

Just and Unjust Sanctions: The Case Study of Iran

by

Shani Hormozi

**A thesis
presented to the University Of Waterloo
in fulfilment of the
thesis requirement for the degree of
Doctor of Philosophy
in
Global Governance**

Waterloo, Ontario, Canada, 2016

© Shani Hormozi 2016

Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

Abstract

This dissertation aims to accomplish two major goals:

1. To provide a theoretical framework for studying and evaluating justice in sanctions by modifying and expanding the Just War Tradition (JWT);
2. To apply this theoretical framework, Just Sanctions theory (JST), in order to study justice in sanctions on Iran.

Accordingly, first I introduce a new theoretical framework: Just Sanctions Theory (JST), and then I use the theory to explore the degree to which the *authorization* and *implementation* of sanctions against Iran have been *just*. In this analysis, it is important to distinguish, compare and contrast the sanctions authorized by the United Nations (UN) from those authorized by the US and the EU. I carry out this analysis realizing fully that the contexts of UN and non-UN sanctions on Iran are deeply intertwined.

The findings of this research substantiate my hypothesis that the authorization of non-UN sanctions against Iran has not been *just* and that non-UN sanctions have not been implemented justly. In contrast, I argue that both the authorization and implementation of UN sanctions on Iran were less unjust. At the same time, however, I show that the impacts of sanctions against Iran from all three sources, in general, have been overarching and indiscriminate.

Furthermore, I examine the degree to which the rapid globalization of transnational economic connections facilitates to this day the deep and destructive living conditions of the citizens of Iran. Such conditions have emerged as a consequence of the sweeping and crushing impositions of sanctions. Lastly, given the recent developments in Iran's nuclear case and the partial sanctions relief Iran has received, I briefly analyze "Just Post Sanctions" in the case of Iran.

In carrying out the necessary research, I have conducted both *field research* (in Iran) and *library research* (primary and secondary sources); in addition, I have devoted a portion of

my research to the *content analysis* of statements by both sides (sanctioner(s) and target) as well as content analysis of sanctions-related documents.

Acknowledgements

First and foremost I would like to express my special appreciation and thanks to my advisor, Professor William D. Coleman. Professor Coleman has been an exceptional academic role model. His unique teaching, mentoring and advising style have all been highly motivating for me especially as I also aim for a career as a university professor. Professor Coleman skillfully helped me stay focused on my research during tough times and made my first experience of studying abroad one of the most joyful, fruitful, and satisfactory experiences in both my personal and professional lives.

I am also especially grateful to Professor Janet M. Lang and Professor James G. Blight for their insightful comments and encouragement with my research. They have always been an invaluable source of friendship and support throughout my entire Ph.D program experience.

I would similarly like to thank Professor Paul Freston for his constructive criticisms and suggestions with my research. He truly helped widen my research to include more perspectives.

Furthermore, I would like to acknowledge and thank all of the funding sources that generously facilitated my studies and research. I was awarded with the Ontario Trillium Scholarship for the first four years, the Balsillie Doctoral Fellowship for the past five years, the International Doctoral Student Award for the first four years, and University of Waterloo Doctoral Thesis - Completion Award for my final semester.

I would also like to acknowledge the Dana Porter Library at the University of Waterloo, where I was openhandedly provided with research facilities and a peaceful research environment during many long days and nights.

Finally, I would like to thank my beloved parents for their immense love and encouragement throughout all of my pursuits.

Dedication

This thesis is dedicated to my father, Fereidoun, and mother, Simin, who have been an endless source of love and support throughout my entire life. I cannot express how grateful I am to have such a wonderful parents.

I would also like to dedicate my thesis to all those who have tried and will try to promote justice in the world and mitigate the suffering of people either through their academic research or their practices.

Table of Contents

Author’s Declaration	ii
Abstract	iii
Acknowledgements	v
Dedication	vi
List of Figures	x
List of Graphs	xi
List of Charts	xii
List of Tables	xii
Introduction	1
War, Sanctions, and Justice	2
Research questions and hypothesis	4
Research Plan	5
Chapter One: Addressing the Argument; Theoretical Framework, Contribution and Literature Reviews, and Methodology	8
1. Just War Tradition (JWT)	9
1.1. Justice of War (<i>jus ad bellum</i>)	10
1.2. Justice In War (<i>jus in bello</i>)	11
1.3. Justice Before War (<i>jus ante bellum</i>) & Justice After War (<i>jus post bellum</i>)	12
2. How Is the Theoretical Foundation of JWT Applicable to Studying Sanctions?	13
3. Just Sanctions Theory (JST): Operationalization of Key Concepts	13
3.1. Just Authorization of Sanctions	14
3.2. Just Implementation of Sanctions	23
3.3. Just Post-Sanctions	27
4. Contribution and Innovation According to the Existing Literature Review	28
5. Methodology	33
Chapter 2: Just Authorization of Sanctions (Part I)	34
1. Comparative Just Cause	35
1.1. Comparative Just Cause for Nuclear-Related Sanctions Against Iran	36
1.2. Comparative just cause for human rights-related sanctions against Iran	59
1.3. Comparative just cause for terrorism-related sanctions against Iran	68
Chapter 3: Just Authorization of Sanctions (Part II)	71
1. Right objective	72
1.1. The sanctioners’ narrative on sanctions core objectives	72
1.2. Iran’s narrative on sanctions’ core objectives	73
1.3. Examining the criterion	75
2. Last resort	76
2.1. The opposing countries’ narrative on appealing to nuclear-related sanctions as the “last resort”	76
2.2. Iran’s narrative on appealing to nuclear-related sanctions as the “last resort”	80
2.3. Studying the “last resort” criterion regarding human rights and terrorism-related sanctions against Iran	83
2.4. Examining the criterion	84
3. Proportionality in Authorization	84
3.1. The opposing countries’ narrative on nuclear-related sanctions proportionality	85

3.2.	Iran’s narrative on nuclear-related sanctions proportionality	85
3.3.	Proportionality of human rights and terrorism-related sanctions.....	86
4.	High possibility of success (Sanctions efficacy).....	87
4.1.	How predictable was the effectiveness of sanctions against Iran at the time the sanctions were authorized?.....	87
4.2.	Case study: South Africa.....	93
Chapter 4:	Just Authorization of Sanctions (Part III).....	97
1.	Legitimate authorizer.....	98
1.1.	UN legitimacy in authorizing sanctions against Iran	98
1.2.	U.S. legitimacy in authorizing sanctions against Iran.....	99
1.3.	EU legitimacy in authorizing sanctions against Iran.....	102
2.	Unambiguous resolutions (Clear causes, objectives, and measures)	108
2.1.	UN resolutions against Iran: Causes, objectives, and measures;	108
2.2.	US sanctions against Iran: Causes, objectives, and measures;.....	111
2.3.	EU sanctions against Iran: Causes, objectives, and measures;	112
3.	Well-defined termination mechanism and requirements	113
3.1.	UN termination mechanism and requirements.....	114
3.2.	The U.S. termination mechanism and requirements	115
3.3.	EU termination mechanism and requirements	119
Chapter 5:	Just Implementation of Sanctions (Part I).....	121
1.	Target Discrimination Principle	123
1.1.	Iran’s economic characteristics and vulnerabilities	123
1.2.	Sanctioned targets in Iran.....	125
1.2.1.	Energy sector.....	125
1.2.2.	Shipping and Insurance sectors.....	127
1.2.3.	Banking and Financial sectors	129
1.2.4.	International Lending	131
1.2.6.	Arms	132
1.2.7.	Dual use items	133
1.2.8.	Multifunction entities	134
1.3.	Examining the criterion: Target Discrimination Principle.....	135
Chapter 6:	Just Implementation of Sanctions (Part II)	138
1.	Civilian Immunity Principle.....	139
1.1.	Impacted areas of civilian population lives.....	139
1.1.1.	Impacts on Iranian’s market psychology	139
1.1.2.	Impacts on Iranians economic situation.....	141
1.1.3.	Impacts on Public Health and Safety	147
1.1.4.	Scientific and Educational Impacts.....	154
1.1.5.	Cultural impacts	158
1.2.	Iran’s government mismanagement.....	163
Chapter 7:	Just Implementation of Sanctions (Part III)	167
1.	Proportionality Principle (Inflicted harm & Committed wrongs).....	168
1.1.	Sanctioners’ narrative.....	168
1.2.	Iran’s narrative	169
2.	Prospect of Success Principle	171
2.1.	Iran sanctions have been successful.....	171
2.2.	Sanctions on Iran have not been successful	171
2.3.	The middle ground approach	174

3. Negotiation Principle.....	176
3.1. Sanctions have promoted negotiations with Iran	176
3.2. Sanctions have curbed negotiations with Iran.....	177
4. Monitoring and Evaluation Mechanism.....	180
4.1. UN monitoring and evaluating mechanism.....	180
4.2. U.S. monitoring and evaluating mechanism	186
4.3. EU monitoring and evaluating mechanism	187
5. Judicial Review Mechanism	187
5.1. UN Judicial review mechanism	187
5.2. US judicial review mechanism.....	190
5.3. EU judicial review mechanism	191
5.4. General mechanisms for judicial review.....	194
Chapter 8: Conclusion	196
1. The implications of the research for the sanctions tool.....	197
2. The case study of Iran	199
2.1. Authorization of sanctions against Iran.....	200
2.2. Implementation of sanctions against Iran	203
2.3. Has the implementation of sanctions against Iran been comprehensive?	203
2.4. How globalization has served the comprehensive implementation of sanctions against Iran?	204
3. Just Post Sanctions; the next step of the research	206
3.1. Compliance	206
References	214

List of Figures

Figure 3.2 Prior step taken by the IAEA and UNSC before appealing to sanctions as the last resort	79
Figure 3.2 Iranian perception transition trend on the nuclear issue.....	92

List of Graphs

Graph 5.1. Dependency of State Budget on Oil Export Revenues.....	124
Graph 7.1 Nuclear Escalation vs. Sanctions Escalation	173

List of Charts

Chart 6.1 Iran Currency tracker	142
Chart 6.1 Iranian misery index	146

List of Tables

Table 2.1 The history of the sanctions against Iran.....	35
Table 2.2 Original and modified Code 3.1	49
Table 2.3 Iran’s commitment to the Original and modified Code 3.1	49
Table 2.4 Summarizing the Opposing countries and Iran’s narratives on Iran’s nuclear program.....	55
Table 2.5. A summary of just causes for sanctions authorization	58
Table 2.6. The Opposing countries narrative on Iran’s human rights situation	65
Table 2.7. Iran’s narrative on the allegations against its human rights situation	67
Table 2.8. The U.S and Iran’s narratives on terrorism	70
Table 3.1 The sender’s narrative on sanctions’ core objectives	75
Table 3.2 The sender’s narrative on sanctions’ core objectives	76
Table 3.3 The Opposing countries and Iran’s narratives on nuclear-related sanctions as the last resort.....	84
Table 3.4 The Opposing countries and Iran’s narratives on proportionality of nuclear-related sanctions	87
Table 3.5 Possibility of Iran sanctions success at the time the sanctions were authorized	93
Table 3.6 Particularities of the South Africa case from the perspective of symmetric issue perception on the subject of sanctions	96
Table 4.1 The legitimacy of the UN to authorize sanctions	105
Table 4.2 The legitimacy of the U.S. to authorize sanctions.....	105
Table 4.3 The legitimacy of the EU to authorize sanctions.....	106
Table 4.4 U.S. sanctions authorization and termination mechanisms	115
Table 5.1 Just Implementation of Sanctions’ Criteria	122
Table 5.2 The unjust implementation of sanctions from the perspective of the Target Discrimination Principle.....	135
Table 5.3 UN, US, and EU sanctions implementation on Iran from the perspective of the target discrimination principle.....	136
Table 6.1 The impacts of sanctions implementation on Iran’s market psychology	141
Table 6.2 The official annual inflation rate in Iran since the UN sanctions were authorized in 2006	145
Table 6.3 The Impacts of Sanctions Implementation on Iranians’ economic situation (selective indicators).....	147
Table 6.4 The Impacts of Sanctions Implementation on Public Health and Safety	154
Table 6.5 The impacts of sanctions implementation on Iran’s science and education fields	158
Table 6.6 The Impacts of Sanctions implementation on Iran’s Culture.....	160
Table 6.7 The Impacts of Sanctions implementation on Iran’s Environment	162
Table 6.8 Iran’s annual ranking based on the Corruption Perceptions Index (CPI).....	165
Table 6.9 Major mismanagements by Ahmadinejad government.....	166
Table 7.1 Iran’s breakout capacity	169

Table 7.2 proportionality of the implementation of sanctions against Iran.....	171
Table 7.3 The prospect of success of nuclear-related sanctions against Iran during implementation	176
Table 7.4 The dominant narratives on negotiation principle under sanctions against Iran	180
Table 7.5 Members of the first UN POE on Iran in 2011	182
Table 7.6 UN monitoring bodies on Iran sanctions.....	184
Table 7.7 Sanctioners’ Judicial Review Mechanisms on Iran sanctions.....	195
Table 8.1 Phases of Commitments & compliances	207

Introduction

Introduction

Sitting in the Dana Porter Library at University of Waterloo, looking out of a window, pretty white clouds are dancing softly and peacefully on the blue floor in an absolute silence. I follow their pathway in my thoughts for a few seconds. They spin over and over, their layered white skirts circle and abruptly make vague and dark loops of fear. No longer is there a trace of charming clouds; they have all turned into gray smoke and the silence is replaced by the sounds of echoed explosions nearby and in the distance. A composed orchestra of anxiety. I am pulled into my childhood and my memories of the 8-year Iran-Iraq war (1980-1988) when Tehran was under missile attacks and I would be awakened in the middle of the night not only by my childish nightmares, but also by the reality of vicious adult hallucinations: they wanted to win the war by dropping bombs on innocent civilians. My mother would hold my hand tightly and drag me under the stairway, thought to be the safest place in our home. I would close my eyes and press my palms against my ears. Silence.

I am back in the library again, looking at the white clouds, and then at their shadows on the ground. They are strutting from one rock to another, moving to embrace the buildings one after the other, kissing them harmlessly. The buildings are still there, reminding me of our home that endured the bombardments. The war is over, but the sanctions' octopus is creeping into peoples' lives, like the shadow of the white clouds. Buildings are still standing; there is no bloodshed; there are no casualties, and no amputated limbs. The war is over, but sanctions are conquering strategic economic ramparts. The sanctions octopus is creeping to cripple the economy and as it moves forward, more and more people are starting to suffer. I can no longer close my eyes and press my palms against my ears, as I used to do in my childhood during the shelling. I am questioning justice as many have also questioned it throughout history. My personal observations of the Iran-Iraq war and the effect of sanctions along with my concern for justice have constituted my inspiration triangle: war, sanctions and justice.

War, Sanctions, and Justice

From my studies on the implementation of sanctions on Iran, I have been inspired the most by the principle of the Just War Tradition (JWT). Is it possible to imagine the world without war? Or will war always remain in our future? Are sanctions a new alternative to war or are they an extension of war? Should sanctions be rejected completely, or should sanctions be implemented to their full capacity to meet their objectives?

JWT stands between the two extremes of Pacifism (under which war is morally rejected under any circumstances) and Realism (under which war is not about morality but self-interest, survival and increasing power) (Orend 2006 , 5). Likewise, when it comes to the different types of sanctions, I think that all types cannot be totally overruled; there are conditions and situations under which certain sanctions would be

reasonable policy choices. For instance, comprehensive or sweeping sanctions are never morally justifiable; in contrast, there are conditions under which some forms of targeted sanctions may to some degree be justifiable. However, if a type of sanction is to be authorized, there should also be criteria to prohibit sanctioners from misusing this authorization. I believe that JWT provides the point of departure for a new perspective on studying and assessing sanctions.

The first question concerns the relationship between war and sanctions and the applicability of the JWT to the study of sanctions. The debates about sanctions and war can be classified into three main categories:

1. *Sanctions as an alternative to war*

Pro-sanctions arguments depict sanctions as an alternative to war which can reduce the possibility of conflict with far less harm and costs than war (Drezner 2003; Gartzke, Li, and Boehmer 2001; Morgan and Schwebach 1977; in Lektzian and Sprecher 2007, 415-431). Sanctions are supposed to be a nonmilitary alternative to other disastrous options such as war or indifference in times of aggression or injustice (Haass 1998, 2).

2. *Sanctions as an extension of war*

Contrary to the first approach, Fisher believes that those who assert that sanctions are always preferable to war clearly overlook two things: the level of harm experienced by civilians and the inefficiency of sanctions, especially when sanctions are protracted and/or implemented on tyrannies and undemocratic regimes (Fisher 2011, 73) Joy Gordon describes UN sanctions on Iraq as an invisible war (Gordon 2010) and calls sanctions “modern siege warfare” (Gordon 1999, 387-400). Some others view sanctions as a kind of war tactic (Köchler 1994), the UN’s weapons of mass destruction (Halliday 1998, 3; Mueller and Mueller 1999, 43-53) and even a tool of genocide (Simons 1999; Bisharat 2001, 379). In some cases, war can be even better than total embargo, if the war is understood to be in the framework of just war (Winkler 1999, 133-155).

3. *Sanctions as an option between war and diplomacy*

In the third approach, sanctions stand between diplomacy and war, or statements and soldiers (Lektzian and Sprecher 2007, 415-431; Van Brabant 1998). Sanctions are also described as a tool of *coercive diplomacy* (McGillivray and Stam 2004, 154-172) or a tool of statecraft between war and commerce (Lenway 1988, 397-426).

I believe that based on the type and the context of their implementation, different sanctions can be identified under each of the above mentioned categories. However in all the cases, whether sanctions are an alternative to war, an extension of war, or between war and verbal exchanges, the sanctions can be judged with the same logic as war: *any sanction, like any war, has to be judged at least twice*—once in the time of *authorization of sanctions* and once in the time of *implementation of sanctions*. These two judgment levels are logically independent from one another which means that just sanctions can be implemented unjustly and unjust sanctions can be enforced according to the rules. There is also another stage of judgment, *post-sanctions*, which provides us with a more comprehensive assessment of sanctions.

Research questions and hypothesis

In this dissertation, I explore whether the *authorization* and *implementation* of sanctions against Iran have been *just* by examining the application of “Just Authorization of Sanctions” and “Just Implementation of Sanctions” in the case of Iran. Hence, I have two main research questions:

1. Have the authorizations of sanctions against Iran been *just*? (*Just authorization of sanctions*)
2. Have the sanctions against Iran been implemented in a just manner? (*Just implementation of sanctions*)

In considering these research questions, it is also important to distinguish sanctions authorized by the United Nations (UN) from those authorized by the US and the EU. The contexts of UN sanctions and non-UN sanctions on Iran are deeply intertwined. It is therefore important to compare and contrast the authorization and implementation of UN and non-UN sanctions on Iran. My hypothesis is that the authorization of non-UN sanctions against Iran has not been *just* and that non-UN sanctions have not been implemented justly. In contrast, both the authorization and implementation of UN sanctions on Iran were less unjust (it is a matter not simply of just and unjust, but of the *degree* of justice involved). In my research, justice is a continuous variable rather than a discrete variable. The degree of justice in the authorization and implementation of sanctions is determined in accordance with the criteria of “Just Authorization of Sanctions” and “Just Implementation of Sanctions”. These concepts are elaborated in Chapter 1 (on Theoretical Framework). In sum, the modification of JWT would provide us with new criteria to assess sanctions based on the new framework of *Just Sanctions Theory* (JST).

Research Plan

Before an elaboration of the research plan of my thesis and the presentation of the content of each chapter, I will briefly explain my chosen writing format and style mainly for the first three chapters in my introductory chapter. I acknowledge that the format of this component in the dissertation is not a common one. Instead of the longer discussion paragraphs as is usually found in academic essays or theses in the political and other social sciences, I present my arguments in a category-based writing style. There are several reasons why I decided that this writing format would serve as a better tool for my dissertation: (1) clearer presentation of the comparative quality of my research topic, (2) enhanced ability to apply simplifying techniques with complicated case studies and arguments, (3) helping to follow more clearly the broad scope of the issues under study, and (4) to maintain fairness and objectivity in the researcher and the presentation of the research. Below, I briefly explain what I mean by each of these points and why they help understand more clearly the clarity of my dissertation.

Firstly, as my dissertation is fundamentally a *comparative study*, the use of a category-based style more effectively expresses the intricacies of the research and arguments. I compare and contrast the authorization and implementation of UN, U.S. and EU sanctions on Iran by utilizing the theoretical tool, the “Just Sanctions Theory (JST)” that I introduce in the first chapter. A category-based writing style provides me as the researcher, and will provide the readers, with a comparative tool. It allows me to explain each sanction and to compare in depth the different types of sanctions made by different sanctioners through the use of sub-categories and factual evidence. At the end of each section, I further clarify the arguments that were made in tables that clearly express the differences and similarities in discussion in the given chapter. In this way, the reader is able to comprehend and follow my research better because more arguments and information are added with each chapter.

Secondly; the technical and complicated nature of Iran’s nuclear case and the nuclear-related sanctions require *simplifying techniques*. A significant portion of my dissertation is allocated to studying the nuclear-related sanctions imposed against Iran. Accordingly, I have chosen the category-based writing style as a simplifying technique to study one of the most technical and complicated cases of authorizing sanctions and their implementation in the world’s history. This writing technique allows me to assess various criteria of the Just Sanctions theory based on facts and evidences and then by explaining each in detail. Admittedly, such facts can be lost in a long discussion paragraph. But my category-based writing approach allows me to discuss and dissect a number of different complicated issues in an organized manner. Consequently that the chapter and as well as the thesis as a whole remain comprehensible to readers.

Third; the *broad scope of the issues under study* are better presented and addressed through discussing individual sanctions one by one. The Just Sanctions Theory (JST) encompasses many criteria. Given the different sanctions that have been imposed on Iran by various sanctioners, the assessment of justice is best addressed through my category-based writing style. With this approach, I am able to delve into each sanction and to study its particular implications while also being able to continually broaden the links back to the main argument and compare a given sanction with other sanctions and with the theory of just sanctions. Again, this approach allows me to discuss many topics in depth while keeping the thesis moving in an intelligible way.

Lastly, the approach assists me in maintaining *fairness and objectivity* in the presentation of my research. A category-based writing style constantly prompted myself as the researcher, to be watchful and to respect objectivity throughout my research. I found this style to be a just writing style, as it facilitated an equal space allocation to the sanctioners' and the target's arguments.

Therefore, this writing style has aided me as the researcher to categorize and to argue in some detail about the research topic of Just Sanctions theory (JST) and the case study of Iran. In short, I provide to a very minute degree a way toward the objective of making the research more comprehensible for all readers.

My research analysis is organised into eight chapters. In Chapter 1, I first explain the primary theoretical framework of my research: Just War Tradition (JWT), where I describe how this framework is applicable to the study of sanctions. Accordingly, I introduce a new theoretical framework: Just Sanctions Theory (JST). I then operationalize the key concepts of the JST: (a) "Just Authorization of Sanctions", (b) "Just Implementation of Sanctions", and (c) "Just Post Sanctions". Each concept contains its own set of criteria. I end the first chapter by identifying my research methodology and by explaining how my research will contribute to the existing literature on sanctions and studies about Iran.

In Chapters 2, 3, and 4 I examine the "Just Authorization of Sanctions" in the case of Iran. In order to keep the coherency of my argument while at the same time avoiding lengthy chapters, I have divided the criteria of this concept into three chapters and parts under a single title: "Just Authorization of Sanctions" (Part I, II and III). In Chapter 2, I examine the most important criterion, "Comparative Just Cause". I discuss the justification of each side (opposing countries and Iran) concerning their course of actions, in a one-to-one correspondence approach. Chapter 3 covers four other criteria, largely using the same approach: "Right Objective", "Last Resort", "Proportionality in Authorization" and "High Possibility of Success". In Chapter

4, the remaining three criteria will be examined: “Legitimate Authorizer”, “Unambiguous Resolutions” and “Well-defined Termination Mechanism and Requirements”. My analyses in Chapters 2, 3, and 4 are mainly based on library research (primary and secondary sources), the content analysis of statements by both sides (sanctioners and target), and sanctions-related resolutions and documents.

In chapters, 5, 6, and 7, I examine the “Just Implementation of Sanctions” in the case of Iran. I take a similar approach to the organization of chapters 2, 3, and 4 by splitting the criteria of the concept into three chapters and parts under a single title: “Just Implementation of Sanctions” (Parts I, II and III). The two most important criteria, “Target Discrimination Principle” and “Civilian Immunity Principle” will be discussed in Chapters 5 and 6 respectively. The focus of these two criteria is to discuss the effects of the implementation of sanctions on Iran and its citizens from multifaceted angles. This part of my research mainly rests on field research: my observations in Iran, interviews with well-informed scholars and officials, and domestic media and publications. In Chapter 7, I examine the remaining criteria: “Proportionality Principle”, “Prospect of Success Principle”, “Negotiation Principle”, “Monitoring and Evaluation Mechanism” and “Judicial Review Mechanism”.

Chapter 8 concludes my thesis by dividing my analysis into two different parts: (a) Sanctions, and (b) Iran. In the first part I describe the implications of my research for the use of sanctions as a global governance and/or foreign policy tool. In the second part, I provide an overview of some of my important findings in an assessment of justice in the “authorization” of sanctions against Iran. Furthermore, I take an alternative standpoint to review the “implementation” of sanctions on Iran by studying the role of globalization in the comprehensive implementation of sanctions. More specifically, I will be looking to assess how the rapid globalization of transnational economic connections facilitates to this day the deep and destructive living conditions of the citizens of Iran that have emerged as a consequence of sweeping and crunching impositions of sanctions. Lastly, given the recent developments in Iran’s nuclear case and the partial sanctions relief Iran has received, I briefly analyze “Just Post Sanctions” in the case of Iran.

Chapter One: Addressing the Argument; Theoretical Framework, Contribution and Literature Reviews, and Methodology

- Just War Tradition (JWT)
- How Is the Theoretical Foundation of JWT Applicable to Study Sanctions?
- Just Sanctions Theory (JST): Operationalization of Key Concepts
- Contribution and Innovation According to the Existing Literature Review
- Methodology

Addressing the Argument: Theoretical Framework, Contribution and Literature Reviews, and Methodology

The present chapter is the building block of the research. It introduces Just Sanctions Theory (JST), which the rest of the work will be built on (the existing literature on Just Sanctions, its strengths and weaknesses will come on pp.28-32). In fact, this chapter plays a continuous central role throughout the entire thesis, as the focus of other chapters is applying the Just Sanctions Theory to the case study of Iran. In short, the presented theoretical framework for Just Sanctions will be developed through examining the case study. In order to propose the Just Sanctions Theory (JST), first I will elaborate on the Just War Tradition (JWT). The core argument of this dissertation is that the Just War Tradition (JWT) can be modified and expanded to construct a theoretical framework, Just Sanctions Theory (JST). This theory, in turn, provides a means to study justice in sanctions.

To develop this argument, I have organized the chapter around five components as follows:

1. Just War Tradition (JWT);
2. How is the theoretical foundation of JWT applicable for studying sanctions?;
3. Just Sanctions Theory (JST): How the key concepts will be organized;
4. The contribution and innovation of my theoretical framework in the context of the existing literature;
5. Methodology for the empirical study of the justice of sanctions in situations like that of Iran.

1. Just War Tradition (JWT)

It would be more precise to call just war a “tradition” rather than a theory; it has involved in a series of steps that are not necessarily coherent but in the end of its development it is a useful tool for assessing justice. , The tradition of just war has Greco-Roman roots, mainly in the writings of the triumvirate of Aristotle, Cicero and Augustine (Orend 2006, 10) It was Aristotle (384-322 BC) who, living under the influence of wars between the Greeks and Persians and also among Greek city-states, coined the term “just war”, in contrast to the notion of “holy war”. After the classical Greek period, Cicero (106-43 BC) and Augustine (AD 354-430) made the Roman contribution to JWT (Orend 2006, 10-12). Although Christian theologians (such as Augustine) had a profound role in shaping JWT, this tradition is, at heart, a secular concept which deals with the rightness and wrongness of wars without referring to holy books (Orend 2006,10). In the 20th century, three outstanding works have had the most influence in redefining JWT with regard to modern wars:

- The Just War: Force and Political Responsibility (Paul Ramsey 1968)
- Just and Unjust Wars: A Moral Argument with Historical Illustrations (Walzer 1977)

- U.S. Catholic Bishops “The Challenge of Peace: God’s Promise and our Response” (Catholic Church, National Conference of Catholic Bishops 1983) (Farrell 2013).

Nuclear weapons, nuclear deterrence, terrorism, preventive war, preemptive war, humanitarian intervention and examples of modern wars such as those in Vietnam and Iraq are among the new issues that have entered the JWT. According to JWT, justice should be assessed at three major levels: (a) justice of war, (b) justice in war, (c) and justice before and after war.

1.1. Justice of War (*jus ad bellum*)

The Latin phrase, *jus ad bellum*, alludes to having the right conditions to go to war. There are a number of criteria for the justice of war:

1. *Just cause:*

Just cause is the most important and also the most challenging criterion of *jus ad bellum*. Some believe that nothing but *self-defense* can constitute just cause. However, there are a number of other causes asserted by different writers in the JWT that are believed to justify a war. Michael Farrell lists them as:

- A nation’s territorial right is being threatened.
- A nation violates international treaties and agreements.
- A nation resorts to non-violent aggression (e.g. economic sanctions or embargos)
- A nation declines to give right of passage or trading rights to other nations.
- A nation does not punish its own members who have committed crimes against another state (Farrell 2013, 16).

The “just cause” criterion would be excessively broad if it encompassed all of the sub-criteria listed above. In sum, the criterion of “just cause” is highly controversial because both sides of a dispute can claim that they have just cause and indeed each side may have some correct claims and some incorrect ones (Fisher 2011, 678).

2. *Right intention:*

The just cause needs to be accompanied by the right intention even if intentions are always mixed and not identifiable. The genuine intention of a state that launches a war should be towards just cause (Orend 2006, 46).

3. *Last resort*

War should be the last resort after all peaceful options have been exhausted and have failed (Orend 2000, 87).

4. *Competent authority and public declaration:*

Only a competent authority can decide to go to war. Additionally, the decision of waging a war should be publicly declared both to the citizens of a state that launching the war and the enemy (Orend 2000, 87).

5. *Proportionality principle:*

A state that wages a war should assess the “expected universal benefits” (not only its own benefits) against the “expected universal cost” and consequences of war. A state should not go to war if the benefits are not proportionate to the costs (Orend 2006,59).

6. *Probability of success*

It is the responsibility of a state that wages a war to assess the probability of success before going to war. If the prospect of victory is low, it would not be acceptable to put lives at risk (Orend, 2000, 87).

1.2. Justice In War (*jus in bello*)

“Justice in war” refers to following the rules for fighting (conventions of war) (Walzer 1977). These rules are classified into two categories: first, external rules (how a state in war should treat the enemy state/non-state actor), and second, internal rules (how a state in war should treat its own citizens) (Orend 2006, 106).

The external rules consist of:

1. *The Discrimination principle or non-combatant immunity:*

Non-combatants and civilians should not be *deliberately* harmed (Orend 2006, 112-115)¹. Non-combatant immunity encompasses the distinction between combatants/non-combatants, and between legitimate and illegitimate military targets (Kaufman 2007, 99).

2. *The Doctrine of Double Effect (DDE) or collateral damage:*

Double-effect reasoning is at the heart of JWT. According to the doctrine of double effect, secondary harm to non-combatants and civilians is justifiable if it is not directly intended. Walzer asserts that this doctrine needs correction and reformulation. In fact, if there is the possibility of a secondary effect, there should be a second intention and a responsibility to minimize and reduce the foreseeable harm (Walzer 1977, 153-6).

3. *Proportionality principle:*

There should be proportionality between means and ends in war (Farrell 2013:18). In other words, “Do not squash a squirrel with a tank, or swat a fly with a cannon” (Orend 2006, 119).

¹ Regarding intentionally killing the innocent, two approaches are recognizable in JWT: absolutism, which holds that the intentional killing of civilians is *always* wrong (“The Challenge of Peace”, National conference of Catholic Bishops, and Ramsey

4. *No “means mala in se”:*

“Means mala in se” or “methods evil in themselves” refers to the means that are intrinsically terrible, like using rape as a tool of war (Orend 2006, 123).

5. **“Benevolent Quarantine”**

Prisoners of war (POWs) should not be exposed to any kind of torture. The letter and spirit of human rights should be respected in regards to captured enemy soldiers (Orend 2006, 110-111).

The internal rules can be narrowed down to the state’s obligation to realize and practice its own citizens’ human rights during wartime (Orend 2006, 137).

1.3. **Justice Before War (*jus ante bellum*) & Justice After War (*jus post bellum*)**

The two stages of just ante-war and just post-war were added to the traditional literature of JWT. However, post-war, or “justice after war”, has attracted more attention than just ante-war (justice before war). Eric Patterson believes that JWT cannot be comprehensive without including “jus post-bellum” (Brough, Lango, and Van der Linden 2007, 49). Brian Orend introduces three propositions for “jus post-bellum”:

1. **Roll back**

Any achievement by the aggressor should be taken back. For instance, the aggressor should withdraw from territories that it has occupied, and the sovereignty of the victim of aggression should be retained and respected (Orend 2006, 164-165).

2. **Two-fold punishment**

The aggressor should not only compensate the victims, but also should be held accountable in war crimes trials (Orend 2006, 165).

3. **Deterrence**

The aggressor may face deterrence measures such as demilitarization (especially WMD), political rehabilitation (a regime change), or creation of a demilitarized “buffer zone” between the victim and aggressor to reduce the threat that the aggressor may impose in the future (Orend 2006, 165-169). Orend also draws attention to the proportionality principle in just post war by asserting that proportionality should be respected during demilitarization of the aggressor. In other words, demilitarization should not endanger the aggressor’s security and self-defense capabilities (Orend 2006, 169).

In sum, “just peace” requires an “ethical exit strategy” (Orend 2006, 181).

Patterson summarizes the principles of *jus post-bellum* in the following stages:

1. Order (stop killing),
2. Justice (compensation and punishment),
3. Reconciliation (Brough, Lango, and Van der Linden 2007, 39-41).

Punishment has been largely neglected in the literature of JWT, although it has a significant role in deterring future wars. The Nuremberg Trial is a symbol of seeking justice after war (Brough, Lango, and Van der Linden 2007, 45)

2. How Is the Theoretical Foundation of JWT Applicable to Studying Sanctions?

The JWT is appropriately applicable to studying sanctions for two major reasons:

a) The logic of judgment

The “*logic of judgement*” of both war and sanctions is the same.

Any judgment about justice in war and sanctions should distinguish, at the very least, between the two stages of (a) starting a war and (b) conducting a war. This “logic of judgement” has been accurately developed in JWT. In fact, justice should be broken down into different stages and these should be assessed and judged independently.

b) The criteria of justice

There are “criteria of justice” both for war and sanctions. There is a relationship between war and sanctions (sanctions as an alternative to war, an extension of war, an option between waging war and exchanging harsh words). Hence, as there are “criteria of justice” for war, there are “criteria of justice” for sanctions as well. Since sanctions are not the same as war, the “criteria of justice” are not the same. Thus, it is wrong to apply war’s criteria of justice to sanctions, while these criteria would be useful in developing sanctions’ criteria of justice. In sum, JWT provides basic grounds for the development of JST.

3. Just Sanctions Theory (JST): Operationalization of Key Concepts

Just sanctions theory (JST) is constituted by three major stages, or three key concepts: (a) just authorization of sanctions, (b) just implementation of sanctions, and (c) just post-sanctions.

3.1. Just Authorization of Sanctions

Although it is perhaps impossible to achieve perfect justice, *just authorization of sanctions* refers to the conditions under which authorizing sanctions *approaches* justice. Accordingly, there are criteria of justice to authorize sanctions: Comparative Just Cause, Right Objective, Last Resort, Proportionality in Authorization, High Possibility of Success, Legitimate Authorizer, Unambiguous Resolutions and Well-defined Termination Mechanisms and Requirements. Following, I provide further analysis of these sanctions factors.

1) Comparative Just Cause

Both the imposer and the target of sanctions can claim to have just causes. However, it is the responsibility of the sender to ensure it has the most just cause. The just causes of sanctions revolve around self-defense, facing sufficient threat and the breaking of international norms:

- *Self-defense (between and within states):*

The just cause of a sanction is valid when there is a *real offense* (Gordon 1999, 387-400).

When there is a war of self-defense, resorting to sanctions along with military force would be justified. This set of rules are also the case when there is a *real offense* inside a country such as genocide or ethnic/religious cleansing.

- *Sufficient threat (preemptive self-defense):*

Authorization of sanctions is closer to justice when a state or a non-state entity becomes a sufficient threat. According to Walzer, “preemptive self-defense” is justified when there is a threat of war or what he calls “sufficient threat” (Walzer 1977). He identifies three conditions which turn a threat into a *sufficient threat*:

- A. An apparent intention to harm;
- B. An active preparation which supports the intent to injure;
- C. A condition under which not taking countermeasures to diminish the threat would result in mounting danger (Walzer 1977).

Walzer also outlines some examples of what conditions are *not* considered to be real threats:

- A. Military preparation (i.e. advancing and boosting of military forces);
- B. Blustering by enemies (Farrell 2013, 38).

