resolution 2231 (2015) and the relief Iran was owed under the JCPOA.[143] The state most insistent on enforcement against Iran was, on this account, simultaneously in breach of the multilateral instrument it had endorsed.

What these instances share is that enforcement is neither uniform nor principled: it follows interest. This bears on the chapter's argument in a precise way. Were the harm to Iran's population the unavoidable by-product of a consistently applied legal regime, it

[140] United Nations Security Council, 'Final Report of the Panel of Experts Established Pursuant to Resolution 1929 (2010)' (1 June 2015) UN Doc S/2015/401, para 57.

[141] Panel of Experts Report (S/2015/401), para 67

[142] UN Human Rights Council, 'Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights' (30 August 2019) UN Doc A/HRC/42/46, paras 7, 42.

[143] A/HRC/42/46, para. 7

might be defended as the regrettable cost of even-handed enforcement. But a regime enforced selectively, stringently where interest demands and leniently where it does not, cannot represent its civilian costs as the necessary price of a neutral rule. Selectivity reframes those costs from accident to choice. Its sharpest form is the mirror image of non-enforcement: the circumvention that enforcing states knowingly tolerate when it serves them, to which the next section turns.

2.3.2 Tolerated Circumvention and the Failure of the European Remedy

Where the previous section concerned non-enforcement, this one concerns the active toleration of circumvention. The Panel of Experts documented an array of parallel channels through which Iranian transactions were routed so as to conceal their connection to Iran: financial transactions conducted through non-sanctioned banks, migrating from the United Arab Emirates to banks in the South Caucasus, Central Asia, and South-East Asia, with Iranian interests reportedly acquiring a controlling stake in one such bank to route transfers through Bank Melli and Bank Saderat, alongside front companies whose money-laundering role the Financial Action Task Force had flagged.[144] These are the same triangular intermediation structures the Panel illustrated schematically, and which, as the Panel took care to note, served legitimate trade as readily as illicit procurement.

The clearest toleration, however, lay not in what Iran did to evade the rules but in what States did to accommodate it. The Panel recorded that "some States that import oil or other energy products" from Iran authorized banks in their jurisdictions to receive payments into local-currency accounts belonging to the Iranian central bank.[145] In form, these accounts served legitimate business within the States concerned; in substance, they were a sanctioned-adjacent channel permitted to persist because those States retained an economic interest in continuing to purchase Iranian oil. Circumvention, on this evidence, was not simply Iran's transgression but a managed accommodation, tolerated precisely where the enforcing community's own interests counselled toleration.

That the accommodation was selective rather than structural is confirmed by what occurred when Europe attempted to convert ad hoc toleration into an official channel. Faced with the United States' withdrawal from the JCPOA and the reimposition of secondary sanctions, France, Germany, and the United Kingdom established in January

[144] S/2015/401, para. 59
[145] S/2015/401, para. 60

2019 a special-purpose vehicle, INSTEX, to clear Europe–Iran trade without recourse to the dollar or to US-exposed banks.[146] The vehicle was, however, hemmed in from the outset: participation was safe only for small corporations without US exposure, and the mechanism was to be used "first (and perhaps only) for humanitarian purposes".[147] Its record confirmed the limitation. INSTEX processed a single transaction, the export of medical goods to Iran in early 2020, before its ten shareholder States voted to liquidate it in March 2023.[148] The reasons remain contested: the European governments attributed the failure to Iran's persistent obstruction, while Iranian officials attributed it to Europe's want of resolve, a charge the Special Rapporteur had anticipated in doubting whether the Union would show "the adequate resolve to effectively counter United States secondary sanctions".[149]

Whichever attribution one accepts, the significance for this chapter lies elsewhere. INSTEX establishes that Europe was fully aware of the structural problem, aware that lawful, including humanitarian, trade with Iran had been foreclosed by the pressure of secondary sanctions, and that its sole official response was an instrument too narrow to reach the problem it named, confined to the very humanitarian residue that 2.2 showed the architecture already could not protect. Awareness did not produce remedy. The selective toleration of circumvention and the collapse of its only official substitute together complete the picture: an architecture not merely designed to fall short but operated to fall short, accommodated where interest dictated, and left unrepaired where it did not. Who, across so distributed a field of action and inaction, bears responsibility for the resulting harm is the question of the final section.

2.3.3 The Diffusion of Responsibility

The selectivity and tolerated circumvention traced above pose a question the architecture is poorly equipped to answer: who is responsible for the harm? The law of State responsibility, as codified by the International Law Commission, is built on a clear model.

[146] Tom Ruys and Cedric Ryngaert, ‘Secondary Sanctions: A Weapon out of Control? The International Legality of, and European Responses to, US Secondary Sanctions’ [2020] British Yearbook of International Law braa007, 101 <https://doi.org/10.1093/bybil/braa007>.
[147] Ibid 102.
[148] E3, ‘Joint Statement on INSTEX’ (9 March 2023).
[149] UN Human Rights Council, ‘Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights’ (30 August 2019) UN Doc A/HRC/42/46, para 56.

Every internationally wrongful act of a State entails its responsibility; an act is wrongful where conduct attributable to a State breaches an international obligation of that State; and a State cannot escape that characterization by invoking the lawfulness of the act under its own domestic law.[150] On its face, such a framework ought to locate responsibility with precision. In the Iranian case it does not, and the reasons are themselves part of the architecture's design.

The difficulty is that the harm is not the discrete act of an identifiable State but the cumulative product of a distributed field. As Chapter 1 argued, responsibility in such a configuration diffuses rather than attaches. The Security Council's authorizations are exercises of a Chapter VII power; the European Union's autonomous measures are presented as lawful policy; the United States' secondary pressure operates through the ostensibly lawful conditioning of access to its own market; and the most proximate agents of the harm, the private banks and intermediaries whose overcompliance (2.2.3) actually severs the population's access to essentials, are not States at all, and so fall outside the law of State responsibility entirely. Each contribution, taken in isolation, is defensible or at least contestable; the harm emerges only from their aggregation. The framework's instruments for shared responsibility presuppose precisely what is here absent: Article 16 attaches responsibility for aid or assistance only where the assisting State acts with knowledge and the assisted act would itself be wrongful if it committed it,[151] and Article 47 contemplates a plurality of responsible States only where each is responsible for the same wrongful act.[152] Neither reaches a harm generated cumulatively by acts each individually presented as lawful, the more so because the wrongfulness of the underlying measures is itself contested rather than settled.

The result is the diffusion of responsibility that this chapter has named as hypocrisy. The regime's protective commitments are genuine on paper; the harm to Iran's population is foreseeable and, as 2.2,2.3 have shown, both designed into the architecture and selectively operated within it; yet responsibility for that harm dissolves along the seams between authorization and implementation, between State and private actor, between the lawful-in-isolation and the harmful-in-aggregate. This is not a failure to apply the law of State responsibility; it is a structural property of an architecture configured, and operated, so

[150] ARSIWA, arts 1–3.
[151] ARSIWA, art 16.
[152] ARSIWA, art 47.

that no single actor need own the outcome. With the architecture mapped (2.1), its protective design shown structurally incapable of offsetting the harm it generates (2.2), and its selective operation and the diffusion of responsibility established (2.3), it remains only to draw these threads together and turn to the civilian consequences that are the subject of the chapter that follows.

This chapter set out to determine whether the gap between the Iranian sanctions regime's formal protective commitments and the harm it inflicts on Iran's population is best understood as a failure of implementation or as something more structural. Mapping the architecture (2.1) revealed a layered system, United Nations authorization, European autonomation, and United States multiplication, whose coercive reach exceeds its formal text. Examining its humanitarian design (2.2) showed that the carve-outs, licensing channels, and exemptions are drafted against the formal scope of the prohibitions, while the harm is generated by the private, anticipatory withdrawal that occurs beyond that scope, so that even the Security Council's most deliberate corrective, Resolution 2664, could amount only to a partial recognition of a problem it was not built to reach. And tracing the regime's operation (2.3) showed that the same architecture is enforced selectively and its circumvention tolerated where interest dictates, while responsibility for the resulting harm diffuses across a field too distributed, and too substantially private, for the law of State responsibility to capture.

Taken together, these findings sustain the chapter's central claim. The distance between what the regime promises and what it foreseeably produces is not the residue of imperfect implementation, of otherwise sound rules inadequately applied. It is a structural property of the architecture itself: a matter of design, in the mismatch between formal permission and operational reality; of deliberate ambiguity, in the indeterminacy that drives intermediaries to withdraw well beyond what the law requires; and of selective operation, in the discretion with which the rules are enforced and their evasion tolerated. The protective commitments are not absent. They are real, formal, and repeatedly reaffirmed, and they are nonetheless structurally incapable of offsetting the harm the architecture generates, within a system operated so that no single actor need answer for the outcome. This is the legitimated harm the chapter has traced: not the bad faith of any one actor, but a regime whose protective form and harmful function are held apart by design.

What this chapter has established at the level of architecture, the next examines at the level of effect. If the regime's protective design is structurally incapable of sparing Iran's population, the measure of that incapacity lies in the harm itself, the inflation, the depreciation of the currency, and the contraction of access to medicine and food through which the architecture's foreseeable consequences are visited, at the macro level, upon the civilian population. It is to those consequences that Chapter 3 now turns.

Chapter III - Harm Despite Exemptions: De-risking, Essential Goods, and the Foreseeability of Civilian Deprivation in the Iran Sanctions Regime

The consequences to which the preceding chapter pointed are not incidental to the sanctions architecture; they are the form in which its structural character becomes visible. This chapter argues that the humanitarian consequences of the Iran-related sanctions regime are not best understood as accidental misfortunes, nor as the merely economic by-product of measures aimed elsewhere. They are legally cognizable harms, produced through identifiable transmission mechanisms, documented across health, medicine, food, and the general standard of living, and rendered structurally foreseeable by the repeated failure of humanitarian exemptions to secure, in practice, the access they promise in form.

Two clarifications fix the register of what follows. First, the harm at issue is macro-level and population-wide: the inflation, the depreciation of the currency, and the contraction of access to essential goods that bear upon the civilian population as a whole, rather than the individual due-process grievances of designated persons and entities, which this study brackets throughout. Second, the chapter's claim is causal in a qualified and disciplined sense. It does not assert that sanctions are the sole, or even the proximate, author of every deprivation observed in Iran; it asserts that they are a foreseeable and legally significant contributor, operating through a transmission mechanism whose stages can be specified and whose endpoint, reduced access to medicine, food, and healthcare, can be documented.

It is foreseeability that does the decisive analytical work. To describe a harm as an unintended side effect is to place it beyond responsibility; to show that it is foreseeable, that it follows predictably from the very design the previous chapter described, including the overcompliance and de-risking that the architecture invites, is to relocate it from the register of accident to that of structure. The chapter's task is therefore not merely to record that harm has occurred, but to establish that it was, and remains, foreseeable: visible in advance to those who design, maintain, and enforce the regime, and legible afterwards in the evidence of its effects.