- *International norm-breaker:*

When a state or non-state entity violates international treaties and agreements, it becomes an international norm-breaker which becomes therefore subject to sanctions. The apartheid regime in South Africa was a clear example of an international norm-breaking state.

2) Right Objective

The just authorization of sanctions requires a right objective and intention although it is always difficult to identify mixed intentions. Sanctions are not always enacted based on a true claim, instead they are sometimes motivated by domestic and international interests. Despite the ineffectiveness of sanctions in many cases there is a strong tendency to use them. The American government frequently resorts to sanctions as an instrument of domestic policy and foreign policy. By implementing sanctions, U.S. politicians acquire domestic support and also present strong leadership on the international scene, both at a low cost (Whang September 2011, 787-801).

Sanctions with a right objective and a wrong intention are definitely not just; however, sanctions with a right objective and right intentions are not necessarily just. Right objective and intention constitutes only one of the criteria of the “just authorization of sanctions”.

The right objectives and intentions of the authorization of sanctions are

a) Promotion of human rights;

b) Restoration of peace and security.

Additionally, there are some objectives that are not right:

- Regime change:

The political system of each state is something that is decided by the citizens of that state. A regime change is not a right objective of the authorization of sanctions even if paired with a right intention.

- Balance of power change:

Changing the balance of power at regional and international levels is not considered to be a right objective of the authorization of sanctions.

3) Last Resort

Are sanctions being considered only after other less drastic means are used to resolve the issues or disputes at hand? The definition of appealing to sanctions as a last resort suggests “the imposition of sanctions must be preceded by other, *less-coercive instruments* (Amstutz 2005, 188). There are other options before resorting to sanctions. These include: diplomacy, covert measures, incentive measures, legal referrals and threats of the use of military force or sanctions. In general, the states’ tools can be graded as: “secret diplomacy, speeches, public condemnations, mild sanctions, comprehensive sanctions, and military action.” (Amstutz 2005)

4) Proportionality in Authorization

There are two fundamental questions regarding proportionality in sanctions: (1) what is proportionality about? , (2) how should proportionality be measured?

In general, proportionality is one of the most unclear criteria in international law, particularly when it comes to sanctions. The rule of proportionality suffers from “inherent indeterminacy” (Cannizzaro 2001, 916). The UNSC has not paid enough attention and consideration to International law norms and standards, especially the proportionality norm, in appealing to the sanctions tool (Reisman and Stevick 1998, 126). Only the two cases of Haiti and Iraq sanctions regimes and their humanitarian consequences triggered the UNSC to review the proportionality and discrimination standards in enforcing sanctions (Reisman and Stevick 1998, 126). Mary Ellen O’Connell, Professor, Moritz College of Law and the Mershon Center for International Security and Public Policy Studies, Ohio State University, identifies two weaknesses of countermeasures proportionality in appealing to the sanctions tool:

- a) Indeterminacy of proportionality (at the time of sanctions authorization);
- b) Retaining proportionality (during sanctions implementation) (O’Connell 2002, 63-79, 77).

Thus, not only is there no legally agreed upon framework for identifying proportionality in appealing to the sanctions tool, but also there is also always a risk of losing proportionality during the implementation of sanctions. Consequently, there is a need for a mechanism to hold the responding party in their commitment to appeal to sanctions when it is by all means an equivalent tool to committed wrongs and also a mechanism for maintaining proportionality during the implementation.

In spite of these indeterminacies, it is suggested that proportionality in the authorization of sanctions is based on the following definition, logic, and measurability:

- a) Definition:

Proportionality refers to the *equivalence* between the breached rule/norm and its consequences on one hand and the nature and scope of the countermeasures on the other (Cannizzaro 2001, 891). The proportionality rule constrains the responding actor’s countermeasures from surpassing the *magnitude* of the original violation. In fact, “proportionality would require that the intensity of constraint be appropriate to the gravity of the breach” (Cannizzaro 2001, 894).

b) Logic:

The standard of countermeasure proportionality is unconnected with standards of effectiveness (O'Connell 2002, 78). Therefore, it would be unjust to authorize or implement sanctions disproportionately in order to increase their effectiveness. In other words, sanctions may be authorized and implemented disproportionately in order to be effective and successful. But in such an instance, they would no longer be *just*.

c) Measurability:

Proportionality can be measured against (a) wrongdoing/violation, and/or (b) hypothetical threat.

Proportionality is measurable against a wrongdoing or a violation but not against a hypothetical threat. In fact, it is possible to measure proportionality between a wrong and a countermeasure, but proportionality would be irrelevant when a countermeasure is adopted against a hypothetical threat. For instance, any countermeasure that could deter the threat of nuclear war would be acceptable. Thus, it is important to examine the narratives of both sides' as well as other criteria of justice (in particular comparative just cause) in order to verify the validity of the threat and ultimately the proportionality of a countermeasure. Proportionality is not only about the respondent's chosen *means* (countermeasures), but also the respondent's *aims*. In other words, proportionality is measured by equivalent countermeasures (means) to the breach and the respondent's aims in accordance with both the chosen means and the aim itself² (Cannizzaro 2001, 891). For instance, if someone slaps another person's face, it would be disproportionate if the respondent shot the other in the head (disproportionate *means*). Likewise, if a driver violates the driving rules by driving through a red light, it would be disproportionate if the police put the violator in jail (disproportionate *means*, but *connected aims*), Furthermore, it would be disproportionate if the police impounds his educational diploma (inappropriate and *unconnected aim*)³. Thus, the proportionality principle encourages the respondent to aim for seeking compliance with the breached rule and/or norm and not seeking its own interests or motivations (Cannizzaro 2001, 893).

5) High Possibility of Success (Sanctions Efficacy)

² The common understanding of "proportionality" is based on the link between the means and aims of the responder, however it is important that the aim itself be appropriate in the context of the breached rule (Cannizzaro 2001, 897)

³ Cannizzaro claims that the case of hostage taking by Iran after the Islamic revolution is an example of disproportionate countermeasures as acknowledged by the International Court of Justice. The act of taking US diplomatic and consular staff as hostage by Iran was not a proportionate response to the U.S. interference in Iran's domestic affairs (Cannizzaro 2001, 898).

A high possibility of success should be predictable before resorting to the sanctions tool.

Sanctions' success depends on many elements including the following factors:

a) Core objective of sanctions

The possibility of sanctions' success is higher when their core objective is minor rather than major, whereas the target's resistance would be greater in the face of fundamental changes or demands ⁴(Amstutz 2005).

b) Number of sanctioners

The greater the number of sanctioners there is, the higher the possibility that sanctions would be achievable. In other words, international and multilateral sanctions would be more efficient than unilateral sanctions. (Amstutz 2005).

c) Type of sanctions

Comprehensive sanctions have more of a possibility of success than targeted sanctions unless targeted sanctions would be in place along with other types of targeted sanctions or in the framework of comprehensive sanctions (Hufbauer and Oegg 2000).

d) Type of target regime

As a general rule, the possibility of the success of sanctions is more likely when they are imposed on democratic regimes rather than autocratic governments (Amstutz 2005).

Robert A. Pape, an American political scientist, claims that the main reason for the failure of sanctions is the modern state itself, since modern states are not fragile. He argues that the nature of the target regime is far more important than sanctioners and the cooperation among them when it comes to sanctions' success., It was so in the case of Iraq's sanction regime. It was not defeated by sanctions even when sanctions eliminated 48 percent of its GNP (Pape 1997, 106).

The personality and psychology of the target regime's leaders is also a critical factor in calculating the possibility of the success of sanctions, particularly in regimes in which individual political leaders have prominent and major roles.

e) Ability of the target to circumvent sanctions

The possibility of sanctions' success is higher when the target is unable to circumvent sanctions. On the contrary, targets with high ability of adjustment, a diverse economy, and capability to circumvent sanctions would hinder the possibility of sanctions' success.

f) Symmetric issue perception

⁴ According to Mark Amstutz, Professor of political science at Wheaton College, the political success of economic sanctions depends on three factors: (a) the type of sanctioned government (b) the issues- that sanctions are imposed to, and (c) multilateral support (Amstutz 2005).

The degree of saliency of the issues of dispute for both the sanctioner(s) and the target(s) of sanctions is an important factor of success. Adrian U-Jin Ang and Dursun Peksen claim in their article entitled “When Do Economic Sanctions Work? Asymmetric Perceptions, Issue Saliency, and Outcomes”, that symmetric issue perception is a condition under which economic sanctions work (Adrian U-Jin Ang and Peksen 2007, 135-145). For instance, the dismantling of the apartheid regime in South Africa was the objective of UN sanctions. These sanctions were perceived as a symmetric issue or problem because apartheid was rejected both *within* the target state and outside it in the international community. Apartheid was a serious problem for the 80% of the South African population who were Black *before* it became a problem to be dealt with by the international community. Political parties and movements in South Africa such as the ANC called for comprehensive but not prolonged, sanctions. Moreover, religious institutions and non-racial church groups such as the South African Council of Churches (SACC) and the Southern African Catholic Bishops Conference (SACBC), demanded conditional disinvestment (Orkin 1989, 8-11). To wit, apartheid had issue saliency both inside South Africa and in the international community.⁵ This symmetric issue perception in South Africa made UN sanctions more justifiable as well as more successful.

6) Legitimate Authorizer

The authorizer of the legitimacy of sanctions depends on the type of sanction(s) implemented: (a) International, (b) Unilateral, and (c) Secondary or Extraterritorial.

a) International Sanctions

From a legal perspective, the United Nations Security Council (UNSC) is the sole competent authority to authorize international sanctions. However, one should not overlook the fact that the UN has its own flaws (Fisher 2011, 68). The current structure of the UN is corrupt, unaccountable, and highly influenced by the US (Gordon 2007, 59-77). Gordon asserts that UN sanctions on Iraq were basically a US proposal to the UN under the name of global governance (Gordon 2009, 358-9). She believes that the role of the UN in implementing sanctions on Iraq under the pressure of the US was the “legalization of atrocity” (Gordon 2010).

⁵ Joy Gordon asserts that South Africa should not be taken as a typical case of sanctions. In fact, in almost all aspects, South Africa was unlike any case of sanctions. While in many cases the implementation of sanctions goes against the will of the target state and population and reinforces *nationalism*, in South Africa the majority of the black population supported sanctions and the implementation of sanctions resulted in greater *international solidarity* with South Africa’s Black population (C. Joy Gordon, "Economic Sanctions and Global Governance: The Case of Iraq," *Global Crime* 10, no. 4 (2009), 356-367).

Even when international sanctions are authorized by the UNSC, the legitimacy of its process should be taken into account as well. In fact, there is still the question of whether the authorization of international sanctions has been based on the will and priorities of a few states, or an international consensus (Chesterman and Pouligny 2003, 503-518). Hence, assessing the UNSC's competence in authorizing international sanctions needs to consider the following factors:

- *Political context of the UNSC;*
- *Sanctions Committee's procedure and transparency.*

In sum, in spite of the UNSC failure to act properly in some sanctions cases, these failures should not open up a moral space for imposing international sanctions outside the framework of the UN. Rather, it should attract attention to the urgent need for UN reforms.

Once an international sanctions regime has been authorized by the UNSC, all Member States are legally bound to follow the decisions of the UNSC. However, Member States may follow the UNSC sanctions in two different ways:

- *Authorize sanctions within the UNSC framework*
- *Authorize sanctions based on a broad interpretation of the UNSC resolution(s)*

All Member States would be legitimate authorizers of sanctions if they authorized sanctions within the UNSC framework. However, they would have less legitimacy if they authorized sanctions based on a broad interpretation of the UNSC resolution(s).

b) Unilateral Sanctions

Any country has the right to impose sanctions on another country based on its own national interests. However, the unilateral sanctions should be restrained, not excessive. In fact, unilateral sanctions fall into the following two categories in which the authorizer's legitimacy differs:

- *restrained*

Unilateral restrained sanctions refer to diplomatic relations interruption and banning trade. Every sovereign state would be a legitimate authorizer of unilateral restrained sanctions.

- *Excessive*

Unilateral excessive sanctions refer to banning goods and services which endanger target civilians' lives. No sovereign state would be a legitimate authorizer of unilateral excessive sanctions.

c) Secondary or Extraterritorial Sanctions

Secondary or extraterritorial sanctions refer to “economic restrictions designed to deter third-country actors from supporting a primary target of unilateral sanctions” (Meyer 2009, 906). According to Andreas Lowenfeld, “[i]n a secondary boycott, state A says that if X, a national of state C, trades with state B [the primary sanctions target], X may not trade with or invest in A.” (Lowenfeld 1996, 419- 429). As a general rule, all the national legislations should be territorial, otherwise they would violate the international laws' principles (Mohamad 2015, 71). Consequently, no single state would be a legitimate authorizer of unilateral sanctions with extraterritorial applications or what is called secondary sanctions. Extraterritorial sanctions are condemned by the international community, in particular by the UN General Assembly Resolutions (Clark and Wang 2007, 7-8). In one of the resolutions, the UN General Assembly calls for:

“the immediate repeal of unilateral extraterritorial laws that impose sanctions on companies and nationals of other States; (The UN General Assembly Resolution A/RES/51/22 December 6, 1996, para. 2).

Moreover, it calls upon *“all States not to recognize unilateral extraterritorial coercive economic measures or legislative acts imposed by any State;”*⁶(The UN General Assembly Resolution A/RES/51/22 December 6, 1996, para.3).

7) Unambiguous Resolutions

⁶ The UN General Assembly's criticism of extraterritorial sanctions had been particularly targeting the US sanctions against Cuba (Clark and Wang, 2007:7-8). The only countries that voted against the General Assembly's Resolution 1996, were the U.S., Israel, and Uzbekistan (Meredith Rathbone, Peter Jeydel and Amy Lentz, "Sanctions, Sanctions Everywhere: Forging a Path through Complex Transnational Sanctions Laws," *Georgetown Journal of International Law* 44, no. 3 (2013),1072-1073).

Sanctions should be authorized with full clarity in declaring the (a) causes, (b) objectives, and (c) measures of sanctions. Additionally, the language of sanctions' resolution/document should not be vague, contain undefined terms, or non-evidentiary requirements.

In sum, an unambiguous sanctions resolution/document would hinder any misinterpretation, auto-interpretation, and consequently the authorization and implementation of expanded sanctions beyond the original framework.

8) **Well-defined Termination Mechanism and Requirement**

The sanctions resolution/documents should clearly define:

- a) How (Mechanism); and
- b) Under what condition (Requirements)

sanctions would be lifted.

It would be unjust to set “imprecise mechanisms” and/or “immeasurable requirements” for the termination of authorized sanctions. Any deficit in this regard would pave the way for open-ended sanctions being implemented.

Another way to avoid an open-ended implementation of sanctions is to authorize sanctions in a renewable format. In other words, a sequential reassessment of sanctions is required to assure whether sanctions should still be in place or not.

In 2000, the UN established an informal working group to develop sanctions' efficacy and design. One of the most controversial debates in the UN informal group was about the sanctions termination mechanism. In fact, the members of the informal working group were divided in supporting one of the following termination mechanisms:

- a) Open-ended sanctions;
Sanctions should be open-ended until a new resolution is passed;
- b) Renewable sanctions;

Sanctions should be authorized for a definite period of time and if they are to be renewed, another resolution should be passed (Weschler 2009, 40-42).

The proponents of the first mechanism, including the U.S., argued that sanctions should be in place as long as the target state does not change its behavior. They were also concerned about the risk of veto during sanctions renewal periods. In contrast, the opponents of the first mechanism, including France, argued that sanctions should always be authorized for a specific period of time to meet the standard of ethics and morality (Weschler 2009, 40-42).

The sanctions on Iraq is a clear example of how open-ended and ill-designed sanctions can

result in years of sanctions implementation as occurred after Saddam Hussain's rule was toppled.

In spite of the disagreement among the UN informal working group, the UN has been authorizing both open-ended and renewable sanctions. The following pattern explains the UN behavior in this matter:

a) Global security;

When the issue of sanctions is global security, for instance nonproliferation and counterterrorism, the UN has authorized sanctions in an open-ended framework.

b) Conflict management;

When the issue of sanctions is conflict management the UN has authorized sanctions in a renewable framework (Weschler 2009, 40-42).

3.2. Just Implementation of Sanctions

The *just implementation of sanctions* deals with the conditions under which the implementation of sanctions would be *closer* to a just implementation. These conditions are classified under principles and mechanisms including: Target Discrimination Principle, Civilian Immunity Principle, Proportionality Principle, Prospect of Success Principle, Negotiation Principle, Monitoring and Evaluation Mechanism, and Judicial Review Mechanism. Accordingly, the just implementation of sanctions should not violate a set of *principles* and at the same time require special *mechanisms*.

1) Target Discrimination Principle

The centerpiece of Just Implementation of Sanctions is that civilians should be immune to the impacts of sanctions. Accordingly, the core of both the Target Discrimination Principle and the Civilian Immunity Principle is the same. But they have been magnified separately due to the controversial debates around the differences between targeted and comprehensive sanctions and how targeted sanctions are identified as more humane.

A targeted sanction “means applying pressure on specific decision-making elites and the companies or entities they control” (Cortright and Lopez 2002, 2). According to this definition, “targeted sanctions are actor- and issue-oriented” in which specific individuals, commodities and sectors are carefully selected. In contrast, comprehensive sanctions are “broad-based and state- and society-oriented” (Eriksson 2011, 3). Targeted sanctions are also called “smart sanctions”. Hufbauer and Oegg believe that smart sanctions are like "smart bombs". Only those individuals, elites and

decision-makers who are responsible and specific sectors under their control are being targeted (Hufbauer and Oegg 2000).

According to the Target Discrimination Principle, the implementation of sanctions would be unjust under the following circumstances:

a) Comprehensive implementation of targeted sanctions

It would be an unjust implementation of sanctions if the sanctions that were authorized to be targeted to reduce the inhumane impacts of sanctions were actually implemented comprehensively. In fact, a comprehensive implementation implies that the impacts of targeted sanctions go well-beyond the sanctioned target (Population-wide impacts). For instance, when Iran's shipping lines were targeted, it was not only Iran's shipping companies that were affected by the sanctions, but also the whole trading system. Consequently, civilians' access to all goods were affected as well. Thus, the targeted authorization of sanctions on Iran's shipping lines was comprehensively implemented. The comprehensive implementation of targeted sanctions contradicts the primary logic of authorizing targeted sanctions because they harm the civilian population. Comprehensive sanctions are therefore unjust by definition.

Targeted sanctions with targeted implementation are more just. In most cases, targeted sanctions against individuals do not have comprehensive implementation, nor impacts in other fields or on civilian lives.

b) Sanctions implementation curbs access to humanitarian goods, e.g. food, medication, medical equipment and services

It would be an unjust implementation of sanctions if the sanctions implementation either directly or indirectly impedes target's access to humanitarian goods. For instance sanctions against Iran were not directly targeting medication and medical equipment, but Iranian access to medication was curbed indirectly due to sanctions on banking system and financial transactions.

c) Sanctions implementation curbs the right to development

The development of a country is driven by its infrastructures, human resources, technology, telecommunications and banking (Manchak 2010, 433). Therefore, harming these pillars of development would result in curbing a country's right to development. For instance, the U.S. protracted sanctions on Cuba "directly violate (d) Cuba's right to development" (Manchak 2010, 434). The sanctions hit Cuba's banking system and cut it off from the modern trading system.

Additionally, they weakened Cuba's technological progress, human resources cultivating process and functioning of its infrastructure (Manchak 2010, 434).

d) Sanctions implementation destroys targets' infrastructures

Similar to rules of just war in which it is prohibited to attack non-military targets and to destroy civilian facilities (for instance a food factory instead of artillery), it would be unjust to demolish a country's infrastructure by implementing sanctions. Target Discrimination Principle refers to the necessity to discriminate between legitimate and illegitimate targets in sanctions.

2) **Civilian Immunity Principle**

It is central to Just Implementation of Sanctions that civilians should not be harmed by the implementation of sanctions. This notion is assessed through invoking two principles: the Target Discrimination Principle, and the Civilian Immunity Principle. The focus of the Target Discrimination Principle is on the specific impacts of sanctioning on each one of the targets. The Civilian Immunity Principle's attention is on the impacts of sanctions as a package, specifically as they affect civilians' daily lives. It focuses on how the implementation of sanctions may impact the target population's economic system, public health system, educational system, culture and environment.

3) **Proportionality Principle**

Not only should sanctions be authorized proportionately, but also proportionality should be maintained during the implementation of sanctions. Therefore, the implementation of sanctions should be monitored and adjusted for the purpose of retaining proportionality. For instance, if the UN's comprehensive sanctions against Iraq, due to its invasion of Kuwait, were initially proportionate, they ceased to be proportionate when the reason for sanctions changed from invasion to the allegation of possession of WMD. The sweeping sanctions could have been adjusted to lessen countermeasures such as arms embargos to retain proportionality(O'Connell 2002, 63-79, 78).

Proportionality in implementation of sanctions includes the following definition, logic and measurability:

a) *Definition:*

Proportionality during sanctions implementation refers to maintaining equivalence between the countermeasures and their impacts as well as the original and additional committed wrongs. In other words, "measures must remain proportional to the original wrong. Only when the

wrongdoer commits new wrongs may more or different measures be taken” (O’ Connell 2002, 77). Furthermore, the scope of inflicted harm on the target is central to the Proportionality Principle during sanctions implementation. Reisman and Stevick suggest, “collateral damage, as part of general damage, must also be proportional” (Reisman and Stevick 1998, 131)

b) *Logic*:

The logic of proportionality is the same both in the authorization and implementation of sanctions. The standard of countermeasure proportionality is unconnected with standards of effectiveness (O’ Connell 2002, 78). Therefore, it would be unjust to implement sanctions disproportionately in order to increase effectiveness.

c) *Measurability*:

Proportionality in time of sanctions implementation could be measured against (a) original and additional wrong/violation, (b) hypothetical threat, (c) inflicted harm on the target (intended and collateral damage).

There are challenges to maintaining proportionality during the implementation of sanctions:

a) Broad interpretation

Even if sanctions were authorized proportionately, any broad interpretation during the implementation could expand the scope of injury. Consequently, the possibility of losing proportionality would increase.

b) Prolonged implementation

Even if sanctions were authorized proportionately, a prolonged implementation of sanctions could increase the possibility of more injury and lose proportionality.

4) **Prospect of Success Principle**

Even if sanctions were authorized in a just manner, they would be far from just if kept in place when there is no prospect of success.

The Prospect of Success Principle during the implementation of sanctions is assessable against the general objectives of sanctions. The general objectives of sanctions are:

a) *Coercion*

Sanctions are meant to coerce the target to change its behavior. The focus of the traditional approach to sanctions is only on the coercion objective of sanctions (Biersteker and others 2012, 10).

b) *Constraint*

Sanctions are meant to constrain the target from prohibited activity.

c) *Signaling and stigmatizing*

Sanctions are meant to stigmatize the target and send a signal to the target and other actors about the consequences of a wrong/violation.

(Biersteker and others 2012, 7-14).

5) **Negotiation Principle**

The implementation of sanctions should not prevent negotiation opportunities. Sanctions as leverage should promote negotiations (Himes February 28, 1997).

6) **Monitoring and Evaluation Mechanism**

The implementation of sanctions would be more just if a monitoring and evaluation mechanism constantly watched and assessed the impact of sanctions on their target. It is the responsibility of sanctioners to establish a monitoring mechanism on their own initiatives, and accordingly adjust sanctions to reduce humanitarian harms and collateral damage. A monitoring mechanism that merely oversees the violation of sanctions and is mandated to promote the efficacy of sanctions is insufficient.

In sum, a monitoring system to assess the consequences of sanctions is essential (Himes 1997). The existence of such a mechanism could ensure that sanctions would be more compatible with the fundamental humanitarian principle (Momtaz 2009, 348).

7) **Judicial Review Mechanism**

The implementation of sanctions would be more just if targeted individuals' and entities' rights to due process were recognized and practiced. Sanctioners are responsible to ensure that the targeted individuals' and entities' rights are protected by establishing or designating an independent, impartial and transparent judicial review mechanism.

3.3. **Just Post-Sanctions**

Just Post Sanctions refers to conditions under which the termination of sanctions would be more just. This topic is not expanded upon in this research project due to the limitation of this thesis. But since Iran and P5+1 were able to reach the nuclear deal in 2015, and some of the sanctions were lifted in

2016, I have devoted a section to “compliance” criterion in the conclusion chapter. I anticipate that Just Post-Sanctions will be my next research topic, after completing my Ph.D.

In general, Just Post-Sanctions roughly encompasses the following criteria:

1. Compliance

Sanctions are lifted through a designated mechanism. An example would be, for instance a new UNSC Resolution or reaching the time period, sanctioner(s) should comply with the agreed upon time of termination of sanctions. It would be unjust to keep sanctions in place or hinder and delay the termination process.

2. Compensation and Punishment

The authorizer(s) and/or implementer(s) of unjust sanctions should be held accountable in an international tribunal. They should be recognized as “wrongdoer(s)” and be ordered to compensate the damages inflicted on the target and victims of unjust sanctions.

3. Proportionality

The punishment and compensation should be proportionate to the inflicted harm on the target.

4. Deterrence

Necessary deterrence measures should be adopted to avoid the authorization and implementation of unjust sanctions in the future.

5. Collateral damage responsibility

Regardless of the justness of the authorization and implementation of sanctions, sanctioner(s) should accept the responsibility of addressing collateral damages to the target. For instance, if sanctions were affecting the educational system of the target, it would be more just if sanctioner(s) take part in resituating or protecting the educational system.

4. Contribution and Innovation According to the Existing Literature Review

The contribution of this research to the current literature⁷ and policy implications are classified in three categories: (a) Methodological and theoretical contributions, (b) General contributions, and (c) Contributions to studies about Iran.

a) Methodological and theoretical contribution

This research will make a methodological and theoretical contribution by *adjusting* JWT for sanctions and developing a Just Sanctions Theory (JST) framework. The JST framework is an adjusted method

⁷ The current literature on sanctions and JWT can be identified as falling into three main categories:

- a) Studies that apply the same just war criteria to assess sanctions;
- b) Studies that modify the just war criteria and then apply them to sanctions;
- c) Studies about the case of Iran’s nuclear program from the JWT standpoint.

for analyzing and judging different types of sanctions. Some scholars, such as Joy Gordon⁸ (Gordon 1999, 387-400), Adam Winkler⁹ (Winkler 1999, 133-155), and Albert C. Pierce¹⁰ (Pierce 1996, 99-113), have applied just war criteria to assess sanctions. Although their works are useful and open up a new perspective from which to analyze sanctions, they do not go beyond the JWT framework and do not modify its criteria in accordance with sanctions. In this framework, sanctions would be just if they met the same criteria of JWT

I believe that applying the JWT framework to sanctions requires modified methods because:

Sanctions are not war.

Applying war's justice criteria to sanctions inaccurately implies that sanctions are similar to war in the sense that the same assessment tools would be sufficient to evaluate both war and sanctions. I believe that there is enough similarity between war and sanctions to allow us to adopt a JWT framework. But there are also enough differences that we must modify JWT in order to *accurately* apply it to sanctions. Although studies that have applied non-adjusted JWT to sanctions are inspiring, at the same time their work can lead to a misleading analysis of sanctions by ignoring the differences between sanctions and war.

I would like to not only *adjust* JWT, but also to propose a *comprehensive* assessment framework for sanctions based on both (a) *stages* (authorization, implementation, and post-termination) and (b) *criteria*. Some scholars have conducted limited adjustments to JWT and applied these to sanctions. This step is a valuable methodological one, but it still has a long way to go before reaching a *comprehensive* assessment framework for sanctions due to the following reasoning:

- *Inadequacy of limited modified criteria*

⁸ Joy Gordon has published a series of articles and books mainly focused on the inhumane impacts of UN sanctions against Iraq. In her article entitled "Economic Sanctions, Just War Doctrine, And the Fearful Spectacle of the Civilian Dead", she specifically points out just war tradition and concludes that UN sanctions against Iraq have violated both the "just of war" and "just in war" principles (Gordon 1999). However, she does not do any modification to just war principles; she chooses a few criteria of just war tradition, such as the existence of real danger, the possibility of success, proportionality and civilian immunity, that she believes have all been violated in the UN sanctions on Iraq (Gordon 1999).

⁹ Adam Winkler, in an article entitled "Just Sanctions", tries to examine the morality of sanctions by appealing to just war tradition. He concludes that we could have just sanctions if sanctions were limited to arms embargoes, diplomatic sanctions, and freezing of foreign assets, and do not extend to total embargoes. Winkler also asserts that economic incentives, along with limited sanctions, can facilitate the implementation of just sanctions (Winkler 1999:154-5). Yet, similar to Gordon, he picks a few criteria of just war tradition and applies them to sanctions without modification or refinement of JWT. In fact, in Winkler's point of view, sanctions would be just if they met three criteria of just war tradition: just cause, right intention, and non-combatant immunity. However, he addresses an important pitfall in assessing sanctions by pointing to the necessity of the existence of "an international sanctions organization". He claims that such an organization should be established to increase the morality, acceptability, and effectiveness of sanctions (Winkler 1999, 154). In sum, Winkler does not propose a new assessing framework for sanctions rather than JWT criteria.

¹⁰ Albert C. Pierce (*Just War Principles and Economic Sanctions* 1996) studies the violation of the discrimination principle in economic sanctions in the case of Haiti by referring to studies that have been conducted by Lori Fisler Damrosch's and Michael Walzer. Gerard F. Powers and Jack T. Patterson, in two different chapters in a book entitled *Economic Sanctions: Panacea or Peace building in a post-Cold War World?*. They respectively focus on the civilian immunity principle of JWT to morally assess the economic sanctions and appeal to Christiansen to evaluate the suitability of sanctions (Cortright and Lopez, 1995).

Most of the studies that have modified JWT for sanctions revolve around a few selected JWT criteria, mainly “just cause” and the “civilian immunity principle”. For instance, Laurie Fisler Damrosch, a legal scholar, identifies merely three criteria for economic sanctions to be appropriate: (1) Civilian impact: economic sanctions should not bring the living standard below the survival level; (2) Wrongdoer impact: economic sanctions should be targeted to those who are responsible (the wrongdoers); (3) Wrongdoer/civilian impact: economic sanctions should not let wrongdoers be enriched at the expense of civilians (Fisler Damrosch 1993, 281–283).

Even though the JWT selected criteria are adjusted for sanctions, limited criteria would be inadequate for analyzing sanctions, especially when no new criterion other than modified JWT criteria are introduced.

- *No recognition of Judgment stages*

Some scholars have noticed the necessity of JWT criteria modification, but have overlooked the importance of differentiated judgment stages in studying sanctions. I believe that one of the most critical and inspiring analytical points of JWT (and one which is properly applicable to sanctions), is the existence of differentiated judgment stages (justice of, justice in, and justice after war). For instance, theologian Kenneth Himes proposes seven criteria for assessing the moral legitimacy of economic sanctions in general¹¹ (Himes 1997). In their respective endeavors of adjusting JWT criteria for sanctions, the different stages of authorization and enforcement of sanctions are not recognized. I believe that it is extremely important to notice the logically independent character of the judgment stages in order to have a systematic analysis of sanctions. In other words, it is important to note that just authorized sanctions can be implemented unjustly or unjust authorized sanctions can be implemented in accordance with the rules. In sum, judgment stages are as important as criteria of justice. Thus, I have tried to add to the value of the conducted studies by stressing this systematic angle.

- *Narrow framework*

Some scholars have recognized the judgment stages and the necessity to provide moral and legal standards for sanctions. Unfortunately, their suggested framework is still narrow. Mark Amstutz allocates seven modified JWT criteria under two stages of “just of sanctions” and “just in

¹¹ Theologian Kenneth Himes criticizes the dominant literature about sanctions, which mostly revolves around the question of whether sanctions work. He believes it is necessary to establish criteria for sanctions implementation. Based on just war tradition, he proposes seven criteria for assessing the moral legitimacy of economic sanctions: (1) sanctions should not be implemented without good reason, such as aggression or repression by the wrongdoing nation; (2) sanctions should always come with negotiation and after the employment of less harmful means; (3) the objectives should be clearly stated, so the condition of lifting sanctions is clear (in reality, senders usually have policy shifts); (4) sanctions should follow the principle of discrimination and target people who are responsible for the crisis. Selective sanctions should come first and undermining the well-being of the average citizen must be avoided; (5) monitoring systems are required to evaluate the effects of sanctions -- human-rights groups such as the International Red Cross and Red Crescent can take this responsibility; (6) if sanctions are imposed for humanitarian causes, the sanctions should be supported by the victims of the target state (e.g. South Africa); and (7) sanctions should be implemented by the UN or regional groups and if they are carried out unilaterally, they require a persuasive argument (Himes 1997).

sanctions”¹². His introduced framework is a valuable step forward, but it still requires more expansion. Additionally, it is important to note that if a just sanctions doctrine is to be introduced, it requires new criteria, not only the modification of the same criteria of JWT.

In sum, I will make a methodological and theoretical contribution, not only by *adjusting* JWT, but also by proposing a *comprehensive* analytical framework (which encompasses both *stages* and *criteria*) to assess sanctions.

b) General contribution

Most studies about JWT and sanctions revolve around illustrating the inhumane impacts of economic or comprehensive sanctions. I will add to the value of what has been done so far by going beyond the humanitarian dimension of a single type of sanction.

- *Beyond the humanitarian dimension*

My research is not confined by morality and a humanitarian approach; it encompasses security studies and a global governance dilemma as well. The related works, such as studies that have been conducted by Joy Gordon (1999), Reisman W, Stevick D (1998) Adam Winkler (1999), Albert C. Pierce (1996), Gerard F. Powers and Jack T. Patterson (in Cortright, Lopez 1995), Mark R. Amstutz (2013), and Nema Milaninia (2015) mostly examine the morality and inhumane impacts of sanctions by appealing to JWT. Or, in accordance with International law standards, they including International Humanitarian Law. The main factor that guides my research beyond the humanitarian dimension is the uniqueness of my case study. The intense and global nature of the imposed sanctions on Iran is unprecedented in history. Its uniqueness arises out of the terms of the large number of states imposing sanctions and the broad scope of the sanctions being implemented. In addition, the main cause of the imposed sanctions, Iran’s nuclear program - a so-called threat to global peace and security - brings security studies and global governance into my research. By integrating them into my framework of analysis, I further enrich the JST analytical framework.

- *Beyond mono-type sanctions*

In almost all of the studies listed above, various types of sanctions are overshadowed by the dominance of economic sanctions. I believe that a comprehensive JST framework will permit me to

¹² Mark R. Amstutz, in one of the chapters of his book *International Ethics: Concepts, Theories, and Cases in Global Politics* (“Morality of Sanctions”), applies JWT to economic sanctions. Although he introduces the just sanctions doctrine in this chapter, he actually adopts seven main principles of JWT and applies them to economic sanctions with limited modifications. According to this chapter, the just sanctions doctrine consists of seven principles: just cause, right intention, limited objectives, last resort and probability of success, which constitute “just of sanctions”, and discrimination and proportionality, the two criteria for “just in sanctions” (Amstutz 2013).

take better account of the range of different types of sanctions available or in play. In particular, I will develop analytical processes for assessing targeted sanctions which have flooded the recent literature on sanctions. It is claimed that they mitigate the inhumane impacts of sanctions, a claim that needs to be carefully analyzed and perhaps challenged. I hope to offer deeper insight by making targeted sanctions the central focus of my research. Sanctions on Iran are a mixture of all types of sanctions, which provide me with adequate empirical data.

c) Contribution to studies on Iran

My research is a new contribution to studies on Iran. In particular, my analysis of sanctions on Iran and on relations between Iran and major powers from an adjusted framework of JST, will provide a new perspective for assessing them. This step is considered innovative since studies about Iran in the context of JWT have been conducted in other areas such as preventive war on Iran (Schwartz 2008, 189)¹³ and the possible military action against Iran's nuclear sites (O'Brien and Koons 2012, 655-703)¹⁴. Moreover, as I aim to reflect on the narratives both from inside Iran and from the international community, I will contribute to a more balanced analytical assessment of the justice of sanctions on Iran. I will also provide deeper understanding of Iran's relationship with the international community. I hope that my research provides a new and systematic analytical framework to assess all sanctions, including the most unprecedented sanctions in history: Iran's sanctions regime.

Importance

There is a need for a sanctions standard or sanctions law. "No Charter provision specifically spells out any standard for the proper application of sanctions" (O'Connell 2002, 79). Sanctions should be authorized and implemented lawfully and in accordance with International humanitarian law standards and countermeasure standards even at the price of being less effective (O'Connell 2002, 79). Given the growing trend toward resorting to sanctions as a global governance tool to restore global peace and security, it is of great significance to bridge the existing moral and legal gaps. I suggest that this research

¹³ Daniel Schwartz has applied JWT not to sanctions against Iran, but to possible preventive war on Iran. He aims to see whether Iran is a threat to global security based on JWT. Schwartz examines three conditions of *sufficient threat* with regard to Iran (a manifest intention to harm, an active preparation which supports the intent to injure, and a situation in which the danger mounts because of waiting to diminish the threat). He concludes that even if Iran seeks or possesses nuclear weapons, a preventive attack on Iran's nuclear sites would be unjust, since there are other options such as diplomacy and there is also little room to assume that Iran would not be deterred to use nuclear weapons (Schwartz 2008).