3.1 From Sanctions Architecture to Civilian Harm

The chapter proceeds in six analytical movements before concluding. Section 3.2 sets out the normative framework against which the harm is to be measured, the right to health under Article 12 of the ICESCR, the rights to food and to an adequate standard of living under Article 11, and the proportionality constraints that international law places upon coercive economic measures. Section 3.3 specifies the transmission mechanism through which financial exclusion is converted into civilian deprivation: from the severing of correspondent banking channels, through currency pressure and import inflation, to the erosion of real income. Section 3.4 examines the central case of medicine and healthcare, formally exempt, yet practically inaccessible, where the harm runs chiefly through the supply side, as financial-channel blockage and over-compliance defeat the exemptions in practice. Section 3.5 turns to the wider essential-goods pathway, food, income, and the adequate standard of living, where the harm runs chiefly through the demand side, as currency depreciation, inflation, and the erosion of real income contract access to subsistence. Section 3.6, the chapter's theoretical core, develops the argument from foreseeability, tracing the passage from side effect to structure. Section 3.7 introduces a necessary guardrail, distinguishing the harm attributable to sanctions from that attributable to domestic mismanagement, corruption, and repression, and showing how an authoritarian context amplifies, rather than absolves, the foreseeable consequences of external economic pressure. Section 3.8 concludes by recasting the foreseeable harm established here as a legally visible structural harm, and so frames the question of accountability to which Chapter 4 turns.

In establishing that foreseeable harm, and the systematic failure of humanitarian exemptions to prevent it, this chapter supplies the factual and normative predicate on which the larger argument of the thesis depends. The full charge of that argument, that humanitarian and legal commitments continue to be invoked as legitimation even as their foreseeable violation persists, belongs to the account of instrumentalization the thesis advances, and is drawn together in Chapter 4. Here the task is the antecedent one: to show that the harm is real, that it is foreseeable, and that it is legally visible.

3.2 Normative Framework - Health, Subsistence, and Proportionality

This section assembles the standard against which the later sections assess the civilian harm produced by the Iran-related sanctions regime. Its function is diagnostic, not dispositive: it identifies the rights and limits that the harm engages, and the normative concern within which that harm falls, but it does not, at this stage, determine that any State has breached an obligation. Questions of breach, attribution, and responsibility, including the differentiated positions of the several sanctioning actors, are reserved for Chapter 4. What this section establishes is narrower and prior: the yardstick by which the foreseeable harm documented in Sections 3.3 to 3.5 becomes legally legible.

The yardstick has two components. The first is substantive, the economic and social rights to health, to food, and to an adequate standard of living, whose enjoyment the harm engages. The second is structural: the proportionality and extraterritorial limits that international law places on coercive economic measures, which frame how much incidental harm to a civilian population such measures may occasion before that harm becomes a matter of legal concern. The legal weight of these materials, and their bearing on actors that are not parties to the Covenant, is addressed in Section 3.2.3.

3.2.1 The right to health (ICESCR Article 12)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to the highest attainable standard of physical and mental health, directed, among other ends, toward the prevention and treatment of disease and the creation of conditions assuring medical service to all.[153] In its authoritative interpretation of that provision, the Committee on Economic, Social and Cultural Rights requires that health facilities, goods, and services be economically accessible, affordable for all, such that poorer households are not disproportionately burdened.[154] It identifies among the minimum core obligations the provision of essential drugs as defined by the WHO, and non-discriminatory access to health facilities, goods and services, with particular regard to vulnerable and marginalized groups.[155] Most directly for present purposes, the Committee states that parties should refrain at all times from imposing

[153] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 12(1), (2)(c)–(d).
[154] UN Committee on Economic, Social and Cultural Rights, ‘General Comment No 14: The Right to the Highest Attainable Standard of Health (art 12)’ (11 August 2000) UN Doc E/C.12/2000/4, para 12(b).
[155] Ibid paras 43(a), 43(d), 47.

embargoes or similar measures restricting the supply of medicines and medical equipment to another State, adding that such restrictions should not be used as an instrument of political and economic pressure.[156] The analytical weight Chapter 3 places on that final, purposive clause, and the limits of that weight, is set out in Section 3.2.3.

3.2.2 Food and the adequate standard of living (ICESCR Article 11)

The same Covenant recognizes the right to an adequate standard of living, including adequate food, and, as a distinct guarantee, the fundamental right of everyone to be free from hunger.[157] The Committee interprets the right to require economic accessibility: the financial cost of acquiring an adequate diet must not be so high as to compromise the satisfaction of other basic needs.[158] On this interpretation the standard's concern is engaged not only by the physical absence of food but by its economic inaccessibility, food present in the market yet beyond the means of the household. In terms that parallel the health guarantee, the Committee states that food should never be used as an instrument of political and economic pressure.[159]

3.2.3 Extraterritorial Relevance, Legal Weight, and the Limits of the Yardstick

Because the measures at issue are imposed by States on a population beyond their own territory, the relevant obligations are extraterritorial in character. The Maastricht Principles, an expert restatement of extraterritorial obligations in the field of economic, social and cultural rights, formulate the obligation to respect those rights as requiring States to refrain from conduct that nullifies or impairs their enjoyment abroad,[160] and state that States should refrain from embargoes or comparable measures that impair such rights, and in all circumstances from embargoes on goods essential to meet core obligations.[161] The treaty-body interpretation and the extraterritorial-obligations literature converge on a single, modest proposition sufficient for present purposes: coercive

---

[156] Ibid para 41.

[157] ICESCR (153) art 11(1) – (2).

[158] UN Committee on Economic, Social and Cultural Rights, 'General Comment No 12: The Right to Adequate Food (art 11)' (12 May 1999) UN Doc E/C.12/1999/5, para 13.

[159] Ibid para 37.

[160] Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (adopted 28 September 2011) Principles 20–21.

[161] Ibid Principle 22.

economic measures bearing on essential goods are not, by virtue of their extraterritorial operation, beyond the concern of the Covenant.

These materials differ in legal weight, and the section relies on them accordingly. The Covenant's own provisions, Articles 11 and 12, are binding treaty obligations on States parties. The General Comments are authoritative interpretations issued by the treaty's supervisory body; they carry considerable interpretive weight but are not, in themselves, binding in the manner of treaty text. The Maastricht Principles are an expert restatement, soft-law in character, rather than an instrument adopted by States. The yardstick assembled here therefore operates at the level of authoritative interpretation and normative principle; it supplies the standard against which harm is to be assessed without being treated as a self-executing determination of liability.

The differential weight of these sources bears on the actors involved. The member States of the European Union, and other States parties to the Covenant, are bound by Articles 11 and 12 and are the addressees to whom the framework applies most directly. The United States, whose secondary-sanctions and dollar-clearing jurisdiction supplies much of the pressure examined in this chapter, signed the Covenant on 5 October 1977 but has not ratified it; accordingly, the Covenant is not used here as a source of direct treaty obligation for the United States. For that actor, the framework functions more cautiously, as a human-rights benchmark and as one element of the broader normative assessment, rather than as a source of treaty liability. The consequences of these differing positions for the responsibility of each actor are not pursued here; they are taken up in Chapter 4.

A further question must be met before the yardstick can be applied: whether standards framed around embargoes on food and medicine remain relevant where the Iran-related regime is formally targeted and provides humanitarian exemptions rather than imposing a comprehensive embargo. They do, for a reason internal to the standards themselves. The concern these provisions articulate is defined by effect on access to essentials, economic accessibility, the supply of essential drugs, freedom from hunger, and not by the formal legal character of the measure that impairs that access. A standard concerned with whether households can in fact obtain medicine and food is engaged by a foreseeable failure of access however it is produced: whether by formal prohibition or, as Sections

3.3 and 3.4 document, by the overcompliance, de-risking, withdrawal of correspondent banking, licensing uncertainty, and private commercial avoidance that a targeted architecture predictably induces.[162] The mechanism by which formally exempt goods become practically inaccessible is specified in Section 3.3; the point here is the prior one, that such an outcome falls within the normative concern of the standard rather than outside it. That the architecture provides humanitarian exemptions at all is itself an acknowledgment that the civilian population's access to essentials is a protected concern the measures must accommodate;[163] where those exemptions foreseeably fail to secure access in practice, the resulting harm is measured against a standard the regime has itself recognised, not one imposed from without.

The purposive clauses of the two General Comments, that medicine and food should not be used "as an instrument of political and economic pressure," require a limited reading at this stage. Those clauses operate at two levels. At first, the provisions protect access to essentials as such, through the requirements of economic accessibility, the minimum core obligations, and the injunction to refrain at all times from restricting supply; this protection does not depend on the purpose behind any given measure. Second, the standard reaches its strongest form in condemning the deliberate instrumental use of essentials as a lever of pressure; this formulation is purposive and presupposes an inquiry into intent and use. Chapter 3 invokes the standard at the first level only. It treats the General Comments as identifying the type of harm and risk that becomes legally significant when access to essentials is foreseeably impaired by sanctions architecture, without asserting that the purposive threshold is met, that the impairment is intended, or that it amounts to the instrumental use of human rights. Whether that stronger, purposive characterization is warranted is the question reserved for Chapter 4, and it is not prejudged here.

The structural limb of the yardstick is proportionality. Where coercive economic measures impose collateral harm on a non-target civilian population, necessity and

[162] On the mechanism, see Chapter 2, sections 2.1.3 and 2.3, and Section 3.3 below; Alena F Douhan, 'Visit to the Islamic Republic of Iran: Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights' (4 October 2022) UN Doc A/HRC/51/33/Add.1, paras 15–16

[163] See Chapter 2, Section 2.2.

proportionality govern whether that burden can be justified. The point taken from Gutmann and colleagues is methodological rather than determinative: proportionality cannot be assessed by reference to the stated aim of a measure alone but requires attention to its documented effects, their durability, and their distribution.[164] That methodological requirement frames the empirical assessment undertaken in Sections 3.3 to 3.5; it is not, in itself, a finding that the proportionality limit has been exceeded.

The yardstick thus has two prongs, the substantive economic and social rights of Articles 11 and 12, and the proportionality limit on coercive measures, both with extraterritorial reach, held at the level of authoritative interpretation and normative principle, and applied with due regard to the differing positions of the actors involved. What remains is to show that the harm the regime produces is documented, that it engages this standard, and that it was foreseeable. To the transmission mechanism through which that harm is produced, the next section turns.

3.3 Transmission Mechanism - From Financial Exclusion to Population-Level Harm

If the harm is to be called structural rather than incidental, the pathway from an architecture of financial restriction to population-level deprivation must be made explicit rather than asserted. This section specifies that pathway as a sequence of identifiable stages: financial exclusion, currency depreciation, inflation, and the erosion of real income, terminating in the contraction of access to essential goods. The sequence forks at its end into a supply-side route, developed for medicine in Section 3.4, and a demand-side route, developed for food in Section 3.5; the present section establishes the common trunk from which both branches.

The trunk begins not with a prohibition on trade in essentials but with the exclusion of Iranian banks from correspondent and dollar-clearing channels, which converts a formally bounded measure into a generalized obstruction. Foreign financial institutions and firms, fearing financial and reputational penalties, refuse to process payments or to deliver goods, and remained reluctant to restore ties even after the 2015 agreement, given the history of heavy penalties for alleged breaches.[165] The mechanism is jurisdictional:

[164] Gutmann and others (n 38).
[165] Douhan, 'Visit to Iran' (n 162) para 15.

because transactions touch United States correspondent banks or require dollar-clearing, the reach of United States sanctions extends to ordinary commerce, disrupting and delaying the provision of basic goods including food, medicines, and medical equipment.[166] This is the anticipatory private withdrawal, the over-compliance and de-risking, that the previous chapter located structurally;[167] here it enters the causal chain as its first operative link.

Financial restrictions and the freezing of foreign assets exert downward pressure on the currency, whose devaluation the Special Rapporteur ties directly to those restrictions.[168] Currency depreciation is, in turn, identified in the macroeconomic literature as among the drivers of Iran's inflation, alongside loose monetary policy and fiscal deficits, with sanctions themselves a further driver.[169] The result is sustained and, at intervals, severe inflation: price levels, and food prices especially, nearly doubled in 2012–13 and again in 2018–19.[170] The Special Rapporteur records the same pattern, noting that annual inflation rose from an average of about 14.6 per cent in 2000–2010 to 18 per cent in 2018 and 39.9 per cent in 2019, such that, after the 2018 reimposition, general prices rose by roughly 85 per cent and food prices doubled.[171] This inflation is regressive in its incidence: the poorest quintile of Iranian households devoted some 45 per cent of its budget to food, against 26 per cent for the richest,[172] so that a given price shock falls hardest where the margin is thinnest.