¹⁴ O'Brien, Matthew B., and Robert C. Koons apply JWT to the possible war against Iran's nuclear sites. They claim that an attack on Iran's nuclear sites can meet 3 conditions of Just War Tradition (just cause, proportionality, and right intention), but needs more justification to meet the other four conditions (comparative justice, competent authority, last resort and probability of success). However, they conclude that even the worst scenario, Iran's possession of nuclear weapons, does not justify extreme means (Matthew B. O'Brien and Robert C. Koons, "Objects of Intention," *American Catholic Philosophical Quarterly* 86, no. 4 (2012), 655-703).

bridges the gaps and provides the first steps toward the formation of an International Sanctions Law.

5. Methodology

In order to examine my hypothesis regarding the two main research questions, I conducted both field research (observation and interview) and library research (primary and secondary sources). I traveled to Iran and the U.S to observe the impacts of sanctions on the ground and to conduct a number of interviews, while the majority of my research rests on library research. The authorization and implementation of sanctions on Iran are primarily based on Iran's *alleged* efforts to possess nuclear weapons, support for terrorism, and violation of human rights (all of which have been denied by the Iranian government). In response, I have also devoted a portion of my research to the content analysis of statements by both sides (sanctioner(s) and target), and sanctions-related documents.

Chapter 2: Just Authorization of Sanctions (Part I)

- Comparative Just Cause

Just Authorization of Sanctions (Part I)

The “Just authorization of sanctions” principle merely constitutes one piece of the “just sanctions” puzzle. A comprehensive understanding of justice based upon sanctions relies on studying justice at three different stages; a) sanctions authorization, b) sanctions implementation and c) post sanctions era. Accordingly, this chapter and the next two chapters evolve around one main question (the first research question of the thesis): “Have authorizations of sanctions against Iran been *just*?”

In order to answer this question, chapters 2,3, and 4 are devoted to applying the just authorization of sanctions’ criteria to the UN, U.S., and EU sanctions against Iran. The UN, U.S., and EU sanctions authorizations are examined in the light of the following principles: comparative just cause, right objective, last resort, proportionality in authorization, high possibility of success, legitimate authorizer, unambiguous resolutions, and well-defined termination mechanism and requirements.

The “Comparative just cause” principle is the most determinative indicator, and the centerpiece in the “just authorization of sanctions” tradition. Hence, this chapter is entirely allocated to examining the different narratives of imposers of sanctions (UN, U.S., and EU), and the target (Iran) as they bear upon the causes of sanctions authorizations against Iran.

1. Comparative Just Cause

Iran has been subject to three different types of sanctions: (a) nuclear-related sanctions (by the UN, U.S., and EU), (b) human rights-related sanctions (by the U.S. and EU), and (c) terrorism related sanctions (by the U.S.). Examining each type of sanctions with the Comparative Just Cause principle requires studying the narratives of the those imposing sanctions and those targeted by sanctions. Accordingly, this section contains three main subsections:

- Comparative Just Cause for nuclear-related sanctions against Iran
- Comparative Just Cause for human rights-related sanctions against Iran
- Comparative Just Cause for terrorism-related sanctions against Iran

Table 2.1 The history of the sanctions against Iran

Sanctioner	Sanctions
U.S.	In 1979 the U.S. authorized an initial set of sanctions against Iran as a response to the hostage crisis in Tehran. Since then, the U.S. has expanded its sanctions by imposing <i>nuclear, human rights, and terrorism-related</i>

	<i>sanctions</i> against Iran.
UN	In 2006, the UNSC authorized <i>nuclear-related sanctions</i> against Iran due to concerns over Iran’s nuclear program.
EU	In 2007, the EU authorized <i>nuclear-related sanctions</i> against Iran in compliance with the UNSC Resolutions. The aftermath incidents of the June 12, 2009 presidential elections in Iran triggered the EU to impose <i>human rights-related sanctions</i> in 2011.

Before providing a broader elaboration on each of the subsections, it would be beneficial to reconsider the just causes of sanctions. These causes revolve around (1) self-defense, (2) sufficient threat, (3) and the breaking of international norms. In other words, only sanctions, which are authorized based on one or more of these causes, would meet the just cause principle. Accordingly, this analysis must take into consideration both the senders’ and target’s narratives (comparative just cause).

1.1. Comparative Just Cause for Nuclear-Related Sanctions Against Iran

The nuclear-related sanctions against Iran have been authorized by the UN, U.S., and EU (referred to as “the opposing countries” or “the sanctioners” in this research). The opposing countries’ core stated cause to authorize nuclear-related sanctions is that Iran’s nuclear program has posed a threat to world peace and security. The opposing countries’ narrative regarding Iran’s nuclear threat is built on a set of *assumptions, concerns, reasons, and indications*. On the other hand, Iran has rejected the opposing countries’ allegation by providing a counter-narrative grounded on its own set of *assumptions, reasons, actual causes, and indications*.

1.1.1. The Opposing Countries’ Narrative

Why is Iran’s nuclear program a threat to global peace and security? The answers to this question provide the foundation of the process, which led to the nuclear-related sanctions authorizations against Iran. The entire basis for the countries involved in particular the US, authorizing nuclear-

related sanctions against Iran starts here. The arguments revolve around the claim that Iran's nuclear program has military purposes; Iran is seeking to possess nuclear weapons so as to become a nuclear-armed country. In doing so, Iran is viewed as becoming a threat not only to regional security, but also more broadly to international peace and security. A set of assumptions, concerns, reasons, and indications support the arguments by Opposing countries.

- **Assumptions:** Identifying Iran's nuclear program as a threat to regional and international peace and security rests on the following widely accepted assumptions:
 - a) Iran seeks to possess nuclear weapons;
 - b) Nuclear Iran would trigger nuclear dominoes in the region leading to other countries obtaining nuclear weapons;
 - c) Nuclear Iran would pass nuclear weapons to groups understood to be or claimed as being terrorists;
 - d) Nuclear Iran would pose an existential threat to Israel;

- **Concerns:** The peaceful nature of Iran's nuclear program is deeply questionable, according to the countries supporting sanctions leading to the following concerns:
 - a) *Uranium Enrichment:* Iran's domestic uranium enrichment process does not have an economic rationale;
 - b) *Stockpile:* Iran's accumulation of 20 percent enriched uranium is worrisome. This worry exists despite the fact that weapons-grade uranium is enriched above 80 percent;
 - c) *Heavy-Water Reactor:* Iran's construction of a heavy water reactor is worrisome, because it uses natural uranium to produce plutonium which is another way of building nuclear weapons;
 - d) *Past Activities:* Iran's activities in the past, particularly before 2003 relate to these worries. That is, the constructing of uranium enrichment, heavy-water reactor facilities, and cooperating with the father of Pakistan's atomic bomb, Abdul Qadeer Khan, has inflamed mistrust by other countries when it comes to the continuation of such activities and their inconsistency with claims about the peaceful nature of Iran's nuclear program (Vaez 9 Oct 2013).

In conclusion, why would Iran want to have High-Enriched Uranium (HEU), heavy water reactor, plutonium, advanced generations of centrifuge, and advanced ballistic missiles if its nuclear program is related to peaceful goals?

- **Reasons:** The acceptance of the above assumptions and concerns triggers an important question: why would Iran want to possess nuclear weapons? Those posing these questions have a number of explanations for Iran's intentions and motives for developing nuclear weapons or at least obtaining nuclear weapon capability. Acquisition of nuclear weapons, or nuclear weapon capability would in the minds of its critics have remarkable outcomes for Iran. It would:
 - a) increase Iran's *influence* in the region;
 - b) promote Iran's *prestige* in the world;
 - c) boost the regime's *survival*; (House of Commons Committees - FAAE (40-3) - Human Rights in Iran December 2010, 54-58).
- **Indications:** According to the Opposing countries' narratives, there are enough indications in the real world to acknowledge the validity of the stated assumptions, concerns, and reasons for worry when it comes to Iran's nuclear program.

1) Violation

The first indication in support of these worries arises from Iran being seen as violating the Nuclear Proliferation Treaty (NPT) and related Safeguards. It has done so by deceiving the International Atomic Energy Agency (IAEA). Iran's violation is categorized into two classes of not reporting on construction-installation nor on nuclear materials and experiments.

A. Not reporting on construction and installation;

- *Natanz facility and Kalaye Electric Company (KEC):* In 2002, the Iranian opposition group Mujahedin-e-Khalq (MEK), also known as National Council for Resistance of Iran (NCRI)¹⁵, for the first time publicly revealed Natanz nuclear facility which was secretly being constructed by Iran. Although, Iran was not obliged to announce the existence of the site under construction, the Natanz high security underground facility triggered suspicions over the

¹⁵ MEK, is a left-leaning Muslim opposition group in exile. They were actively involved in struggle against the Shah, but shortly after the Islamic revolution in 1979 they started armed struggle against the Islamic republic of Iran, and eventually had to go in exile by the end of 1981. Its leadership is resided in Paris, and its core members were in Iraq for many years. The US, Canada, and the EU designated MEK as a terrorist group formerly, but it was delisted latter ("People's Mujahedin of Iran," , https://en.wikipedia.org/wiki/People%27s_Mujahedin_of_Iran .). It is believed that Israel provided MEK with information on Iran's nuclear program.

peaceful nature of Iran's nuclear program. In conjunction with the Natanz revelation, the disclosure of nuclear activities in a private company, Kalaye Electric brought some worries. It was involved in centrifuge development and testing, and later moving them to Natanz facility, actions that then amplified distrust. Kalaye Electric nuclear activities are considered to be a violation of Iran's Safeguards Agreement¹⁶(The Institute for Science and International Security (ISIS)website : Kalaye Electric Company)

- *Qom facility* (Fordow): Fordow is an underground nuclear site close to the city of Qom, a holy city for Shia Muslims. This uranium enrichment facility is built deep under the mountain rocks because of potential attack by Israel. The prominent belief among opposing countries is that Iran has *violated* its international obligations because it has *failed* to report to the IAEA the new centrifuges in the Qom facility. It therefore “violates the terms of the Subsidiary Arrangements of the modified "Code 3.1,"¹⁷ which Iran agreed to in 2003.” (Acton 2009) . Iran claims that it has declared to the IAEA the suspension of the modified “Code 3.1” implementation in March 2007, and it is back to the original version. Iran argues that it has the suspension right, because its parliament has not ratified the modified Code 3.1. Nevertheless, some experts find this justification to be absurd (Acton 2009). Information indicates that Iran had started the construction of Qom facility before this announcement (Acton 2009). For instance, a document called “Public Points for Qom Disclosure” (PPQD), which were provided by the Obama administration, acknowledged that Iran had started to construct the Qom facility several years ago (Iranwatch website September 25, 2009). Eventually the IAEA questioned the credibility of Iran's claim regarding suspending the implication of modified Code 3.1:

“In accordance with Article 39 of Iran's Safeguards Agreement, agreed Subsidiary Arrangements cannot be modified unilaterally; nor is there a mechanism in the

¹⁶ The first Safeguard Agreement between Iran and the IAEA was concluded in 1974. In general, IAEA Safeguards enable the agency to assure that States are respecting their international obligations in using nuclear material and technologies for peaceful purposes (<https://www.iaea.org/safeguards> .)

¹⁷ Original Code 3.1: (1976) requires a member state to submit design information for new facilities “normally not later than 180 days before the facility is scheduled to receive nuclear material for the first time.”
Modified Code 3.1: (1992) requires a member state to notify the IAEA “as soon as the decision to construct or to authorize construction has been taken, whichever is earlier” , https://www.iaea.org/sites/default/files/online_version_sg-fm-1170_-_model_subsidary_arrangement_code_1-9.pdf .)

“In 1992, after Iraq's nuclear weapons program was discovered by the IAEA, the Board of Governors of the IAEA amended the Subsidiary Arrangements rules and developed the modified Code 3.1. -“ It also developed the Additional Protocol to the Safeguards Agreement, which empowers the IAEA to carry out intrusive inspections of any site in Iran ”(Sahimi,2009 **"has Iran Violated its Nuclear Safeguards Obligations?"**, Tehran Bureau, , <http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2009/09/has-iran-violated-its-nuclear-safeguards-obligations.html#ixzz3ZZ0RQ3IV> .)

Safeguards Agreement for the suspension of provisions agreed to in Subsidiary Arrangements" (GOV/2007/22, para.14).

Additionally, Mohamed Elbaradei, the former head of IAEA, affirmed that, "Iran has been on the wrong side of the law in so far as to inform the agency at an earlier date.... Iran was supposed to inform us on the day it was *decided* to construct the facility. They have not done that."¹⁸ (CNN website September 30, 2009).

B. Not reporting on *nuclear materials and experiments*:

According to the opposing countries' narrative, not only has Iran failed to report on its nuclear construction and installations, but also it has failed to report on its uranium imports, uranium conversion and uranium enrichment. Iran has also failed to report on its Plutonium Experiments and Laser Isotope Enrichment Experiments(Shire and Albright 2006):2). The environmental samples have revealed High Enriched Uranium (HEU) contamination at some nuclear facilities (Shire and Albright 2006: 3). Moreover, Iran has attained plutonium, indigenously or from foreign sources, without declaring them to the IAEA (Shire and Albright 2006: 4). Ultimately, the IAEA Board of Governors' report in 2003 acknowledged "Iran has *failed* to meet its obligations under its Safeguards Agreement with respect to the *reporting of nuclear material*, the subsequent processing and use of that material and the declaration of facilities where the material was stored and processed" (GOV/2003/40 6 June 2003, 7). The 2011 IAEA Board of Governors' report reaffirmed that Iran's failure to *report* its nuclear material, and declare its facilities goes back to the late 1970s (GOV/2011/65 8 November 2011, Annex page 1). The IAEA officially recognized Iran to be in *noncompliance* with the IAEA safeguarded agreement for the first time in 2005 (GOV/2005/70 24 September 2005).

2) Inspection

The opposing countries' narrative singles out Iran's resistance towards nuclear inspections as another indication, which enhances their suspicions regarding the peaceful nature of Iran's nuclear program. Iran has been rejecting full inspections of its dubious nuclear and military facilities, including both Parchin military complex and full access to its nuclear scientists and specialists for interviews and investigation. In 2012, the IAEA announced that the inspection from the Parchin military complex is required to verify that this military site is not involved in

¹⁸ Mohamed Elbaradei also said "I do not think based on what we see that Iran has an ongoing nuclear weapons program." "IAEA: Iran Broke Law by Not Revealing Nuclear Facility," , <http://www.cnn.com/2009/WORLD/meast/09/30/iran.iaea.nuclear/index.html?iref=24hours.>)

nuclear explosive testing. Iran rejected full access, but agreed on a limited inspection after negotiation on a comprehensive agreement (Albright and Avagyan July 31, 2012). The IAEA has hesitations regarding Parchin military site activities, and suspects it has a nuclear explosive testing chamber (Albright and Avagyan, July 31, 2012). In addition to inspections of suspicious nuclear and military facilities, the IAEA requested access to the Iranian nuclear scientists to clarify different aspects of Iran's nuclear program, especially the possibility of military utilizations. However, Iran has consistently demonstrated resistance to fully cooperating on these matters.

3) Documents

The existence of credible documents on covert aspects of Iran's nuclear program provides further evidence of Iran's threat, in the context of the opposing countries' narrative. The IAEA allegations against Iran are grounded on different information sources including its own investigation:, Member States, independents sources, satellite imagery, interviews, and Iran itself to be credible (GOV/2011/65 8 November 2011, 8). One of the documents, which has triggered the most controversial debates regarding the probability of a military dimension of Iran's nuclear program is the so-called "*alleged studies documentation*" or "*laptop documents*". According to what the senior American intelligence officials claim, these documents, , were gathered from a stolen Iranian laptop, and they illustrate that Iran has been working on the nuclear warhead design (Broad and Sanger Nov.13, 2005). This document was made known to the Agency in 2005. Although this documentation is in electronic format, and could have been manipulated, as Iran argues, the IAEA believes otherwise. It sees it as comprehensive, complicated, and consistent enough internally and with other gathered information, that the possibility of any fabrication can be ruled out. (GOV/2011/65 8 November 2011, Annex page 12)

4) Possible Military Dimension (PMD)

The concerns regarding the Possible Military Dimension (PMD) of Iran's nuclear program have been repeatedly reflected on the IAEA Board of Governors' reports According to the opposing countries; these reports provide another indication of the validity of Iran's threat. Since 2002, the IAEA has been increasingly concerned about the Possible Military Dimension (PMD) of Iran's nuclear program (GOV/2011/65 8 November 2011, 7). The IAEA Board of Governors' report states that Iran was involved in a series of activities related to nuclear weapons,¹⁹ under a

¹⁹ Such as:"

structured program, prior to the end of 2003. In their view, it is a possibility that some of the activities to develop nuclear explosive devices continued after 2003 (GOV/2011/65 8 November 2011, 8-10). Moreover, the report underlines that Iran has attempted to gather nuclear weapons development information from *clandestine* channels In 2007, the IAEA was informed through an interview with a member of the clandestine nuclear supply network, that Iran was given information on nuclear explosive design (GOV/2011/65 8 November 2011: Annex page 8).

5) Ballistic missiles

Iran's endeavor to enhance and promote its missiles program is another activity, which escalates the suspicions about claims of an innocent nuclear program, according to the opposing countries' narrative. Principally, Iran's Ballistic missiles could potentially be used to deliver nuclear weapons.

The IAEA Board of Governors' report affirms that according to the "alleged studies documentation" Iran was involved in a research study called Project 111 to examine how to integrate new payload chambers into a missile delivery vehicle, Shahab 3²⁰ (GOV/2011/65 8 November 2011, Annex page 11). Consequently, the opposing countries assume that Iran's missiles program, like Iran's nuclear program, is worrisome. Surveillance of Iran's nuclear facilities would thus not be enough. There would need to be in conjunction inspections over its military sites and Ballistic missiles program. Only under such comprehensive surveillance and prohibitions would all the paths towards Iran's possession of nuclear weapons be blocked.

6) Israel

According to the opposing countries' narrative, the "*wiped off the map*" discourse by Mahmoud Ahmadinejad, Iran's former president, is the crystallization of Iran's more than three decades enmity towards Israel to the extent that it directly calls for Israel elimination. During "The World Without Zionism" conference, which was held in Tehran in 2005, Ahmadinejad stated that Israel should be "wiped off the map" (IRIB News October 26, 2005). In the context of the opposing countries' narrative, Ahmadinejad was not only threatening Israel but also all liberal democracies such as Canada, the United States, and Western Europe (Report of the Standing Committee on Foreign Affairs and International Development December 2010, 57). The prominent belief in the

• Some successful efforts to procure nuclear related and dual use equipment and materials by military related individuals and entities;
• Efforts to develop undeclared pathways for the production of nuclear material;
• The acquisition of nuclear weapons development information and documentation from a clandestine nuclear supply network and
• Work on the development of an indigenous design of a nuclear weapon including the testing of components ." (GOV/2011/65 8 November 2011, 8)

²⁰ This information affirms "that Iran had been engaged in activities involving studies on a so-called green salt project, high explosives testing and the re-engineering of a missile re-entry vehicle to accommodate a new payload"(GOV/2011/65 8 November 2011, Annex page 2)

opposing countries is that Ahmadinejad's harsh rhetoric, in conjunction with other protracted antagonistic statements by Iranian officials, and Iran's support of Hamas and Hezbollah -- all are existential *threats* towards Israel.

Consequently, according to the opposing countries' narrative there are enough indications that reveal Iran's endeavors to attain nuclear weapons and that Iran has enough motivation to follow its nuclear ambitions. Hence, Iran's nuclear program is a "sufficient threat" to the regional and international peace and security, particularly Israel's existence, and the opposing countries has an absolute "just cause" to *authorize* nuclear-related sanctions against Iran.

1.1.2. *Iran's narrative*

Why is Iran's nuclear program not a threat to global peace and security? The answer to this question is the keystone of Iran's narrative against the allegations, which led to the authorization of nuclear-related sanctions against Iran. Iran's argument revolves around explaining the peaceful nature of its nuclear program. Iranian officials have been emphasizing that Iran's nuclear program has a peaceful purpose, and it is an absolute and inalienable right of Iranian people to enjoy the peaceful nuclear program, unless it is proven that Iran is pursuing nuclear weapons²¹ (Zahrani and Dowlatkah 2010, 140-1). Based on Iran's reasoning, the fact that the IAEA has not been able to prove that Iran is seeking to possess nuclear weapons²² in addition to the fact that Iran is the most closely monitored country in the world, illustrate the rightfulness of Iran's claims over its nuclear program.

Iran's narrative provides a counter-argument against the assumptions, concerns, reasons, and indications, which support the opposing countries' narrative.

- **Assumptions:** According to Iran's narrative, the opposing countries' assumptions: (a) Iran seeks to possess nuclear weapons, (b) nuclear Iran would trigger nuclear dominos in the region, (c) nuclear Iran would pass nuclear weapons to the "terrorists", and (d) nuclear Iran would

²¹ According to Article 4 of the NPT "Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty. ("The Treaty on the Non-Proliferation of Nuclear Weapon (NPT)," Department for Disarmament Affairs, United Nations; <http://www.un.org/en/conf/npt/2005/npttreaty.html>.)

²² In spite of the protracted IAEA's inspections, the Agency has never declared conclusively that Iran has been seeking the procurement of nuclear weapons. Neither has it been able to acknowledge that Iran's nuclear program has been exclusively peaceful (Paul K. Kerr, *Iran's Nuclear Program: Tehran's Compliance with International Obligations* Congressional Research Service,[April 28, 2014], 1).

attack Israel, are all the opposing countries' attempt to manufacture an unnecessary crisis, and to securitize both Iran and its nuclear program.

- a) *Manufactured crisis*; the dominant belief among Iranian officials is that the country's nuclear crisis is one of the contemporary manufactured crises by US and Israel. This manufactured crisis is based on falsified documents and assumptions presented to media and the world by US-Israel intelligence officers. Iran's president, Hassan Rouhani, and Iran's foreign minister, Mohammad Javad Zarif, have repeatedly called Iran's nuclear program an "unnecessary", and "manufactured" crisis that should be terminated only through negotiations²³ (Press TV May 4, 2015; Serat News Website September 25, 2014; Tasnim News Agency Oct.4, 2015).
- b) *Securitization*; according to Iran's narrative, the opposing countries' assumptions and allegations against Iran's nuclear program are the continuation of decades of endeavor by US-Israel to securitize the entire Islamic Republic of Iran (Semati and Rahnavard 2009; Mohseni and Salehi 2011, 613-634). In fact, Iran's nuclear crisis is a successful example of securitization²⁴, in which, the securitizing actors (U.S. and Israel) have successfully been able to depict Iran's nuclear program, through a set of Speech Acts, as an imminent and *existential threat* to world *peace and security* (valued referent object) to the extent that the

²³ Some of the scholars in the West have also called Iran's nuclear crisis a "manufactured crisis". Gareth Porter, an American historian and investigative journalist, has authored a book entitled "Manufactured Crisis: The Untold Story of the Iran Nuclear Scare" (2014). Porter argues that Iran's so-called nuclear crisis has been manufactured by US-Israel in three phases:

- 1) 2002-2008: The Iranian armed opposition group Mujahedeen-e-Khalq (MEK) announced in August 2002 that Iran has constructed an underground enrichment facility in Natanz. US-Israel intelligence was behind it. The IAEA started investigations on possible secret Iranian nuclear weapons. In early 2008, these investigations ended and the IAEA was unable to find any evidence to prove the allegation.
- 2) 2008-2011: "The *alleged studies documentation*" or "*laptop documents*" on secret Iranian nuclear weapon program was supposedly stolen and handed in to the U.S. by an unknown party. The IAEA started the second round of inquiry.
- 3) 2011- present: The IAEA's report, mainly based on Israel intelligence information, proclaimed that there is a possibility that the Iran's nuclear weapons-related testing was continuing after 2003. As a result, the toughest sanctions were imposed on Iran, targeting Iran's oil export and banking sector (Gareth Porter, *Manufactured Crisis: The Untold Story of the Iran Nuclear Scare* Just World Books, 2014, 16).

Likewise, Edward S. Herman, professor emeritus of finance at the Wharton School, University of Pennsylvania, and David Peterson, an independent journalist and researcher based in Chicago, have coauthored an article entitled "The Iran 'Threat' in a Kafkaesque World" (2012), in which they argue that Iran's nuclear crisis has been manufactured through "Kafkaesque politics" and not reality. Herman and Peterson draw attention to the following reasoning:

- 38 IAEA reports on Iran (2003-2012) along with a remarkable number of inspections have never determined that Iran is perusing nuclear weapons;
- The alleged Iranian threat is constructed by U.S. and Israel propaganda;
- The U.S. has mobilized multilateral institutions to place Iran on the international stage;
- The media has had a fundamental role in depicting Iran as a threat;
- Iran's case is similar to the case of Iraq, when it was said that Iraq possesses "weapons of mass destruction" (a false claim). (Edward S. Herman and David Peterson, "The Iran "Threat" in a Kafkaesque World," *Journal of Palestine Studies* 42, no. 1 (2012), 24-45.)

²⁴ The Copenhagen School defines securitization as a successful Speech Act "through which an inter-subjective understanding is constructed within a political community to treat something as an existential threat to a valued referent object, and to enable a call for urgent and exceptional measures to deal with the threat" (Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security*, Vol. 91 Cambridge University Press, 2003, 491).

target audience (the UNSC and the EU) have been convinced to adopt immediate and *extraordinary measures* (sanctions) against Iran²⁵ (Hormozi November 2015).

- **Concerns:** According to Iran's narrative, the opposing countries' concerns regarding Iran's nuclear program, Iran's uranium enrichment activities, stockpile, heavy water reactors, and past activities have been a pretext to authorize sanctions against Iran, whereas, their genuine concerns are as follows:

a) *Iran's revolutionary identity*; the Islamic Republic of Iran, as a revolutionary state, has challenged the world order, particularly by hegemonic interests, and by authorizing sanctions. Accordingly, opposing countries have a responsibility to encounter this revolutionary state²⁶ (Moshirzadeh and Jafari 2012, 54). In fact, the U.S. antagonistic policy in authorizing sanctions against Iran is rooted in the U.S. *perception* about Iran's *revolutionary identity*²⁷, regardless of whether Iran is adopting *revolutionary policies* in reality or not (Ibid, 71). Iran's supreme leader and the politicians close to him strongly believe that the Islamic and revolutionary identity of Iran's regime is the opposing countries' genuine concern. Such a concern, in turn, has resulted in decades of enmity including imposing tough sanctions against Iran. Ayatollah Khamenei, the supreme leader, emphasizes that

“Iran's nuclear program is just an excuse for the West to impose sanctions. It has only been a few years that Iran's nuclear program has been highlighted by the West, but it has been 30 years that they have been imposing sanctions. So, why have they been imposing sanctions even when there was no nuclear concern? The problem therefore, is that they want to confront a nation who wants to be *independent* and *resist* against inequality and cruelty” (Iran's supreme leader website February 22, 2012).

²⁵ For more information see:

Shani Hormozi, "Securitization and Desecuritization of Iran's Nuclear Program," *Caspian Journal of Applied Sciences Research (CJASR)* 4, no. 11 (November 2015).

²⁶ According to a comparative study conducted on US foreign policy towards Iran and Cuba, there were similar reasons why both Iran and Cuba were subjected to US sanctions:

- a) Challenging the status quo;
- b) Geopolitical significance;
- c) Revisionist foreign policy. (Zahra Shafiei and Mohammad Reza Yazdani, "**the U.S. Policy Towards Iran (1979-1991) and Cuba (1959-1991) during the Cold War: A Comparative Study**," *Journal of Foreign Policy* 25, no. 3 (2011), 635-656.)

²⁷ "Iran's identity is characterized by three elements: revolutionary, Islamic, and the third world state" (Dehghani Firoozabadi, 2008:306-307 in Moshirzadeh and Jafari 2012, 57).

- b) *Iran's geopolitical significance*: Iran's geopolitical situation: (Hormoz Strait, Persian Gulf and connections with Central Asia, along with its rich resources: oil, gas, mineral materials, and metal), have made the country the source of attraction for the opposing countries, and at the same time subject to containment policies such as sanctions (Tabyin Strategic Think Tank 2013, 9-10).
 - c) *Iran's regional influence*: The opposing countries, particularly Israel and the U.S., are concerned about any change in the regional balance of power in favor of Iran. In this context, Iran's nuclear capability, whether peaceful or with military purpose, would be a game changer. Even a peaceful nuclear capability would increase Iran's soft and hard power, and would change the balance of power in the region. Hence, imposing pressure on Iran, including authorizing sanctions, to give up its nuclear program, would curb Iran's regional influence and lower the risk of change in the regional balance of power.
- **Reasons**: Whereas the opposing countries' narrative explains the reasons why Iran would want to possess nuclear weapons, Iran has a counter-narrative on why Iran would not want to have nuclear weapons:
 - a) *Religious prohibition (Fatwa)*: According to Iran's supreme leader, Ayatollah Khamenei, the use of nuclear weapons and other weapons of Mass Destruction (WMD) are forbidden (Haram) based on Islam (Iran's supreme leader website April 16, 2010);
 - b) *Arms race risk*: Iran's acquisition of nuclear weapons would trigger its neighbors and other countries in the region to proceed in the same way, which would ultimately increase the arms race risk;
 - c) *Loss of conventional superiority*: Iran has a regional conventional superiority due to its conventional weapons, geopolitical situation, vast surface area, and population size. Iran's possession of nuclear weapons would persuade other states in the region to follow the same path, which would eventually result in loss of conventional superiority by Iran;
 - d) *Emergence of nuclear terrorism*: Iran and other regional countries' procurement of nuclear weapons would increase the possibility of nuclear weapons getting in the hands of terrorist and extremist groups in the region, which would pose an immediate threat to Iran before it would opposing countries;
 - e) *Institutionalization of the U.S presence in the region*: Iran's possession of nuclear weapons would increase the perception of threat among countries in the region and would convince them to seek further U.S support, and presence;

- f) *Increase in vulnerability*: The high cost of nuclear weapons' production and maintenance would result in budget allocation reduction in infrastructure sectors and consequently increase Iran's vulnerability;
- g) *Domestic objection*: Many within the Iranian political system and society are against the acquisition of nuclear weapons. This grouping functions as a powerful leverage against the proponents of nuclear weapons who are in the minority;
- h) *Past experience as a deterrence*: Iran was a victim of unconventional and chemical weapons during the eight years of war with Iraq (1980-1988). By having this painful experience, an endeavor for the Middle East to be free of WMD best serves Iran's security. (Hadian and Hormozi 2010, 189-95)

However, although Iran would not want to have nuclear weapons, it would want to have nuclear capability²⁸. Hossein Mousavian, the former top Iranian nuclear negotiator, believes that the Iraq invasion of Iran in 1980, and Saddam's use of chemical weapons against Iran were game changers. They altered Iran's security calculation and pushed it toward nuclear capability (not nuclear weapons) as a defensive and deterrence tool (Mousavian 2012).

- **Indications**

According to the opposing countries' narrative, there are a number of indications in support of the core argument that Iran's nuclear program is not innocent, and thus the country poses a threat to world peace and security. On the contrary, Iran's narrative rejects and challenges all these indications by providing different explanations.

1) No violation

²⁸ Nuclear capability consists of a spectrum in which at one end there is peaceful nuclear application (medical, scientific, and energy uses), and at the other end, there is military nuclear application (nuclear warheads). Iran would want to have "lawful" nuclear capability but not "full" capability.

Nuclear capability is classified in three categories:

- a) Acquisition of knowledge and technology of the full stages of the uranium enrichment cycle;
- b) Delivery vehicle capability (Missiles);
- c) Nuclear warhead capability (full capability);
- d) Possession of nuclear weapons.

The first two capabilities both fall under the "lawful capability" category, while the last two fall under illegal nuclear activities (Nasser Hadian and Shani Hormozi, "Iran's Nuclear Program: Lawful Capability," *Research Letter of Political Science* 5, no. 3 (2010), 185).

Iran with nuclear "lawful capability" would be able to achieve all the objectives achievable by having nuclear "full capability" but with lower costs.

These objectives are:

- a) Deterrence;
- b) Promotion of domestic-international dignity and proud (Soft power);
- c) Elevation of development
- d) Enhancement of Iran's regional and international role and influence;
- e) Increase in Islamic World Power

(Ibid, 199).

Iran stresses that it has not violated the NPT and related Safeguards Agreements. According to Iran's narrative, what has happened is that Iran has not reported some of its legal nuclear activities, which based on Iran's understanding of its commitments, is not equal to a violation.

A. Not reporting on construction-installation:

Natanz facility: The construction of Natanz facility was legal, and Iran had no obligation to report it to the IAEA, because at that time Iran was committed to the original code 3.1 (not modified code 3.1). It was only after the official declaration of Natanz to IAEA in February 2003 that Iran agreed to voluntarily (without Majlis ratification) implement the modified code 3.1²⁹ (Sahimi Sep.27, 2009).

Qom facility (Fordow) (No violation): Iran claims that not reporting the Qom facilities to the IAEA earlier is not a violation of Iran's international obligations. Iran had agreed to implement the modified Code 3.1 in February 2003 and declared its suspension in March 2007. Since the construction of the Qom facility occurred after March 2007 (when Iran was not implementing the modified Code 3.1), Iran has not violated its Safeguards Agreement. Based on Iran's narrative, since the *modified* code 3.1 had not been ratified by the Majlis, Iran had no obligation to report its decision regarding new constructions. However Iran did report on the Qom facility after the installation of the centrifuges (CNN website September 30, 2009).

Ali Akbar Salehi, director of the Iranian Atomic Energy Agency, affirms that "According to the [IAEA's] current governing rules, there was no urgency in reporting anything about this installation and we could have not announced it, but we did so in order to contribute to trust-building and transparency and we did so much sooner than the required time,"(CNN website September 30, 2009).

In sum, Iran was voluntarily implementing the modified Code 3.1 from February 2003 to March 2007. Natanz was constructed before this time, and Fordow's construction-installation took place after this period. In fact, Iran was not supposed to notify the IAEA

²⁹ Even some serious opponents of Iran's nuclear program acknowledge that Iran "was not obligated to notify the IAEA of its construction of the Natanz facilities for uranium enrichment", although it was committed to inform the IAEA about its nuclear activities in other places such as Kalaye Electric company (Jacqueline Shire and David Albright, "Iran's NPT Violations* Numerous and Possibly on-Going?," *Institute for Science and International Security* (2006), 5).

on its nuclear construction and installation, before and after this period, unless it decided to introduce nuclear material into the facility, in which case it should inform the IAEA no later than 180 days before the first nuclear material insertion.

Table 2.2 Original and modified Code 3.1

Original Code 3.1	Modified Code 3.1
Requires member states to declare to the IAEA the existence of any nuclear facility no later than 180 days before introducing any nuclear material into the facility.	Requires member states to notify the IAEA as soon as the decision to construct or to authorize construction has been taken.

Table 2.3 Iran's commitment to the Original and modified Code 3.1

Iran's commitment to the Original Code 3.1	Iran's voluntarily commitment to modified Code 3.1	Iran's commitment to the Original Code 3.1
1974- 2003 (with Majlis ratification)	February 2003- March 2007 (without Majlis ratification)	2007-present
Natanz		Fordow

After the IAEA referred Iran's dossier to the UNSC, Iran declared to the IAEA in March 2007 that it would suspend its voluntary implementation of modified code3.1 and Additional Protocol. It would revert back to the original version as retaliation to referring Iran's case to the UNSC. Thus, since March 2007, Iran has been bounded b the original code 3.1, which requires

notification of 180 days before introducing any nuclear material into the facility and not at the time it makes the decision (Sahimi Sep.27, 2009).

B. Not reporting on its nuclear materials and experiments:

Iran has claimed that the High Enriched Uranium (HEU) contamination found at some of its facilities is related to purchased equipment and not Iran's uranium enrichment activities.

Generally, Iran does not have access to HEU 36%, which was found in some polluted equipment.

The IAEA has confirmed Iran's statement by reporting that the Agency "tends, on balance, to support Iran's statement about the foreign origin of most of the HUE contamination"

(GOV/2006/15 27 February 2006, para.9).

Why was Iran not reporting on some parts of its nuclear activities?

Iran is not denying that it was conducting some of its nuclear activities without reporting them in the past. But it argues that these activities were legal and calls the international community to understand the reasons by contextualizing the issue and taking into account the following realities:

- a) *Nuclear cooperation alteration*; Iran's nuclear program was started with the aid and cooperation of the opposing countries, particularly the US, during the Shah's regime³⁰. Yet after the Islamic revolution in 1979, the opposing countries isolated Iran by halting its nuclear cooperation with Iran and by withdrawing from all nuclear contracts³¹. Iran was thus left alone after a significant investment in its nuclear program, with unfinished projects worth billions of dollars and with no knowledge of enrichment technology (Mousavian 2012). The antagonistic nature of the Opposing countries- Iran relations affected their nuclear cooperation and drove Iran to black markets to provide its peaceful nuclear program needs, and to invest in indigenous nuclear knowledge (Mousavian 2012).
- b) *Strategic loneliness*; Iran's strategic loneliness after the revolution has been crystalized during the eight years' war with Iraq, when all powerful countries including the US, supported Iraq even when it used chemical weapons (CW) against Iran (Hadian and Hormozi 2010, 187). The International community was silent and the UNSC not only did not pass any resolution

³⁰ In 1957, the U.S. initiated negotiations with Iranian Shah, Mohammad Reza Pahlavi, as part of President Dwight Eisenhower's Atoms for Peace program (Hossein Mousavian, "The Iranian Nuclear Dispute: Origins and Current Options," *Arms Control Today* 42, no. 6 (2012).

³¹ For instance, the Eurodif consortium had a contract with Iran to enrich uranium in France and provide fuel to the Tehran Research Reactor and the Bushehr power plant, but it had to halt its cooperation with Iran due to pressure from the U.S. (Ibid.)

against Iraq, but also it did not condemn Saddam Hussein's chemical attack against Iran³² (Mehr News Agency September 26, 2007). Iran's strategic loneliness refers to the perception that Iran's experiences, particularly the eight years' war with Iraq, have proven that it cannot trust and rely on International organizations. Iran concluded that it needed to be self-sufficient and to rely on its own material and nonmaterial resources (Mesbahi 2001, 149-150).

Consequently, according to Iran's narrative:

- a) All that has happened is that Iran was not reporting some of its *legal* activities, and Iran's *failure to report* is not equal to violation of NPT and its relevant Safeguards (Tadayyoni and Tavakkoli 2010, 147);
- b) Iran had just causes to keep some parts of its nuclear program legally unreported;
- c) Iran adopted measures, such as voluntarily implementation of the Additional Protocol³³ and has accepted the most intrusive inspections at some periods in order to improve confidence building and transparency;
- d) Iran should be able to exercise its "inalienable right" under Article IV of the NPT, and enjoy "nuclear energy for peaceful purposes" and "without discrimination".

2) Inspection

According to Iran's narrative, contrary to the opposing countries' allegation that considers Iran's resistance to full inspection as a sign of ongoing dubious nuclear activities, Iran has just causes to reject full inspections of its nuclear and military sites, and full access to its nuclear scientists:

- a) *Espionage risk*: Iran cannot permit inspections of its military sites because as its supreme leader and high ranking political and military officials have repeatedly stated, such inspections would be a kind of official and legal espionage. It could lead to revelation of military secrets, which would expose a security threat to Iran (Press TV Website May 20, 2015; Kayhan Newspaper May 25, 2015; Alef News Website May 22, 2015).
- b) *Nuclear scientists' security*: Iran ceased to disclose the identities of Iranian nuclear scientists to IAEA inspectors for interview because it is life threatening for the

³² In spite of Iraq's use of chemical weapons against Iranian civilians, Iran remained committed to the NPT and did not retaliate. Ayatollah Khomeini, Leader of the Islamic revolution, rejected some military leaders' requests as they were seeking retaliation (Akbar Hashemi Rafsnjani, *Peace and Challenge (Record and Memo of 1983)* [آرامش و چالش], 3rd ed. The Revolution knowledge Publication Office, 2007, 269).

³³ Additional Protocol allows IAEA inspectors access to Iran's centrifuge manufacturing and storage facilities.

scientists: four scientists were assassinated and one injured (Fars News Agency October 7, 2015).

- c) *Unreliable confidentiality of the IAEA*: Iran cannot have unlimited information exchanges with the IAEA without taking into account the possibility of information leaking through the Agency. In 2011, Ali Asghar Soltanieh, Iran's former ambassador to the International Atomic Energy Agency, objected to the IAEA's violation of confidentiality, especially the revelation of the identities of Iranian nuclear scientists who had cooperated with the IAEA inspectors. He emphasized that the disclosure of their identities by the IAEA resulted in their assassination by the US-Israel intelligence services (Mashregh News Website July 1, 2015).

3) Fabricated documents

The so-called "alleged studies documentation" (also known as "laptop documents") is one of the most controversial documents. According to some of the senior American intelligence officials, this document reveals the military dimension of Iran's nuclear program. Iran believes that the credibility of this document is highly questionable to the extent that Iran calls it "an animation game" rather than an authentic document (GOV/2011/65 8 November 2011, Annex page12). Iran argues that since the "alleged studies documentation" is in electronic format, it cannot be identified as a credible document. The possibility of manipulation and fabrication should be taken into account by the IAEA (GOV/2011/65 8 November 2011, Annex page12). Moreover, many of the documents have been handed in to the IAEA by Israel directly or indirectly through Iranian opposition groups (e.g. MEK), and the IAEA has been refusing to disclose them (Porter 2014).

4) Past and Present Issues (PPI)

Iran rejects the opposing countries' allegation of a possible military dimension (PMD) to its nuclear program. Therefore, instead of PMD, it uses Past and Present Issues (PPI). According to Iran's narrative, the PMD allegation is not justifiable due to the following reasons:

- (a) *Forged*; PMD allegation is based on forged documents³⁴, and the IAEA has not examined the documents' authenticity independently;

³⁴ For instance, the U.S. has presented a 2 paged letter, that reveals the PMD of Iran's nuclear program. This letter is claimed to be from Iran's Defense Ministry yet, only the second page has the recorded/registered number, and also the first page has a different font from the second signed

(b) *Never handed to Iran*; the IAEA has never handed in the documents to Iran, so Iran would have had the opportunity to defend and respond accurately. The IAEA claims that the U.S is not giving Iran access to these documents because the same country, which provided it may use it to produce nuclear weapons! (Saed 2010, 197)

(c) *Not operational*; even the forged documents are on studies, not operational activities, which would be in violation of the NPT (Saed 2010, 179-181).

5) Ballistic missiles

Unlike the prominent belief in the opposing countries that Iran is promoting its ballistic missiles to use it as a delivery vehicle for a nuclear warhead in the future, Iran argues that its missile program is a part of Iran's defensive capability, and thus a security imperative (Koosha and Eskandari 2012, 388). Moreover, according to Article 51 of the UN Charter, all Member States are entitled to enjoy a legitimate defense without discrimination. Consequently, Iran should not be excluded from promoting its conventional weapons including ballistic missiles (with conventional warheads) (Saed 2010, 183). Especially since Iran's security environment is extremely challenging and full of turmoil, a multifaceted national security plan and military strategy are required (Hadian and Hormozi Winter 2011, 25). In fact, if any other country were in Iran's place, surrounded by terrorist groups (such as ISIS, Al-Qaeda, Taliban, al-Nusra Front) and regional wars (Yemen, and Syria), it would have had to boost its military capability. However, Iranian officials have repeatedly stated that Iran's military doctrine has always been and will remain defensive (Press TV Website Aug 22, 2015).

6) Israel

The Iranian officials' antagonistic rhetoric against Israel is not about its nation and the Jewish population but the so-called illegitimate occupation regime. The Islamic Republic of Iran does not recognize the Israeli *regime* as a legitimate regime but as an occupation regime. According to Iran's narrative, the "*wiped off the map*" controversy reflects the misunderstanding. On the Iranian presidential website, Ahmadinejad had stated that "the Zionist *Regime* of Israel faces a dead-end and will under God's grace be wiped off the

map". (Presidency of Islamic Republic of Iran website June 3, 2008) Iran's foreign minister, Manouchehr Mottaki, at that time refuted that Iran is seeking to threaten Israel: "Nobody can remove a country from the map. This is a misunderstanding in Europe of what our president mentioned...how is it possible to remove a country from the map? He is talking about the regime. We do not recognize legally this regime," (Hurriyet Daily News 2/22/2006) .

According to Iran's narrative, it is Prime Minister Netanyahu who repetitively and publicly threatened to use unilateral military force against Iran's nuclear sites under the guise of self-defense and it is Israel, who possessed up to 400³⁵ nuclear warheads, who has always refused to sign the NPT and has invaded other countries in its record³⁶.

Consequently; according to Iran's narrative, the opposing countries' cause to authorize sanctions against Iran is unjust, and is a guise to fulfill its regional interests and objectives. Iran, as a partner to the NPT, has an inalienable right to enjoy peaceful nuclear capability without discrimination. Its nuclear program is not a threat to world peace and security. Rather, it has been depicted to be a "sufficient threat" and thus it is necessary to be subjected to punishment measures such as sanctions.

1.1.3. Examining the criterion

In order to examine "comparative just cause" criterion for the authorization of nuclear-related sanctions against Iran, the opposing countries and Iran's narratives and just causes for authorizing sanctions are summarized separately in tables below:

³⁵ There is no official statistic on the number of nuclear warheads possessed by Israel, although it is estimated to be from 75 to 400 "**Israel and Weapons of Mass Destruction**," http://en.wikipedia.org/wiki/Israel_and_weapons_of_mass_destruction.)

³⁶ Israel record on attacking nuclear facilities:

1. Iraq (June 7, 1981): Israel destroyed the French-built Osirak nuclear research facility near Baghdad. Israel proclaimed that this nuclear site was involved in military nuclear activities and could pose a threat to Israel's existence (BBC Web site, On this day:7 June)
2. Syria (September 6,2007): Israel's fighter jets bombed al-Kibar, a suspected nuclear plant in Syria in Deir ez-Zor region.("**Operation Orchard**," http://en.wikipedia.org/wiki/Operation_Orchard.) Syria never retaliated out of fear of nuclear counterstrike by Israel (Ronen Bergman, "WikiLeaks: Syria Aimed Chemical Weapons at Israel," *Ynet News*, April 14, 2014).

Table 2.4 Summarizing the Opposing countries and Iran’s narratives on Iran’s nuclear program

	The Opposing countries’ narrative	Iran’s narrative
General argument	Iran’s nuclear program is a threat to international peace and security and its practice has been in contradiction to its claim of an innocent nuclear program	Iran’s nuclear program has been depicted as a threat by US-Israel, and it is the inalienable right of Iran, as a partner to the NPT, to enjoy a peaceful nuclear program without discrimination
Assumptions	(a) Iran seeks to possess nuclear weapons; (b) Nuclear Iran would trigger nuclear dominos in the region; (c) Nuclear Iran would pass nuclear weapons to the terrorists; (d) Nuclear Iran would attack Israel	The opposing countries’ assumptions are an attempt to (a) manufacture an unnecessary crisis, and (b) to securitize both Iran and its nuclear program.
Concerns	(a) Uranium enrichment activities; (b) Stockpile; (c) Heavy water reactor; (d) Past activities.	The opposing countries’ genuine concerns are: (a) Iran’s revolutionary identity; (b) Iran’s geopolitical significance; (c) Iran’s regional influence.
Reasons	Iran would want to possess nuclear weapons because it would: (a) increase Iran’s influence in the region; (b) promote Iran’s prestige in the world; (c) boost the regime’s survival.	Iran would not want to possess nuclear weapons because of the following reasons: (a) Religious prohibition (Fatwa) (b) Arms race risk (c) Loss of conventional superiority (d) Emergence of nuclear terrorism (e) Institutionalization of the U.S presence in the region

			(f) Increase in vulnerability (g) Domestic objections (h) Past experience as a deterrence
Indications	Violation	Iran has violated the NPT and related Safeguards	Given Iran's commitments at different time periods, it has not violated the NPT and the related safeguard by not reporting its legal nuclear activities
	Inspection	Iran's rejection of full inspections of its dubious nuclear and military facilities and access to its nuclear scientists for interview is an indication of its illegal nuclear program	Iran would not allow full inspections of its military sites and access to its nuclear scientists because of : (a) Espionage risk; (b) Nuclear Scientists' security; (c) Unreliable IAEA's confidentiality
	Documents	Credible documents and evidence exist to support Iran's violation and diversion from its obligations	The documents are fabricated by US-Israel intelligence services
	PMD/PPI	There are indications of a Possible Military Dimension (PMD) to Iran's nuclear program	The IAEA has never been able to declare conclusively that there is a Possible Military Dimension (PMD). The PMD allegation is not justifiable due to the following reasons: (a) Forged; (b) Never handed to Iran; (c) Not operational.
	Ballistic missiles	Iran's ballistic missiles could potentially be a delivery vehicle for nuclear warheads	Iran's ballistic missiles are a part of Iran's defensive strategy and security imperative. Iran should enjoy the legitimate defense right

			without discrimination especially with consideration to its chaotic security environment.
	Israel	Iran’s nuclear program is an existential threat to Israel’s existence (The “wiped off the map” discourse is an indication of its threat)	The Iranian officials’ antagonistic rhetoric against Israel is not about its nation and the Jewish population but the so-called illegitimate occupation regime. That is Israel, with a large nuclear arsenal, who has repetitively threatened to use unilateral military force against Iran’s nuclear sites.
Conclusion		Iran’s nuclear program is a “sufficient threat” to international peace and security and the opposing countries has an absolute “just cause” to <i>authorize</i> sanctions against Iran.	Iran’s nuclear program has been depicted as a “sufficient threat” to international peace and security, and the opposing countries has no “just cause” to <i>authorize</i> sanctions against Iran.

Table 2.5. A summary of just causes for sanctions authorization

Self-defense	Sufficient threat (preemptive self-defense)	International Norm-breaker
<p>Condition: A real Offense by the target</p>	<p>Conditions:</p> <ol style="list-style-type: none"> 1) A manifest intention to harm; 2) Active preparation which supports the intent to injure; 3) Waiting to diminish the threat would result in mounting danger (Schwartz 2008:201) <hr/> <p>What is not considered to be a real threat:</p> <ol style="list-style-type: none"> 1) Military preparation (i.e. advancing and boosting military forces); 2) Blustering by enemies (Walzer in Farrell 2013, 38) 	<p>Condition: Violation of international treaties and agreements</p>

The opposing countries’ and Iran’s narratives illustrate that each side has a share of reasonable causes for their course of actions. Nevertheless, it is the responsibility of sanctions authorizers to ensure that it has the *most just cause* before imposing sanctions on its targets. The opposing countries’ cause for authorizing nuclear-related sanctions against Iran revolves around “sufficient threat” or “preemptive self-defense” and “International norm-breaker”.

- a) Iran has failed to report some of its nuclear activities, yet the IAEA has not conclusively acknowledged Iran's violation and a military dimension of its nuclear program;
- b) Iran has been advancing its military capability, in particular, its missiles program. In spite of its officials' blustering, specifically by Ahmadinejad³⁷, it has not publicly manifested an intention to attack other countries;
- c) Lastly, while the opposing countries' causes have the initial arguable ground, they need more evidence to ensure that they have the *most just cause* in comparison to Iran's causes.

1.2. Comparative just cause for human rights-related sanctions against Iran

When can human rights violations trigger the authorization of sanctions?

Authorization of human rights-related sanctions is triggered when there is a "gross and systematic violation" of human rights.

There is no solo and fixed source of reference for the definition of gross and systematic violation of human rights (Geneva Academy of International Humanitarian Law and Human Rights briefing No. 6 August 2014). In general, it encompasses four main components:

a) quantity; b) time; c) quality; and d) planning (Quiroga 1988,16)

For instance, when a large number of individuals have severely and repeatedly been deprived of their rights under the law, merely because they belong to a specific group, then a systematic violation of human rights has occurred.

1.2.1. The opposing countries narrative

The US and the EU have authorized human rights-related sanctions against Iran. The UN has never authorized human rights-related sanctions against Iran. But, it has passed a number of human rights related resolutions against Iran, drafted by Canada. Moreover, the UN has appointed a "Special Rapporteur" on Iran to watch the human rights situation.

- **General argument: Systematic violation of human rights**

According to the opposing countries' narrative Iran's regime has been "systematically and repeatedly" violating its citizens' rights (Canada Parliament. Senate. Standing Committee on Foreign Affairs and

³⁷ Dr. Houshang Hassan-Yari, Professor of international relations and strategic military studies at the Royal Military College of Canada, as witness to the standing Committee on Foreign Affairs and International Development tries to illustrate the blustering nature of Ahmadinejad speeches. He calls the international community not to "react to the inflammatory words of people like Ahmadinejad"(Report of the Standing Committee on Foreign Affairs and International Development, *Ahmadinejad's Iran: A Threat to Peace, Human Rights and International Law*, [December 2010] ,52-53).

International Trade 2012, 21). This violation is considered to be systematic, because it has been codified into the national law and also Islamic law (Sharia), and has affected a remarkable number of people over a long period of time.

One dominant narrative views Islamic law as incompatible with so-called universal human rights. For instance, even though Iran is a partner to the Convention on the Rights of the Child (CRC), it has the reservation that “The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect.” (Report of the Standing Committee on Foreign Affairs and International Development, December 2010, 28)

- **Evidence of deteriorating human rights**

The opposing countries’ allegations on Iran’s human rights record fall into the following categories:

- 1) *Religious and ethnic discrimination*; there is “systematic abuse” against religious minorities, specifically Baha’is³⁸ (Canada. Parliament. Senate. Standing Committee on Foreign Affairs and International Trade, 2012, 22). Iran’s regime does not recognize the Baha’i Faith as a valid religion and considers it to be a “heretical sect” rather than a religion “(Katzman March 5, 2014, 17). There are about 300,000-350,000 Baha’i in Iran. The UN Rapporteur is claiming that 110 Baha’is are in prison, and seven of the Baha’i Faith leaders have faced longtime prison sentences in 2010“(Katzman March 5, 2014, 17). Other religious minorities, who are living in Iran, such as Sunnis, Christians and Jews have their constitutional rights. However they have restrictions in different aspects of their lives such as job opportunities. Muslims who convert to another religion would face apostasy charges (Canada. Parliament. Senate. Standing Committee on Foreign Affairs and International Trade 2012, 22). In contrast, ethnic minorities, including the Kurdish, Azeris, Arab, and Baloch communities are facing discriminatory policies by the regime (e.g. ethnic minorities are not permitted to teach their own languages at schools)³⁹. According to the Amnesty International Annual Report in 2012, Iranian ethnic minorities are confronting “ongoing discrimination in law and practice,” (Ibid).
- 2) *Gender discrimination*; The opposing countries deem that Iran’s regime is systematically violating women’s rights, since gender discrimination is codified into the national law and Sharia. Women do not enjoy equal rights with men in issues such as inheritance, marriage, divorce and child custody. Their court testimonies are worth half the weight of a man’s and the life value of a woman is

³⁸ About 90% of the population of Iran is Shiite-Muslim, and Sunni-Muslims make up around 10% of the population. The non-Muslim population of Iran is constituted by Christians, Zoroastrians, Jewish, and Baha’i (Kenneth Katzman, *Iran: U.S. Concerns and Policy Responses* Congressional Research Service, [March 5, 2014], 16).

³⁹ About 51% of the population of Iran is Persian, 24% are Azeris (Turkic), 7%-15% Kurds, and 3% Arab “(Ibid).

considered less than a man's (Report of the Standing Committee on Foreign Affairs and International Development, December 2010, 24-25; Katzman March 5, 2014, 16-17). The share of women from Iran's workforce is less than 20% with about 5 times less salary (Katzman March 5, 2014, 16-17).

- 3) *Widespread practice of the death penalty and torture*; Iran stands in the second place after China in the practice of executions most related to drug crimes. (Canada. Parliament. Senate. Standing Committee on Foreign Affairs and International Trade 2012, 23). The UN has condemned Iran in its resolutions over execution of minors, torture (flogging and amputations), death penalty (especially for "moharebeh", enmity against God, which has a broad and vague connotation), and stoning (Human Rights Council (UNHRC) November 26, 2012).
- 4) *Violation of due process*; According to the opposing countries' narrative, Iran grossly violates due process through unfair trials, trials behind closed doors, trials without access to defense lawyers, ambiguous charges such as enmity against God (moharebeh), corruption on the earth, arbitrary detention, long and strict sentences, and torture (Canada. Parliament. Senate. Standing Committee on Foreign Affairs and International Trade 2012, 24)
- 5) *Violation of political rights*; The dispute over the June 2009 presidential election was a critical point with the regime's intensifying political repression on the one hand, and the opposing countries' authorization of tougher sanctions against Iran on the other. Iran is believed to apply systematic restrictions on peaceful assemblies, freedom of expression, free access to the Internet, political and human rights activists, independent journalists, lawyers, and the media (Human Rights Council (UNHRC) November 26, 2012).

1.2.2. Iran's narrative

Iran's narrative on the opposing countries' allegations against Iran's human rights situation mostly revolves around a *general argument* and a number of *contextualizing explanations*.

- **General Argument: Human Rights as a Foreign Policy Tool**

According to Iran's narrative, the human rights issue has become a foreign policy tool at the disposal of the U.S. The U.S foreign policy towards the Middle East is the crystallization of the paradox between US *interests* and *principles*. On one hand the US has been supporting the most undemocratic governments in the region (i.e. Saudi Arabia). And on the other hand it has been squeezing some other countries, such as Iran, for violations of human rights. Consequently, values such as human rights and democracy have

increasingly been subordinated by the national interests of great powers. Nothing can be more damaging to human rights values than appealing to it as a tool in a foreign policy-toolbox through an instrumental approach.

Iran believes that the opposing countries do not really care about the situation of human rights in Iran. Rather, they maneuver around human rights values as a pretext to demonize and isolate Iran and maintain their pressure on the nation (Ziabari Dec 25, 2013). In contrast, Saudi Arabia and Kuwait, two major oil producers, receive exemptions (Ahmad khanbeigi October 2011, 22). The US human rights policies record illustrates that the US has been planning to legitimize its interference in other countries under the guise of human rights values during and after the cold war (Shafiei and Yazdani 2011,652). Accordingly, human rights-related sanctions against Iran are a pretext for further interference in Iran's domestic affairs (Ahmad khaanbeigi October 2011, 8). For instance, human rights-related *resolutions* against Iran encompass a variety of issues. Human rights-related *sanctions*, however, are mostly focused on political rights of dissidents in Iran, rather than issues such as women's rights. This imbalance enhances the belief that the pressure on Iran over its human rights record is more a political tool rather than support for fair human rights values.

- **Contextual explanations**

According to Iran's narrative, a comprehensive understanding of Iran's human rights situation and the validity of the opposing countries' allegations would only be possible through a contextualization approach. Hence, instead of providing case-by-case counter narratives against the opposing countries' allegations (evidences of human rights violations in Iran), Iran draws attentions to a number of contextualizing explanations:

- 1) Islamic and cultural particularities:

Sadegh Larijani, Iran's head of the judicial system' asserts that the majority of the opposing countries' allegations regarding violations of human rights in Iran are centered around the death penalty, inheritance and couples' rights. As these rules are embedded in Islam (divinely-based rules), Iran cannot simply follow opposing countries rules (human-based rules) (International Campaign for Human Rights in Iran August 11, 2014).

Mohammad Javad Larijani, Iran's head of the human rights council in the judiciary, proclaims that "the Islamic revolution of Iran happened because Iranian people wanted the implementation of Islamic rules... However, it does not mean that we oppose all the international rules.... Iran is a signatory party to many international obligations. Abandoning

these commitments would have ramifications. Nonetheless, it would be possible to have an appropriate interpretation of international obligations that are in accordance with Islam” (Mehr News Agency May 30, 2007) . Hence, the use of so-called pro-human rights universality cannot be used in ignorance of the cultural and religious particularities of Iran.

2) *Regional countries' record;*

According to Iran's narrative, a comparison between Iran and regional countries' record on human rights would be enlightening in comprehending the actual causes behind the authorization of human rights-related sanctions against Iran. On one hand, the situation of human rights in Iran is much better than in many countries in the region, and on the other hand, countries with much worse human rights records in the region are exempted from the opposing countries' pressure. For instance, the human rights record in Saudi Arabia, the US major regional ally and trade partner, is one of the worst in the world. Women only make up about 5% of the workforce and those who work are not allowed to work with men (Ziabari Dec 25, 2013). Moreover, women are not allowed to drive, and up until 2008 they were not allowed to go to hotels if they did not have a male guardian's permission (Ibid). The rights of religious minorities are also very poor. Shiite Muslims constitute 10% to 15% of the population and face severe restrictions in the practice of their religion. Freedom of speech is highly constrained and a the slightest criticism results in strict punishment and even execution (Ibid). However, Saudi Arabia appears to be exempted from human rights- related pressure and sanctions. Thus, the validity of causes behind the authorization of human rights-related sanctions against Iran is highly problematic.

3) *The opposing countries' record*

Iranian officials have been questioning the opposing countries' causes in authorizing human rights-related sanctions against Iran by pointing out the violation of human rights in the countries that have authorized sanctions, or are drafting resolutions against Iran.

Iran's supreme leader, Ayatollah Khameneyee, asserts that “ anyone can talk about human rights, but not the U.S., who is the biggest human rights violator in the world” (Iran's supreme leader website August 9, 2015).

He affirms that the U.S. actions speaks for itself: it is the only country that has used nuclear bombs in all of history, it provides unconditional support to Israel in killing Palestinians (especially in Gaza), it tortures and detains without trial in prisons such as Guantanamo and Abu Ghraib, it commits drone

strikes and kills civilians in Afghanistan and Pakistan, and discriminates against its own black people. These are all examples of the worldwide violations of human rights committed by the U.S. (Ibid). Canada has predominantly drafted all the human rights-related resolutions against Iran, however according to Mohammad Javad Larijani, Iran's head of the human rights council, its own record is stained by crime and discrimination against Aboriginal peoples in Canada. The incarceration of Indigenous peoples in Canada is at a far higher level than is found for other Canadians. He affirms that "it is difficult to believe that Canada is truly concerned with the violation of human rights in Iran, while Canada voted against the resolution condemning Israel over its crimes in Gaza and closed its eyes on the killing of hundreds of Palestinian women and men in Gaza". (Raja News Website November 20, 2010).

- **Progressive trend**

Iran admits that there are deficits and some laws, e.g. law on death penalty regarding narcotic crimes that need to be changed. According to Iran's narrative, Iran's human rights situation is a work in progress, and like many other countries, it is trying to improve its human rights situation in accordance with its own cultural-religious framework and security imperatives.

Death penalty:

The majority of executions in Iran are a result of narcotic trafficking convictions. Iran has underscored in its response to the UN Special Rapporteur's report on human rights in Iran that since Iran is a neighbor of the biggest producer of narcotics in the world, Afghanistan, it has to adopt strict policy to confront the massive and organized drug smuggling to Iran and through Iran to European countries (Judiciary of the Islamic Republic of Iran High Council for Human Rights May 17, 2015) . Organized narcotic trafficking is taking a great toll on Iran. More than 4000 soldiers have lost their lives and over 12000 have been injured. Furthermore, Iran spends hundreds of millions of dollars annually to confront the narcotic smuggling network and on its own rehabilitation policies (Ibid). According to Mohammad Javad Larijani, Iran's head of the human rights council, "it is so sad that we are witnessing such a high number of executions related to narcotic crimes under the current law. We are trying to change the law and if we succeed the number of executions will be reduced by 80%" (ISNA Oct 11, 2015).

The Situation of Women:

a) Education: Iranian women are increasingly being admitted into universities and are surpassing males. For instance, the percentage of female university students increased by more than 25% in ten years from 1991 to 2001 (1370-1380) (Tabatabaei yazdi August 2007, 2). Of the general entrance exams of universities in 2008, 63% of participants were female and 37% were male (Aftab News Website

October 19, 2010). This imbalance triggered serious concerns among Iranian policymakers regarding the executive imperatives, and the social and economic ramifications, and pushed them towards adopting gender share allocation policies. More recent statistics illustrate a more balanced distribution among female and male university students (Aftab News Website October 19, 2010). However, even after adopting the controversial gender share allocation policies, statistics reveal that more than 60% of accepted participants in university entrance exams in 2012 were woman (BBC September 12, 2012).

- b) Workforce: According to Article 4 of Islamic Republic of Iran Labor Law, each individual, regardless of gender, has the right to choose her/his desired job, provided it is not against Islam and public good and rights (Ministry of Cooperatives Labour and Social Welfare website). However, the unemployment rate of women is still remarkably higher than that of men. The unemployment rate among young women (between 20-24 years old) living in cities is 54.1%, while it is 23.8% for men at the same age (Tabnak News Site July 20, 2014).

1.2.3. Examining the criterion

According to the opposing countries’ s narrative, Iran is an “International norm-breaker”.

Table 2.6. The Opposing countries narrative on Iran’s human rights situation

The opposing countries’ narrative		
General argument		<i>Systematic violation;</i> Iran has systematically violated human rights and there is enough evidence to claim the deterioration of the human rights situation in Iran.
Evidences	1) Religious and ethnic discrimination	- There is systematic abuse against religious minorities, specifically Baha’is - Iranian ethnic minorities confront ongoing discrimination in law and

		practice
	2) Gender discrimination	Gender discrimination is codified into Iran's national law and Sharia. Women do not enjoy equal rights with men in issues such as inheritance, marriage, divorce and child custody. Their court testimonies are worth half the weight of a man's and the life value of a woman is considered less than a man's
	3) Widespread practice of the death penalty and torture;	Iran stands in the second place, after China, in the practice of execution
	4) Violation of due process	Iran grossly violates due process through unfair trials, trials behind closed doors, trials without access to defense lawyers, ambiguous charges such as enmity against God (moharebeh) and corruption on the earth
	5) Violation of political rights	Iran applies systematic restrictions on peaceful assemblies, freedom of expression, free access to the Internet, political and human rights activists, independent journalists, lawyers, and the media

Table 2.7. Iran’s narrative on the allegations against its human rights situation

Iran’s narrative		
General argument		<i>Foreign policy tool</i> ; The Opposing countries has been appealing to human rights as a tool in its foreign policy toolbox
Contextual explanations	(a) Islamic & cultural particularities	Western human rights are not universal and cultural and religious particularities should be taken into account.
	(b) Regional countries’ record	Iran’s human rights situation is much better than many other countries (e.g. Saudi Arabia) in the region; nevertheless, those countries are exempted from the sanctions of the opposing countries, which undermine the opposing countries’ cause to authorize sanctions against Iran.
	(c) The opposing countries’ record	The U.S. record on human rights is stained: <ul style="list-style-type: none"> . Usage of nuclear bomb . Unconditional support of Israel’s crime in Gaza . Guantanamo and Abu Ghraib prisons (torture and detentions without trial) . Drone strikes . Discrimination against Black and Hispanic Americans; high discrimination and abuse of illegal persons Continued use of the death penalty.
Progressing trend	Death penalty	Iran is trying to change the law on narcotic-related execution, which would reduce the execution rate by 80%.
	Women’s rights	Women’s rights in Iran are progressing. For example, more than 60% of admitted participants in University entrance exam in 2012 were women.

1.3. Comparative just cause for terrorism-related sanctions against Iran

The U.S. designated Iran as a “state sponsor of terrorism” on January 23, 1984⁴⁰ (Katzman May 7, 2014, 3). Although only the U.S has authorized terrorism-related sanctions against Iran, many other countries have been accompanying the U.S in reiterating the same allegations.

1.3.1. The U.S. narrative

The U.S. argument, which created the foundational cause of terrorism-related sanctions authorizations against Iran, is made up of the following categories:

a) **Terrorism sponsorship**

Iran has been supporting the alleged terrorist group, Hezbollah, in the region for a long time. The U.S., Canada, Israel and the Gulf Cooperation Council (GCC) have all recognized Hezbollah as a terrorist organization. Hamas has also been classified as a terrorist organization by the U.S., the European Union, Canada, Israel and Japan.

b) Threat to the peace process; According to the opposing countries’ narrative, Iran’s multi-faceted support (funding and training), of alleged terrorist groups such as Hezbollah and Hamas has posed a threat to the peace process in the region (Levitt July 25, 2012, 1-15).

c) **State terrorism**

According to the U.S. narrative, Iran has been involved in a series of extraterritorial terrorism-related activities such as: the truck bombing of the U.S. Embassy and Marine barracks in Lebanon (1983, Lebanese Hezbollah), bombings of the U.S. and French embassies in Kuwait (1983, Da’wa Party of Iraq), the bombing of the Israeli Embassy in Buenos Aires (1992, Lebanese Hezbollah), the bombing of the Argentine-Jewish Mutual Association (AMIA) building in Buenos Aires (1994, Lebanese Hezbollah), and the bombing of Khobar Towers in Saudi Arabia (1996, Saudi Hezbollah) ” (Katzman March 5, 2014, 35-6). Additionally, Iran was involved in extraterritorial assassinations of its political dissidents in the late 1980s and early 1990s (Katzman March 5, 2014, 35).

1.3.2. Iran’s narrative

a) **Supporting emancipation movements;**

There is no doubt that Iran was actively providing military and financial support for the Lebanese Hezbollah in the 1980s and the early 1990s and in recent years (Sakhaei Ardakani 2010, 314).

⁴⁰ The Hezbollah attack on U.S. Marine barracks in Lebanon in October 1983 triggered the designation of Iran as a “ state sponsor of terrorism” by the U.S. Secretary of States (Kenneth Katzman, *Iran Sanctions*, Congressional Research Service,[May 7, 2014] , 3).

However, according to Iran's narrative, unlike the U.S who identifies Hezbollah as a terrorist group, Iran recognizes it as an emancipation movement that fights against the occupation of the southern part of Lebanon by Israel. Thus, for Iran, it is legitimate and justifiable to defend the emancipation movement (Ibid, 120-1).

b) Peace process

Iran does not view its support of Hezbollah and Hamas as an obstacle for the peace process. On the contrary, Iran believes that there will be no hope for Middle East Peace unless there is recognition of Palestinian's self-determination right (Ibid, 120-1).

c) Self-defense;

Iran rejects the allegations of conducting extraterritorial terrorist attacks against U.S. interests. Although Iran's participation in some of the terroristic activities is undeniable, most of them have been carried out against two enemies of Islamic Republic of Iran, (1) Mojahedin-e-Khalgh (MEK) and (2) Democratic Party of Iranian Kurdistan in Iraq. These groups have carried out many terrorist-type operations against Iran inside and outside of the country in which many Iranian people and some Iranian leaders have lost their lives⁴¹. Thus, these two groups have been among Iran's security concerns, and consequently, Iran describes its operations against them as a part of a *self-defense* strategy and not a kind of *state terrorism* (Ibid, 119-20)

⁴¹ According to the U.S. ministry of foreign affairs' report, MEK attacked Iran's embassies in 13 countries in the first 9 months of 1997. It took responsibility for 194 terrorist operations. As a consequence of these activities, on October 8th 1997, the U.S. ministry of foreign affairs finally named MEK a terrorist organization (Roohollah Sakhaei Ardakani, *the U.S. Sanctions Against Iran (Failure of a Sanction)* [تحریم آمریکا علیه ایران (شکست یک)] (Tehran: Arvan, 2010), 119-20).

Table 2.8. The U.S and Iran’s narratives on terrorism

	The U.S. narrative	Iran’s narrative
General arguments	(a) Iran supports terrorist groups such as Hezbollah and Hamas	Iran supports emancipation movements
	(b) Iran’s support of the terrorist groups has posed a threat to the peace process in the region	There will be no hope for Middle East Peace unless there is recognition of Palestine’s self-determination right
	(c) Iran’s transnational terrorist activities are acts of state terrorism	Self-defense

Chapter 3: Just Authorization of Sanctions (Part II)

- Right Objective
- Last Resort
- Proportionality in Authorization
- High Possibility of success

Just Authorization of Sanctions (Part II)

1. Right objective

There is a profound split between the sanctioners and Iran's narratives over the sanctions' core objectives. While, the sanctioners proclaim that each sanction regime has been authorized to meet a specific core objective, Iran does not distinguish separate sanctions and discrete objectives. In the Iranian perspective, all sanction regimes pursue a set of objectives different from the officially announced core objectives.

1.1. The sanctioners' narrative on sanctions core objectives

The three different sanctions regimes of nuclear, human rights, and terrorism-related, have been authorized against Iran with the following core objectives:

- **Nuclear-related sanctions: Nonproliferation**

The officially stated core objective of nuclear-related sanctions against Iran is nonproliferation. Gary Samore, White House WMD Coordinator, asserts that authorizing nuclear-related sanctions against Iran would curtail Iran's nuclear program, and would pose serious obstacles to the regime's endeavors to acquire nuclear material. Moreover, it would enforce "the credibility and integrity of international nonproliferation regimes" (Katzman April 22, 2014, 3). However, the sanctioners' narrative is not unified on how the core objective of nonproliferation should be met. There are two dominant approaches:

- a. "*Full dismantlement*" objective; This step would lead to a nonproliferation core objective; Israel, Canada and some republicans in the U.S. believe that only by full dismantlement of Iran's nuclear program would the core objective of nonproliferation become accessible⁴² (Ibid).
- b. *Limitation and transparency objective*; This step would lead to the nonproliferation core objective; Supporters of this objective believe that provided sanctions would secure the objective of limited and extensively monitored uranium enrichment; the core objective of nonproliferation would be secured too (Ibid). Nevertheless, the first approach has been

⁴² Even after Iran and P5+1 reached the Geneva interim agreement, The Joint Plan of Action (JPA) in November 2013, in which Iran is entitled to preserve the right of limited uranium enrichment, Canada emphasized the necessity of the full dismantlement of Iran's nuclear program. John Bird, Canada's Minister of Foreign Affairs in the cabinet of Prime Minister Stephen Harper, asserted that "We have made-in-Canada foreign policy", and Canada will not lift or ease its sanctions until the full dismantlement of Iran's nuclear program (Barrie McKenna, "Canada 'Deeply Skeptical' Iran Will Follow through on Nuclear Deal," *The Globe and Mail*, Nov. 24 2013).

receiving fewer acceptances as the pace of Iran's nuclear development and investments were increasing. Gary Sick, an American special expert on Iran, believes that no one should expect Iran to overlook its decades of nuclear experience and program. There is no doubt that the full dismantlement scenario is unrealistic (Canada. Parliament. Senate. Standing Committee on Foreign Affairs and International Trade 2012, 19). Most significantly Iran has financially invested to an enormous extent in its nuclear program and has tied its national pride to it (Bahgat 2005, 35). The Geneva interim agreement or the Joint Plan of Action (JPA), which was signed between Iran and P5+ 1 on 24 November 2013 revealed and deepened the existing gap between the supporters of "full dismantlement" and "limitation and transparency" objectives (Semati and Hormozi 2014, 22).