Inflation of this magnitude is not offset by earnings. Across the decade, real wages stayed essentially flat, nominal wages rose some 552 per cent while their real value increased by only about 10 per cent, and self-employed earnings were flat or lower.[173] The wider trajectory is one of contraction: per-capita GDP fell at roughly 0.6 per cent a year over a "lost decade,"[174] standing at USD 8,329 in 2012 against USD 2,746 in 2020.[175] The buffer

[166] Ibid para 16
[167] See Chapter 2, sections 2.1.3 and 2.3.
[168] Douhan, 'Visit to Iran' (n 162) para 22.
[169] World Bank, Iran Poverty Diagnostic: Poverty and Shared Prosperity in Iran (Report No 185679, November 2023) 9.
[170] Ibid 9.
[171] Douhan, 'Visit to Iran' (n 162) para 22.
[172] World Bank, Iran Poverty Diagnostic (n 169) 9.
[173] Ibid 22.
[174] Ibid 3.
[175] Babak RezaeeDaryakenari, Vahid Ghafouri and Nihat Kasap, 'Who Rallies Round the Flag? The Impact of the US Sanctions on Iranians' Attitude toward the Government' (2024) 21 Foreign Policy Analysis orae033, 9 <https://doi.org/10.1093/fpa/orae033>.

on which the poorest rely was itself eroded, the real value of the cash transfer having been cut nearly in half between 2012 and 2016.[176] Real income was thus squeezed from both ends, stagnant nominal earnings against rising prices, and a depreciating support payment. The terminus of the chain is reduced access to essential goods, reached by two distinguishable routes. On the supply side, the financial-channel obstruction of the first stage directly impedes the import of, and payment for, goods, the route that bears most heavily on medicine, examined in Section 3.4. On the demand side, the erosion of purchasing power contracts what households can buy even where goods are physically present, the route that bears most heavily on food. That the decline in food consumption in Iran was driven principally by demand rather than supply, food remaining largely available while affordability collapsed, is the finding that anchors Section 3.5.[177]

The chain establishes sanctions as a foreseeable and legally significant contributor, not as the sole author of Iranian deprivation. The sanction-specific contribution is nonetheless identifiable rather than assumed: synthetic-control estimates place Iran's GDP some twelve to nineteen percentage points below a no-sanctions counterfactual,[178] and the inflation to which the chain leads is one in which sanctions feature among the named drivers.[179] That other forces, oil-price volatility, domestic fiscal and monetary policy, and the pandemic, operate alongside the sanctions is acknowledged here and addressed as a guardrail in Section 3.7; it qualifies the attribution without dissolving it.

3.4 The Health and Medicine Channel - Formally Exempt, Practically Inaccessible

It is in the supply of medicine that the distance between the regime's formal commitments and its operative effects is most sharply drawn. According to the sanctions instruments themselves, the importation of medicines and medical equipment is unaffected, being covered by humanitarian exemptions; yet their delivery has been severely undermined by the effects of sanctions on finance, trade, shipping, and insurance, by restrictions on

[176] World Bank, Iran Poverty Diagnostic (n 169) 21.
[177] RezaeeDaryakenari, Ghafouri and Kasap (n 175) 9.
[178] World Bank, Iran Poverty Diagnostic (n 169) 8.
[179] Ibid 9.

international payments, and by the overcompliance of foreign businesses and suppliers.[180] The exemption stands in the text; the access it promises does not follow in practice.

The mechanism is the supply-side route traced in the previous section, here bearing upon a single class of goods. Iran produces an estimated 95 per cent of its own medicines and basic vaccines, precisely in order to mitigate the effect of sanctions; but its pharmaceutical manufacturers cannot reliably procure raw materials and active ingredients of the necessary quality, and the cost of what can be purchased abroad has risen.[181] For medicines and equipment that must be imported, the obstruction is financial rather than legal: licensed importers have been unable to find third-country banks willing to process transactions for medicine and food,[182] and the severing of international banking ties, compounded by a shortage of foreign currency and the protracted character of any permitted importation, has produced further shortages.[183]

The resulting harm is neither diffuse nor speculative. The Special Rapporteur records the absence of sustainable medical supplies since 2011 and identifies particular difficulty in procuring life-saving medicines and equipment for serious and rare conditions, among them certain cancers, thalassemia, hemophilia, leukemia, ichthyosis, multiple sclerosis, epidermolysis bullosa,[184] autism, and some forms of diabetes.[185] She records testimonies of acute shortages and exorbitant prices, and of patients rationing their doses or reselling their medication to meet other basic needs such as food.[186] The same pattern appears in

[180] See Chapter 2, section 2.2; Alena F Douhan, 'Visit to Iran' (n 162) para 29.
[181] Douhan, 'Visit to Iran' (n 162) para 27.
[182] Kokabisaghi (n 122) 383.
[183] Ibid 387.
[184] The case of epidermolysis bullosa patients illustrates the mechanism in concrete form. The Special Rapporteur notes that Mölnlycke, a Swedish medical-products manufacturer, halted exports to Iran after the reimposition of United States sanctions in 2018, including specialised dressings needed by EB patients, after it became impossible to secure a bank or other institution willing to process the necessary transactions. The case shows that the obstacle was not the formal legal status of the goods as prohibited items, but the collapse of the payment and compliance infrastructure through which exempt goods had to move. In this sense, the EB case condenses the chapter's broader claim: humanitarian exemptions may remain legally available while the financial and commercial channels required to make them effective have withdrawn. See Douhan, 'Visit to Iran' 28–33. For an illustrative account of the EB/ Mölnlycke case and the EB Home materials, see Helyeh Doutaghi, 'Wealth Drain and Value Transfer: A Study of the Mechanisms, Harms, and Beneficiaries of the Sanctions Regime on Iran' (PhD thesis, Carleton University 2024) 7–10.
[185] Douhan, 'Visit to Iran' (n 162) para 28.
[186] Ibid para 30.

the public-health literature, which reports that components for the diagnosis and treatment of cancer became, in 2012, in some cases entirely unavailable.[187]

This is the point at which the chapter's central claim is cashed out. Because the sanctions architecture provides an exemption for medicine, it concedes that the supply of medicine lies within the protection of the rights set out in Section 3.2; the failure of access is therefore a failure measured against the regime's own standard, not an external one. And that failure is, on the evidence, comprehensive: humanitarian exemptions did not protect Iranians from the adverse effects of the sanctions.[188] What defeats the exemption is not a competing prohibition but the anticipatory private withdrawal, the over-compliance and de-risking, established structurally in Chapter 2 and traced as a mechanism in Section 3.3.

An objection that the proportionality yardstick of Section 3.2 might be thought to invite should be met directly here. A prominent quantitative study finds that, once the endogeneity of sanction imposition is modelled, cross-country data do not support a finding of disproportionate harm to economic rights.[189] That finding does not reach the harm documented in this section. It measures aggregate human-rights indices pooled across many sanctioned states; it does not measure the channel isolated here, the financial-channel obstruction of named, life-saving medicines in a single country. The proportionality assessment that Section 3.2 requires is to be conducted against this documented, channel-specific injury, not against an average in which it disappears.[190]

The harm to the medicine channel runs, then, chiefly through the supply side: an exemption defeated by financial exclusion and overcompliance. Its counterpart, the contraction of access to food and the wider conditions of subsistence, running chiefly

[187] Kokabisaghi (n 122) 387.
[188] Ibid 374.
[189] Gutmann and others (n 38) 425.
[190] Gutmann and others find that, once the endogeneity of sanction imposition is modelled, aggregate cross-country data do not support a general finding that economic sanctions produce disproportionate harm to economic rights. Their analysis, however, operates at the level of pooled human-rights indicators across sanctioned states and distinguishes broad categories such as basic, economic, emancipatory and political rights. It does not assess the specific channel examined here: the obstruction of financial transactions necessary for the supply of named life-saving medicines in Iran. The point taken from the study is therefore methodological, proportionality requires empirical assessment, not dispositive of the channel-specific injury documented in this section. See Gutmann and others (n 38) 425.

through the demand side, is the subject of the next section. That the harm was something the international community, in the words of one assessment, "should have predicted"[191] anticipates the argument from foreseeability to which Section 3.6 returns.

3.5 The Wider Essential-Goods Pathway - Food, Income, and the Adequate Standard of Living

Where the medicine channel runs through the supply side, the pathway to food and subsistence runs through the demand side. Its signature is not scarcity but unaffordability: food remained largely available in Iranian markets, yet the collapse of purchasing power placed an adequate diet beyond the reach of a growing share of the population.[192] This is precisely the injury the right to food is interpreted to capture. As Section 3.2 set out, the Covenant's standard of economic accessibility is breached not only by physical scarcity but where the financial cost of an adequate diet is such that the satisfaction of other basic needs is compromised.[193] The harm at issue here is therefore not an incidental economic hardship but the contraction of a protected right.

The income erosion traced in Section 3.3, flat real wages, a contracting per-capita output, and a support payment whose real value was halved, has its endpoint in subsistence. Over the decade to 2020 the share of Iranians living below the international poverty line rose from 20 per cent to 28.1 per cent, some 9.5 million people falling into poverty;[194] the depth of poverty deepened alongside its incidence.[195] The burden fell where it could least be borne: the poorest quintile devoted roughly 45 per cent of its budget to food, so that the near-doubling of food prices in 2012-13 and again in 2018-19 translated directly into dietary loss.[196]

That loss is visible at the level of the household plate. Across almost every food group, consumption fell significantly during the severe-sanction periods, with an unfavourable

---

[191] Kokabisaghi (n 122) 374.
[192] Babak RezaeeDaryakenari, Payam Asadzade and Cameron G Thies, 'Economic Sanctions and Food Consumption: Evidence from Iranian Households' (2024) 68(3) International Studies Quarterly sqae103.
[193] ICESCR (n 153) art 11; CESCR, General Comment No 12 (n 158) para 13.
[194] World Bank, Iran Poverty Diagnostic (n 169) 14.
[195] Ibid 14–15.
[196] Ibid 9.

substitution of bread for rice and a consistent decline in protein, seafood consumption falling by some 22 per cent and fruit and vegetable consumption by around 9 per cent.[197] Crucially, this decline was driven by demand rather than supply: it followed not from any failure of food to reach the market but from the erosion of what households could afford to buy. The injury, in other words, is the economic inaccessibility that the right to food specifically prohibits.

The distribution of the harm is itself analytically significant. Its weight fell disproportionately on low-income and rural households, while there is little evidence that the country's ruling elites experienced any comparable loss of access to food.[198] The rural-urban divide widened over the decade, with rural poverty increasing roughly twice as fast as urban.[199] That the same external pressure produced deprivation at the base of the income distribution and left its apex largely untouched is a pattern to which the attribution analysis of Section 3.7 returns; for present purposes it suffices that the harm, in the assessment of those who measured it, functioned as a form of collective punishment borne by the civilian population and most heavily by its most vulnerable members.[200]

Measured against the yardstick of Section 3.2, the verdict for this channel mirrors that for medicine. The economic inaccessibility of food engages the right to adequate food and the right to be free from hunger under Article 11, and the broader contraction of living standards engages the same provision; the harm is documented, it is channel-specific, and it falls hardest on those least able to absorb it. Both channels of the chapter's argument are now established as legally cognizable harm, the supply-side obstruction of medicine and the demand-side contraction of subsistence. What remains is the question on which the chapter's larger claim turns, and to which the next section is devoted: whether this harm was, and remained, foreseeable.