- **Human rights-related sanctions: human rights promotion**

According to the senders' narrative, the core objective of human rights-related sanctions against Iran is to push the regime to respect human rights values (Long and Luers 2012, 7).

- **Terrorism-related sanctions: Counterterrorism**

According to the U.S., preventing Iran from supporting so-called terrorist groups such as the Lebanese Hezbollah and Hamas is a core objective of terrorism-related sanctions (Long and Luers 2012, 7).

1.2. Iran's narrative on sanctions' core objectives

The predominant narrative among Iranian authorities is that the stated objectives by sanctions senders are a guise, or in the most optimistic scenario, secondary to the genuine objectives. Iran does not view a distinct and separate core objective for each type of sanction, especially when it comes from the U.S, the only actor who has authorized all three nuclear, human rights, and terrorism-related sanctions. According to Iran's narrative, sanctions should be viewed in the broader picture and in the context of the U.S. containment policy against Iran (Moshirzadeh and Jafari 2012, 62). In other words, sanctions are one of the elements of the containment policy. Thus, containment policy objectives such as a regime change, behavior change, and the reduction of Iran's regional influence, are all extended to the objectives of sanctions.

- **Policy Context: containment policy**

The containment policy is historically rooted in the Dual Containment Policy (DCP), which was framed by Martin Indyk, the Clinton White House adviser on the Middle East in 1993.

According to the policy of dual containment, both Iraq and Iran were identified as U.S. strategic enemies and had to be contained. The threat of Saddam Hussein had to be neutralized through regime change and Iran's threat had to be contained by pressuring Iran to change its behavior in its domestic and regional policies (Millward 1995, 2). The dual containment policy was later known as containment policy. The containment policy objectives' spectrum stretches from regime change to behavior change and the reduction of Iran's regional influence. According to Iran's narrative, sanctions are not a distinct policy but an element of containment policy. Thus sanction objectives are the same as containment policy objectives:

a) **Regime change**

Theoretically, a hegemonic power objectives toward a revolutionary state vary from changing behavior to toppling the regime and this is the case for the U.S objectives and policies as a "hegemonic power" towards Iran as a "revolutionary state". (Moshirzadeh and Jafari 2012, 51). Many Iranian authorities strongly believe that the true and ultimate objective of sanctions is not to stop Iran's nuclear program but to change the regime (Shariati-Nia and Towhidi 2013, 100). Iran's supreme leader, Ayatollah Khamenei, affirmed in one of his speeches addressing the Experts Council members :” The opposing countries imposition of sanctions on Iran has a long run objective ... and that is confronting the Islamic regime” (Delavar pour aghdam , Mostafa and Moadi roodsary 2014, 121-148). The objective of regime change has been systematically pursued by some American policymakers. For instance, a bill in the 111th Congress states that the U.S. policy should support the toppling of the regime (The Iran Democratic Transition Act, S. 3008). (Katzman March 5, 2014, 61-62). There are two approaches in the U.S to toppling Iran's regime: war and soft toppling (Moshirzadeh and Jafari 2012, 68). The Iranian narrative stresses that the behavior of the U.S. towards Iran over the past 30 years, including the imposition of sanctions, reveals the veiled objective of “soft toppling” (Emamjomezadeh and Moradi 2009, 55).

b) **Behavior change**

According to Iran's narrative, U.S. policies towards Iran have always been centred around the two-pronged objective of regime change and behavior change (Moshirzadeh and Jafari 2012, 70). Since 2005, U.S. concerns about Iran's nuclear program have led to a shift in foreign policy. The U.S has been focused on changing Iran's behavior rather than toppling its regime (Ibid, 69).

c) Reducing and containing Iran's regional influence

According to Iran's narrative the important objectives of containment policy, which have been pursued through the imposition of sanctions, are to contain and reduce Iran's regional influence and power. These objectives are to be met by empowering Iran's rivals, weakening Iran's alliances, and reducing Iran's strategic capabilities.

In summary, based on the Iranian parliament's Research Center report, none of the opposing countries announced objectives (nonproliferation, promotion of human rights, and counter-terrorism), is among Iran's understanding of genuine sanction objectives.

According to this report, the following goals are the actual objectives of sanctions:

- a) Isolating Iran regionally and globally;
- b) Generating domestic insecurity;
- c) Generating a gap between society and authorities (ruling system);
- d) Gaining concession from Iran in nuclear negotiations;
- e) Limiting the defensive and deterrence capability of the armed forces;
- f) Forcing Iran to give up indigenizing uranium enrichment technology and producing nuclear fuel (Delaavar Pour Aghdam October 2012, 3).

1.3. Examining the criterion

Table 3.1 The sender's narrative on sanctions' core objectives

Sanctions	Core objective	Senders
Nuclear-related	Nonproliferation	UN, US, EU
Human rights-related	Promotion of human rights	US, EU
Terrorism-related	Counterterrorism	US

Table 3.2 Iran’s narrative on sanctions’ core objectives

Sanctions	Core objective	Senders	Policy context
The package of nuclear, human rights, and terrorism-related sanctions	(a) Regime change	U.S.-led campaign	containment policy
	(b) Behavior change		
	(c) Reducing Iran’s regional influence (By boosting rivals & weakening alliances and reducing Iran’s strategic capabilities)		

2. Last resort

The definition of appealing to sanctions as the last resort suggests “the imposition of sanctions must be preceded by other, less-coercive instruments.” (Amstutz 2005, 188). There are other options before resorting to sanctions. These include: diplomacy, covert measures, incentive measures, legal referrals and threats of the use of military force or sanctions

2.1. The opposing countries’ narrative on appealing to nuclear-related sanctions as the “last resort”

According to the opposing countries’ narrative, all other less-coercive instruments were examined before appealing to sanctions, but they either failed or were insufficient. In other words, the authorization of sanctions was the last resort after the failure of other less-coercive tools such as negotiations, incentive measures, military threats, covert operations and legal referrals.

- **Negotiations failed**

The dominant opposing countries' narrative is that sanctions against Iran were authorized as the last resort because the negotiations failed (Crane 2012, 111). The blame for negotiations failure should be put on Iran because Iran's intention to negotiate has not been to reach an agreement but to buy time and develop its nuclear ambitions. As Hassan Rouhani once mentioned, "the discussions with the Europeans have made it possible for Iran to gain time and make important progress in key sectors." (Delpech 2012, 40). The widespread belief in the opposing countries is that, as a general rule, diplomacy is doomed to fail with all authoritarian regimes, including Iran, since these types of political systems need an enemy to survive (Ibid, 42). Even the Paris Agreement of November 2004, in which Iran demonstrated a remarkable cooperation and transparency in its nuclear program by suspending its uranium enrichment and voluntarily implementation of the Additional Protocol, it was just a short-time success of negotiation efforts. Undersecretary Burns in May 2005 emphasized that "Iran's repeated brinkmanship in its negotiations with the EU3 . . . is part of Iran's continuing effort to divide the international community, weaken our resolve and avoid adhering to its international obligations"(Rajiv 2014, 688-702). Thus, negotiations with Iran failed, in spite of Iran's tactical and short time cooperation, and paved the way for applying more coercive tools.

- **Incentives were offered**

Different incentive packages had been offered to Iran before appealing to sanctions.

Nonetheless Iran had chosen to turn them down and develop its nuclear program. On 5 August 2005, the EU3 (France, Germany and the United Kingdom) all proposed a "Framework for a Long Term Agreement", including a comprehensive nuclear and economic incentive package in return for complete suspension. However, Ahmadinejad, who was newly elected as the president, rejected the proposal and Iran resumed uranium enrichment in the same month. Later, in February 2006, Iran announced that it would discontinue its provisional implementation of the Additional Protocol (Krause 2012, 57-59).

Furthermore, the P5+1 (or the E3+3), which includes the EU-3 and China, Russia, and the United States, a diplomatic alliance which became active in 2006, offered an incentive package to Iran in June 2006, Iran was offered economic, political, security and nuclear cooperation in return for halting its uranium enrichment and ensuring full compliance with the IAEA/UNSC resolutions (Rajiv 2014, 919-20). The incentives which were offered to Iran included supporting Iran's integration in the world economy by accepting Iran's membership in the WTO, cooperation in high technology, partnership with the EU in the Energy sector, nuclear

cooperation (building light water reactors and nuclear fuel waste management), and lifting constraints on the civil aviation sector (Ibid, 919-20). Hence, enough incentives were offered, but it was Iran who impeded the diplomatic path by not accepting the incentives and continuing uranium enrichment (Ibid, 919-20). Robert J. Reardon, Adjunct Associate political scientist at RAND Corporation, proclaims that many incentive packages were offered to Iran since 2002 yet Iran had never been convinced to stop its nuclear program due to the following reasons:

- a) Hardliners and *conservatives* have been taking advantage from the antagonistic relations with the opposing countries, especially the US, thus any incentive package would hardly convince them to agree on any nuclear deal;
- b) Incentives have been viewed as a *threat* by some ruling elites, targeting Iran's independence and domestic stability;
- c) The *fragmented domestic political landscape* is a serious barrier to any nuclear deal with a single political group;
- d) The *inflexible position* of both sides has devalued the offered incentives (the opposing countries have been insisting on complete suspension of uranium enrichment, whereas Iran has always been stating that uranium enrichment is its redline) (Reardon 2012, 141-144).

- **Resolutions, covert operations and military threats were insufficient**

The IAEA Board of Governors had issued nine resolutions on Iran before referring Iran's case to the UNSC⁴³. The ninth resolution was adopted on February 4, 2006 in which the IAEA Board of Governors requested the Director General to *report to the UNSC* the required steps that Iran should take (GOV/2006/14 February 4, 2006, 2). It was only after recognition of Iran's non-compliance with the IAEA's resolutions by the IAEA Board of Governors that Iran's case was referred to the UNSC in February 2006. As the first step, the UNSC issued a non-legally binding statement asking Iran to comply with its obligation under the IAEA resolutions. Iran's failure to meet its obligations convinced the UNSC to take the second step and pass the legally binding resolution 1696 under Article 40 of Chapter VII, in July 2006 (Katzman March 5, 2014, 26). This resolution was the final step before appealing to sanctions as the last resort. The resolution 1696, gave Iran one month until August 31, 2006, to meet its obligations set by the IAEA⁴⁴. Iran failed

⁴³ For further reading on the IAEA Board of Governors resolutions, see the link below:

"IAEA and Iran - IAEA Resolutions": <https://www.iaea.org/newscenter/focus/iran/iaea-and-iran-iaea-resolutions>.

⁴⁴ These demands include: the suspension of uranium enrichment and heavy-water reactor construction and the ratification of the Additional Protocol (AP) (Katzman, *Iran: U.S. Concerns and Policy Responses*

to comply with Resolution 1696 and thus the UNSC appealed to sanctions as the last resort, and authorized Resolution 1737 under Article 41 of Chapter VII, in December 2006⁴⁵.

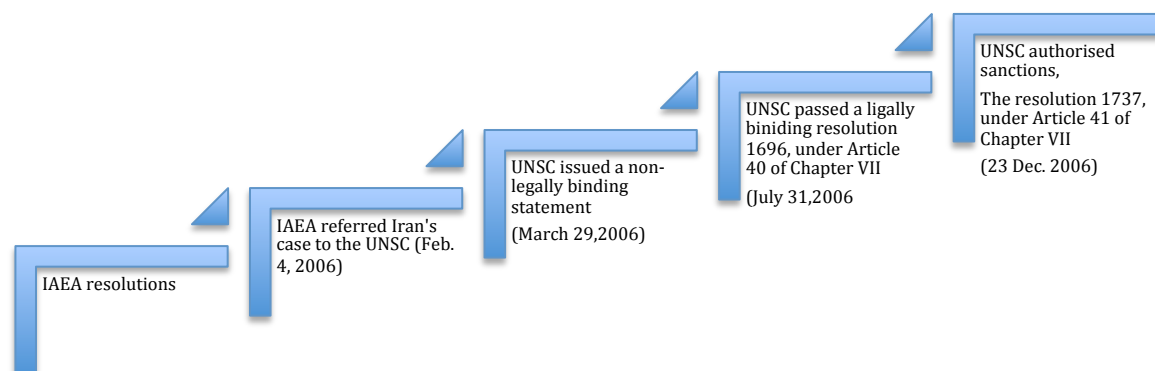


Figure 3.1 Prior step taken by the IAEA and UNSC before appealing to sanctions as the last resort

Furthermore, the U.S. has been involved in covert operations to slow down Iran's nuclear program before and after the authorization of the UN sanctions in 2006 (Kerr October 17, 2012, 26). The most famous cyber-attack on Iran's nuclear facilities is known as Operation Olympic Games. In this instance, a computer worm, named Stuxnet, attacked computers in Natanz nuclear facility (Vielhaber and Bleek 2012, 484-5). Stuxnet infected about 1000 centrifuges and caused them to spin out of control (Albright and others 2013, 59). Operation Olympic Games was authorized by President George W. Bush in 2006, and President Obama reauthorized it three years later (Vielhaber and Bleak 2012, 484-5).

The time and scope of most of the covert operations are not publicly known, yet the budget allocation by the U.S. Congress is an acknowledgement of such policies⁴⁶.

In addition to the covert operations, the U.S. and Israel have been constantly threatening Iran of using military force to stop Iran's nuclear program. It has always been the position of the U.S. that all options including military actions are on the table to prevent Iran from becoming a nuclear-armed power. However, the continuous military threat has not deterred Iran from developing its nuclear program to this point.

March 5 2014, 26).

⁴⁵ It is mandatory to comply with resolutions taken under Article 40, but it is Article 41 which refers to economic sanctions and Article 42 which gives the permission of military action. (Ibid, 26)

⁴⁶ For instance, in December 1995, the U.S. Congress allocated \$ 18 million intended for covert operations against Iran (Katerina Dalacoura, *Engagement Or Coercion? Weighing Western Human Rights Policies Towards Turkey, Iran and Egypt* The Royal Institute of International Affairs, 2003,34).

- **Limited airstrike would have a paradoxical effect**

According to the opposing countries' narrative, a limited airstrike was not an option prior to appealing to sanctions, due to its paradoxical effects. A limited or surgical airstrike against Iran's nuclear facilities could not destroy Iran's nuclear program completely. On the contrary, it could provide Iran with enough drive and justification to more quickly possess nuclear weapons (Reardon 2012, 141-144).

- **Nuclear Iran was not tolerable**

Tolerating a nuclear Iran, even without nuclear weapons, had never been an option before appealing to sanctions. The widespread belief in the opposing countries is that Iran's leaders are irrational actors and the logic of nuclear deterrence is not applicable to this regime (Waltz 2012, 2-5). In other words, a knife should never be in the hands of an irrational actor. Israel has been adopting an even less tolerant position by viewing "Iranian enrichment capacity alone as an unacceptable threat" (Ibid).

2.2. Iran's narrative on appealing to nuclear-related sanctions as the "last resort"

According to Iran's dominant narrative, authorizing nuclear-related sanctions against Iran was not the last resort, but a political choice. This reasoning is based on the following three main arguments:

- **Negotiations could succeed**

According to Iran's narrative, negotiations could succeed:

- a) *If the opposing countries did not have maximalist demands*; For a long time the opposing countries were insisting on the *indefinite suspension solution* in return for the offered incentives, and was not ready to compromise on the level of uranium enrichment in Iran. However, as Iran's foreign minister, Zarif, has asserted, "suspension is not a solution in itself", and the opposing countries cannot request indefinite suspension (Zarif 2006). In fact, the logic behind uranium suspension is to provide enough time for the IAEA inspector to conduct an investigation and verification. Iran did provide this by suspending its uranium enrichment for about two years, but no long-term solution was proposed by the opposing countries other than the overemphasis of indefinite suspension (Ibid).

If the opposing countries could lower its demands and recognize Iran's inalienable right to enrich uranium as a signatory party to the NPT, as it finally did in the Joint Plan of Action

(JPA), and later in the Joint Comprehensive Plan of Action (JCPOA), negotiations could have succeed earlier⁴⁷.

- b) *If the opposing countries had appreciated Iran's nuclear cooperation under president Khatami*; Iran announced to the IAEA in October 2003, that it had adopted a full disclosure policy and was ready to fully collaborate with the IAEA to clarify the peaceful nature of its nuclear program. Subsequently, the IAEA inspectors were allowed to visit locations of concerns, verify nuclear-related materials, and even interview individuals who were involved in Iran's nuclear program (GOV/2011/65 8 November 2011, Annex page 1). As another cooperative course of action, Iran signed the Additional Protocol (AP) in December 2003, and voluntarily suspended uranium enrichment. In sum, from 2003 to early 2006, Iran performed unprecedented cooperation with the IAEA. But according to Hossein Mousavian, Iranian former top nuclear negotiator under president Khatami, the opposing countries missed the opportunity and failed to negotiate seriously (Mousavian 2012).
- c) *If the opposing countries were not giving a cold shoulder to Iran's proposals*;
While the opposing countries were insisting on the *indefinite suspension solution*, Iran was trying to propose long-term solutions that would guarantee peaceful enrichment rather than indefinite suspension (Zarif 2006). Yet, the responses of the opposing countries were disappointing.
- 1) In 2003, Iran, under president Khatami, suggested a comprehensive negotiations package, including not only Iran's nuclear program, but also possible regional co-operation. Yet the response of the White House was "we don't speak to evil."⁴⁸ (BBC 18 January 2007).
 - 2) On March 23, 2005, Iran proposed a comprehensive package to the EU3 (France, Germany and Britain), in the absence of Iran-US contact, announcing its permission to around-the-clock IAEA inspections and its readiness to prohibit developing nuclear weapons through national legislation. Although the E3 was keen to work on this proposal, the offer was refused due to the U.S. opposition (Zarif 2006). The EU3 overlooked the March 2005 Iranian offer and decided to wait until Iran's presidential election time which was a few months later in June, hoping that Akbar Hashemi

⁴⁷ Many non-Iranians scholars also believe that the West overemphasize on complete enrichment suspension solution rigorously harmed the negotiations (Joachim Krause, *Iran's Nuclear Programme: Strategic Implications* Routledge, 2012, 59).

⁴⁸ The plan was rejected by Vice-President Dick Cheney's office. "One of the then Secretary of State Colin Powell's top aides told the BBC the state department was keen on the plan - but was over-ruled". "**Washington 'Snubbed Iran Offer'**"; <http://news.bbc.co.uk/2/hi/6274147.stm>.

Rafsanjani would win and they could reach a better deal. However, it turned out that Mahmood Ahmadinejad won the election (Krause 2012, 57-59). Thus, another opportunity was missed.

- 3) On Sept. 17, 2005, Iran suggested that it is ready to continue its uranium enrichment inside the country with the partnership of other countries to maximize the enrichment's transparency. The partnership offer was refused (Zarif 2006).
- 4) On March 30, 2006, Iran proposed the establishment of consortia for fuel-cycle development with regional and non-regional countries. "No one cared to respond to this proposal" (Zarif 2006).

- **Iran's nuclear dossier could have been held in the IAEA**

According to Iran's narrative, it was the political pressure and not technical or legal reasons which led to the referral of Iran's nuclear dossier from the IAEA to the UNSC. In fact, according to Hossein Mousavian, Iranian former top nuclear negotiator, the referral of Iran's nuclear dossier from the IAEA to the UNSC was "illegal and illegitimate" (Jamejamonline News Website February 25, 2013).

A number of states, and non-state actors, including US, Israel, AIPAC, ISIS⁴⁹, were highly involved in leading the IAEA Board of Governors' policies toward Iran and in supposedly bringing it out of the IAEA technical body and to the UNSC security body. The IAEA course of action in referring Iran's nuclear dossier to the UNSC has raised criticisms even among non-Iranians. Some consider this referral as a premature decision of the Board of Governors since this decision was made without any real evidence of breaching the NPT or related Safeguards by Iran (Dupont 2012, 7).

In sum, according to Iran's narrative, if it was not for the political pressure, Iran's dossier could have been judged within the IAEA and not the UNSC. Hence, authorizing sanctions was not the last resort, but a political choice.

- **Nuclear Iran could be tolerated**

Iran is a signatory party to the NPT, and consequently has the right to enjoy peaceful nuclear technology without discrimination. Thus the Iranian narrative principally does not accept the opposing countries' intolerance regarding Iran's nuclear capability. Tolerating nuclear Iran could

⁴⁹ Institute for Science and International Security (ISIS) is a nongovernmental US based organization, that has been remarkably active in depicting Iran's nuclear program as a threat (S. Samuel C. Rajiv, "Politicised Safeguards': Iran-IAEA Contentions, Drivers and Policy Implications," *Strategic Analysis* 38, no. 5 (2014), 689).

be another option rather than appealing to sanctions as the so-called last resort. There are countries such as Japan, who have acquired highly advanced nuclear technology and have decided not to build a nuclear weapon. Instead of tolerating nuclear Iran as it has been tolerating countries like Japan, the opposing countries authorized sanctions. Some opposing countries scholars such as Kenneth Waltz have also supported this option, and believe that the opposing countries should have tolerated nuclear Iran⁵⁰ (Waltz 2012, 2-5).

2.3. Studying the “last resort” criterion regarding human rights and terrorism-related sanctions against Iran

There is a fundamental difference between the “last resort” criterion regarding the human rights and terrorism-related sanctions against Iran, and nuclear-related sanctions against Iran:

- *In the case of Iran’s record on human rights*; The US and EU have appealed to sanctions, while the UN, the most legitimate sanctions authorizer, has been exercising other less coercive tools, such as issuing resolutions and appointing a Special Rapporteur other than appealing to sanctions. In other words, authorizing human rights and terrorism-related sanctions against Iran has not been the last resort, at least for the UN, up to this point. Hence, while appealing to sanctions has not been the last resort for the UN, it could have hardly been the last resort for other actors.
- *In the case of the Iran’s alleged support for terrorism*; only the US has appealed to the sanctions tool. The EU and the UN have not considered sanctions as the last resort. Thus, in comparison to human rights-related sanctions, it is even harder to accept the U.S. claim in appealing to sanctions as the last resort.

In sum, it is hard to assert that authorizing the human rights-related sanctions by the US and EU was the last resort, while the UN is still suggesting other less coercive tools. It is even harder to claim that the terrorism-related sanctions, authorized just by the US, was the last resort, while both the UN and the EU had not been convinced to resort to the sanctions tool. It is worth noticing that some specialists believe that basically appealing to sanctions for the purpose of promoting human rights would have a paradoxical effect, and that the proper alternative to sanctions would be to continue to raise the human rights issue and to support human rights projects (Dalacoura 2003, 57).

⁵⁰ Waltz even considers a nuclear-armed Iran to be one of the best possible scenarios for the region’s stability. He proclaims that, based on nuclear deterrence logic, nuclear-armed Iran would enhance the stability in the Middle East because Iran and Israel would deter each other and the regional balance of power would be restored. In contrast to the West’s attempt to depict Iranian leaders as irrational actors, nuclear-armed Iran, like India, Pakistan and China would choose the self-preservation principle over the self-destruction principle (Kenneth N. Waltz, "Why Iran should Get the Bomb," *Foreign Affairs* 91, no. 4 (2012), 2-5.

2.4. Examining the criterion

The opposing countries and Iran’s narratives on sanctions as the “last resort” are completely opposed. The opposing countries’ narrative asserts that appealing to nuclear-related sanctions against Iran was the “last resort” while Iran proclaims that authorizing sanctions was a “political choice” rather than the last resort.

Table 3.3 The Opposing countries and Iran’s narratives on nuclear-related sanctions as the last resort

Less coercive tools	The opposing countries’ narrative	Iran’s narrative
Diplomacy	Negotiations failed + incentives were overlooked	Negotiations could succeed + Iran’s proposals were overlooked
Legal referral	IAEA referred the case to the UNSC	The dispute was resolvable within the IAEA
Other options	Military threat + Covert operations were insufficient	- Military threat + Covert operations were destructive -Nuclear Iran could be tolerated as an option

3. Proportionality in Authorization

Proportionality refers to the *equivalence* between the breached rule/norm and its consequences on one hand and the nature and scope of the countermeasures on the other (Cannizzaro 2001, 891). Hence, the chosen tool, sanctions, should be proportionate to the committed wrong and/or the exposed threat, and it should also take into account the predictable consequences.

3.1. The opposing countries' narrative on nuclear-related sanctions proportionality

There are two narratives in the opposing countries regarding the proportionality of nuclear-related sanctions against Iran:

a) *Sanctions are a proportionate tool;*

According to this approach, the authorization of nuclear-related sanctions is both an equivalent international response to Iran's violation, and a proportionate countermeasure against Iran's nuclear threat and its possible consequences. Based on the opposing countries' assumptions, Iran's nuclear program seeks to acquire nuclear weapon, nuclear Iran would trigger nuclear dominos in the region, nuclear Iran would pass nuclear weapons to the terrorists, and finally nuclear Iran would attack Israel. Hence, the prospect of Iran's nuclear threat is broad and devastating enough that a maximum coercive tool short of military action would be the most proportionate tool (Dobbins and others Spring 2012).

b) *Sanctions are a disproportionate tool;*

According to this approach, sanctions are a disproportionate tool because they are inadequate to deter Iran's nuclear threat. Sanctions cannot stop Iran's nuclear program and are therefore unable to prevent potentially devastating threats. Hence, military strikes and not sanctions would be a more proportionate tool. Proponents of the military strike approach believe that a strike on Iran "is the least bad option" given the exposed threat by Iran's nuclear program (Kroenig 2012, 76-86). Benjamin Netanyahu has repeatedly warned the international community about the disproportionality and inadequacy of the sanctions tool to counter Iran's nuclear threat. He believes that the sanctions tool would not eliminate the threat but would delay it to a "point of no return" (Goldberg 2010). Former US Ambassador to the UN, John Bolton, also claims that the sanctions tool is inadequate to defuse Iran's nuclear threat. He suggests that "to stop Iran's bomb, bomb Iran" (Bolton March 26, 2015).

The widespread belief in the opposing countries supports the first approach.

3.2. Iran's narrative on nuclear-related sanctions proportionality

According to Iran's narrative, nuclear-related sanctions against Iran is a disproportionate tool due to the following reasoning:

a) *Disproportionality between the tool and the threat*

Iran asserts that at most it has failed to report some of its legal activities, which is different from violation. In such a case, according to the NPT, the IAEA and its members would stop offering

aid to a partner who has not been committed to its obligations properly. Therefore, referring Iran's dossier to the UNSC in the first place, and then authorizing sanctions was not proportionate to what Iran had done especially, because similar cases in the past did not face the same analogous countermeasures (Tadayyoni and Tavakkoli 2010, 157). For instance, South Korea, Taiwan and Egypt had each failed to report to the IAEA some of their nuclear activities, yet the IAEA not only withheld their case referral to the UNSC but it also opted to manifest a considerable tolerance towards those nations. It was revealed later that South Korea had uranium enrichment up to 77% (Tadayyoni and Tavakkoli, 2010, 157).

b) *Disproportionality between aims and threats (Unconnected aims)*

The prominent belief in Iran is that the nuclear-related sanctions against Iran were authorized to obtain broader aims than the announced nonproliferation objective. Sanctions were authorized for unconnected aims such as regime change, behavior change and the weakening of Iran's regional power. Thus, the nuclear-related sanctions are a disproportionate tool since they are following unconnected-aims.

c) *Disproportionality in scope*

Iran's nuclear program has inflicted no direct harm whereas the scope of authorized sanctions, as a tool of collective punishment, has been affecting its population of 77 million people directly and indirectly.

3.3. Proportionality of human rights and terrorism-related sanctions

Proportionality positions in nuclear-related sanctions authorizations against Iran are more measurable than human rights and terrorism-related sanctions. Iran's narrative on both the proportionality of human rights and terrorism-related sanctions are mostly focused on the unconnected aim argument. In other words, Iran rejects the opposing countries' narrative that sanctions are a proportionate tool for counterterrorism and the promotion of human rights.

Table 3.4 The Opposing countries and Iran’s narratives on proportionality of nuclear-related sanctions

The Opposing countries	Iran
(a) Proportionate tool	Disproportionate tool: (a) Disproportionality between the tool and the threat (b) Disproportionality between the aims and the threat (c) Disproportionality in scope
(b) Disproportionate tool (Military strike could be a more proportionate tool)	

4. High possibility of success (Sanctions efficacy)

One of the important criteria of the just authorization of sanctions is that a high possibility of success should be predictable before appealing to sanctions.

4.1. How predictable was the effectiveness of sanctions against Iran at the time the sanctions were authorized?

a) *Core objectives of sanctions against Iran;*

Sanctions are more likely to succeed when they pursue minor issues rather than major ones (Amstutz 2005). If they target major core objectives, the target state is more likely to resist (Amstutz 2005).

The officially announced core objectives of nuclear, human rights, and terrorism-related sanctions against Iran are (a) nonproliferation, (b) promotion of human rights, and (c) counterterrorism. Whereas, the translation of these objectives to the Islamic-revolutionary State of Iran was that Iran is required to (a) abandon its nuclear program after a prolonged and financially massive investment on it; limit its strategic defensive missiles program (b) overlook its religious identity and cultural particularities and (c) overlook its constitutional principle on defending emancipation groups, and self-defense strategy. Iran perceived the objective of sanctions as highly as its survival (regime

change), therefore, it was ready to resist with full force. Iran's readiness to manifest its maximum resistance to the authorized sanctions was not unpredictable, given its Islamic-revolutionary identity and the antagonistic history with the opposing countries.

b) Number of sanctioners:

The possibility of the success of sanctions is higher when they are imposed multilaterally rather than unilaterally. Cliff Morgan, Navin Bapat, and Valentin Krustev (2006) studied 888 cases of sanctions (threatened and imposed) from 1971 to 2000. The result illustrates that the success rate was 39.5 cases and 54.8 cases when sanctions were imposed unilaterally and multilaterally respectively (Kordzadeh Kermani 2014, 108-109). Iran has been subject to international and multilateral sanctions. The remarkable number of sanctioners had been a promising factor for predicting the possibility of the success of sanctions in Iran.

c) Type of sanctions:

Comprehensive sanctions are more likely to be successful whereas targeted sanctions are more likely to be effective when they are combined with other types of sanctions⁵¹. According to a survey only about 25% of the sanctions that were implemented out of the framework of comprehensive sanctions were successful (Hufbauer and Oegg 2000).

Sanctions on Iran have become more comprehensive over time, however. Some sanctions have been authorized under the name and type of "targeted" or "smart" sanctions. They are more comprehensive in practice when they are implemented along with other sanctions and have targeted Iran's core economic sectors. Thus, the possibility of success, based on the sanctions type factor, was promising during the time of sanctions authorization.

d) Type of target regime:

As a general rule, the possibility of the success of sanctions is more likely when they are imposed on democratic regimes (Amstutz 2005). Regardless of whether Iran's regime is democratic or not, the opposing countries have always considered the Islamic Republic of Iran as an undemocratic regime. Hence, according to sanctioners, Iran's type of regime must have been considered a negative factor when calculating the success rate of sanctions in Iran

The possibility of sanctions' success depends not only on the type of regime but also the role and psychology of its leaders, in this case Iran's supreme leader. Some of the most important statements

⁵¹ A targeted sanction "means applying pressure on specific decision-making elites and the companies or entities they control" (David Cortright and George A. Lopez, *Smart Sanctions: Targeting Economic Statecraft* Rowman & Littlefield, 2002, 2). According to this definition "targeted sanctions are actor- and issue-oriented" in which specific individuals, commodities and sectors are carefully selected, while comprehensive sanctions are "broad-based and state- and society-oriented" (Mikael Eriksson, *Targeting Peace: Understanding UN and EU Targeted Sanctions* Ashgate Publishing, Ltd., 2011, 3). Targeted sanctions are also called "smart sanctions".

by the supreme leader, Ayatollah Khamenei, are listed below as a reflection of the regime's position and resistance to sanctions:

- ***Inalienable right;***
“Nuclear energy and nuclear technology is the inalienable right of Iran's nation and no one is allowed to overlook this right”... “We will insist on this right and we will achieve it” (Delaavar Pour Aghdam October 2012, 4-5)
- ***Indigenized nuclear technology;***
Nuclear technology should be indigenized, in spite of the opposing countries' endeavor to deprive Iran from this technology (Ibid, 3-4)
- ***Scientific progress:***
“One day our authorities were convinced to have 25 centrifuges in the country but they (the opposing countries) said you cannot! Then officials were ready to keep 5 centrifuges, but again they said you cannot! Then our officials were convinced to have 3 centrifuges, and again they said you cannot! Today you have heard the report that we have 11,000 centrifuges. If we had backed off and continued to be flexible, today we wouldn't have such a scientific progress” (Iran's supreme leader website July 24, 2012) .
- ***Self-sufficiency and independency;***
“They (the opposing countries), doesn't want us to have nuclear technology because it makes Iran powerful in different fields . They want us not to have this technology, so you would remain weak and they can keep imposing their policies easier...ability to produce nuclear fuel would be a necessary need for Iran's nation in near future, and if we don't achieve it today...later we should beg foreigners or probably our enemies.”(Delaavar Pour Aghdam 2012, 15)... :” breaking the exclusiveness of a few western countries in producing nuclear energy would be in interests of all independent countries including non-alignment movement countries” (Iran's supreme leader website August 30, 2012).
- ***Sanctions would be beneficial;***
“These pressure would not lead us to revise our policies, rather would assure us in continuing our way”. ”... if there were no economic pressure and economic sanctions and scientific sanctions our young talents wouldn't have bloomedsanctions triggered the inner talent of the nation ... sanctions triggered the country's officials to take gas self-sufficiency seriously...sanctions have functioned like catalyzer for self-sufficiency” (Delaavar Pour Aghdam 2012, 5-8).
- ***Islamic world pride;***

” The nuclear energy is an indigenous achievement for Iran’s nation, this is a proud development for the Islamic world” (Ibid, 13).

- ***Manifestation of resistance;***

” Sanctions have 2 advantages for Iran, one is that it triggered us to pay attention to our inner capacity...like if there was no sanctions against Iran on arms we couldn’t have been able to achieve such an amazing development in this field....., second they have imposed sanctions to force Iran to back off...and when we haven’t backed off the splendor of the opposing countries would break in the eyes of regional nations, and it is in our interest” ... ”We have gradually gained the ability to resist sanctions and become damage-proof ...bypassing sanctions is a good and interesting way and it’s good that the government and nation apply it” (Ibid, 9-12).

- ***Nuclear Weapons are prohibited;***

“I have no doubt that the decision making bodies in those countries who are opposing us know that we are not seeking nuclear weapons. Nuclear weapons are not in our interest. Moreover we consider it wrong from the perspective of theory and religion (Feghh). We believe that using these weapons is a big sin and keeping them is a useless and dangerous job and we never pursue it” (Iran’s supreme leader website June 21, 2004).

“Iran’s nation has been never seeking to possess nuclear weapons, and will not, and will prove to the world that nuclear weapons would not bring authority.” (Iran’s supreme leader website February 22,2012).

e) *Ability of target to circumvent sanctions;*

As a general rule, along with the increase in the pressure of sanctions over time, the target’s adjustment and ability to circumvent sanctions would grow as well (Kordzadeh Kermani 2014, 107-108). Thus, with protracted sanctions, there would always be a risk of inefficacy, since the target learns different ways to circumvent sanctions and adjust itself to survive under the conditions of its imposed sanctions. Iran had the experience of U.S. sanctions since the Islamic revolution in 1979. Thus, it was predictable that before each round of authorizing sanctions Iran would add new skills to its ability to circumvent sanctions.

f) *Symmetric issue perception;*

When the subject of sanctions has saliency both inside of the target state and outside of it, sanctions are both more justifiable and have a higher possibility of success. Comprehending both elite and public opinions over a sanctioned issue is an important factor in predicting the possibility of the

success of the sanction. Assessing the elite's position can illustrate how flexible the target could be towards compromise. Likewise, public opinion reveals the importance of sanctioned issues at the society level, and how far would people go for change.

- **Perception of the Iranian Elite**

Iranian elites' opinions towards Iran's nuclear program fall in four main categories (Hadian 2010, 364-367):

- a) *Opponents of nuclear energy*; the nuclear energy, from the perspective of its opponents in Iran, is harmful for the environment and does not have economic justification for a country which has rich oil and gas resources. Some of Iran's former parliament members belong to this category.
- b) *Proponents of nuclear energy*; A large number of Iranian elites including politicians (such as Seyyed Mohammad Khatami, former president of Iran), political activists, scholars, university professors and students are among proponents of peaceful nuclear energy and oppose nuclear weapons. Those belonging to this group believe that Iran should not fall behind with new technologies and energy sources.
- c) *Proponents of nuclear weapons capability*; A remarkable number of influential elites inside the ruling system, academia, and research institutions support nuclear capability and view the nuclear energy oriented purpose as an insufficient approach. Accordingly, nuclear capability is necessary for Iran because of two main reasons: security deterrence and nuclear technological independency⁵².
- d) *Proponents of nuclear weapons*; A small fraction of Iranian elites deem that Iran should withdraw from the NPT and build nuclear bombs. Given Iran's dangerous security environment and the antagonistic approach of the opposing countries towards the Islamic Republic of Iran, acquiring nuclear bombs is a necessity for Iran⁵³ (Hadian 2010, 364-367).

- **Perception of the Iranian public**

It is not easy to understand Iran's public opinion regarding the nuclear program since there is hardly a reliable and independent organization that has conducted a comprehensive survey or poll. In addition, the

⁵² For more information read:

Hadian, Nasser and Shani Hormozi, 2010. "Iran's Nuclear Program: Lawful Capability." *Research Letter of Political Science* 5 (3) Summer: 179-214 (Farsi)

<http://www.ipsajournal.ir/?action=articleInfo&article=126>

⁵³ For instance, Abumohammad Asgarkhani Professor of International Relations at the University of Tehran asserts "if you ask whether Iran should possess nuclear weapons I would say that this is a necessity for Iran's survival strategy... this is a minimum deterrence for our self-defense in this untrustworthy world" (Nasser Hadian, "Iran's Nuclear Program: Multiplicity of Views and Discursive Context," *Political Quarterly* 40, no. 1 (2010), 367).

domestic media has been cautiously maneuvering around the issue, especially before Rouhani was elected as the president.

The general Iranian public perception on Iran’s nuclear program has gradually changed over time. This transition can be explained as having occurred in three stages:

a) *Intra-elite debate;*

Iran’s nuclear program had been more of “an intra-elite debate” than a subject of public discussion mainly between 1987 and 2003 (Chubin in Krause 2012, 102). Iran’s nuclear program was not debated up until the issue became of extreme interest at the international level.

b) *Nuclear pride/ Nuclear populism;*

The Iranian government’s discourse of “the inalienable right of peaceful nuclear energy” gradually became dominant and welcomed by many Iranians inside and outside of the country. Iran’s capability of building indigenous nuclear technology became a source of national pride. However, under president Ahmadinejad, a deviation of “nuclear populism” was generated (Chubin in Krause 2012, 103). The nuclear populism was generated by Ahmadinejad’s government through over-exaggeration in linking the nuclear program to Iranian’s dignity, belittling the international community’s response to it, and finally depicting his government as a nuclear hero who revived Iran’s nuclear program after Khatami’s government surrendered to opposing countries’ pressure.

c) *Nuclear-Sanctions dualism;*

The nuclear program itself did not have saliency among Iranian people at its first stages. It was only after sanctions were authorized and gradually intensified and its impacts touched the lives of the Iranian populace that both the nuclear program and more sanctions became the subject of public discussion and dissatisfaction.



Figure 3.2 Iranian perception transition trend on the nuclear issue

In sum, the nuclear program did not have “symmetric issue perception” and Iranians had never asked the international community to authorize sanctions against their government.

Table 3.5 Possibility of Iran sanctions success at the time the sanctions were authorized

Sanctions' success factors	Sanctions are more likely to succeed if:	Case of Iran
Core objective of sanctions	Minor issue	Major
Number of sanctioners	Multilateral	Multilateral
Type of sanctions	Comprehensive	Targeted+ comprehensive
Type of target regime	Democratic	Islamic-revolutionary identity
Ability of the target to circumvent sanctions	Not capable of circumventing sanctions	Capable of circumventing sanctions
Symmetric issue perception	Symmetric issue perception	Asymmetric issue perception

4.2. Case study: South Africa

The history of the success of sanctions is not bright. Among sanctions cases, the case of South Africa and the dismantlement of its Apartheid regime, is usually referred to as the most successful example of sanctions. However, there are controversial debates about the credit that should be allocated to the role and share of sanctions in the case of South Africa. In order to shed light on the importance of the “symmetric issue perception” factor in analyzing the possibility of success in sanctions, it is valuable to study the case of South Africa. In the case of South Africa, there was a convergence between what the suppressed majority of black people wanted in South Africa and what the international community wanted not only for South Africa but for the whole world. In sum, the majority of insiders and outsiders of South Africa were rallying around a flag. Thus, there was a “symmetric issue perception” on race discrimination (subject of sanctions).

South Africa was placed under UN sanctions from 1977—1994, due to its Apartheid policy and pursuit of nuclear weapons of mass destruction (WMD) program (Charron 2011, 114). 28 countries along with other actors such as some organizations, universities, and churches took part in authorizing sanctions against South Africa.⁵⁴

- **Symmetrical demand**

One of the particularities of sanctions against South Africa was that the subject of sanctions, Apartheid, was the cause of pain for the majority of the target population. The existence of such a symmetric demand increases the likelihood of the success of sanctions. The imposition of a racial segregation system by a white minority deprived non-white people, who constituted over 80% of South Africa's population, of their very basic rights. The black population of South Africa was fighting back against the unjust and inhumane Apartheid regime and struggling for their basic rights. This demand from inside South Africa was heard across the globe and there was worldwide sympathy with black people, and a worldwide call for the same rights.

- a) Opposition parties

African National Congress (ANC); ANC⁵⁵ has been the most effective opposition party against the Apartheid regime. It was among the supporters of sanctions against South Africa, demanding “comprehensive and mandatory sanctions” since the 1950s (Orkin 1989, 8). The Pan-African Congress (PAC) was also among the supporters of “comprehensive and mandatory sanctions” against South Africa (Orkin 1989, 8-9). There were other opposition parties and movements such as the South African Communist Party (SACP), Black Consciousness Movement (BCM) and the United Democratic Front (UDF) who were active against the Apartheid regime. They voiced the suffering of black people although they did not necessarily have a clear position towards the tool of sanctions.

⁵⁴ The 28 countries are: Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Greece, Holland, Hong Kong, Ireland, Israel, Italy, Japan, Luxembourg, New Zealand, Norway, Portugal, Singapore, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States, and West Germany (David Hoile, *Understanding Sanctions* International Freedom Foundation (UK), 1988, 14). Although, the U.S. and the United Kingdom had participated in imposing arms embargo against South Africa in 1977 through UNSC resolution, they vetoed any further UN sanctions in 1985. Thus UNSC could only adopt non-binding extra measures at that time (Bronwen Manby, "South Africa: The Impact of Sanctions," *Journal of International Affairs* 46, no. 1 (1992), 198). While Prime Minister Thatcher and President Reagan were against further sanctions, in 1986, the U.S. Congress passed the Comprehensive Anti-Apartheid Act (CAAA), and it became a law, when Reagan's veto was overridden (George W. Shepherd, *Effective Sanctions on South Africa: The Cutting Edge of Economic Intervention* Praeger Publishers, 1991, 11).

⁵⁵ The history of the ANC foundation dates back to 1912. In 1960, its military wing was formed and the ANC imposed a combination of violent and non-violent resistance against the Apartheid regime (Anicee Van Engeland and Rachael Rudolph, "From Terrorism to Politics," (2008), 10).

b) Opposition leaders

Nelson Mandela was the most influential, unifying, and respected political leader in South Africa who fought against the Apartheid regime (Shepherd 1991, 86). Mandela, along with other black opposition leaders, supported the authorization of sanctions and saw it as a significant tool (Levy 1999, 2). Even when he was released from prison in 1990, he stated “To lift sanctions now would be to run the risk of aborting the process toward ending Apartheid.” (Levy 1999, 10)

Stephen Bantu Biko was another influential black leader. He strongly inspired black people by his famous slogan “black is beautiful”. Biko too supported International sanctions against South Africa. He challenged the argument of those who opposed sanctions against South Africa:

“The argument is often made that loss of foreign investment would hurt blacks the most. It would understandably hurt blacks in the short run, because many of them would stand to lose their job, but it should be understood in Europe and North America that foreign investment supports the present economic system and thus indirectly the present system of political injustice.” (Orkin 1990, vi)

c) Churches

The South African Council of Churches (SACC) and the Southern African Catholic Bishops Conference (SACBC) were among demanders of sanction authorizations against South Africa. SACC had demanded “conditional disinvestment” in 1985. Later in 1989, a delegation of church leaders who traveled to Washington, including Archbishop Tutu, called for US sanctions against South Africa (Orkin 1990, 11).

Desmond Mpilo Tutu, is the most outstanding religious leader who was supporting nonviolence actions against the Apartheid regime and who was also a proponent of sanctions against South Africa. He believed that sanctions were the last chance of non-violent action (Documentary movie: Apartheid- Desmond Tutu & F.W. de Klerk). Tutu did not undervalue the suffering of black people under international sanctions but he argued that at least their suffering is “with a purpose” (wikipedia website: Desmond Tutu).

d) Worldwide civil rights movements and support

Black people were attaining remarkable progress in different parts of the world such as the U.S. through the civil rights movement, the trade unions and black churches (Shepherd 1991, 85) The Anti-Apartheid Movement in Britain formed in 1960. This movement demanded that all economic relations with South Africa cease. In the same year, the American Committee on Africa called the U.S. government to authorize sanctions against South Africa (Orkin 1990, 8-9).

Table 3.6 Particularities of the South Africa case from the perspective of symmetric issue perception on the subject of sanctions

	Inside South Africa	Outside South Africa
Symmetric demand	Inside mass suffering	Worldwide sympathy
	Sanctions demand from opposition parties + Political leaders + religious leaders and institutions	Sanctions demand from anti-Apartheid movements around the world

Chapter 4: Just Authorization of Sanctions (Part III)

- Legitimate Authorizer
- Unambiguous Resolutions
- Well-defined Termination Mechanism and Requirements

Just Authorization of Sanctions (Part III)

1. Legitimate authorizer

1.1. UN legitimacy in authorizing sanctions against Iran

Legally speaking, the competence of authorizing international sanctions is reserved for the UN, thus the UN has been a legitimate actor in authorizing sanctions against Iran. Yet, the process of authorizing sanctions against Iran needs a separate line of legitimacy scrutiny. This requirement can be considered the same as when domestic courts are considered to be legitimate bodies in their ability to deal with disputes and issue verdicts while their justice process has to be studied in each case. The UNSC does not have a clean record on authorizing just sanctions. The UN comprehensive sanctions against Iraq and the “oil for food” scandal is one of the most dramatic failures of the UN in authorizing inhumane and unjust sanctions. Hence, legitimacy in the authorization of sanctions is not confined to a legitimate authorizer, but it also requires a legitimate process.

The process of authorizing UN sanctions is conducted through UNSC and Sanctions Committees (Hovell 2009, 94-5). The political context of the UNSC along with the transparency deficit of the Sanctions Committees are the main factors, which have undermined the legitimacy of sanction authorizations.

a) UNSC: Political context

The political context of the UNSC has been undermining the legitimacy of its decision-making process. The process of issuing resolutions by the UNSC is highly influenced by the great powers’ interests. Correspondingly, Iran’s case has not been an exception and the U.S. has had a central role in the authorization of Iranian sanctions by the UNSC. The fact that Iran’s nuclear dossier did not stay with the IAEA and was referred to the UNSC in the first place was due to U.S influence at the forefront (Rajiv 2014, 688-702). The UNSC has been adopting a selective approach in using the sanctions tool. For instance, India and Pakistan, two nuclear powers, were able to pursue their nuclear ambitions without the UNSC authorizing sanctions against them. The inconsistent decision-making processes in the UNSC has added to concerns about its legitimacy (Boulden and Charron 2009, 9).

Iran believes that the UNSC has not been impartial to Iran and that sanctions against Iran have been authorized through a political process. The UNSC's partiality towards Islamic Republic of Iran goes back to 1980, when the UNSC issued its first resolution on Iran-Iraq war. According to Iran's foreign minister, Mohammad Javad Zarif, "the first UNSC resolution on the Iran-Iraq war, issued in September 1980, did not recognize Iraq's "invasion" of Iran and did not even call Iraq to "withdraw" its military forces from Iran's territory. The UNSC was silent until Iran succeeded in taking back Khoramshahr city, and it was then that finally the UNSC decided to invite Iran to its sessions as one side of the war. Iran boycotted UNSC for 6 years to show its objection and dissatisfaction "(Raji 2013). Furthermore, when Iraq used chemical weapons against Iran during the war, the UNSC neither passed a single resolution against Iraq, nor even condemned Saddam Hussein's chemical attack against Iran (Mehr News Agency September 26, 2007).

b) Sanctions Committees: Transparency deficit

Sanctions Committees as subsidiary bodies for UNSC are pivotal in authorizing targeted sanctions against individuals and entities yet they are highly prone to politicization mainly because most of their sessions take place behind closed doors without record-taking (Hovell 2009, 94-5). Sanctions committees suffer from transparency deficits due to their high number of closed meetings and informal consultation processes⁵⁶ (Emadi 2012, 145). The transparency deficit of the sanctions committees undermines the legitimacy of the sanctions authorization process in general.

1.2. U.S. legitimacy in authorizing sanctions against Iran

U.S. sanctions against Iran fall into two categories: (a) unilateral sanctions, (b) secondary sanctions (extraterritorial sanctions).

a) Unilateral sanctions

After the Islamic revolution of Iran, the relation between the U.S. and Iran became hostile and the U.S. authorized a set of unilateral sanctions against Iran. The hostage taking of fifty two Americans in Iran on November 4, 1979, triggered President Carter to authorize unilateral sanctions against Iran. The adopted unilateral restrictive measures by the US blocked Iran's access to more than \$12 billion of its bank deposits, gold, and properties (Carswell 1981, 247-265). All the property owned

⁵⁶ For instance "between the establishment of the Al-Qaeda and Taliban Sanctions Committee in October 1999 and the end of 2005, the committee held 31 formal meeting and approximately 150 informal consultation" (Devika Hovell, "The Deliberative Deficit: Transparency, Access to Information and UN Sanctions," in *Sanctions, Accountability and Governance in a Globalised World*, eds. Jeremy Farrall and Kim Rubenstein (New York: Cambridge University Press, 2009) , 95).

by the government of Iran within U.S. jurisdiction was blocked by Executive Order 12170 (1979), and US exports to Iran were banned due to Executive Order 12205 (1980). Additionally, the Executive Order 12211 (1980) prohibited all imports from Iran (Cordesman, Gold, and Coughlin-Schulte 2014, 40).

It is the exclusive right of any sovereign state to interrupt its diplomatic relations with other states. Hence, the U.S. was a legitimate authorizer to impose unilateral restrained sanctions against Iran. Restrained sanctions encompasses measures such as diplomatic relations interruption and banning trade. However, some other U.S. unilateral sanctions fall into the category of unilateral excessive sanctions which extend to banning goods and services which endangers target civilians' lives and thus makes the U.S. an illegitimate authorizer. For instance, U.S. sanctions on services and spare parts for civilian airlines through the 1995 Executive Order, was a unilateral excessive sanction which endangered Iranian lives⁵⁷.

b) Secondary sanctions (extraterritorial sanctions)

The legitimacy of authorizing secondary sanctions (i.e. sanctioning third parties or imposing penalties on third parties for trading with the target and/or providing assistance) is highly questionable.

As a general rule, national legislation ought to be territorial as basic international law principles affirm. Consequently, authorizing unilateral sanctions with extraterritorial application violates international law's principles and its legitimacy becomes problematic (Mohamad 2015, 71). The U.S. has authorized a number of secondary sanctions against Iran. For instance, in 1996, the U.S. congress mandated the Iran—Libya Sanctions Act (**ILSA**), now known as the Iran Sanctions Act (**ISA**), in response to alleged Iranian and Libyan support for terrorism and endangering U.S. national security and foreign policy interests. According to ILSA, the U.S. President is required to impose secondary sanctions on third parties (foreign entities, persons) who invest more than \$ 20 million in Iran's energy sector within one year“ (Meyer 2009, 929). The U.S. president should choose at least two out of the six secondary sanctions: military export license, export-import bank assistance, bank loans, government contracts, imports, financial institution restriction (Katzman 2006). ILSA authorization increased the controversy around the legitimacy and legality of

⁵⁷ Many Iranian pilots have complained about the ban on services and spare parts of civilian aircrafts due to the threat posed to passenger safety. Since the 1995, U.S. authorization of sanctions on Iran's aviation sector, 1700 Iranian passengers and crew have been killed in air accidents. It is difficult however to conclude the share of U.S. sanctions on this statistic (Kenneth Katzman, *Iran Sanctions* Congressional Research Service, [May 18, 2016]).

extraterritorial sanctions. Some scholars argued that the authorization of ILSA had been against International law (Alexander, 1997). ILSA is a manifestation of extraterritorial applications of national legislation and sanctioning of third parties. In 2000, the Iran Nonproliferation Act was authorized. Based on that, any person, entity or government that assists Iran in the WMD program will be subject to U.S. secondary sanctions (Cordesman, Gold, and Coughlin-Schulte 2014, 41-2). In 2010, the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) was authorized. According to CISADA, the U.S. will impose secondary sanctions on any entity that exports more than \$1 of million gasoline to Iran or helps Iran to import gasoline by providing goods and services worth more than \$1 million. Furthermore, any entity that provide more than \$1 million worth of goods and services for the maintenance and expansion of Iran's refined petroleum products will be subject to U.S. secondary sanctions (Cordesman, Gold, and Coughlin-Schulte 2014, 41-2). According to the National Defense Authorization Act (NDAA 2012), any business with the Central Bank of Iran (CBI) is prohibited, and any financial institution or international bank that violates this rule by doing business with the CBI including purchasing Iran's crude oil will be subject to the U.S. secondary sanctions (Ibid, 41-2).

UN position:

The United Nations General Assembly has been strongly opposing the authorization of unilateral extraterritorial sanctions by issuing different resolutions. On 6 December 1996, the General Assembly issued a resolution and clearly called for "the immediate repeal of unilateral extraterritorial laws that impose sanctions on corporations and nationals of other States" and also called upon "all States not to recognize unilateral extraterritorial coercive economic measures or legislative acts imposed by any State" (The UN General Assembly Resolutions, 51st Session (1996)). The countries that voted against the resolution 1996 were United States, Israel, and Uzbekistan (Rathbone, Jeydel, and Lentz 2013, 1072-1073).

EU position:

The EU reacted strongly to the U.S. unilateral extraterritorial sanctions, ILSA. In 1996, the same year in which ILSA was authorized by the U.S congress, the EU issued European Council Regulation 2271/96 to protect EU interests against the U.S. unilateral extraterritorial sanctions including ILSA and the Helms-Burton Act (the Cuba embargo) (Council Regulation (EC) No

2271/96 of 22 November 1996) . Regulation 2271/96 was based on countermeasures against the extraterritorial implication of U.S. unilateral sanctions:

1. Non-compliance; EU natural and legal persons were forbidden to comply with extraterritorial sanctions;
2. Non-recognition; EU judgments and administrative determinations were forbidden to recognize the implication of secondary sanctions;
3. Claw back; recovery provisions had to be provided for damages caused by applying extraterritorial sanctions;
4. Report; Natural or legal Persons who were affected by secondary sanctions should report to the European Commission (Clark and Wang 2007, 8-9).

However, as time passed, U.S. secondary sanctions faced less resistance and received more compliance. The EU reaction to CISAD, another extraterritorial U.S. sanctions against Iran imposed in 2010, was different from ILSA. Instead of adopting countermeasures, the EU authorized similar restrictive measures against Iran for EU members (Rathbone, Jeydel, and Lentz 2013, 1122-1123).

1.3. EU legitimacy in authorizing sanctions against Iran

EU legitimacy in authorizing sanctions against Iran is rooted in:

- a) UN Charter; all Member States are legally bound to follow the decisions of the UN;
- b) Treaty on European Union (TEU); within the framework of the Common Foreign and Security Policy (CFSP) a Common Position is required to be adopted in Council in order to impose restrictive measures on a third country (European Commission – Restrictive measures 2008, 7).

The EU may authorize sanctions (restrictive measures) in two ways:

- a) Regulations: making a proposal for regulations by the Council of the EU;
- b) Common Positions: making proposals for Common Positions (Esfandiary 2013).

All EU members are legally bound to the Common Positions and Regulations.

The EU sanctions against Iran fall into the following three categories:

a) **Restrictive measures within the UN framework (Nuclear related);**

After the UN sanctions against Iran were authorized in 2006 (UNSCR 1737 (2006)), the EU brought UNSC binding resolutions into EU law and authorized nuclear related sanctions (restrictive measures) against Iran in 2007 (Council Common Position 2007/140/CFSP 27

February 2007), in which it underlined that the authorization of restrictive measures against Iran by the EU is nothing but the implementation of UNSCR 1737:

“On 22 January 2007, the Council of the European Union welcomed the measures contained in UNSCR 1737 (2006) and called on all countries to implement them in full and without delay. “ (Ibid, para.2)

Thus, the first UNSC resolution (UNSCR 1737 (2006) and the following binding resolutions against Iran: UNSCR 1747 (2007), UNSCR 1803(2008), and UNSCR 1929 (2010), have provided all member states the legitimacy to authorize sanctions against Iran within the UNSC issued resolutions.

b) Additional restrictive measures based on a broad interpretation of UN resolutions (Nuclear related);

In 2012, the EU authorized unprecedented additional restrictive measures targeting Iran’s energy sector and the Central Bank of Iran (CBI) (Council Decision 2012/635/CFSP 15 October 2012).

“On 23 January 2012, the Council adopted Decision 2012/35/CFSP which amended Decision 2010/413/CFSP by strengthening the restrictive measures against Iran in light of the reiterated serious and deepening concerns over the nature of Iran's nuclear program, and in particular over the findings on Iranian activities relating to the development of military nuclear technology, as reflected in the International Atomic Energy Agency (IAEA) report. Those measures were further strengthened on 15 March 2012 by Decision 2012/152/CFSP” (Ibid, para.4).

The EU’s restrictive measures against Iran were broadened through a set of decisions and amendments made by the Council of the European Union during 2012:

- The EU members were prohibited from importing Iranian oil, assets of the Central Bank of Iran were frozen, the EU members were banned to export petrochemical equipment and technology to Iran, and the trading of precious metals (Council Decision 2012/35/CFSP 23 January 2012)
- The list of sanctioned Iranian individuals and entities was expanded (Council Decision 2012/152/CFSP 15 March 2012)
- EU members were prohibited from doing any transactions with Iranian banks and sanctions on Iran’s oil, gas, trade and transport sectors were expanded (Council Decision 2012/635/CFSP 15 October 2012)

The EU broadened the sanctions against Iran presumably based on the UNSC resolutions, while The UNSC resolutions do not directly sanction Iran's energy sector or prohibit Member States from purchasing Iran's oil and gas. However, in the preamble to Resolution 1929 (2010), it is stated that Iran's energy revenue could be spent to fund Iran's nuclear program⁵⁸ (Resolution 1929 (2010), 3). Yet, Iran's energy revenue could be spent for all other country expenses, given that the oil revenue constitute about 80 percent of Iran's total export revenue. Moreover, The UNSC resolutions do not directly sanction Iran's financial sector and banking system nor do they require Member States to freeze Iranian banks' assets. However, the preamble to Resolution 1929 (2010) asks Member States to exercise vigilance in transactions with Iranian banks including the Central Bank of Iran⁵⁹ (Ibid, 3).

The expanded EU sanctions against Iran in 2012 compromised the most comprehensive sanctions that the EU had ever imposed on any country (Esfandiary 2013, 9). The comprehensiveness of additional restrictive measures by the EU against Iran has raised serious legitimacy and legality questions. Some believe that the additional restrictive measures of the EU against Iran are inconsistent with international law and are a "misinterpretation" and "extensive interpretation" of the UNSC resolutions (Dupont 2012, 19-20). The unprecedented EU restrictive measures against Iran were far beyond the UNSC resolutions requirements (Kordzadeh Kermani 2014, 104). The additional and largely expanded EU sanctions against Iran have undermined the consistency of the normative basis of UN sanctions against Iran (Orakhelashvili 2015, 20). However, it should not be overlooked that the ambiguity of the UNSC resolutions in the first place has contributed to the extensive interpretation of UNSC resolutions by the EU (the ambiguity of the UNSC resolutions will be explained in the next part: 2).

⁵⁸ "... noting the potential connection between Iran's revenues derived from its energy sector and the funding of Iran's proliferation-sensitive nuclear activities, and further noting that chemical process equipment and materials required for the petrochemical industry have much in common with those required for certain sensitive nuclear fuel cycle activities" (United Nations Security Council (UNSC) , https://www.iaea.org/sites/default/files/unsc_res1929-2010.pdf).

⁵⁹ "... recalling in particular the need to exercise vigilance over transactions involving Iranian banks, including the Central Bank of Iran, so as to prevent such transactions contributing to proliferation-sensitive nuclear activities, or to the development of nuclear weapon delivery systems" (UNSCR 1929(2010), 3).

c) Unilateral restrictive measures (Human rights related);

In 2011, the EU authorized unilateral targeted restrictive measures against Iranians due to the allegation of human rights violations. Accordingly, travel bans and assets freezes were imposed on individuals and entities responsible for violations of human rights (Council Decision 2011/235/CFSP April 2011). In addition, Member States were prohibited from exporting any kind of equipment to Iran that could be used for internal repression (Council Decision 2012/168/CFSP 23 March 2012).

Table 4.1 The legitimacy of the UN to authorize sanctions

UNSC	
Legitimacy of authorizer	Legitimate
Legitimacy of process	Weak legitimacy due to: (a) Political context of the UNSC (b) Transparency deficit of Sanctions Committee

Table 4.2 The legitimacy of the U.S. to authorize sanctions

U.S.			
Type of US sanctions against Iran		Legitimacy of authorizer	Logic
(1) Unilateral sanctions	Restrained	Legitimate	Every single state has the right to authorize <i>restrained</i> sanctions against another state
	Excessive	Illegitimate	Not a single state has the right to authorize <i>excessive</i> sanctions which endangers civilian lives

(2) Secondary sanctions (extraterritorial sanctions)	Illegitimate	National legislations should be territorial, and the UN is the sole legitimate authorizer for international sanctions
---	--------------	---

Table 4.3 The legitimacy of the EU to authorize sanctions

EU		
Type of EU sanctions against Iran	Legitimacy of authorizer	Logic
(1) Restrictive measures within the UN framework	Legitimate	(a) All member states (including EU members) are legally bound to enact UNSC binding resolutions (b) Treaty on European Union (TEU)
(2) Additional restrictive measures based on a broad interpretation of UNSC resolutions	Weak legitimacy	All member states should stay within the UNSC resolutions' requirements; however since the UNSC resolutions against Iran have

		<p>leeway and ambiguities, it has opened up room for extensive interpretation. Hence, it can hardly be claimed that the EU is an absolutely legitimate or illegitimate authorizer of additional restrictive measures against Iran.</p>	
<p>(3) Unilateral sanctions</p>	<p>Restrained</p>	<p>Legitimate</p>	<p>Every single state has the right to authorize <i>restrained</i> sanctions against another state</p>

2. Unambiguous resolutions (Clear causes, objectives, and measures)

2.1. UN resolutions against Iran: Causes, objectives, and measures;

Sanction documents should be clear in terms of sanction causes, objectives, and measures. The UNSC resolutions against Iran are clear on declaring the cause and objective of authorizing sanctions on Iran. Accordingly, the cause of the UNSC resolution is declared to be the so-called threat of Iran's nuclear program to world peace and security, and the objective, as announced, is nonproliferation. In spite of the clarity of the UNSC resolutions against Iran in terms of the declared causes and objectives, it is highly ambiguous regarding the measures that should be adopted by the Member States. The UNSC resolutions against Iran, especially, UNSCR 1929(2010), which is the most extreme UNSCR against Iran, contains vague language, undefined terms, and non-evidentiary requirements. This deficit has provided a recipe for misinterpretation, auto-interpretation, and ultimately the authorization of expanded and extensive sanctions against Iran.

a) Vague language (vigilance language)

In the UNSCRs against Iran, Member States are repeatedly required to “exercise vigilance” towards Iran, while it is not clear what vigilance precisely means. For instance, Member States are required to exercise vigilance in the following wide-range of issues:

- Exercise vigilance regarding the *entry* of individuals who are involved in Iran's nuclear program⁶⁰;
- Exercise vigilance regarding *teaching and training* Iranians in any discipline which would contribute to Iran's nuclear program⁶¹;
- Exercise vigilance regarding *transferring* to Iran⁶²
- Exercise vigilance regarding *trading* with and providing insurance to Iran⁶³;

⁶⁰ “Calls upon all States to exercise vigilance regarding the entry into or transit through their territories of individuals who are engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or for the development of nuclear weapon delivery systems” United Nations Security Council (UNSC), https://www.iaea.org/sites/default/files/unsc_res1737-2006.pdf. (UNSCR 1737(2006), 10).

⁶¹ “Calls upon all States to exercise vigilance and prevent specialized teaching or training of Iranian nationals, within their territories or by their nationals, of disciplines which would contribute to Iran's proliferation sensitive nuclear activities and development of nuclear weapon delivery systems (UNSCR 1737(2006), 17).

⁶² “Calls upon all States to exercise vigilance and restraint in the supply, sale or transfer directly or indirectly from their territories or by their nationals or using their flag vessels or aircraft of any battle tanks, armored combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms to Iran, and in the provision to Iran of any technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, related to the supply, sale, transfer, manufacture or use of such items in order to prevent a destabilizing accumulation of arms;” (UNSCR 1747(2007), 6).

⁶³ “Calls upon all States to exercise vigilance in entering into new commitments for public provided financial support for trade with Iran, including the granting of export credits, guarantees or insurance, to their nationals or entities involved in such trade, in order to avoid such financial support contributing to the proliferation sensitive nuclear activities, or to the development of nuclear weapon delivery systems, as referred to in resolution 1737 (2006);” (UNSCR 1803 (2008), 9).

- Exercise vigilance regarding any *financial transactions* with Iranian financial institutions and banks ⁶⁴;
- Exercise vigilance regarding Iranian banks including the Central Bank of Iran ⁶⁵
- Exercise vigilance regarding doing *business* with individuals and entities related to the Islamic Revolutionary Guard Corps (IRGC) and the Islamic Republic of Iran Shipping Lines (IRISL)⁶⁶

The UNSCRs call upon all Member States to “exercise vigilance” in different activities with Iran whereas “it is not clear what would constitute vigilance” (Gordon 2013, 995-996). The Panel of Experts⁶⁷ has acknowledged the ambiguity of vigilance language in UNSCR against Iran and how Member States exercise it differently. According to the Panel of Experts’ report on Resolution 1929 (2010), “There is no general understanding of the definition of “vigilance” ... Member States reported various mechanisms to comply with this requirement” (U.N. Doc. S/2012/395 June 12, 2012, para.190). Consequently, some Member States were driven to exercise maximum vigilance, for example ban all financial transactions with all Iranian banks to be safe and not to go through difficulties of uncertainties, and the possible risk of sanctions violation.

Joy Gordon, professor of philosophy at Fairfield University, asserts “It is hard to imagine a term that is more vague and less informative than ‘exercise vigilance’ ”. She claims that the “vigilance language” of the UNSC has been deliberately adopted in order to provide a “mutual deniability” for the authorizer and implementers of sanctions on Iran. On one hand, the UN would be able to always claim that it has authorized targeted humane sanctions against Iran (since it has not *directly* sanctioned key sectors), and on the other hand the U.S and the EU would be able to broadly expand the implementation by *directly* sanctioning Iran’s infrastructure (energy sector, banking, financial transactions, and shipping) by claiming that they were only vigilant(Gordon March 27, 2013).

⁶⁴ “Calls upon all States to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, in particular with Bank Melli and Bank Saderat, and their branches and subsidiaries abroad, in order to avoid such activities contributing to the proliferation sensitive nuclear activities, or to the development of nuclear weapon delivery systems, as referred to in resolution 1737 (2006);” (UNSCR 1803(2008), 10).

⁶⁵ “... recalling in particular the need to exercise vigilance over transactions involving Iranian banks, including the Central Bank of Iran, so as to prevent such transactions contributing to proliferation-sensitive nuclear activities, or to the development of nuclear weapon delivery systems” (UNSCR 1929(2010), preamble)

⁶⁶ “Decides that all States shall require their nationals, persons subject to their jurisdiction and firms incorporated in their territory or subject to their jurisdiction to exercise vigilance when doing business with entities incorporated in Iran or subject to Iran’s jurisdiction, including those of the IRGC and IRISL, and any individuals or entities acting on their behalf or at their direction, and entities owned or controlled by them, including through illicit means, if they have information that provides reasonable grounds to believe that such business could contribute to Iran’s proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems or to violations of resolutions 1737 (2006), 1747(2007), 1803 (2008) or this resolution;” (UNSCR 1929 (201), 22).

⁶⁷ The Panel of Experts is a monitoring body, which was created pursuant to paragraph 29 of resolution 1929 (2010). Each sanctions regime can create its own panel of Experts.

As a result of UNSCR ambiguity, some countries have alluded to the “vigilance language” to deliberately authorize excessive sanctions against Iran. For instance, based on the “vigilance language” the EU froze assets of the Central Bank of Iran, banned financing Iranian energy projects, importing Iranian oil, providing insurance for Iranian shipping companies, authorizing permission for Iran Air Cargo flights to land, and transactions with Iranian banks ⁶⁸(Gordon 2013, 991-995).

b) Non-evidentiary requirements

The UNSCRs contain more speculation-based requirements rather than evidentiary-based requirements. In other words, the Member States are required to impose additional prohibitions on trading, shipping, and financial transactions if they *believe* that such activities *could* contribute to Iran’s nuclear program. Consequently, since Member States have been given the latitude to impose sanctions based on their own speculations, and not necessarily on the basis of evidence, they have been able to expand the scope of implementation largely. For instance, the UNSCR 1929(2010) calls upon all States to:

“prevent the provision of financial services, including insurance or re-insurance, or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad), or persons or financial institutions in their territory, of any financial or other assets or resources if they have information that provides *reasonable grounds to believe* that such services, assets or resources *could contribute* to Iran’s proliferation-sensitive nuclear activities, or the development of nuclear weapon delivery systems, including by freezing any financial or other assets or resources on their territories” (UNSCR 1929 (2010) para.21).

The word “could” in the UNSCRs have paved the way for the U.S and the E.U to justify the authorization of broadly expanded sanctions against Iran without providing any evidence to support their claims (Gordon 2013, 997-999). Moreover, the *potential contribution* to Iran’s nuclear program is a low standard that can basically encompass any interaction with the Iranian government (Dupont December 23, 2013). In fact, any revenue source for the Iranian government including trading,

⁶⁸ Canada also authorized expanded sanctions against Iran in 2010 based on its interpretation of the UNSCRs’ “vigilance language”. Under the Special Economic Measures Act (SEMA), Canada authorized broad sanctions against Iran’ energy sector and the Islamic Republic of Iran Shipping Lines (IRSL). Accordingly, providing any kind of services to IRISL vessels, irrespective of what kind of goods they would ship was prohibited. Canadian companies were banned from providing services to Iran’s energy sector and from importing Iranian oil (C. Joy Gordon, "Crippling Iran: The UN Security Council and the Tactic of Deliberate Ambiguity," *Georgetown Journal of International Law* 44, no. 3 (2013) , 991-995).

foreign investment and financial transaction has the potential of being used for funding Iran's nuclear program.

2.2. US sanctions against Iran: Causes, objectives, and measures;

The US has authorized a wide range of sanctions against Iran for more than three decades. These sanctions have been authorized either in the form of Executive Orders or Statutes. Since most of the US sanctions have been repeated, amended and expanded over time, the most critical, updated and inclusive of them will be selected for the purpose of document analysis.

- **Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) (2010) (To amend the Iran Sanctions Act of 1996)**

CISADA is the most comprehensive US sanctions against Iran. It addresses all three US allegations against Iran. The U.S. sanctions against Iran relatively have an unambiguous language in declaring its causes, objectives, and measures. According to CISADA, Iran's nuclear program along with the development of unconventional weapons and terrorism sponsorship have been identified as a security threat not only to the US but also to all its allies (CISADA (2010), Sec.2 (1)). Furthermore, Iran is involved in a so-called "systematic violation of human rights" (CISADA (2010), Sec.2 (6)). Consequently, the objectives, as stated in the sanction document, are to deter Iran from reaching to "nuclear weapons capability" (CISADA (2010), Sec.2 (4)), to adopt necessary measures for counter terrorism (CISADA(2010), Sec.3 (1)), and to promote human rights (CISADA (2010), Sec.3 (6):A).

The CISADA provides different lists of definitions in order to clarify penned terms and concepts⁶⁹ (CISADA (2010), Sec.101, 201, and 301). CISADA explicitly specifies the sanctions measures, however, in some cases it leaves the responsibility with the president and other designated institutions⁷⁰. For instance, according to the CISADA, it is the responsibility of the president to identify Iranian officials who are responsible for the violation of human rights and it asks the president to adopt necessary measures such as imposing a travel ban and asset freezes

⁶⁹ For instance it provides the definition of an unclear terms such as "knowingly": "The term "knowingly", with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result." (CISADA (2010), Sec.101).

"the President shall impose 3 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person *knowingly*, on or after the date of the enactment of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010—“(i) makes an investment described in subparagraph(B) of \$20,000,000 or more” (CISADA(2010), Sec.102 (1)).