197 RezaeeDaryakenari, Asadzade and Thies (n 192).
198 Ibid 9.
199 World Bank, Iran Poverty Diagnostic (n 169) 27.
200 RezaeeDaryakenari, Asadzade and Thies (n 192) 9.

3.6 Foreseeability and Knowledge - From Side Effect to Structure

The harm established in the preceding sections does not become structural merely by being severe. What makes it structural is that it was foreseeable: not an accident befalling an otherwise well-designed regime, but the predictable product of the regime's design. This section establishes that foreseeability along three lines, that the category of harm was authoritatively identified in advance, that it follows predictably from the architecture described in Chapter 2, and that it has been repeatedly documented, by independent observers, as something that was to be expected. Together these convert the language of the "unintended side effect" into the language of structure.

The harm was named before it was inflicted. Well before the intensification of the Iran-related regime, the bodies charged with interpreting the Covenant had identified restrictions on the supply of medicine and food as a distinct category of wrong, holding that such restrictions must never be used as an instrument of political and economic pressure.[201] The category of harm at issue in this chapter was thus not discovered after the fact; it had been authoritatively described and proscribed in advance. Those who design, maintain, and enforce a regime bearing on the supply of essential goods cannot claim ignorance of a risk that the treaty bodies had already named.

It follows predictably from the design. As Chapter 2 established, the architecture's enforcement does not operate principally through direct prohibition but through private financial and commercial actors, acting under the threat of secondary sanctions and the cost of alleged breach. Given that design, the anticipatory withdrawal of those actors, the over-compliance and de-risking that defeats the exemptions in practice, is not an aberration but the predictable response to the incentives the architecture creates. The failure of access documented in Sections 3.4 and 3.5 is therefore foreseeable from the structure itself: the harm is the design operating as designed, not the design failing.

It has been documented as foreseeable, repeatedly and across disciplines. The public-health assessment of the Iranian case concludes that the international community should have predicted the probable humanitarian effects.[202] The political-economy literature treats the human-rights consequences of sanctions as outcomes that have been extensively studied and should not be considered unanticipated.[203] And the broader analysis of

201 CESCR, General Comment No 12 (n 158) para 14.
202 Kokabisaghi (n 122).
203 Gutmann and others (n 38) 2–4.

sanctions' collateral effects captures the same point in the formulation that such harms, though unintended, are unavoidable in practice. Those assessments proceeding from health, from political economy, and from the study of collateral damage converge on the predictability of the harm is itself evidence that the harm is not accidental.

Once a harm has been authoritatively prohibited in advance, follows predictably from the chosen design, and is repeatedly documented as expected, the description of it as an "unintended side effect" no longer holds. It is foreseeable in the precise sense that matters: visible in advance to those who design, maintain, and enforce the regime, and legible afterwards in the evidence of its effects. This is what it is to call the harm structural rather than accidental, and it is the element of knowledge, of the harm's visibility to those positioned to foresee it, that distinguishes a structural harm from a misfortune.

Two limits frame this conclusion. The first looks forward within the thesis: foreseeability establishes that the harm is structural and legally visible, but it is the predicate of the larger argument, not its whole. That humanitarian and legal commitments continue to be invoked as legitimation even as their foreseeable violation persists, the charge of instrumentalization, is drawn together in Chapter 4; this chapter supplies the foreseeable structural harm on which that charge will rest. The second looks to the next section: that a harm is foreseeable does not yet establish that it is attributable to the sanctions rather than to the domestic conditions of the target state. It is to that question of attribution, and to the guardrail it requires, that the analysis now turns.

3.7 Attribution Guardrail - Sanctions, Mismanagement, and Authoritarian Amplification

A harm shown to be foreseeable must still be shown to be the harm of the sanctions, and not of the conditions of the state on which they fall. The objection this section meets is a serious one: that Iranian deprivation owes much to domestic mismanagement, a weak banking system, corruption, and political repression, and that these, rather than external measures, are its true authors. The answer offered here is not to deny the domestic contribution but to locate it correctly. The domestic structure does not absolve the sanctions; it distributes and amplifies their foreseeable harm. The guardrail is constructed, accordingly, not to qualify the attribution but to discipline it.

The domestic contribution is real and must be conceded plainly. Iran's economy carried structural weaknesses independent of any external measure: a weak banking sector and persistent structural bottlenecks were identified by the Fund as risks in their own right.[204] Even the recovery of correspondent banking relationships was hampered in part by Iran's own incomplete anti-money-laundering and counter-terrorist-financing reforms, whose completion the Fund linked to restoring confidence in the system and facilitating those relationships.[205] Domestic policy, too, distortive subsidies, and a pattern of growth that left the bottom of the distribution behind, shaped welfare outcomes that no external measure imposed.[206]

The concession does not dissolve the attribution, because the sanction-specific contribution is established on its own terms rather than by residue. The financial-exclusion mechanism traced in Sections 3.3 and 3.4 is an artefact of the sanctions, not of domestic policy, and its macroeconomic weight is quantified: synthetic-control estimates place Iran's output some twelve to nineteen percentage points below a no-sanctions counterfactual.[207] Tellingly, even the correspondent-banking weakness the Fund frames as a domestic reform problem is overdetermined, it is suppressed at once by Iran's regulatory gaps and by the secondary-sanctions and overcompliance dynamic the Special Rapporteur documents.[208] The channel is throttled from both sides; removing the sanctions' contribution would not leave the harm intact. The methodological caution cuts in both directions: just as one must not attribute Iran's pre-existing conditions to the sanctions, one must not attribute the sanction-induced increment to those pre-existing conditions.[209]

Where the domestic structure does its work is in the distribution of the harm. The deprivation documented in this chapter did not fall evenly: it bore most heavily on low-income and rural households, while the country's ruling elites showed little comparable

[204] International Monetary Fund, ‘Islamic Republic of Iran: 2018 Article IV Consultation - Press Release; Staff Report; and Statement by the Executive Director for the Islamic Republic of Iran’ (IMF Country Report No 18/93, March 2018) 1.
[205] Ibid 1–2.
[206] Ibid 2; World Bank, Iran Poverty Diagnostic (n 169) 17–18.
[207] World Bank, Iran Poverty Diagnostic (n 169) 8.
[208] Douhan, ‘Visit to Iran’ (n 162) paras 15–16.
[209] Gutmann and others (n 38) 9–10.

loss of access to food or healthcare.[210] A structure that channels an external shock downward, onto those least able to absorb it, while insulating its own apex, does not interrupt the causal chain from sanctions to harm; it shapes the chain's incidence. The regressive distribution is a joint product, the sanctions supply the shock, the domestic structure allocates it, and a structure that allocates foreseeable harm to the vulnerable amplifies that harm rather than excusing it.

The same is true of the regime's political response, which is not an intervening cause but a predictable feature of imposing comprehensive measures on an authoritarian state. Such measures can paradoxically strengthen the incumbent rather than weaken it, eliciting a rally to the government even among parts of the opposition; the regime survives the resulting unrest through severe repression and, in doing so, becomes "structurally more regressive"; and state actors may securitize the markets for essential goods, justifying their interventions "under the guise of sanctions."[211] Each of these responses is foreseeable in the sense established in Section 3.6. Far from severing the attribution, the authoritarian response folds back into the foreseeability of the harm and so reinforces it: a sanctioning party imposing comprehensive measures on such a state may be taken to foresee that the structure will both deepen and not distribute their effects. The relationship between the external measure and the domestic structure is therefore best captured by the distinction between a catalyst and a root cause. Sanctions act as the catalyst for harms that the domestic structure proximately delivers. A catalyst, however, is still a cause: to call sanctions the catalyst rather than the root cause places them within the causal account, not outside it, so that responsibility is shared between the two rather than displaced from one onto the other.

The guardrail thus confirms rather than qualifies away the chapter's claim. The harm is foreseeable, it is attributable to the sanctions as a contributor, and it is measured against a standard the regime itself concedes. It is, in the chapter's terms, a legally visible structural harm, and it is to drawing that conclusion together, and to the question of accountability it raises, that the final section turns.

[210] RezaeeDaryakenari, Ghafouri and Kasap (n 175) 9.
[211] Ibid 18,19.

3.8 Conclusion - Foreseeable Harm as Legally Visible Structural Harm

This chapter began from a claim and has now assembled its proof. The humanitarian consequences of the Iran-related sanctions regime, it argued, are not best understood as accidental misfortunes or as the merely economic by-product of measures aimed elsewhere; they are legally cognizable harms, produced through identifiable mechanisms and rendered foreseeable by the repeated failure of humanitarian exemptions to secure the access they promise. Each element of that claim has been established in turn: the normative yardstick against which the harm is measured (Section 3.2), the transmission mechanism through which financial exclusion becomes civilian deprivation (Section 3.3), the two channels by which that deprivation is delivered, the supply-side obstruction of medicine (Section 3.4) and the demand-side contraction of subsistence (Section 3.5), the foreseeability that converts side effect into structure (Section 3.6), and the attribution that locates the harm with the sanctions without denying the domestic structure its role (Section 3.7).

Taken together, these establish three properties of the harm that, in combination, are decisive. It is real and documented, across health, medicine, food, and the general standard of living. It is foreseeable, identified as a category of wrong before it was inflicted, predictable from the architecture that produces it, and repeatedly recorded by independent observers as something to be expected. And it is attributable to the sanctions as a foreseeable and legally significant contributor, its sanction-specific share identifiable on its own terms and the domestic structure operating to amplify and not to distribute that share rather than to absolve it. Measured against a standard the regime concedes through the very exemptions it provides; the harm is one the yardstick does not permit.

A harm with these three properties can no longer be described in the vocabulary of the accident. It is structural, in that it follows predictably from the design rather than escaping it; and it is legally visible, in that it engages identifiable rights and a proportionality limit, assessed against a standard the regime itself acknowledges. This is the chapter's central result: that the civilian harm of the Iran-related sanctions regime is, properly understood, a legally visible structural harm, foreseeable to those who design, maintain, and enforce the regime, and legible in the evidence of its effects.

It remains to be precise about what this result does and does not yet establish. It does not, by itself, make the charge that gives the thesis its title. To show that a harm is foreseeable, attributable, and legally visible is to supply the predicate for the argument from instrumentalization, not to complete it. The further step, that humanitarian and legal commitments continue to be invoked as legitimation even as their foreseeable violation persists, and that this gap is not an implementation failure but a systemic feature, belongs to the account of responsibility and accountability that Chapter 4 develops. What this chapter has secured is the ground on which that account must stand: a harm that the regime's own commitments condemn, that its own design renders foreseeable, and that it cannot, on the evidence assembled here, plausibly disown. It is to the question of who must answer for such a harm that the thesis now turns.

Chapter IV: Owned by No One: Instrumentalization, Authoritarian Amplification, and the Accountability Vacuum

The preceding chapters have moved by stages toward a claim this chapter must now complete. Chapter 2 mapped the architecture of the Iran-related sanctions regime, its layered instruments, its humanitarian exemptions, and the financial mechanisms through which its pressure is transmitted. Chapter 3 established what that architecture produces: a civilian harm that is not incidental but foreseeable, attributable to the sanctions as a legally significant contributor, and measurable against standards the sanctions regime's own commitments concede, a legally visible structural harm. What remains is to say what such a harm, sustained alongside the very commitments that condemn it, amounts to. The answer this chapter defends is that it amounts to an instrumentalization: the humanitarian and legal vocabulary that disavows the harm is retained for the legitimation it supplies, even as the harm it disclaims goes on being produced. This is the claim from which the thesis takes its name.

The distinction on which the chapter turns is between a sanctions order that fails its humanitarian undertakings and one that instrumentalizes them: the first is a shortfall to be corrected, the second a function to be exposed. To press the second claim is to move, within the thesis's framework, from its second category to its third, from structural inadequacy, an architecture whose design foreseeably generates the harm its commitments disavow, to the two propositions that together give instrumentalization its content: a legitimated harm and a diffusion of responsibility. Fixing and separating these strands is the work of Section 4.1; for orientation it is enough that the harm is at once spoken against and reproduced. From this the organising question follows: who answers for a harm that is foreseeable, attributable, and legally visible, and what is to be made of it if the answer is no one in particular.

The argument proceeds in five passages. Section 4.1 presses the charge from the predicate Chapter 3 supplied, tracing the passage from foreseeable harm to instrumentalization and fixing the two strands the chapter keeps apart before drawing them together. Section 4.2 returns to the authoritarian amplification established in Section 3.7 and reframes it, showing how foreign pressure is folded into legitimation as the Iranian state converts scarcity into a resource for rallying support, shifting blame, and securitising its response. Section 4.3 turns to the accountability that the harm's foreseeability would seem to demand and finds a vacuum, one that is, in part, a limit of the law of state responsibility itself. Section 4.4 names the systemic hypocrisy directly, drawing on the literature of rights as instruments of power. Section 4.5 returns to the initial question, and to what it means that a harm so visible should be answered for by no one.

4.1 From Foreseeable Harm to Instrumentalization

The authoritative interpreters of the International Covenant on Economic, Social and Cultural Rights have already supplied the vocabulary in which this chapter's charge must be framed. In its General Comment on the right to health, the Committee on Economic, Social and Cultural Rights holds that restrictions on the supply of medicines and medical equipment should never be used as "an instrument of political and economic pressure";[212] in its General Comment on the right to food, it holds the same of food.[213] The decisive word is the Committee's own, instrument. What the Covenant's guardians proscribe is not deprivation as such but deprivation turned to political use: the conversion of access to the means of life into a lever of pressure. The wrong they name is therefore already an instrumentalization, and it is named against a standard that the international system has conceded as binding upon itself.

Chapter 3 established the factual and legal predicate on which that charge can now be pressed. The civilian harm traced there, the strangulation of the financial channels through which medicine and food reach the Iranian population, and the macro-level deprivation that follows, was shown to be no incidental by-product. It is foreseeable, in the strong sense that it was named in advance, predictable from the architecture's design, and repeatedly documented; it is attributable to the sanctions as a foreseeable and legally significant contributor, neither dissolved by the domestic structure that distributes and amplifies it nor displaced onto that structure; and it is measurable against standards that the sanctions regime's own normative commitments concede.[214] In the terms of this thesis's framework, that is a legally visible structural harm: the gap between the regime's humanitarian commitments and the deprivation it foreseeably produces belongs to the

[212] CESCR, General Comment No 14 (n 154) para 41.
[213] CESCR, General Comment No 12 (n 158) para 37.
[214] See Chapter 3, especially Sections 3.6 (foreseeability) and 3.7 (attribution); the standards conceded by the sanctions regime's own normative framework are set out at Section 3.2.

second category, structural inadequacy, and not merely to the first, implementation failure.[215]

What Chapter 3 deliberately reserved, and what this chapter now undertakes, is the further step. To show that a harm is foreseeable, attributable, and legally cognizable is not yet to show that it is instrumentalized. A sanctioning order might foreseeably produce such harm and yet abandon the language that condemns it; the charge of instrumentalization requires more, that the humanitarian and legal commitments continue to be *invoked* even as their foreseeable violation persists, and that the invocation does work. The claim advanced here is accordingly not that the Iran sanctions regime has failed in its humanitarian undertakings, but that the vocabulary of those undertakings, the proportionality assessments, the human-rights savings clauses, the humanitarian exemptions, operates as legitimation: it sustains the architecture's standing and forecloses its revision precisely while the deprivation it disclaims goes on being produced.

This is the movement from the second category of the framework to the third. Structural inadequacy describes a sanctions architecture whose design foreseeably generates the harm its commitments disavow; it is a claim about the production of harm. Instrumentalization, as the third category renders it, is a claim about the *reproduction of legitimacy* atop that production, a legitimated harm in which the humanitarian and legal idiom is neither abandoned nor honored but retained for the work it does, and a diffusion of responsibility across the architecture's many hands that leaves the foreseeable harm owned by no one. The two strands are distinct and must be kept so: that no single actor fully answers for the harm (diffused responsibility) is not the proposition that the system goes on speaking the language of rights while reproducing the harm (legitimated harm), and the chapter argues them separately before drawing them together.

4.2 Authoritarian Amplification as Legitimation

Section 3.7 established that Iran's domestic structure does not interrupt the causal chain from sanctions to civilian harm but shapes its incidence: it channels the external shock downward onto low-income and rural households while insulating the apex, and it meets the resulting unrest with repression. That finding is taken here as settled and is not re-

[215] On the tripartite framework - implementation failure, structural inadequacy, and legitimated harm, with diffused responsibility: see Chapter 1.

argued. What this section adds is a change of register. The same authoritarian response that deepens and redistributes the harm also converts the harm, and the foreign pressure that produces it, into a resource of legitimation. Amplification is therefore not only a fact about how the deprivation is distributed; it is a mechanism by which the architecture's foreseeable harm is turned to political use by the very government on which the sanctions fall.

A body of scholarship on authoritarian survival under sanctions describes that mechanism.[216] At the level of the cross-type dynamic, it runs as follows. Foreign pressure hands an incumbent a ready-made frame: sanctions can be cast as an assault on the nation, and regime support recast as a patriotic duty to "defend the nation against a foreign enemy."[217] On that frame the leadership can legitimise its rule, justify the repression of opponents, and divert public attention from economic grievances,[218] while responsibility for the deprivation is displaced outward, the population encouraged to hold the sender answerable for the economic and humanitarian costs of the dispute.[219] A formal model of the same interaction adds an unsettling corollary, drawn on here only as conceptual framing: because external pressure can move public belief toward the state, it may lower the public's incentive to protest and so entrench the very repression it was meant to restrain.[220] In Iran specifically, the rally effect this mechanism predicts was documented in Section 3.7 and is not re-argued here.

The protest cycle should not be reduced to economics. The 2019 protests were directly triggered by a fuel-price shock against a background of economic hardship, while the

---

216 The principal studies of authoritarian survival under sanctions relied on here: Abel Escribà-Folch, 'Authoritarian Responses to Foreign Pressure: Spending, Repression, and Sanctions' (2012) 45(6) Comparative Political Studies 683; Dursun Peksen, 'Autocracies and Economic Sanctions: The Divergent Impact of Authoritarian Regime Type on Sanctions Success' (2019) 30(3) Defence and Peace Economics 253; Sebastian Hellmeier, 'How Foreign Pressure Affects Mass Mobilization in Favor of Authoritarian Regimes' (2021) 27(2) European Journal of International Relations 450; and Mehdi Shadmehr and Raphael Boleslavsky, 'International Pressure, State Repression, and the Spread of Protest' (2022) 84(1) The Journal of Politics 148 - cross-cite one another and share the Geddes regime typology and the Wintrobe / Bueno de Mesquita survival frame. They are drawn on for the cross-type mechanism (mobilisation framing, blame-shifting, market capture, repression), not as independent corroboration, and their regime-type-specific predictions, calibrated to personalist rule, are not adopted here given the contested classification of Iran.

217 Sebastian Hellmeier, 'How Foreign Pressure Affects Mass Mobilization in Favor of Authoritarian Regimes' (2021) 27 European Journal of International Relations 450, 451 <https://doi.org/10.1177/1354066120934527>.

218 Ibid 453.

219 Ibid 455.

220 Mehdi Shadmehr and Raphael Boleslavsky, 'International Pressure, State Repression, and the Spread of Protest' (2022) 84 The Journal of Politics 148, 162 <https://doi.org/10.1086/714763>.

2022 uprising was primarily a revolt against gendered state violence and compulsory veiling. Yet across these episodes, economic deterioration, inflation, and the erosion of purchasing power formed part of the background against which social anger became recurrent and state repression became the regime's default response. That background is real and sustained: the International Monetary Fund records inflation as an endemic feature of the Iranian economy that has driven poverty and social tension, reaching nearly fifty per cent at the close of 2020/21 and feeding protest amid a "significant erosion in purchasing power", with sanctions entering the Fund's own model as one short-term driver among monetary and fiscal factors, proxied by oil-export volumes, rather than as the sole cause.[221]

The November 2019 protests display both that background and the legitimation laid over it. They were triggered not by the sanctions directly but by a domestic decision: the Government's announcement on 15 November of an immediate fifty-per-cent rise in the price of petrol, with rationing and steep surcharges on further purchases. The Special Rapporteur, recording protests across twenty-nine of the thirty-one provinces, read them as reflecting discontent with an economic situation he attributed at once to domestic mismanagement and corruption and to the sanctions reimposed by the United States, the dual attribution this thesis has maintained throughout.[222] The response was severe: on the Special Rapporteur's account, drawing on Amnesty International and other credible reporting, at least 304 people were confirmed dead, including twelve children, with unconfirmed accounts exceeding 400 and thousands arrested, figures that remain contested and are reported here on that attribution.[223] Decisively for the present argument, senior officials, including the Supreme Leader, the President and the head of the judiciary, denounced the protests as the product of "foreign meddling."[224] The trigger was domestic and the grievance economic, yet the foreign hand was invoked all the same, which is the point. The legitimation frame is available to the regime whether or not the sanctions

[221] H Elif Ture and Ali Reza Khazaei, 'Determinants of Inflation in Iran and Policies to Curb It' (2022) 2022 IMF Working Papers 1, 3 <https://doi.org/10.5089/9798400220555.001>.

[222] Javaid Rehman, Situation of Human Rights in the Islamic Republic of Iran: Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran (28 January 2020) UN Doc A/HRC/43/61.

[223] Ibid para 6.

[224] Ibid para 8.

caused the unrest, and the deprivation the sanctions foreseeably produce is, by this route, turned to the regime's account.

The subsequent waves confirm the heterogeneity that forecloses any simple economic reduction. In July 2021 the protests that spread through Khuzestan, a province with a large ethnic Arab population, arose over the lack of access to water, against "longstanding grievances on access to water" tied to regional marginalization and governance failure rather than to any direct sanctions effect; the authorities again answered with lethal force, with at least three protesters reported killed.[225] The 2022 uprising had a different character still: it followed the death in custody of Jina Mahsa Amini, a young woman arrested for allegedly violating the compulsory-veiling law, and the Human Rights Council, convening a special session, deplored the violent crackdown on what were overwhelmingly protests concerning gendered state violence and the rights of women and girls.[226] Economic deterioration formed part of the discontent on which these mobilizations drew, but it was neither their trigger nor their organising demand. The claim is not that sanctions caused the protest cycle — they did not — but that across a cycle of heterogeneous causes the regime's repertoire of response remained constant, and foreign pressure a constant resource within it.

Seen this way, authoritarian amplification completes a circuit rather than breaking one. The sanctions foreseeably produce deprivation; the domestic structure channels it downward and shields the elite; the hardship that results, and the unrest it conditions, are then absorbed into a frame in which the foreign sender is named as author and the protest cast as its instrument. The harm is thus turned to account on both sides, by the architecture that produces it while disclaiming it, and by the government that suffers it while converting it into a warrant for repression and a shield against concession. That mutual usability is also the hinge to the accountability problem this chapter must next confront: when each party can name the other as the true author of a foreseeable harm, the harm acquires no owner. It is to that vacuum that Section 4.3 turns.