⁷⁰ For instance, the list of sanctioned entities and individuals, called "Specially Designated Nationals" or "SDNs", are provided by the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury.

(CISADA(2010), Sec.3(6)). In spite of unambiguous language, the U.S. sanctions against Iran, likewise the UNSCRs, have more non-evidentiary rather than evidentiary-based requirements.

2.3. EU sanctions against Iran: Causes, objectives, and measures;

The EU nuclear-related sanctions against Iran are in line with the UNSCRs in pursuing the same cause - the alleged Iranian nuclear program threat to world peace and security - and the same objective of non-proliferation (Council Common Position 2007/140/CFSP 27 February 2007), Preamble, para.(8) and (10)). However, the EU has identified expanded measures based on its exceeded interpretation of UNSCRs, specifically UNSCR 1929 (2010). Generally, EU Common Positions and Regulations language is more precise than the UNSCRs. For instance, the Council Regulation 423/2007 provides a set of definitions to clarify the language of the restrictive measures⁷¹ (Council Regulation 423/2007 19 April 2007, Article 1). Moreover, the prohibited goods, services, entities, and individuals are identified and listed through different annexes, which are subject to frequent amendments (Ibid, Article 2 and 7).

Ultimately, in Council Decision 2012/635, the EU takes a maximalist interpretation of the UNSCR 1929(2010) and totally prohibits the EU members from a wide range of interaction with Iran, such as doing any transactions with Iranian banks, although it excludes some interactions such as interactions regarding humanitarian goods, under strict conditions (Council Decision 2012/635/CFSP 15 October 2012, Article 10), importing Iran's natural gas (Ibid, 7), purchasing and transporting Iranian oil and petroleum and petrochemical products (Council Decision 2012/35/CFSP, 23 January 2012, 9). Such a strict prohibition language appears to be unambiguous, yet the obscurity, likewise the UNSCRs, are hidden behind non-evidentiary requirements. The EU has designated numerous Iranian individuals and entities in its sanctions list without providing sufficient evidence to reveal their direct or indirect linkage with Iran's nuclear program⁷² (Esfandiary 2013, 10). Later, the right of sanctioned individuals and entities to provide evidences for delisting was respected:

“The procedure for amending Annexes I and II to this Decision should include providing to designated persons and entities the grounds for listing so as to give them an opportunity to present observations. Where observations are submitted or where substantial new evidence is presented, the Council should review its decision in the light of those observations and

⁷¹ It provides eleven definitions: Sanctions Committee, technical assistance, goods, technology, investment, brokering services, funds, freezing funds, economic resources, freezing of economic resources, and territory of the Community (Council Regulation 423/2007, Article 1).

⁷² The sanctioned Iranian individuals and entities have brought many complaints to the General Court of the European Union, and in some cases the Court has annulled the acts of the Council.

inform the person or entity concerned accordingly. “(Council Decision 2010/413/CFSP 26 July 2010), Preamble, para.(24)).

Nevertheless, evidence was still required for delisting but not for the listing stage.

The EU human rights-related sanctions against Iran have a clear language in asserting the causes (violation of human rights) and objectives (promoting the human rights) of authorizing restrictive measures (Council Decision 2011/235/CFSP 12 April 2011, Preamble, para.1 and 3). The EU human rights-related sanctions clearly identify the measures that should be adopted by its members. The restrictive measures include prohibition on the export of monitoring equipment for the Internet and telecommunication and a ban on equipment which might be used for internal suppression and related services (e.g. financial, technical, brokering).

Members are required to impose travel bans on individuals and assets freezes on entities and individuals who are responsible for the violation of human rights as listed in the provided annexes. The grounds for listing the individuals and entities should be included in the annexes (Ibid, Article 4 (1)), and council should communicate with the sanctioned individuals and entities after the decision is made and provide them an opportunity to present evidence (Ibid, Article3 (2) and (3)). However, the sanctioned individuals and entities do not have a chance before listing and they can only attempt for delisting (Ibid).

3. Well-defined termination mechanism and requirements

It is a crucial criterion of the just authorization of sanctions to establish a well-defined termination mechanism and requirements. Any negligence in this regard would lead to open-ended sanctions even when the cause of sanctions does not exist anymore.

The sanctions resolution should clearly state:

- A) How (Mechanism); and
 - B) Under what condition (Requirements)
- the sanctions would be lifted.

It would be unjust to set imprecise mechanisms and/or “immeasurable requirements” for sanctions terminations in time of authorization.

3.1. UN termination mechanism and requirements

a) Mechanism

The UNSC should pass another resolution to terminate Iranian sanctions once Iran meets all the termination requirements. The mechanism of Iranian sanctions termination is defined through cooperation and coordination between the UNSC and the IAEA. Iran is required to comply with requirements of both the UNSCRs, and the IAEA Board of Governors' resolutions. However, since all the requirements are nuclear-related, the IAEA is the reference body for verification and providing the final reports for the UNSC. Should the report acknowledge Iran's compliance, a UNSC resolution is needed to authorize Iranian sanctions terminations.

According to the UNSC voting system, there should be 9 'yes' votes out of 15, with no veto from permanent members to pass a resolution (UNSC website: Voting System and Records).

b) Requirements

All UNSCRs against Iran have explicitly stated that the Security Council shall terminate its sanctions "as soon as it determines that Iran has fully complied with its obligations under the relevant resolutions of the Security Council and met the requirements of the IAEA Board of Governors, as confirmed by the IAEA Board." (UNSCR1737 (2006) para.24(b); UNSCR 1747 (2007) para.13(b); UNSCR (1803) para.19(b); UNSCR 1929(2010) para.37).

According to the UNSCRs, Iran should comply with the following obligations in order to have sanctions lifted:

- I. Shall comply with the IAEA Board of Governors' resolutions GOV/2006/14 and GOV/2009/82;
- II. Shall suspend "all enrichment-related and reprocessing activities, including research and development, to be verified by the IAEA; (UNSCR1737 (2006) para.2 (a));
- III. Shall suspend "work on all heavy water-related projects, including the construction of a research reactor moderated by heavy water, also to be verified by the IAEA; (UNSCR1737 (2006) para.2 (b)).

The UN sanctions against Iran have well-defined mechanisms and measurable requirements for termination. The termination requirements were modified after years of negotiation and the

new termination requirements defined in the Joint Comprehensive plan of Action (JCPOA) signed in Vienna on 14 July 2015 between Iran and the P5+1.

3.2. The U.S. termination mechanism and requirements

a) Mechanism

The US sanctions termination mechanism is complicated and intertwined within the executive branch and legislative branch. Based on the sanctions authorization mechanisms, there are specific sanctions termination mechanisms. Sanctions could be authorized through an Executive order or legislation. In each case, the termination mechanism could be defined in a way in which one or both branches get involved. Different sanctions authorizations and termination mechanisms are illustrated in the table.

Table 4.4 U.S. sanctions authorization and termination mechanisms

Sanctions authorization mechanism	Sanctions termination mechanism	Complementary explanation
Executive Order (not codified by law)	Administration has the termination authority	A new executive order is needed
Executive Order (codified into law)	Law alteration is a prerequisite	A “suspension” provision is applicable by the president
Laws (the termination authority is delegated to the Administration)	Administration has the termination authority	The Administration should certify that the termination requirements are met
Laws (the exemption authority is delegated to the Administration)	Administration has the exemption authority	The Administration should certify that the exemption requirements are met

Laws (with sunset provision)	Automatic termination when the termination date (sunset) is reached ⁷³	President could use the veto right to alter or remove the sunset provision
Laws (no sunset, no delegation of authority to the Administration)	Law alteration (Repeal/amendment)	A “suspension” provision is applicable by the president

The U.S. sanctions against Iran have been authorized through all the mechanisms, thus the termination mechanisms are varied, entangled, and complicated. Nevertheless, there are different tactics with which the U.S. president could suspend, if not terminate, the sanctions. In fact, the president has latitude to suspend sanctions whether codified or not codified into law, in many cases. As Kenneth Katzman, a senior analyst of Iran at the Congressional Research Service suggests, if the U.S. Congress refuses to lift sanctions after the Iran nuclear deal “the Administration might decide to offer Iran, as an alternative fulfillment of the U.S. commitment, the *indefinite suspension* of sanctions... It is not clear whether Iran would accept that alternative or would instead hold out for termination or repeal.” (katzman April 22, 2014, 8).

The president has the ability to terminate or suspend sanctions on Iran by appealing to the following provisions:

I. “*State of emergency*” and “*the International Emergency Economic Powers Act*” (IEEPA);

If the president of the United States declares a “state of emergency” with a country, then the IEEPA grants the president to authorize sanctions through executive order⁷⁴ (Katzman 2014, 2). The Executive Order against Iran under IEEPA would be lifted by another President Executive Order after the president declares that the “state of emergency” does not exist between the U.S. and Iran (Long and Luers 2012, 64-7).

II. “*State Sponsor of Terrorism*” (the so-called “*Terrorism List*”);

⁷³ For instance, ISA has to be renewed every 5 years. Since it was renewed again in 2011, its sunset will be on December 31, 2016 “**Iran Sanctions Act**,” https://www.treasury.gov/resource-center/sanctions/Programs/Documents/isa_1996.pdf. (1996), Sec. 13(b)).

⁷⁴ A “state of emergency” with Iran has been announced by the U.S. Government every year since 1995, when president Bill Clinton first announced it (Kenneth Katzman, “Easing US Sanctions on Iran,” *Atlantic Council South Asia Center* 3 (2014), 2).

Since 1984, Iran has been designated as a state sponsor of terrorism by the Department of State and based on that, a set of sanctions have been imposed on Iran. An administration decision to remove Iran from the “Terrorism List” is another sanctions termination mechanism. However, the presidential decision to remove Iran from the “Terrorism List” is not enough and requires congressional approval (Katzman 2014, 3).

III. “National security interest”

The president could appeal to the national security interest provision to waive or suspend sanctions. For instance, the president can, on a case by case basis, exercise the waiver after certifying to the appropriate congressional committees⁷⁵ that it is in the national interest of the U.S. to exercise a waiver (ISA (1996), Sec.9(c)).

b) Requirements

- **Nuclear and terrorism-related sanctions termination requirements**

The U.S. nuclear and terrorism-related sanctions against Iran have an implicit set of interlinked termination requirements. For instance, according to ISA, which is the centerpiece of the U.S. sanctions, nuclear and terrorism-related sanctions would be lifted if:

“ the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire--

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; and

(C) ballistic missiles and ballistic missile launch technology;

(2) has been removed from the list of countries the governments of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism; and

(3) poses no significant threat to United States national security, interests, or allies.”(Iran Sanctions Act of 1996, as Amended, Sec.8).

⁷⁵ Appropriate Congressional Committees: “the committee on finance the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Financial Services, and the Committee on Foreign Affairs of the House of Representatives.”(Iran Sanctions Act of 1996, as Amended, Sec. 14 (2)).

Iran's removal from the "Terrorism List" entails far-reaching and unspecified requirements. In other words, the president has the authority to remove Iran from the "Terrorism List" after she/he certifies that:

1. Iran has not been involved in terrorism sponsorship in the preceding six months;
2. Iran has given the assurance of not supporting terrorism in the future ⁷⁶ (Long and Luers 2012 , 64-7).

Due to the interlinked nature of different U.S. sanctions on Iran, it is conceivable to assume that, provided Iran meets nuclear- related requirements, it could be removed from the "Terrorism List" even without meeting the terrorism termination requirements as has been the case in other sanctions regimes⁷⁷ (Ibid, 64-7). Thus, politics plays an essential role when it comes to sanctions termination requirements. On one hand, digging into bureaucratic loopholes of the established termination requirements can deter sanctions termination, and on the other hand, sanctions termination can be facilitated by ignoring the termination requirements in exchange for concessions on other issues.

- **Human rights-related sanctions termination**

The U.S. human rights-related sanctions against Iran would terminate if the president certifies to the appropriate congressional committees that the four following requirements have been met by Iran. "Iran has __

- (1) unconditionally released all political prisoners⁷⁸, including the citizens of Iran detained in the aftermath of the June 12, 2009, presidential election in Iran;
- (2) ceased its practices of violence, unlawful detention, torture and abuse of citizens of Iran while engaging in peaceful political activity;
- (3) conducted a transparent investigation into the killings, arrests and abuse of peaceful political activists that occurred

⁷⁶ In spite of the president's certification to the Congress, sanctions relief can be blocked by the Congress joint resolution, although there needs to be a two-third majority to override the president's veto (Austin Long and William Luers, *Weighing Benefits and Costs of Military Action Against Iran* Iran Project, 2012) , 64-7)

⁷⁷ For instance, North Korea, Libya, and Iraq were all removed from the "Terrorism List" not necessarily due to their compliance with the related requirements. North Korea's cooperation with its nuclear program led to its removal from the list in 2008, without having changed its behavior regarding terrorism sponsorship. Libya was taken off the list when it gave up its weapons of mass destruction program in 2006. Iraq was also removed from the list after it expelled Abu Nidal in 1982, which could be considered a minor course of action in the terrorism sponsorship context (Ibid, 64-7).

⁷⁸ The term " political prisoner" requires the definition of " political crime", which does not exist in Iran's constitution. Based on this definition deficit Iran has refused to have any political prisoners.

- in the aftermath of the June 12, 2009, presidential election in Iran and prosecuted the individuals responsible for such killings, arrests, and abuse; and
- (4) made public commitments to, and is making demonstrable progress towards:
- (A) establishing an independent judiciary; and
 - (B) respecting the human rights and basic freedoms recognized in the Universal Declaration of Human Rights.”(CISADA (2010), Sec.105(d)).

In sum, the U.S. sanctions regimes against Iran have highly complicated termination mechanisms. The excessive degree of complication is due to the different authorization mechanisms, which are grounded on the entangled processes between the executive branch and legislative branch. Besides the complicated mechanisms, the termination requirements, which are in most cases broad and imprecise, add up to the difficulties. The large number of sanctions against Iran with different objectives and requirements would persuade one to believe that the termination of sanctions would be impossible, unless Iran completely changes its foreign and domestic policies and even its leadership to meet all of the U.S. sanctions termination requirements (Long and Luers 2012 , 31). On top of the termination requirements, the human rights-related requirements are the most immeasurable ones of them all, which almost suggests the imposition of endless sanctions.

3.3. EU termination mechanism and requirements

a) Mechanism

EU sanctions against Iran need a unanimous Council decision to be lifted. Thus, the 28 EU members vote in favour would be sufficient to complete the sanctions relief mechanism. In fact, the EU sanctions termination mechanism is much less complicated than the US sanctions, in which the Congress is involved. According to Cornelius Adebahr, an associate at the Carnegie Endowment for International Peace,” -“Both the imposition of sanctions (EU sanctions) and their removal requires merely one ingredient: the political will of member states.”⁷⁹ (Adebahr 2014).

⁷⁹ In spite of the fact that EU sanctions relief seems to have a simple mechanism, as in the case of Iran, EU sanction termination would not make comprehensive change on the ground as long as U.S. secondary sanctions deter European individuals and entities from doing business with Iran. (Cornelius Adebahr, "Easing EU Sanctions on Iran," *Atlantic Council* (2014).; Dina Esfandiary, *Assessing the European Union's Sanctions Policy: Iran as a Case Study*, 2013).

b) Requirements

- **Nuclear-related sanctions termination;**

Since the EU nuclear-related sanctions against Iran have been authorized to implement the binding UNSCRs, they have not defined separate requirements for sanctions termination. In other words, the same UNSCRs termination requirements are implicitly embedded in the EU nuclear-related sanctions against Iran. Thus, once Iran meets the UNSCRs requirements, both the UN sanctions and the sanctions of other Member States, including the EU nuclear-related sanctions are to be lifted.

- **Human rights-related sanctions termination;**

The conditions under which EU human rights-related sanctions against Iran would be lifted is not clear. In other words, EU human rights-related sanctions lack measureable requirements for sanctions relief.

Chapter 5: Just Implementation of Sanctions (Part I)

- Target Discrimination Principle

Just Implementation of Sanctions (Part I)

This chapter and the next two chapters focus on one main question (the second research question of the thesis): “Have the sanctions against Iran been implemented in a just manner?” (*Just Implementation of Sanctions*). In fact, regardless of whether the sanctions have been authorized in a just manner, their just implementation requires a separate line of scrutiny. The just implementation of sanctions refers to the conditions under which the implementation of sanctions would be *closer* to a just implementation.

Consequently, in the case of Iran, the UN, U.S., and EU, sanctions implementations are examined against a set of principles and mechanisms including: Target Discrimination Principle, Civilian Immunity Principle, Proportionality Principle, Prospect of Success Principle, Negotiation Principle, Monitoring and Evaluation Mechanism, and Judicial Review Mechanism. In other words, the just implementation of sanctions should not violate a set of *principles* and at the same time it requires special *mechanisms* to do so.

Upon assessing the implementation of sanctions by the UN, the EU, and the US and other actors, I demonstrate that the implemented sanctions against Iran are close to an unjust implementation of sanctions. They have a drastic impact on citizens in different grounds such as country’s infrastructures, public health and safety, science and education, culture and environment. These impacts go well beyond what might be expected in a just implementation of sanctions.

The impacts of sanctions on Iran are so entangled and interlinked that in many cases it is impractical to distinguish a causal relation between a specific impact and a particular type of sanction. The most determinative indicators in the just implementation of sanctions are the “target discrimination” and “civilian immunity” principles.

Table 5.1 Just Implementation of Sanctions’ Criteria

Just Implementation of Sanctions	
Principles	Mechanisms
Target Discrimination *	Monitoring and Evaluation
Civilian Immunity*	Judicial Review
Proportionality	
Prospect of Success	
Negotiating	

* The core of both the target discrimination principle and civilian immunity principle is the same: The ways sanctions impact civilian populations. However, they have been magnified separately in this research due to

the controversial debates around the differences between targeted and comprehensive sanctions and how targeted sanctions are identified as more humane.

1. Target Discrimination Principle

The primary notion of Just Implementation of Sanctions is that the civilian population of the target state should not be harmed by the implementation of sanctions. In order to comprehend how deeply civilian populations are affected by sanctions, the level of centrality that the sanctioned targets play in civilians' lives and the role of sanctioned targets in upholding the country's economy and infrastructures should first be determined. In fact, it is constructive to study the specific implementation of sanctions on each target separately. Accordingly, target analyzing is a prerequisite for studying the impacts of sanctions, as a package, on civilian populations.

1.1. Iran's economic characteristics and vulnerabilities

In order to recognize the role of sanctioned targets in Iran's economy, it is advantageous to describe both Iran's economic characteristics and vulnerabilities.

- **Iran's economic characteristics**

- a) Rentier state (Oil state);*

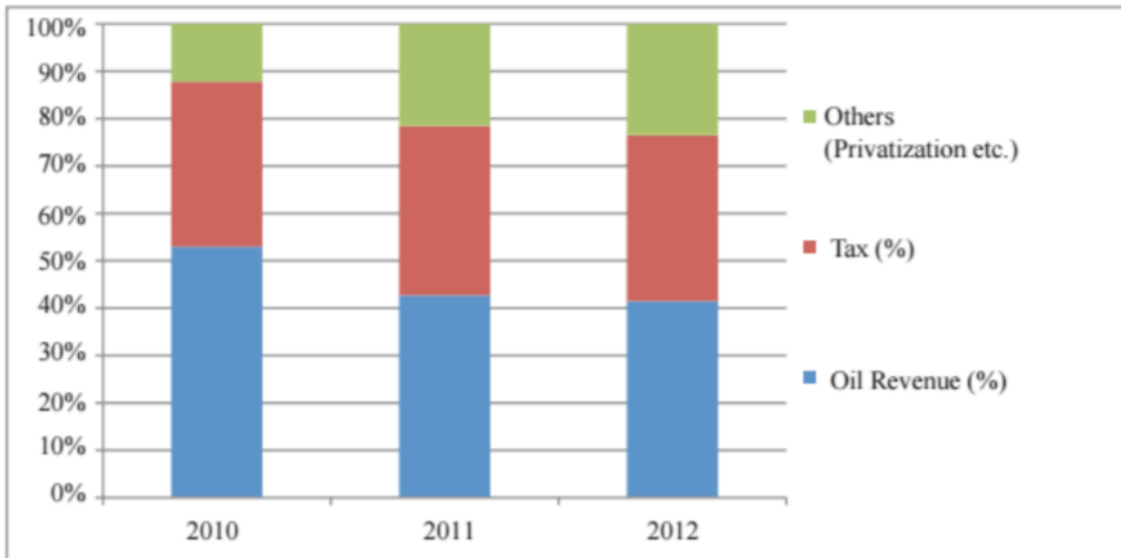
The state's revenue mostly comes from oil revenue rather than domestic taxation;

- b) Mixed economic system;*

More than 70% of Iran's economy is run by the state; the private sector is relatively weak in comparison.

- c) Single product economy;*

Iran's economy is mainly based on exporting crude oil and importing consumer products (Yazdanfam 2007, 804-805).



Graph 5.1. Dependency of State Budget on Oil Export Revenues

Source: Atieh International GmbH, Vienna in Khajehpour, Marashi, and Parsi March 2013, 23

- **Iran's economic vulnerabilities**

Iran's economic characteristics have triggered political economic vulnerabilities:

a) *Oil export dependency;*

Iran's economy is highly dependent on oil and natural gas exports. Oil and natural gas exports respectively constituted 40% and 13% of Iran's total exports prior to the multilateral sanctions on Iran's oil and natural gas exports in 2010 (Bayat 2012, 936).

b) *Petrochemical product import dependency;*

Despite having vast oil and natural gas resources, Iran is extremely dependent on refined petroleum product imports. In 2009, gas was at the top of the imported items list - an Achilles heel of the economy. Iran had to import 40% of its gas from other countries, mainly India and United Arab Emirates (UAEs) (DW website, 2010.04.14).

Iran's high dependency on refined petroleum imports is due to (a) poor technology in petrochemical industry and oil refinery; and (b) high domestic consumption (Bayat 2012, 938-9).

c) *Foreign investment dependency;*

Iran is dependent on foreign investment in its energy sector. Energy sector development requires immense financial resources and the purchase of foreign technological advances; the country suffers from a shortage in both.

1.2. Sanctioned targets in Iran

With the consideration of Iran's economic characteristics and vulnerabilities, multilateral sanctions, (U.S. sanctions in particular), have targeted simultaneously the most vital and most vulnerable of Iran's economic sectors. The major targets of sanctions against Iran fall in the following categories: energy, shipping and insurance, banking and financial, international lending, individuals, arms, dual use items, and multifunction entities.

1.2.1. Energy sector

- Oil Imports

The UN imposed sanctions do not directly target Iran's energy sector. At the same time, the language of the preamble to the United Nations Security Council Resolution 1929 paved the way for different Member States to target it. The preamble states: "note[s] the potential connection between Iran's revenues derived from its energy sector and the funding of Iran's proliferation sensitive nuclear activities"

In 2012, the EU banned its member states from purchasing Iran's crude oil and petrochemical products (Council Decision 2012/35/CFSP). In the same year, the EU expanded its sanctions and prohibited the importation of Iran's Natural Gas (Council Decision 2012/635/CFSP, 15 October 2012).

Already in 1980, the U.S. had imposed unilateral sanctions on all imports from Iran (Executive order 12211 April 17, 1980). However, Iran has been impacted more by the U.S. secondary sanctions on Iran's energy sector rather than by its unilateral sanctions. According to the Executive Order 13622 (Executive Order 13622 July 30, 2012), the U.S. authorizes sanctions on any entity that purchases Iran's oil and petroleum products. Iran's oil customers could acquire exemption provided they are "significantly reducing" the purchase of Iran's oil each 180 days. The restrictions were also codified in law through the US Iran Threat Reduction and Syria Human Rights Act in 2012 (Katzman May 7, 2014, 12).

Sanctions on Iran's oil imports have had a remarkable impact on Iran's oil production and oil revenue. The combination of the EU and the U.S secondary sanctions resulted in the reduction of Iran's oil sales by 60%. In 2011, Iran's oil sales were 2.5 mbd with revenue of \$100 billion, while in 2013; the sales were reduced to 1 mbd with a revenue of \$ 35 billion (Ibid, 52-53). As Iran was not able to sell the oil, its oil production ended up being reduced from about 4.0 mbd in 2011 to roughly 2.6-2.8 in 2013 (Ibid, 52-53). This sharp reduction in oil production has caused the

complete shutdown of some oil wells. This reduction is not only damaging to oil wells, but it would also be expensive to restart oil production from entirely shutdown oil wells. In order to avoid the complete shutdown of their oil wells, Iran started to store unsold oil barrels on tankers in the Persian Gulf. A longer-term solution would be for Iran to find customers and keep the same production capacity (Ibid, 52-53). In sum, Iran's oil sector was significantly damaged when the EU sanctions and US secondary sanctions both targeted Iran's energy sector. All EU members stopped purchasing Iran's oil and Iran's major customers opted to significantly reduce their purchasing to exempt the U.S. extraterritorial sanctions.

- *Investment on development of petroleum resources*

Iran's oil fields are old and in dire need of outside technology and investments. Unfortunately, the threat of U.S. secondary sanctions triggered many big companies to withdraw from their projects in Iran. In 2010, the U.S. authorized sanctions stated that any country that invests 20 million dollars or more on the development of Iran's petroleum resources would be subject to the U.S. secondary sanctions (CISADA (2010), Sec.102 (1)).

In 2011, Iran lost nearly \$60 billion in investments as the result of the withdrawal of foreign companies (Katzman May 7, 2014, 54).

- *Refined petroleum products Exportation*

According to the Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA), which was authorized in 2010 by the U.S. Congress as an amendment on ISA (1996), the U.S. would impose secondary sanctions on whomever sells refined petroleum products to Iran. These products include gasoline with a value of one million dollars in one contract or five million dollars paid over a year to Iran. In addition, those countries that helped Iran import refined petroleum products would be sanctioned. These acts could include goods, technology, information, and services such as providing insurance, ships, or shipping would be subject to U.S. secondary sanctions (CISADA (2010), Sec.102 (3)). At the time when CISADA was authorized, Iran's dependency on foreign gas was 40% (Katzman May 7, 2014, 11).

- *Contribution to production of refined petroleum*

According to U.S. sanctions, countries that may support Iran in a number of different ways would be sanctioned. These ways included selling, leasing, or providing to Iran goods, services, technology, or information with a value of 1 million dollars or more that would have the following

consequences: help Iran to increase its refined petroleum products, construct, modernize, and repair petroleum refineries. These actions would be subject to the U.S. secondary sanctions (CISADA (2010), Sec.102 (2)). Additionally, the EU Council Regulation of March 2012 banned all EU members from providing Iran with any technology and equipment that would contribute to petroleum refinement, production and exploration activities (EU Council Regulation 267/2012, 23 March 2012).

Implementation:

In sum, in spite of the fact that the UN has not directly targeted Iran's energy sector, it has implicitly paved the way for other actors to target Iran's energy sector. Considering Iran's economic characteristics and its dependency on oil revenue, the implementation of U.S. and EU sanctions – particularly those involving not purchasing Iran's crude oil -- would hit the beating heart and core of Iran's economy drastically. Accordingly, given Iran's economic vulnerabilities and its need of outside investments and of technology in its energy sector, the implementation of the U.S. and EU sanctions and their disinvestments sharply harmed Iran's energy infrastructure.

1.2.2. Shipping and Insurance sectors

The UNSCR's called upon all Member States to exercise vigilance over activities of the Islamic Republic of Iran Shipping Lines (IRISL) and Iran Air Cargo. The UNSCR 1929 decides that the IRISL assets should be frozen (UNSCR 1803 (2008); Resolution 1929 (2010)). According to the UNSCR, Member States have the authorization to inspect IRISL and Iran Air cargos- provided there are "reasonable grounds" to believe they are carrying sanctioned goods (UNSCR 1929 (2010)). Additionally, Member States are required to exercise vigilance over supporting Iran's trade financially by providing insurance or reinsurance as well as export credits. To wit, it would apply "if they have information that provides reasonable grounds to believe that such services ... could contribute to Iran's proliferation-sensitive nuclear activities" (UNSCR 1929 (2010), para.21).

The U.S. and EU sanctions on Iran's shipping and insurance sectors go well beyond the UNSC framework. They targeted IRISL itself and froze IRISL and its affiliates' assets. The EU members were required to inspect all cargo when their destination or departure was Iran. In addition, Iranian cargo flights were to be prohibited from landing in EU airports (Council Decision July 2010/413/CFSP, 26 July 2010). The U.S. would even impose secondary sanctions on any entity that provides goods, services, and insurance for Iran's shipbuilding and shipping sector ((H.R.4310 -

National Defense Authorization Act for Fiscal Year 2013) , Subtitle D, “The Iran Freedom and Counter-Proliferation Act” (IFCA)).

The EU sanctions prohibit its members from providing insurance from every step of purchasing, importing and transporting Iran’s crude oil or petroleum products. In general, EU members are banned from providing insurance or reinsurance to all Iranian shipping companies. Furthermore, according to the Iran Threat Reduction and Syria Human Rights Act (2012), the U.S. would impose secondary sanctions on any entity that was offered insurance for the National Iranian Oil Company (NIOC) or the National Iranian Tanker Company (NITC) (Katzman, May 7, 2014, 13). The U.S. secondary sanctions encompass any entity that provides insurance for Iran’s shipbuilding and shipping sectors ((H.R.4310 - National Defense Authorization Act for Fiscal Year 2013) ,Subtitle D, “The Iran Freedom and Counter-Proliferation Act” (IFCA)).

Implementation:

The implementation of targeted sanctions on Iran’s shipping and insurance sectors were comprehensive on the ground. According to a report by the Panel of Experts’ (POE), a UN expert body, many transport companies preferred to stop (instead of exercising vigilance) doing business with Iran to avoid the risk of violating the UNSC resolutions (POE report June 2012 (S/2012/395), para.162.). Likewise, some international companies decided to withdraw from trading with Iran or providing insurance so as to avoid U.S. secondary sanctions. As a general rule, insurance and reinsurance are a necessary requirement for international trade. Accordingly, the implementation of targeted sanctions both on shipping and insurance made a strong contribution to curbing Iran’s trading system regardless of what kind of good was being traded.

1.2.3. Banking and Financial sectors

In 2007, the UNSC imposed targeted sanctions on two Iranian banks: Bank Sepah and Bank Sepah International (UNSCR 1747 (2007)). Furthermore, the UNSC had been calling upon all Member States to exercise vigilance over their activities with all Iranian banks, especially Bank Meili, Saderat and the Central Bank of Iran (UNSCR 1803 (2008) and 1929 (2010)). The UNSCR 1929 (2010) also requires Member States to exercise vigilance in doing any financial interaction with Iran, including financing and offering trade credits⁸⁰. In addition, the EU gradually expanded sanctioning banking and financial relationships with Iran beginning in 2007. Ultimately, in 2012, the EU sanctions encompassed all transactions with all Iranian banks with an exception on authorized transactions under strict conditions (Council Decision 2012/635/CFSP, 15 October 2012). In 2012, the EU designated 14 Iranian banks to be cut off from access to the electronic payments system of SWIFT (Society of Worldwide Interbank Financial Telecommunications)⁸¹. SWIFT is the largest financial messaging service in the world. In 2011, financial institutions in Iran had more than 2 million financial messages being processed by SWIFT (Ebner 2013, 131). Cutting Iran off from SWIFT sharply affected Iran's financial transactions in every area (Jorjani and others 2014, 1333).

The U.S. sped up its efforts in 2006 to encourage foreign banks to stop their transactions with Iran on the grounds that it could contribute to the funding of terrorist groups. The Treasury Department approached 145 banks in 60 countries out of which more than 80 foreign banks were convinced to stop their transactions with all Iranian banks (Katzman May 7, 2014, 26-7). The U.S. has been imposing financial punishment on those foreign banks that have contributed to help Iran to circumvent U.S. sanctions. For instance, in 2004, UBS was fined \$100 million and in 2012, Dutch bank IMG was fined \$619 million by the Treasury Department for moving dollars to Iran (Katzman May 7, 2014, 27).

Finally in 2011, the U.S. targeted the Central Bank of Iran and decided to cut it off from the international financial system. Accordingly, any foreign bank that was to make transactions with the Central Bank of Iran would be subject to the U.S. secondary sanctions. Consequently, foreign banks that were to violate U.S. sanctions would face financial measures. For example, they would not be permitted to open accounts in the U.S. or their current U.S account would encounter strict restrictions (H.R. 1540, signed on December 31, 2011, [P.L. 112-81]). In addition, the U.S. Executive Order,

⁸⁰ Kenneth Katzman, a senior analyst of Iran at the Congressional Research Service, describes the term “vigilance in the UNSCRs as “a nonbinding call to cut off” or “voluntary restraint” (Katzman, March 5, 2014, 32).

⁸¹ The EU requested the Brussels-based SWIFT to ban Iranian banks from the SWIFT system. On March 17, 2012 blacklisted Iranian banks were cut off from the SWIFT system (Katzman May 7, 2014, 36).

signed by president Obama, targeted Iran's currency, the Rial, in 2013 (Executive Order 13645 of June 3, 2013). Accordingly, the U.S. could block U.S based properties and ban the U.S. bank accounts of any foreign bank that either conducts transactions or holds accounts in Rial (Katzman May 7, 2014, 12).

Implementation:

Although the UNSCR calls upon Member States to exercise vigilance over activities with Iranian banks, the vagueness of their language paved the way for the U.S., EU and some other actors to go well beyond the UNSC resolution and expand the banking and financial sanctions. As a result, almost all transactions with Iranian banks were terminated and Iran was cut off from the international financial system, which affected Iran's entire trading and economy systems (Gordon 2013, 1000). Furthermore, Iranian companies could not open Lines of Credit (LC) for their businesses. They had therefore been forced to do their businesses through brokers at higher costs (Jorjani and others 2014, 1333). The Panel of Experts' (POE) report sheds some light on how even legitimate trades with Iran could be deterred as the result of implementation of unilateral sanctions on financial transactions (POE report June 2012 (S/2012/395)). Furthermore, the implementation of sanctions on Iran's currency led to the sharp devaluation of the Rial and a rise in prices of all goods and services for Iranians. Some of Iran's trading partners, especially some of Iran's neighbors, were conducting their transactions in Rial or held Rial accounts. Now, however, they were forced to discontinue their transactions in Rial after the U.S. announced that it would impose secondary sanctions on any entity that does business in Rial or that holds Rial accounts (Katzman May 7, 2014, 14). In sum, the targeted sanctions against Iran's banking system and financial sector had been implemented in a comprehensive manner. Consequently, Iran was completely cut off from the international payment system.

1.2.4. International Lending

The UNSC “*calls upon*” all Member States and International institutions not to provide loans to Iran unless for humanitarian and development reasons (UNSCR 1747 (2007)). The EU set a similar prohibition for its members in 2010 (Council Decision July27, 2010). Accordingly, the members were not only banned from granting loans, grants or aid to Iran, but also they were prohibited from voting for Iran to receive International lending from institutions like the IMF and the World Bank (Gordon 2013, 991-995).

Since the 1980s, the U.S. banned direct financial assistance to Iran (Section 620A of the Foreign Assistance Act, FAA (P.L. 87-95) and Section 40 of the Arms Export Control Act (P.L. 95-92, as amended) (Katzman May 7, 2014, 3). Later the U.S. representatives were asked to vote against international lending to Iran at institutions such as the World Bank (§1621 of the International Financial Institutions Act (P.L. 95-118) (Katzman May 7, 2014, 3 and 45). The U.S would not only withhold its foreign assistance to any country that intervened to financially assist Iran (any country in the “terrorism list”), but to also withhold its contribution to any international organization that was to assist Iran (Katzman May 7 2014, 3-4). For instance, if an organization were to provide assistance to Iran by 3% of its budget, the U.S. would withhold 3% of its contributions to that organization exempting humanitarian aids (Katzman May 7, 2014, 4).

Implementation

The multilayered implementation of restrictive measures against international lending to Iran made it extremely difficult for Iran to provide International loans and aids for its infrastructural projects. These included environmental projects, especially since 2010.

1.2.5. Individuals

According to the UN sanctions against Iran, individuals who are significantly involved in (a) Iran’s nuclear or ballistic missiles programs, (b) the Islamic Republic of Iran Shipping Lines (IRISL), and (c) the Islamic Revolutionary Guards Corps (IRGC) are subject to two types of sanctions: (a) freezing assets and (b) travel bans (POE report June 2012 (S/2012/395)). The aftermath incidents of the June 12, 2009 presidential elections in Iran triggered the EU to take the UN blacklist a step further; they targeted Iranians who were responsible for political repression (Council Decision 2011/235/CFSP, April 2011). The U.S. took even further steps and announced that it would impose secondary sanctions on any person or entity which contributed to the so-called abuse of human rights in Iran. They did so by selling the equipment and technology necessary for repression and Internet ad

communication monitoring and censorship (The Iran Threat Reduction and Syria Human Rights Act, 2012, and Executive Order 13628 of October 9, 2012). U.S. secondary sanctions target individuals who have significant interactions with Iran in a broad spectrum. This sanction stretches from the nuclear and ballistic missiles programs to the alleged terrorism activities and human rights abuses.