225 Human Rights Watch, 'Iran: Deadly Response to Water Protests' (22 July 2021)

226 Human Rights Council Res S-35/1, 'Situation of human rights in the Islamic Republic of Iran, especially with respect to women and children' (24 November 2022) UN Doc A/HRC/RES/S-35/1, para 1.

4.3 Diffused Responsibility and the Accountability Vacuum

The harm established in Chapter 3 is foreseeable, attributable to the sanctions as a legally significant contributor, and measurable against standards the regime's own commitments concede; one would expect accountability to follow from it. Instead, it meets a chorus of disclaimers, each plausible taken alone. The Security Council and the European Union point to their humanitarian carve-outs, and to the standing exception introduced by Resolution 2664, as discharging their duty toward the civilian population. The United States points to its general licenses: the trade in medicine and food is, on paper, authorized. The financial institutions through which that trade must pass answer that they breach no sanction and merely manage risk. The Iranian state attributes the deprivation to external coercion; the sanctioning powers attribute it to Iran's own mismanagement and corruption, the very dispute Section 3.7 adjudicated.[227] Each actor locates the cause of the harm in another's conduct, and none in its own.

The disclaimer that does the most work, and discloses the most, is the financial one, because the deprivation traced in Chapter 3 is delivered less by what the sanctions prohibit than by what private actors decline to do beyond what is prohibited. The Special Rapporteur on unilateral coercive measures names this overcompliance: "self-imposed restraints that go beyond the restrictions mandated by sanctions," undertaken as part of de-risking, to avoid reputational or inadvertent-violation exposure, or to limit compliance costs, and magnifying the harm by extending the effective reach of the measures to non-targeted persons and whole populations.[228] The harm is produced along a chain: the supply of authorized humanitarian goods runs through an extensive chain of participants in multiple countries, manufacturers, exporters, financial-service providers, transporters, and overcompliance by any one of them can prevent essentials from reaching those in need.[229] The Rapporteur records the dynamic operating against Iran specifically, where overcompliance has delayed and raised the cost of medicine and medical equipment, and

[227] On the humanitarian exemptions and Resolution 2664, see Chapter 2; on the formal authorisation of trade in medicine and food and its practical failure, see Chapter 3; on the apportionment of cause between sanctions and domestic mismanagement, see Section 3.7.

[228] Alena Douhan, Secondary Sanctions, Civil and Criminal Penalties for Circumvention of Sanctions Regimes and Overcompliance with Sanctions (Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, 15 July 2022) UN Doc A/HRC/51/33, para 17.

[229] Ibid para 18.

where large international banks declined to resume Iranian business even after the 2016 easing of sanctions.[230]

This distributed mode of delivery is what the law of state responsibility is ill-equipped to reach, and the difficulty is structural rather than a failure of application. Under the Articles on State Responsibility, an internationally wrongful act exists only where conduct is both attributable to a State and a breach of that State's international obligation.[231] The conduct that delivers the harm here, a bank's refusal of a lawful transaction, a manufacturer's withdrawal from a market, is private commercial conduct, attributable to no State, since it is not carried out "on the instructions of, or under the direction or control of" any State.[232]

The States that design the sanctions set the incentives; the private actors take the decisions; and the framework that would assign responsibility recognizes only the former as a possible bearer of it, even as the harm flows from the latter. Even the rule on complicity, by which a State is responsible for aiding or assisting another State's wrongful act, runs between States and does not reach the State-to-private-actor relationship through which the deprivation is actually transmitted.[233]

The vacuum this opens is not merely tolerated; it can be engineered. The Special Rapporteur observes that, because overcompliance can now be anticipated, States may design sanctions more narrowly in the knowledge that overcompliance will supplement them, and that one aim of doing so may be "to shift some of the legal responsibility for the resulting human rights problems."[234] If that is so, the distance between formal exemption and actual deprivation is not simply an unhappy by-product of an otherwise conscientious design but, at least sometimes, a feature of it: the narrow carve-out furnishes the disclaimer, the anticipated overcompliance furnishes the harm, and the space between them furnishes the deniability. The diffusion of responsibility is, on this account, partly produced by the architecture rather than merely befalling it.

Nor does the turn to extraterritorial human-rights obligations close the gap. The obligations recognized in Chapter 3, that a State's duties in respect of economic and social rights extend beyond its borders, supply a normative basis for holding sanctioning States

[230] Ibid paras 19, 21.
[231] ARSIWA art 2.
[232] Ibid art 8.
[233] Ibid art 16.
[234] Douhan (n 228) para 23.

to account for foreseeable extraterritorial harm.[235] But they furnish a standard, not a mechanism: they establish whom the harm ought to concern without resolving who, among the many hands that produce it, must answer for it, and they bind States while the proximate harm is delivered by private actors the standard does not reach. The normative reach of the obligation and the institutional reach of accountability do not coincide.

The result is an accountability vacuum with two distinct sources, which it is important not to run together. In part it is a limit of the legal framework itself: the law of state responsibility is built around State conduct and inter-State relations, and the harm here is delivered through a distributed, largely private mechanism it was not designed to capture. In part it is a feature of the architecture: a design that can anticipate and rely upon private overcompliance while disclaiming it. Either way, the harm that Chapter 3 showed to be foreseeable, attributable, and legally visible comes to rest with no actor in particular. That silence is not, however, empty. The space where accountability is absent is occupied instead by the language of rights and humanitarian concern, the exemptions, the savings clauses, the proportionality assessments, which goes on being spoken precisely where responsibility is not assigned. Why that language persists where accountability does not, and what work its persistence does, is the subject of the next section.

4.4 Systemic Hypocrisy: Human Rights as Legitimation

Section 4.3 closed on the observation that the space left where accountability is absent does not stay empty: it is occupied by the language of rights and humanitarian concern. This section asks what that occupation accomplishes. The answer defended here is that the persistence of the humanitarian and legal idiom, precisely where the harm it disclaims goes on being produced, is not incidental but functional, it legitimates the architecture and forecloses its revision. This is what the framework's third category calls legitimated harm, and it must be held apart from the diffused responsibility examined in the previous section. Diffused responsibility is an attributional fact: the harm, though foreseeable and attributable to the architecture as a contributor, comes to rest with no single actor. Systemic hypocrisy is a discursive one: the system goes on speaking the language of

[235] See Chapter 3, drawing on the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011), Principles 20–22.

rights while reproducing the very deprivation that language condemns. The two are connected, the silence about responsibility is what the language of concern fills, but they are not the same claim, and to conflate them would lose the distinctive charge of each.

That human-rights discourse can perform such legitimating work is the burden of a critical literature in global political economy. Evans and Ayers argue that, far from straightforwardly protecting the vulnerable, the idea of human rights is "used to lend legitimacy to the practices and interests of powerful global economic actors"; the vocabulary of rights, on their account, is co-opted by a prevailing consensus and made to underwrite the very order it appears to discipline.[236] The mechanism they describe is not that rights-claims are false but that their circulation does work independent of their fulfilment: rights come to be invoked as the answer to problems they do not resolve, their authority surviving, and even feeding on, the persistence of the conditions they name.

The transposition of this argument onto a sanction's regime must be made with care, because the "power" in whose service Evans and Ayers place human rights is not the power at issue here. Their target is capital, transnational corporations, international financial institutions, the (neo)liberal constitution of a global order in which rights-talk legitimates economic domination, naturalises market relations, and disciplines the post-colonial state.[237] The power served by the Iran sanctions regime is of a different kind: coercive statecraft, the geopolitical and security aims of the sending States, rather than the accumulation of capital. What transposes is therefore not the identity of the beneficiary but the structure of the mechanism, the capacity of human-rights and humanitarian language to confer legitimacy on a practice whose outcomes it does not in fact constrain. Read with that substitution made explicit, Evans and Ayers' account illuminates how a vocabulary of protection can attach to, and stabilise, an architecture of pressure.

So understood, the humanitarian apparatus of the Iran sanctions regime, the exemptions, the savings clauses, the proportionality assessments, the standing humanitarian exception of Resolution 2664, performs legitimating work that is to be distinguished from its protective work. Chapter 2 took these provisions to be genuine, if architecturally constrained, recognitions of the civilian interest, and Chapter 3 showed that they

[236] Evans and Ayers (n 13) 289.

[237] Ibid 296–297.

nonetheless fail to prevent the foreseeable deprivation.[238] The argument of the present section is that their failure to protect does not retire them: they remain in service as the terms in which the regime represents itself as humane and law-abiding. The humanitarian idiom is, in this sense, neither honored, for the harm persists, nor abandoned, for it continues to be spoken, but retained for the legitimacy it supplies. That retention, sustained across the architecture and its many hands rather than authored by any one of them, is what makes the hypocrisy *systemic* rather than a matter of individual insincerity: one need not impute bad faith to any single drafter or administrator to observe that the configuration as a whole keep speaking the language of rights while reproducing the harm that language forbids.

It is here that the instrumentalization from which this thesis takes its name is completed. The Committee on Economic, Social and Cultural Rights had already named the wrong: restrictions on the means of life should "never be used as an instrument of political and economic pressure" (Section 4.1).[239] What Sections 4.2 to 4.4 add is the demonstration that the prohibited use persists under cover of its own disavowal, that the language condemning instrumentalization is itself enlisted to sustain the architecture in which the foreseeable harm is produced. This is instrumentalization in the sense the thesis has fixed throughout: a political-economic co-optation of rights discourse, to be kept clearly distinct from the meta-ethical thesis of instrumentalism that Chapter 1 separated from it.[240] The legitimation traced here is the sanctioning architecture's own, and the charge, true to the thesis's title, falls on it: it is the regime's humanitarian and legal commitments that are invoked, and their invocation that does the legitimating work. That the Iranian state, as Section 4.2 showed, runs a legitimation of its own atop the same deprivation does not divide the charge but compounds the predicament, for it is the convergence of two legitimations upon a single harm that leaves it, as the final section argues, answered for by no one.

[238] On the humanitarian exemptions, including Resolution 2664, as genuine but architecturally constrained, see Chapter 2; on their failure to prevent the foreseeable deprivation, see Chapter 3.

[239] General Comment No 14 (n 154) para 41; General Comment No 12 (n 158) para 37; and see Section 4.1.

[240] On the framework's third category, and on the non-interchangeability of instrumentalization (a political-economic co-optation of rights discourse) and instrumentalism (a meta-ethical justificatory thesis), see Chapter 1.

With both strands now in view, the diffusion of responsibility that leaves the harm unowned, and the systemic hypocrisy that keeps the language of rights in service where responsibility is withheld, the chapter's organizing question can be put in its sharpest form. A harm foreseeable, attributable, and legally visible; produced through a distributed mechanism the law of responsibility was not built to capture; and overlaid, on every side, with the vocabulary of the very rights it offends, such a harm demands to be answered for. To whom that demand can be addressed, and what it means that it returns no owner, is the subject of the final section.

4.5 Conclusion: Who Answers for Foreseeable Structural Harm?

This chapter began from a predicate and a question. The predicate, established in Chapter 3, was that the civilian harm of the Iran sanctions regime is foreseeable, attributable to the sanctions as a legally significant contributor, and measurable against standards the regime's own commitments concede, a legally visible structural harm. The question was what such a harm amounts to when it is sustained alongside the very commitments that condemn it, and who, if anyone, must answer for it. The preceding sections have returned an answer in two registers, and it is the convergence of the two that completes the chapter's claim.

The first register is accountability, and there the answer is a vacuum. Section 4.3 traced how a harm that ought to summon responsibility instead meets a chorus of disclaimers, each actor locating the cause in another's conduct. That diffusion is not merely rhetorical. It rests, in part, on a genuine limit of the law of state responsibility, which is built around State conduct and inter-State relations and does not cleanly reach the distributed, largely private overcompliance through which much of the deprivation is delivered. And it rests, in part, on the architecture's own design, on the possibility, which the Special Rapporteur herself records, that sanctions are framed narrowly in the knowledge that overcompliance will supplement them, so as "to shift some of the legal responsibility for the resulting human rights problems."[241] The harm is thus owned by no one, not because no one produces it, but because the framework that would assign it ownership cannot reach the hands that deliver it, and the architecture that designs it can anticipate that very gap.

[241] Douhan, Secondary Sanctions (n 228) para 23; the design dynamic is set out at Section 4.3.

The second register is discursive, and there the silence is filled. Section 4.4 argued that the space where accountability is absent is occupied by the language of rights and humanitarian concern, the exemptions, the savings clauses, the proportionality assessments, which goes on being spoken precisely where responsibility is withheld, and which does legitimate rather than protective work. This is the systemic hypocrisy of the framework's third category: not the insincerity of any single drafter, but a configuration that keeps speaking the language of rights while reproducing the harm that language forbids. Section 4.2 showed that the legitimating use is not confined to the sanctioning side: the Iranian state, too, converts the deprivation and the foreign pressure that produces it into a resource for rallying support and justifying repression. Two legitimations thus converge upon a single harm, each able to name the other as its author, which is, in the end, part of why the harm answers to neither.

It is in the meeting of these two registers that the instrumentalization from which the thesis takes its name is located. The authoritative interpreters of the Covenant had already named the wrong: restrictions on the means of life must "never be used as an instrument of political and economic pressure."[242]

The chapter's finding is that the prohibited use persists, and persists under cover of its own disavowal. Foreseeable harm becomes instrumentalization, on this account, when humanitarian and legal commitments continue to legitimate a sanctions architecture whose predictable effects are displaced across multiple actors and amplified by authoritarian governance. The instrument is not retired by the language that condemns it; it is sustained by it.

This locates the chapter's contribution within the thesis's central claim. The gap between the regime's humanitarian commitments and the civilian harm it foreseeably produces is not, or not merely, an implementation failure to be corrected by better-drafted exemptions or more diligent enforcement. Chapter 3 showed it to be a matter of structural inadequacy, an architecture whose design foreseeably generates the harm its commitments disavow. This chapter has shown it to be, further, a matter of diffused responsibility and legitimated harm: a structure in which the foreseeable harm is dispersed across many hands until it is owned by none, and in which the humanitarian and legal idiom is retained for the

[242] CESCR, General Comment No 14 (n 154) para 41; General Comment No 12 (n 158) para 37; and see Section 4.1.

legitimacy it confers rather than the protection it fails to deliver. The instrumentalization is, on this reading, a systemic feature rather than an aberration, produced by the architecture rather than befalling it.

The question that titled this section can now be answered, though the answer is not the one its form invites. Who answers for a harm that is foreseeable, attributable, and legally visible? In the architecture as it stands, no one in particular, and that absence of an owner is not the inquiry's failure but its finding. Instrumentalization occurs precisely in the space between a harm that is plainly visible and an accountability that is everywhere dispersed: the more visible the harm, the more the language of concern is called upon to account for it, and the more thoroughly responsibility for it is distributed beyond the reach of any single actor or any single rule. The harm is, in this chapter's title as in its conclusion, owned by no one. To establish that is not to resolve it; but it is the condition of insisting that a harm so foreseeable, so attributable, and so visible cannot be left, indefinitely, no one's to answer for.

Conclusion

This thesis began from a paradox at the core of contemporary sanctions governance. The Iran-related sanctions regimes are, at every formal layer, equipped with humanitarian protections and justified in the vocabulary of human rights; yet across nearly two decades, they have presided over civilian harm that was neither hidden nor unexpected. The research problem was to determine what that persistent gap between humanitarian commitment and foreseeable harm signifies, whether it is a remediable failure of execution, or something more deeply inscribed in the system's design and operation. The guiding question followed from it: to what extent do the Iran-related sanctions regimes, through the structural inadequacy of their humanitarian exemptions, the selective enforcement and tolerated circumvention that accompany their operation, and the amplifying effect of authoritarian governance, constitute a system that foreseeably harms civilians while providing legal cover for both the sanctioning powers and the sanctioned state to evade accountability. The four chapters answer that question affirmatively, but the value of the answer lies in its qualifications, and it is to assembling them that this conclusion turns.

Chapter 1 supplied the conceptual and normative framework. It distinguished three registers in which the failure of humanitarian protection can be understood, implementation failure, structural inadequacy, and legitimated harm, and showed that the first two, accurate as far as they reach, point toward the third. It set alongside these the diffusion of responsibility through which accountability is dispersed across a chain of actors, and the authoritarian amplification through which a domestic structure redistributes external pressure. Crucially, it fixed the sense in which this thesis speaks of the instrumentalization of human rights: not the philosophical instrumentalism that treats rights as derivative of some goal whose worth is intelligible apart from them, but the political-economic co-optation of rights discourse, the retention of a humanitarian vocabulary for the legitimacy it confers rather than the protection it secures. This terminological discipline, separating instrumentalization from instrumentalism, governs the argument throughout.

Chapter 2 mapped the legal and institutional architecture onto which that framework was to be tested. It reconstructed the regime across three superimposed tiers, the Security Council's resolutions and their juridical transformation under Resolution 2231, the European Union's autonomous proliferation and human-rights tracks, and the United States' secondary-sanctions apparatus, which, by leveraging the centrality of the dollar, functions as a structural multiplier extending the regime's practical reach far beyond its formal text. It showed that the humanitarian exemptions written into this architecture are formally protective but structurally dependent: their efficacy turns not on their textual availability but on financial channels, licensing practices, and the private compliance behaviour of intermediaries who, responding rationally to the incentives the architecture creates, withdraw from lawful humanitarian trade. Resolution 2664, examined as a standing humanitarian exception, emerged as a normatively significant but, for Iran, materially limited corrective. The chapter's treatment of selective enforcement and tolerated circumvention established that the regime operates as an instrument of geopolitical calculation rather than an impartial legal order, pressed where interest dictates, quietly relaxed where interest dictates otherwise.

Chapter 3 established the humanitarian consequences as fact and as legal concern. It argued that the harm to Iranian civilians is neither incidental nor merely anecdotal but legally cognizable, produced through an identifiable transmission mechanism that runs from the exclusion of Iranian banks from correspondent and dollar-clearing channels, through currency depreciation and import inflation, to the erosion of real income and the contraction of access to essential goods. Measured against the right to health, the rights to food and to an adequate standard of living, and the proportionality limits that international law places on coercive economic measures, a yardstick held at the level of authoritative interpretation, binding upon the member states of the European Union and other parties as treaty obligation and operative for the United States, which has signed but not ratified the Covenant, as a human-rights benchmark, the harm proved measurable, documented across medicine, food, and subsistence, and foreseeable: named in advance by the bodies charged with interpreting the Covenant, predictable from the architecture's own design, and repeatedly recorded by independent observers as something to be expected. The chapter's guardrail located the domestic contribution correctly: corruption, mismanagement, and repression do not sever the causal chain from sanctions to harm but distribute and amplify it, channelling foreseeable harm downward onto low-income and rural households while insulating the elite. Sanctions, on this account, are not the sole or proximate author of every deprivation, but a foreseeable and legally significant contributor whose share is real and does not dissolve in the presence of other causes.

Chapter 4 took up responsibility, legitimation, and accountability. It argued that a harm so foreseeable, causally traceable, and legally visible ought to summon accountability, yet meets instead a chorus of disclaimers, the sanctioning institutions pointing to their carve-outs, the United States to its general licences, the financial intermediaries to the fact that they breach no rule and merely manage risk, the Iranian state to external coercion, and the sanctioning powers to Iranian mismanagement. This diffusion is not merely rhetorical. It rests in part on a genuine limit of the law of state responsibility, which is built around state conduct and inter-state relations and does not cleanly reach the distributed, largely private overcompliance through which much of the deprivation is delivered: the refusal of a bank or the withdrawal of a supplier is private commercial conduct, not attributable to any state under the rules of attribution, and the inter-state rule on complicity does not reach the relationship through which the harm actually travels. It rests in part, too, on the architecture's own design, on the recorded possibility that sanctions are framed narrowly in the knowledge that overcompliance will supplement them, so as to shift some of the resulting legal responsibility. Alongside this accountability vacuum the chapter set the authoritarian amplification of Chapter 3 in a new register: the Iranian state converts the deprivation, and the foreign pressure that produces it, into a resource of legitimation, rallying support against a foreign enemy, deflecting domestic accountability, and securitising the management of scarcity, even where, as in the protest cycles examined, the triggers were domestic and the grievances heterogeneous. The chapter's culminating argument is that the humanitarian and legal idiom of the regime, neither honoured nor abandoned, is retained for the legitimacy it supplies. This is the systemic hypocrisy that completes the thesis's charge of instrumentalization.

The research question can now be answered directly. The Iran-related sanctions regimes do not merely fail, at the level of implementation, to protect the civilians in whose partial interest their exemptions are written. They constitute a structurally inadequate system in which humanitarian exemptions acknowledge civilian vulnerability without reliably securing practical access to medicine, food, financial channels, and the other means of subsistence. That system foreseeably harms civilians while distributing legal responsibility so diffusely that no single actor is fully answerable for the result. And it does so in a manner that renders the same harm usable on both sides of the dispute: the sanctioning powers invoke their exemptions and their legality to disclaim responsibility, while the Iranian state invokes foreign pressure to justify repression, deflect accountability for its own contribution, and rally support. The harm is, in this precise sense, both produced and disowned by those who impose it, and both suffered and exploited by the government on which it falls.

It follows that the regime is best characterized not as a case of implementation failure but as a system of legitimated harm: a sanctions architecture that speaks the language of humanitarian protection and human rights while foreseeably producing civilian harm, relying upon private overcompliance and de-risking to deliver effects its formal text does not command, and dispersing responsibility across multiple actors until it comes to rest with none. The thesis does not rest this characterisation on any claim of covert economic conspiracy; the stronger language of covert complicity is neither required nor asserted here. What the chapters establish, and what the characterisation needs, is selective enforcement, tolerated circumvention, and an uneven economic continuity sustained where geopolitical or commercial interest so dictates, a pattern of discretion rather than of secret design. The hypocrisy is systemic precisely because it requires no individual bad faith: one need impute no insincerity to any single drafter or administrator to observe that the configuration as a whole keeps speaking the language of rights while reproducing the harm that language forbids.

It is here that the concept of instrumentalization earns its place in the analysis. Were the problem only that humanitarian exemptions are poorly implemented, the remedy would lie in better drafting and more diligent enforcement, and the protective framework would remain sound. The argument of this thesis is that the language of humanitarian protection has itself become part of the legitimating structure of the sanctions regime, that it does work independent of its fulfilment, conferring on an architecture of pressure the appearance of restraint while the deprivation it disclaims continues. The normative implication is that international law cannot rest satisfied with the formal existence of exemptions. It must take seriously the conditions under which protection actually fails: practical access as distinct from textual permission; the foreseeability of harm that follows predictably from design; the overcompliance and de-risking through which private actors translate incentive into deprivation; the indirect and largely private enforcement that the law of responsibility was not built to capture; and the accountability gap that opens when harm is produced through distributed legal and economic mechanisms. A protective standard that registers only the presence of an exemption, and not whether medicine and food in fact reach those who need them, measures the wrong thing.

Two cautions must temper this conclusion, and the thesis has observed them throughout. The first is that sanctions are not the sole author of Iranian suffering. The deprivation documented here is the joint product of external pressure and a domestic structure that maldistributed it; corruption, economic mismanagement, and political repression are real, and a portion of the harm is theirs. To insist that sanctions are a foreseeable and legally significant contributor is not to claim that they caused all that has befallen the Iranian population, nor that the protest cycles of recent years can be reduced to economic causation; they cannot, and the thesis has been careful to say so. The second caution follows from the first: to criticize the sanctions is in no way to defend the Iranian state. The same authoritarian governance that amplifies the harm also exploits it, and the critique advanced here indicts the architecture of pressure and the government that profits from it alike. What the thesis has shown is that foreseeable civilian harm has become usable by both sides of the dispute while remaining answerable by neither, produced by an architecture that disclaims it, and exploited by a state that did not design it, each able to name the other as its true author. A harm of that visibility, condemned by the very standards invoked on every side, cannot in justice be left without an owner. The task this analysis leaves to international law, and to those who would reform the practice of economic coercion, is to ensure that foreseeable civilian harm can no longer be owned by no one.

Bibliography

PRIMARY SOURCES

UN documents

1. UNSC Res 1696 (31 July 2006) UN Doc S/RES/1696

2. UNSC Res 1737 (23 December 2006) UN Doc S/RES/1737

3. UNSC Res 1747 (24 March 2007) UN Doc S/RES/1747

4. UNSC Res 1803 (3 March 2008) UN Doc S/RES/1803

5. UNSC Res 1835 (27 September 2008) UN Doc S/RES/1835

6. UNSC Res 1929 (9 June 2010) UN Doc S/RES/1929

7. UNSC Res 2224 (2015) UN Doc S/RES/2224

8. UNSC Res 2664 (9 December 2022) UN Doc S/RES/2664

9. UNSC Res 2231 (2015) UN Doc S/RES/2231

10. UNGA Res 64/176 'Situation of Human Rights in the Islamic Republic of Iran' (18 December 2009) UN Doc A/RES/64/176

11. HRC Res S-35/1 'Situation of Human Rights in the Islamic Republic of Iran, Especially with Respect to Women and Children' (24 November 2022) UN Doc A/HRC/RES/S-35/1

12. UN Committee on Economic, Social and Cultural Rights, 'General Comment No 12: The Right to Adequate Food (art 11)' (12 May 1999) UN Doc E/C.12/1999/5

13. UN Committee on Economic, Social and Cultural Rights, 'General Comment No 14: The Right to the Highest Attainable Standard of Health (art 12)' (11 August 2000) UN Doc E/C.12/2000/4

14. UN Human Rights Council, 'Report of the Secretary-General on the Situation of Human Rights in the Islamic Republic of Iran' (11 March 2014) UN Doc A/HRC/25/75

15. UN Human Rights Council, 'Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights' (30 August 2019) UN Doc A/HRC/42/46

16. UN Security Council, ‘Security Council Hears Reports on Making Sanctions More Effective, Lessening Harm to the Innocent’ (Press Release SC/7183, 22 October 2001)

17. Javaid Rehman, 'Situation of Human Rights in the Islamic Republic of Iran: Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran' (28 January 2020) UN Doc A/HRC/43/61

18. Jazairy I, Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights UN Doc A/HRC/42/46 (5 July 2019)

19. Alena Douhan, 'Secondary Sanctions, Civil and Criminal Penalties for Circumvention of Sanctions Regimes and Overcompliance with Sanctions' (15 July 2022) UN Doc A/HRC/51/33

20. Alena F Douhan, 'Visit to the Islamic Republic of Iran' (4 October 2022) UN Doc A/HRC/51/33/Add.1

21. United Nations Security Council, 'Final Report of the Panel of Experts Established Pursuant to Resolution 1929 (2010)' (1 June 2015) UN Doc S/2015/401

22. UN Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, 'Guiding Principles on Sanctions, Business and Human Rights: Commentary' (UN Human Rights Special Procedures 2025)

EU instruments

23. Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom [1996] OJ L309/1

24. Council Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran (2007) OJ L61/49

25. Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (2007) OJ L103/1

26. Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP [2010] OJ L195/39

27. Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 [2010] OJ L281/1

28. Council Decision 2011/235/CFSP of 12 April 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Iran [2011] OJ L100/51

29. Council Regulation (EU) No 359/2011 of 12 April 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran [2011] OJ L100/1

30. Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran [2012] OJ L19/22

31. Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 [2012] OJ L88/1

32. Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 [2018] OJ L199I/1

33. Council Decision (CFSP) 2025/1972 of 29 September 2025 amending Decision 2010/413/CFSP concerning restrictive measures against Iran [2025] OJ L 2025/1972

34. Council Regulation (EU) 2025/1975 of 29 September 2025 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran [2025] OJ L 2025/1975

US instruments

35. Iran Sanctions Act of 1996, Pub L No 104-172, 110 Stat 1541

36. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub L No 111-195, 124 Stat 1312

37. National Defense Authorization Act for Fiscal Year 2012, Pub L No 112-81, 125 Stat 1298

38. Iran Threat Reduction and Syria Human Rights Act of 2012, Pub L No 112-158, 126 Stat 1214

39. Iran Freedom and Counter-Proliferation Act of 2012, Subtitle D of Title XII of Pub L No 112-239, 126 Stat 2004

40. Executive Order 13846 of 6 August 2018, 'Reimposing Certain Sanctions with Respect to Iran'

41. Iranian Transactions and Sanctions Regulations, 31 CFR Part 560

International legal instruments

42. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

43. International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts (2001), annexed to UNGA Res 56/83 (12 December 2001) UN Doc A/RES/56/83.

44. Joint Comprehensive Plan of Action (Vienna, 14 July 2015), annexed to UN Doc S/2015/544

45. Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (adopted 28 September 2011)

Cases

1. Commission v Kadi (Kadi II) (Case C-584/10 P) EU:C:2013:518

2. Council of the European Union v Bank Mellat (Case C-176/13 P) EU:C:2016:96

3. Council of the European Union v Fulmen and Mahmoudian (Case C-280/12 P) EU:C:2013:775

4. Kadi and Al Barakaat International Foundation v Council and Commission (Joined Cases C-402/05 P and C-415/05 P) [2008] ECR I-6351

SECONDARY SOURCES

Books, articles

- Bob C, Rights as Weapons: Instruments of Conflict, Tools of Power (Princeton University Press 2019)

- Doutaghi H, ‘Wealth Drain and Value Transfer: A Study of the Mechanisms, Harms, and Beneficiaries of the Sanctions Regime on Iran’ (PhD thesis, Carleton University 2024)

- Drezner DW, 'Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice' (2011) 13 International Studies Review 96

- Escribà-Folch A, ‘Authoritarian Responses to Foreign Pressure: Spending, Repression, and Sanctions’ (2012) 45(6) Comparative Political Studies 683

- Evans T and Ayers AJ, 'In the Service of Power: The Global Political Economy of Citizenship and Human Rights' (2006) 10 Citizenship Studies 289

- Gałka KU, 'Making Exceptions Not Exceptional: Humanitarian Exemptions in Sanctions Regimes under International and EU Law' (2025) 27 International Community Law Review 459

- Hellmeier S, 'How Foreign Pressure Affects Mass Mobilization in Favor of Authoritarian Regimes' (2021) 27 European Journal of International Relations 450

- Kokabisaghi F, 'Assessment of the Effects of Economic Sanctions on Iranians' Right to Health by Using Human Rights Impact Assessment Tool: A Systematic Review' (2018) 7 International Journal of Health Policy and Management 374

- Mallard G, Sabet F and Sun J, 'The Humanitarian Gap in the Global Sanctions Regime: Assessing Causes, Effects, and Solutions' (2020) 26 Global Governance 121

- Manfredi S and Jugl M, 'Tackling Unintended Consequences of EU Sanctions: NGOs' Advocacy for Humanitarian Exceptions' (2024) 62 JCMS: Journal of Common Market Studies 1519

- Moret E, Effectiveness of Humanitarian Exceptions to Sanctions: Lessons from the Syria Earthquake (The Carter Center, July 2023)

- Mosquera Marquez P, 'Empty Promises or Justiciable Rights: The Extraterritorial Reach of Economic, Social and Cultural Rights in the Context of Unilateral Sanctions' (2024) 11 Groningen Journal of International Law 302

- Peksen D, 'Autocracies and Economic Sanctions: The Divergent Impact of Authoritarian Regime Type on Sanctions Success' (2019) 30(3) *Defence and Peace Economics* 253

- RezaeeDaryakenari B, Asadzade P and Thies CG, 'Economic Sanctions and Food Consumption: Evidence from Iranian Households' (2024) 68(3) *International Studies Quarterly* sqae103

- RezaeeDaryakenari B, Ghafouri V and Kasap N, 'Who Rallies Round the Flag? The Impact of the US Sanctions on Iranians' Attitude toward the Government' (2025) 21(1) *Foreign Policy Analysis* orae033

- Ruys T and Ryngaert C, 'Secondary Sanctions: A Weapon out of Control? The International Legality of, and European Responses to, US Secondary Sanctions' (2020) British Yearbook of International Law

- Ruys T, Ryngaert C and Rodríguez Silvestre F (eds), The Cambridge Handbook of Secondary Sanctions and International Law (Cambridge University Press 2024)

- Session N, 'The Dark Sides of Virtue: Reassessing International Humanitarianism' (2004) 27 PoLAR: Political and Legal Anthropology Review 150

- Shadmehr M and Boleslavsky R, 'International Pressure, State Repression, and the Spread of Protest' (2022) 84 The Journal of Politics 148

- Zylberman A, 'Human Rights, Categorical Duties: A Dilemma for Instrumentalism' (2016) 28 Utilitas 368

Reports and working papers

- Gutmann J and others, 'Economic Sanctions and Human Rights: Quantifying the Legal Proportionality Principle' (SSRN Electronic Journal Working Paper, 2018)

- International Monetary Fund, 'Islamic Republic of Iran: 2018 Article IV Consultation' (IMF Country Report No 18/93, March 2018)

- Ture HE and Khazaei AR, 'Determinants of Inflation in Iran and Policies to Curb It' (IMF Working Paper, 2022)

- World Bank, Iran Poverty Diagnostic: Poverty and Shared Prosperity in Iran (Report No 185679, November 2023)

Online sources

- E3, 'Joint Statement on INSTEX' (9 March 2023) Joint Statement by Germany, France and the United Kingdom (E3) on INSTEX | Iran Watch

- Human Rights Watch, The Islamic Republic at 31: Post-Election Abuses Show Serious Human Rights Crisis (11 February 2010) The Islamic Republic at 31: Post-election Abuses Show Serious Human Rights Crisis | HRW

- Human Rights Watch, 'Iran: Deadly Response to Water Protests' (22 July 2021) Iran: Deadly Response to Water Protests | Human Rights Watch

Declaration on the Use of AI-Assisted Tools and Reference-Management Software

I declare that AI-assisted tools, including Grammarly and Claude free, were used during the preparation of this thesis for limited support with language revision and readability, suggesting alternative phrasings and clearer formulations, and clarifying the structure and ordering of selected sections.

I also used Zotero as reference-management software for storing sources, organizing bibliographic materials, and assisting with the preparation of footnotes and the bibliography.

All substantive arguments, research questions, source selection, legal analysis, and final decisions regarding the content of the thesis are my own. Every AI-assisted suggestion was reviewed, verified against the relevant primary and secondary sources, and edited by me before being incorporated into the thesis. All citations were checked against the original documents. I take full responsibility for the accuracy, originality, and academic integrity of the final work.