Implementation:

The implementation of targeted sanctions on individuals does not have comprehensive impacts on the civilian population. However, the rights of targeted individuals could be violated from a lack of due process and absence of transparency in listing and delisting procedures. Many Member States have expressed their doubts over transparency and due process in targeting individuals (Portela 2009, 27).

1.2.6. Arms

The UN imposed a total arms embargo on Iran and prohibited all Member States from selling, supplying, and transferring Conventional Arms to Iran directly or indirectly. The embargo includes combat aircrafts, helicopters, vehicles, warships, tanks, missiles, and any related spare parts⁸² (UNSCR 1929 (2010)). Likewise, the EU prohibited all EU members from selling, supplying, or transferring all types of arms and related materials to Iran directly or indirectly (Council Decision 2010/413/CFSP). The selling of U.S. arms to Iran has been prohibited under the U.S. Arms Export Control Act (1986). Moreover, the U.S. would impose a wide range of secondary sanctions on any entity that provides Iran with advanced conventional weapons (The Iran-Iraq Arms Nonproliferation Act (P.L. 102-484,1992)). The secondary sanctions spectrum stretches from a ban on trading and military cooperation to a ban on U.S assistance, and support for international lending (Karzman May 7, 2014, 23-4).

Implementation:

Although the complete arms embargo on Iran has affected Iran's military capabilities, its implementation has not had vast impacts on the ground. In fact, the experience of eight years of war with Iraq had contributed to Iran's relative self-sufficiency in a military aspect.

⁸² Earlier in 2007, The UNSC had prohibited Iran from exporting arms and had call upon States to exercise vigilance in providing Iran with arms (UNSCR 1747 (2007)). Yet, in 2010, the UN imposed a complete arm embargo on Iran (UNSCR 1929 (2010)).

1.2.7. Dual use items

The UNSCRs banned the sales of almost all dual use items to Iran (UNSCRs 1737 (2006) and 1747 (2007)). In line with the UNSCRs, the EU imposed sanctions on the export of dual use items to Iran (Council Decision 2010/413/CFSP). Likewise, the U.S. sanctioned dual use items exported to Iran (Arms Export Control Act (1976) and Export Administration Act, §6(j) (1979)). In general, suppliers of financial aid, arms and dual use items to the “terrorism list” countries, including Iran, would face secondary sanctions by the U.S. The U.S. not only targeted dual use items, which are significant for Iran’s auto industry, but also targeted Iran’s automotive sector directly (Executive Order 13645 of June 3, 2013). Accordingly, any firms that were to provide Iran’s automotive sector with goods and services, or any banks that were to conduct transactions with this sector could face U.S. secondary sanctions (Katzman May 7, 2014, 12).

Dual use items have many applications both in military and civil industries. Dual use items include goods, software, and technology that in addition to their application in military industries are used in a wide spectrum of nonmilitary areas stretching from research and development (R&D), high-tech, energy, telecommunication, electronics, computing and automotive industries to chemical, medical and pharmaceutical industries (European Commission Website: Dual-use export controls).

Implementation:

While dual use items exports to Iran have been subjected to sanctions due to their military applications, they have clearly affected civil applications as well. In particular, sanctions on dual use items have impacted Iran’s automotive industry, which is in need of dual use materials. There are 25,000 companies active in car manufacturing throughout the country. The auto sector is a significant source of Iran’s revenue. According to the Ministry of Industries and Mines of Iran, automotive manufacturing industry data illustrates 66.2% of a reduction in various types of cars in Sep. 2012 and a 42% reduction in the first six months of 2012 compared to the same period the previous year (Alef News Website October 10, 2012).

1.2.8. Multifunction entities

The Islamic Revolutionary Guards Corps (IRGC) has been subjected to UN sanctions due to its involvement in Iran's nuclear and ballistic missiles programs. The UN has accumulatively targeted IRGC entities and individuals (UNSCRS 1737(2006), 1747 (2007), and 1929 (2010)). The UNSCR 1929 (2010) "*calls upon*" all Member States to exercise vigilance in transactions with IRGC to avoid potential contributions to Iran's nuclear and missiles program (UNSCR 1929 (2010), para.12). Furthermore, the EU expanded the sanctions on IRGC with the allegation of its involvement in violation of human rights and internal repression after the controversial presidential elections in 2009 (Council Decision 2011/235/CFSP). The U.S. sanctions on IRGC were authorized not only because of nuclear and human rights but also because of the allegation of IRGC's support of terrorism. The U.S. took a step further and announced that it would impose secondary sanctions on any entity that is engaged in significant transactions with IRGC and its affiliates (CISADA (2010); ITRSHRA (2012)).

Implementation:

The IRGC is a military body that also has many other non-military activities. In other words, IRGC is not only involved in military and weaponry activities, but also in the economy, especially the energy sector, and the construction sector. In fact, IRGC is an influential economic actor and some estimation indicates that IRGC controls 25% to 40% of gross domestic product (GDP); however there is no accurate official statistic (POE report June 2012 (S/2012/395)). In addition to the construction wing, IRGC has a business wing, which is involved in agriculture, shipping and finance sectors (Ibid). IRGC has a powerful construction wing named Khatam al-Anbia (KAA) that is involved in both military and civil constructions. Khatam al-Anbia (KAA) has been designated as the sanctions' target mainly due to its involvement in uranium enrichment facility constructions, such as the Fordow site in Qom (POE report June 2014 (S/2014/394)). KAA is highly involved in civil and infrastructural projects such as roads, dams, ports, telecommunication, water and sewage lines, and oil and gas infrastructure in particular (POE report June 2012 (S/2012/395)). Therefore, the implementation of sanctions on multi-function entities, such as IRGC and KAA, has impacted Iran's economy and some of the infrastructural projects.

1.3. Examining the criterion: Target Discrimination Principle

As it was elaborated in chapter two, the implementation of sanctions would be unjust under the following circumstances:

- Comprehensive implementation:
The impacts of targeted sanctions go beyond the sanctioned target (Population-wide impacts);
- Implementation curbs the access to humanitarian goods, e.g. food, medication, medical equipment and services;
- Implementation curbs the right to development;
- Implementation destroys given target's infrastructures.

This examination of the Target Discrimination Principle in sanctions against Iran is summarized through the following two tables.

Table 5.2 The unjust implementation of sanctions from the perspective of the Target Discrimination Principle

	Unjust Implementation of Sanctions
(a)	Comprehensive implementation: The impacts of targeted sanctions go beyond the sanctioned target (Population-wide impacts)
(b)	Implementation curbs access to humanitarian goods, e.g. food, medication, medical equipment and services
(c)	Implementation curbs the right to development
(d)	Implementation destroys targets' infrastructures

Table 5.3 UN, US, and EU sanctions implementation on Iran from the perspective of the target discrimination principle

		UN	EU	US	Implementation
Target	Energy sector	No direct sanctions	Additional restrictive measures based on a broad interpretation of UNSCRs	Unilateral and secondary sanctions	(a)Comprehensive implementation: (b) Harms country's infrastructures (c) Curbs the right to development
	Shipping and insurance	Targeted sanctions	Additional restrictive measures	Unilateral and secondary sanctions	(a)Comprehensive implementation (b) Curbs access to goods
	Banking and financial sector	Targeted sanctions	Additional restrictive measures	Unilateral and secondary sanctions	(a)Comprehensive implementation (b) Curbs access to goods and services, even humanitarian goods (c) curbs the right to development
	International lending	Nonbinding restrictions	Restrictive measures	Unilateral and secondary sanctions	(a)Comprehensive implementation (b) Curbs the right to development
	Individuals	Targeted sanctions	Additional restrictive measures	Unilateral and secondary sanctions	(a) Targeted implementation
	Arms	Total	Restrictive	Unilateral	(a) Targeted

		embargo	measures	and secondary sanctions	implementation
	Dual use items	Targeted sanctions (almost all dual-use items)	Restrictive measures	Unilateral and secondary sanctions	(a)Comprehensive implementation
	Multi Function entities	Targeted sanctions	Additional restrictive measures	Unilateral and secondary sanctions	(a)Comprehensive implementation (b) Harms country's infrastructure (c) Curbs the right to development

Chapter 6: Just Implementation of Sanctions (Part II)

- Civilian Immunity Principle

Just Implementation of Sanctions (Part II)

1. Civilian Immunity Principle

Similar to the target discrimination principle, the civilian immunity principle stresses the necessity to avoid harming the civilian population if sanctions are to be implemented in a just manner. The focus of the target discrimination principle is on the targets and the specific impacts of sanctioning each one of the targets. The civilian immunity principle's attention is on the impacts of sanctions, as a package, on civilians' daily lives. This section elaborates on how the implementation of sanctions against Iran has been affecting Iranian civilians.

As a general rule, sanctions have uneven and disproportionate cost distributions which makes some groups of people benefit and others suffer from their implementation (Wood 2008, 493). Sanctions are supposed to target the government and not the civilian population. But in most cases, the government has the capability to shift costs from itself to the population. Thus in many cases, sanctions cost distributions are downward and hit the most vulnerable groups of people (Ibid, 493-4). Accordingly, sanctions against Iran have been affecting different aspects and layers of ordinary peoples' lives.

1.1. Impacted areas of civilian population lives

According to the dominant narrative by the sanctioners, the sanctions against Iran are targeted to reduce the inhumane impacts on Iranians. For instance, there is no ban on trading humanitarian goods and legitimate items and services with Iran. Yet the implementation of so-called targeted sanctions on Iran has revealed a different reality in the daily lives of Iranians. The implementation of sanctions has had diverse impacts in the following areas: market psychology, economic, public health and safety, science and education, culture, and environment.

1.1.1. Impacts on Iranian's market psychology

The implementation of sanctions has deeply affected Iran's market psychology. It has damaged Iran's market's reputation in the world for every business, whether legitimate or illegitimate. Many countries have been unwilling to get involved in business with Iran, even over unsanctioned and lawful sectors. The following characteristics of Iran's market psychology arose by the implementation of sanctions. Sanctions have triggered reluctance among foreign economic actors to work with Iran:

- **Controversial market**

Many companies and firms across the world have opted voluntarily to discontinue their businesses or withdraw from their projects with Iran because they found Iran to be a “controversial market” (Katzman May7, 2014, 46). The imposition of a variety of types of sanctions by different sanctioners against Iran made the country a controversial market, which means that any trading and business with Iran, including the legitimate ones, could bear political and reputational damages (Katzman May7, 2014, 46). The attempts for *naming and shaming* companies that are doing business with Iran have been relatively successful in cutting down its business channels. In particular, the United Against Nuclear Iran (UANI)⁸³, an influential U.S. lobby, has run the most active campaign in running the name and shame system globally against Iran. It has been able to convince many corporations to discontinue their businesses, even the unsanctioned ones, with Iran (Gladstone June 20, 2013).

- **Uncertain market**

Even if some corporations were not concerned about the political and reputational ramifications of doing business with Iran, they were encouraged not to do so due to the difficulties of compliance with the highly complicated and technical nature of sanction regimes against Iran. In other words, compliance with sanction regimes against Iran has not been an easy task since there are many caveats for entities that wish to do business with Iran. For instance, some goods, especially dual use items, make trading complicated as elevated expertise is needed to distinguish legitimate items from illegitimate ones and ensure that the goods would not contribute to Iran’s nuclear program. According to the UN Panel of Experts’ (POE) report, many companies adopted the “highly risk averse approach” in order to comply with the UN sanctions against Iran and avoid any unintended violations of UNSCRs (POE report June 2012 (S/2012/395), para.198). These entities have asserted that complying with UN sanctions against Iran requires a great deal of technical information and financial allocation to identify illegitimate business or transactions. Accordingly, they are convinced to adopt risk averse approaches and not to do any business, even the legitimate ones, with Iran at all (POE report June 2012 (S/2012/395)). In addition, the U.S. secondary sanctions and punishment system have convinced many economic actors to take a risk averse approach towards Iran’s market in order to avoid U.S. economic and financial punishment. Additionally, many traders are uncertain if they would be able to receive money from the exported commodities to Iran

⁸³ UANI is a U.S. base advocacy group, which was founded in 2008 with the objective of mobilizing international actors to combat the so-called nuclear Iran threat. UANI was founded by influential figures such as by Ambassador Mark D. Wallace, the late Ambassador Richard Holbrooke, former CIA Director Jim Woolsey and Middle East expert Dennis Ross : www.unitedagainstnucleariran.com.

due to banking and financial sanctions. An Asian trader who exported palm oil to Iran once stated "I can confirm that Singaporean firms have stopped. We don't want to go anywhere near Iran at this moment, it is too risky," (Parent and Hafezi Feb 9, 2012).

Table 6.1 The impacts of sanctions implementation on Iran’s market psychology

Iran’s market psychology			
Characteristics	Consequences for foreign economic actors	Behavior of foreign economic actors	Consequences for Iranian economy
Controversial market	Political and reputational consequences	Risk averse approach	Foreign trade and business downturn + Foreign disinvestment
Uncertain market	Financial consequences (financial forfeit + not getting paid for the exported goods)	Risk averse approach	Foreign trade and business downturn + Foreign disinvestment

1.1.2. Impacts on Iranians economic situation

The interplay between sanctions implementation and domestic economic mismanagement triggered the economic downturn in Iran. However, it is difficult to verify the share of sanctions in the upheavals of the economic indicators. In this section, the focus is on selective economic indicators, for which the trace of sanctions implementation is more identifiable. Examples of this analysis are: the value of Iranian national currency (Rial), Iran’s export and import abilities, and the “Iranians’ misery index”.

- **The value of Iranian national Currency (Rial)**

Iran’s currency, Rial, devalued abruptly after Iran was cut off from the International banking system (katzman July 26, 2013). Later, the Rial, the currency itself, was targeted by the U.S.

secondary sanctions which affected Rial trading (Executive Order 13645 June 3, 2013). Rial devaluation, which has been the result of both the sanctions and domestic mismanagement, led to a rise in the cost of foods, services and goods, especially imported goods and goods with dependency on imported raw material. Consequently, the cost of living for Iranian civilians has escalated, particularly since 2011.

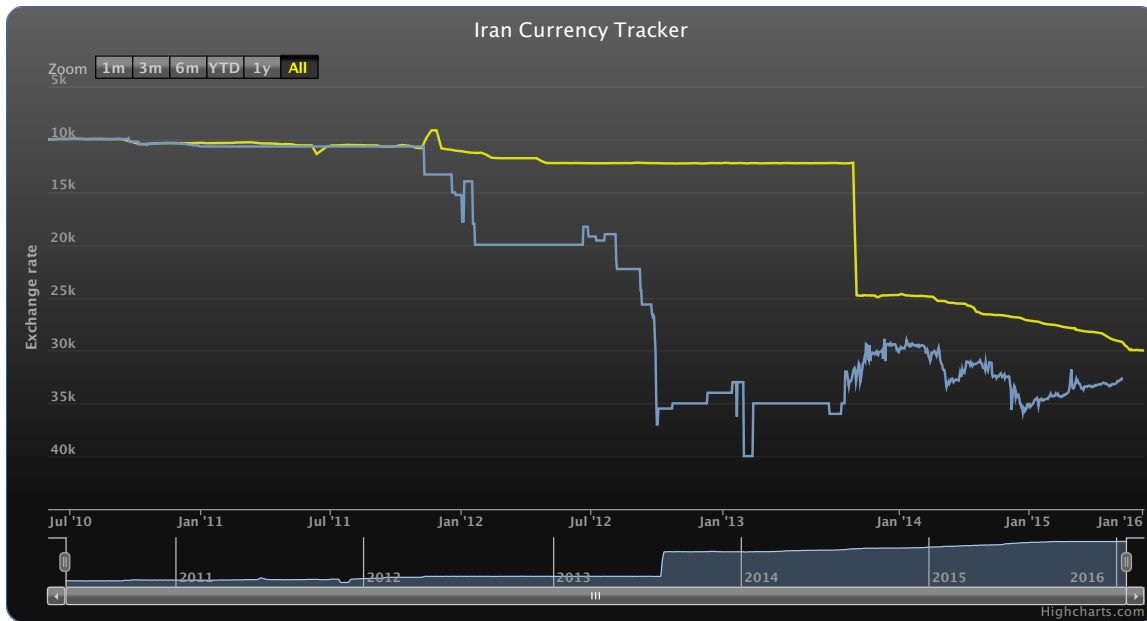


Chart 6.1 Iran Currency tracker

* Yellow line (upper line): official exchange rate (Set by the Central Bank of Iran (CBI)).

** Blue line: unofficial (black market) exchange rate (Used by private sector in daily transactions)

Source: United Against Nuclear Iran (UANI) Website

As is illustrated in the graph above, in 2010, the value of Iran's currency against the US dollar was 10,000 Rial (\$1 =10,000 Rial, the official and unofficial rates were very close). In January 2012, the Rial's value dropped by half in one month (\$1= 20,000 , unofficial rate). In February 2013, the Rial dropped to a quarter of its value, compared to 2010, and Iranian civilians experienced the lowest currency value of all-time (\$1= 40,000, unofficial rate).

The following chronological devaluation of Rial is noticeable:

a) \$1 =10,000 Rial (July 2010)

CISADA, the Comprehensive Iran Sanctions, Accountability, and Divestment Act, which is the most comprehensive US sanctions against Iran was signed by president Barak Obama in 2010.

b) \$1 = 15,500 Rial (Dec. 2011)

About a year after CISADA was signed, the U.S. Senate sanctioned the Central Bank of Iran (CBI) in December 2011.

c) \$1 = 25,500 Rial (Sep. 2012)

In January 2012, the EU banned its members from purchasing Iran's crude oil and petroleum products (Council Decision 2012/35/CFSP, 23 January 2012). In the same year, the EU banned its members from conducting financial transactions with Iranian banks and Iran was cut off from the Swift system.

d) \$1 = 34,500 Rial (June, 2013)

In June 2013, the Obama administration targeted Iran's currency and auto industry (Executive Order 13645 June 3, 2013).

- **Iran's Export and Import**

Iran's export and import industries were profoundly harmed by the implementation of sanctions, particularly due to the generated difficulties in shipping, insurance, and payment sectors.

- a) Shipping and insurance**

The implementation of sanctions on Iran's shipping and insurance sectors profoundly impacted imports and exports. In the absence of major shipping companies, secondary-shipping companies began charging Iran three times more than before. Consequently, it was Iranian civilians who had to pay the extra costs to access imported goods (Zahedi 2013, 94).

- **Payment**

In addition to transportation, shipping and insurance difficulties, Iran had financial transaction difficulties with its imports and exports. Since Iran was cut off from the international financial system, it turned to other payment mechanisms such as: (a) bartering and (b) trading in currencies other than the US dollar. For instance, because Iran was not able to receive money from exporting oil to India, it had to barter its oil for items from India such as rice, tea, thread, fabric, beef barley, medicine, iron, steel and paper (Dana News Agency Feb.27, 2014). Consequently, Iranian civilians had to purchase the highly priced but low quality imported goods provided from

uncompetitive markets (Iran's oil customers).⁸⁴ Furthermore, the bartering system affected some domestic industries such as textiles. India took advantage of sanctions against Iran and offered its goods in return for its oil debt to Iran. The subsequent import of thread and fabric from India harmed Iran's textile industry and Iranian textile factories began closing (ILNA News Agency July 27, 2014). In addition to bartering its oil, Iran turned to trading oil in currencies other than the U.S. Dollar such as the Japanese Yen, South Korean Won and the Indian Rupee. This financial situation imposed extra costs on Iran's trading system (Parent and Hafezi Feb 9, 2012).

Conclusively, the shipping, insurance and payment obstacles in Iran's export and import systems, triggered by the implementation of sanctions, burdened Iran with extra costs when trading any goods. According to Mohammad Nahavandian, the chief of staff of the President of Iran and former president of Iran Chamber of Commerce Industries and Mines, sanctions have imposed at least an extra cost of 15 billion dollars annually over the eight years from 2008 to 2015 on Iran's trading transactions and at least an extra 15% cost has been imposed on Iran's imports and exports industries/systems. Nahavandian, who spoke in support of the Joint Comprehensive Plan of Action (JCPOA) in Iran parliament's special commission on the JCPOA, asserted that all Iranian families would have to pay the extra costs to purchase imported goods. He added that as a result of sanctions, Iran's crude oil exports dropped from 2.5 mbd to 1 mbd. Such a drop means a 75 million dollar daily loss if the oil price was considered to be \$50 per barrel and not \$130 (when the price was higher) (Mohammad Nahavandian's speech video is available at http://cdn.tabnak.ir/files/fa/news/1394/6/30/529867_326.mp4).

In sum, the implementation of sanctions has imposed multi-faceted difficulties on Iran's import/export industries, in particular on the shipping, insurance and payment sectors. In addition, import/export barriers have paved the way for two other economic disruptions: corruption and smuggling. In the end, the outcome has brought severe economic and thus social hardship to Iranian civilians.

⁸⁴ India became a major rice exporter to Iran in 2012 by providing more than 60% of Iran's rice imports. It was eventually revealed that India had taken advantage of sanctions against Iran to export its arsenic infected rice in return for the oil money <http://danakhabar.com/fa/news/1162376/شد-خبر-ساز-هندی-الوده-های-برنج-هم-باز>.

- **Iranians’ Misery indicator**

The misery index is “the sum of the inflation, interest and unemployment rates, minus the annual percentage change in per capita GDP” (Hanke October 2012, 19). The inflation and unemployment rate in Iran increased as sanctions tightened and as more actors implemented sanctions against Iran.

According to the Iran Central Bank Report, the annual inflation rate reached its highest point in 2013 by 34%. However, some outside experts question the authenticity of the official rate and estimate that the actual number was over 50% (Iran Central Bank (ICB) website; katzman July 26, 2013) .

Table 6.2 The official annual inflation rate in Iran since the UN sanctions were authorized in 2006

Annual inflation rate (%) 2006-2014	
Year	Inflation rate (%)
2006 (1385)	11.9
2007 (1386)	18.4
2008 (1387)	25.4
2009 (1388)	10.8
2010 (1389)	12.4
2011 (1390)	21.5
2012 (1391)	30.5
2013 (1392)	34.7
2014 (1393)	15.6
2015 (1394)	

Source: Iran Central Bank’s website: <https://www.cbi.ir/datedlist/10807.aspx>

Steve H. Hanke, Professor of Applied Economics at The Johns Hopkins University in Baltimore and a Senior Fellow at the Cato Institute in Washington, D.C., believes that the sanctions “are imposing a great deal of misery on Iranians” (Hanke October 2012, 20). According to Hanke, Iranian citizens experienced the highest level of misery in October 2012, when the monthly inflation rate reached 69.6% (Hanke May 28, 2014). The following chart illustrates his misery index calculation for Iran during four administrations.

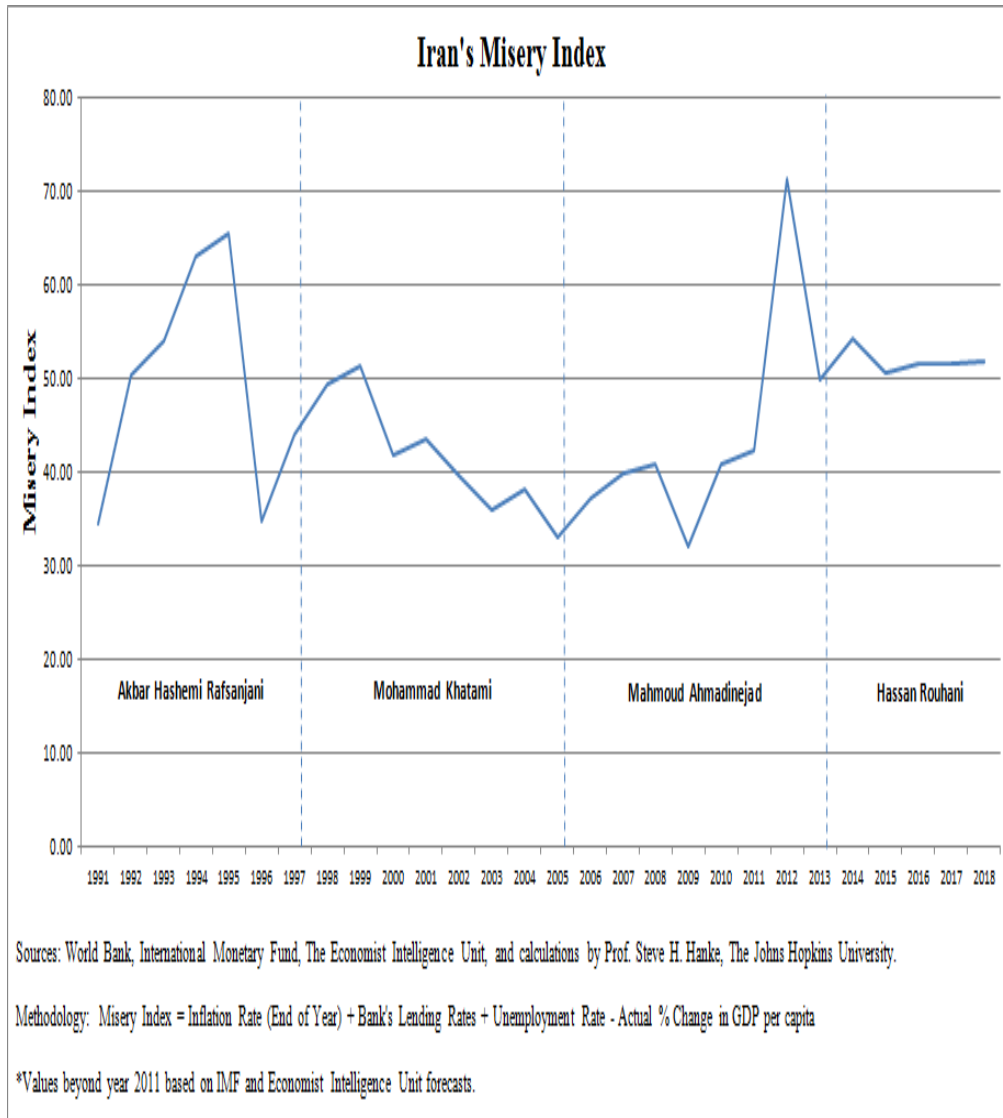


Chart 6.1 Iranian misery index

Source: Hanke May 28, 2014

There is a high possibility that the actual rate of inflation, interest rates and unemployment are higher than official numbers, yet “the pattern of “ups” and “downs”” is reliable (Hanke October 2012, 19). Iran’s misery index dramatically went up under Ahmadinejad’s presidency, particularly since 2011 after sanctions were tightened.

Table 6.3 The Impacts of Sanctions Implementation on Iranians' economic situation (selective indicators)

	Impacts	Consequences
The value of Iranian national currency (Rial)	Devaluation	Economic hardship for Iranian people
Iran's export/import	Difficulties in shipping, insurance and payments to foreign states	Economic hardship for Iranian people
Iranians' misery index	- High inflation -Low employment	Economic hardship for Iranian people

1.1.3. Impacts on Public Health and Safety

The implementation of sanctions has affected the health and safety of Iranians in three different areas:

(a) medicine and medical equipment, (b) air pollution and (c) civil aviation.

a) Medicine and medical equipment

Sanctions on Iran do not directly target humanitarian goods like medicine, but they have still had severe indirect impacts on the entire Iranian health care system. Patients with special diseases such as thalassemia, dialyses, hemophilia and chronic diseases such as cancer and MS are the most vulnerable groups, who have been affected by indirect impacts of sanctions. According to Fatemeh Hashemi Rafsanjani, Head of Charity Foundation for Special Diseases, providing medicine for patients with cancer and MS has become difficult. Patients with thalassemia and dialyses are experiencing difficulties due especially to sanctions on banking and financial transactions (BBC Oct.17, 2012).

Ahmad Ghavidel, head of Iran's hemophilia center acknowledges the shortage of medicine for the hemophiliacs:

“...because of sanctions, access to medicine for people with hemophilia has decreased. As a result of medicine shortages these patients are unable to store medicine at home and use it in cases of emergency...by imposing sanctions on banks it is essentially difficult to import medicine” (Khabaronline News Agency Nov.13, 2012).

He draws attention to the danger of people gaining disabilities due to hemophilia medicine shortages:

” In American and European countries, people with hemophilia are able to take their medicine before bleeding ... but in Iran, patients have to take medicine after bleeding. Severe bleeding can cause disability and because of the medicine shortage, we cannot prevent disabilities ...we are running out of hemophilia medicine.” (Ibid).

According to Dr. Mahmoud Najafi Arab, the head of Iranian Holder of Human Pharmaceutical Industries Syndicate, Iran has acted relatively independently in medication as it produces 97% of its medicine. Iran has to import 50% of the raw material necessary for internal medicine production and the share of internal medical equipment production is 50% (ISNA March 2, 2015; Trade Promotion Organization of Iran website Nov. 2, 2015). However, in spite of the fact that humanitarian goods including medicine are excluded from all sanctions, many international companies were reluctant to do any trade with Iran, including the legitimate ones, because of the difficulties of trading with Iran in general. Difficulties in payment, shipment, insurance and dual use items trading were enough to persuade many companies to take a high risk averse approach towards Iran in order to avoid any possible violations of sanctions. As a result, in some cases, Iran had to provide necessary medicine and equipment from international brokers at unreasonable prices (Dehshiri and Sharif Shaahi 2013, 182-197)

The implementation of sanctions has impacted Iranians’ public health in the following ways:

- **Payment for medicine and medical equipment**

Imposing sanctions on Iranian banks and cutting Iran off from the international financial system have caused many difficulties for Iranian medicine and medical equipment. They have made it difficult for importers to open LC and pay for their purchases and to import the medicine, medical equipment and raw material necessary to produce medicine domestically (Ibid, 182-197).

Dr. Seyed Alireza Marandi, President of the Iranian Academy of Medical Sciences and a former Health Minister, in a letter to the UN secretary-general, challenged the sanctioners’ narrative that medicine is exempted from sanctions on Iran:

“(The sales of) medicines have not been banned directly. Of course there are some pharmaceutical companies that refuse to sell drugs to us but those which sell medicine

to us want their money and the money should be paid by the Central Bank of Iran (CBI) though the CBI is under sanction and cannot pay the money."

(Fars News Agency Nov. 11, 2013)

Iran has also been struggling with the importation of medical equipment. Seyyed Hassan Hashemi Ghazizadeh, the minister of Health and Medical Education of Iran under Rohani's presidency, asserts that "although we had negotiated purchasing 800 ambulances from Mercedes-Benz and we had defined the prices more than seven months ago, we have not been able to import them yet due to the sanctions and difficulties of payment through banks" (ISNA June 19, 2015).

- **Shipments of medicine and medical equipment**

Sanctions on Iranians shipping lines and bans on international insurance companies from providing insurance for Iranian consignments have resulted in an increase in transportation costs, including medicine and medical equipment transportation. Thus the final price of medicine and medical care increased significantly for Iranian families (Dehshiri and Sharif Shaahi 2013, 185)

Consequences

The implementation of sanctions has indirectly impacted the availability and use of medicine and the medical equipment shipment and payment system, as well as nuclear medicine production and research. These impacts have had consequences for Iranians such as (a) medicine shortages, (b) a rise in medicine and medical care costs, and (c) the trafficking of counterfeit medication. The rise in cost of medicine and medical care for Iranian patients is not only due to shipment and payment system difficulties, but is also due to the devaluation of Iran's national currency, Rial. The implementation of sanctions, especially on the banking and financial sectors, has contributed to the devaluation of the Rial against foreign currencies. Consequently, providing medicine and medical equipment from other countries became much more expensive and the availability of some medicines to Iranian patients became costly and limited. Furthermore, the difficulties in purchasing medicine from original producers paved the way for counterfeit medication trafficking to Iran. Pakistan and Iraq's Kurdistan are the epicenters of producing counterfeit medication and smuggling them to Iran (Shahrvand Newspaper June 28, 2014).

In sum, by the implementation of sanctions, Iranian access to some medicine, especially expensive Western-made medicine, has been remarkably restricted and the price of medicine and medical care has sharply risen. Consequently, all patients, in particular those with chronic disease, who have to take lifetime medications and medical care have been affected not only by low quality, high costs and shortages in medications and medical care, but also by psychological pressure and stress resulting from the more difficult treatment paths that they and their families have had to endure after the implementation of sanctions. However, the Ahmadinejad government's policies and mismanagement have played a significant role in deteriorating Iran's medicine market. The government's mismanagement will be elaborated on in more detail in a separate section.

b) Air pollution

Sanctions on refined petroleum, including exportation, investment, and contributions to its production, drove Iran to unstandardized ways of producing fuel in order to meet domestic needs. The Ahmadinejad government decided to produce gas in petrochemical complexes instead of refineries. The gas produced in petrochemical complexes triggered a controversial debate regarding its dangers for both Iranian health and the environment. Some members of the Tehran City Council and Iran's parliament publicized information that the fuel produced in petrochemical complexes is polluted with toxic substances and causes cancer⁸⁵ (ISNA Nov.25, 2014). Many reports, research and statistics on the fuel produced in petrochemical complexes and its effects on Iranians' health have remained confidential. In June 2014, three Iranian lawyers filed a lawsuit against Masoud Mirkazemi, Iranian oil minister under Ahmadinejad presidency from 2009 to 2011 (1388-1390), after conducting independent research on the dangerous effects of petrochemical complex's gas on public health. Mostafa Tork Hamedani, one of the lawyers, asserts that the confidential statistics illustrate the progressive increase in cancer among children. (Tabnak News Site September 3, 2014).

Alireza Daghighi, another of the three lawyers, asserted that benzene directly affects the nervous system and reduces IQ. Therefore, the high level of benzene in petrochemical gas has reduced IQ in Tehran and other cities in which this gas has been distributed (Kalameh News Website Nov.11, 2014).

⁸⁵ Mohammad Esmail Akbari, Chairman of the Cancer Research Center (CRC) in Iran, stresses that air pollution is more effective in causing cancer than smoking. He asserts that air pollution plays a key role in causing almost all kinds of cancer, but most particularly lung cancer, prostate cancer and leukemia (Mehr News Agency, February 15, 2014).

Asgar Jalalian, a member of the energy commission of Iran's parliament, warned that the danger of public dissatisfaction over the fuel shortage is less than danger of cancer (ISNA Nov.25, 2014). The government denied the accusation and affirmed that the petrochemical complex's gas was standard. In Tehran and other big cities, the air pollution and fatalities linked to it were increasing. According to Kamaladin Pirmoazen, member of the environment commission of Iran's parliament, unstandardized fuel causes 4000 fatalities annually (Mehr News Agency May 25, 2014). Based on what was announced in the 16th National Congress on Cardiovascular Updates (NCCU) in 2014, in Tehran alone, 2400 to 4800 people lost their lives in 2012 (1391) due to the air pollution. According to Masoud Eslami, scientific secretary of the congress, that number is equal to a passenger airplane crash occurring every week (Mehr News Agency September 17, 2014).

Tehran's air had been extremely polluted by toxic substances from 2009 to 2013 (1388-1392). The capital city experienced its most polluted days in December 2011 (1390), when not even one day was recorded as a "clean day" (ISNA Nov.25, 2014). Gradually, more and more authorities began to speak out. Masoumeh Ebtekar, head of the Environmental Protection Organization and Rahmatoallah Hafezi, head of Health Commission of the Tehran City Council, warned and acknowledged that the gas produced in petrochemical complexes is polluted and causes cancer because of a high level of benzene (ISNA Nov.25, 2014).

According to the official letter of the National Iranian Oil Refining & Distribution Company (NIORDC), the level of benzene in the gas produced in petrochemical complexes from 2010 to 2013 (1389-1392) had been 40% more than the permitted and standard level. Based on the International Agency for Research on Cancer (IARC)'s classification in 2010, benzene is in the highest group of materials that cause cancer⁸⁶ (ILNA News Agency August 27, 2014). The analysis of distributed gas in Tehran by ASG laboratory in Germany in 2012 and 2013 (1390-1391) revealed that the Sulphur level was 20 times higher than the standard (Mehr News Agency July 7, 2014). In 2014 (1393), the production of petrochemical gas was finally halted (ISNA Nov.25, 2014).

In sum, the implementation of sanctions on refined petroleum drove the Iranian government to look into alternative ways to circumvent sanctions and avoid fuel shortages for domestic use.

The Ahmadinejad government's ill-made decision to produce fuel in petrochemical complexes

⁸⁶ The statistic of Mofid Hospital in Tehran illustrates that the number of children diagnosed with leukemia who reached the hospital increased in 2013. In addition to leukemia, benzene has other dangerous effects on health such as somnolence, dizziness, headaches, as well as irritation of the skin, eyes and breathing systems, blood disorders, effect on bone marrow, chromosome abnormalities and harm to nervous system (ILNA News Agency August 27, 2014).

instead of refineries took a great toll on the Iranian population by causing civilian misery on the ground.

c) Civil aviation

Iranian airlines were more widely used than any other country's in the region in the 1970s. However after decades of sanctions against Iran, they ended up among countries with the worst safety records in the world⁸⁷. In 1995, U.S. sanctions on Iran's aviation sector were authorized under President Bill Clinton. The sanctions banned all U.S. aviation companies from selling aircrafts and spare parts (new or used) and from providing maintenance and other services to Iran. Additionally, all other countries and firms in the world were neither allowed to resell the U.S.-origins aviation equipment to Iran even if they have possessed them for many years, nor were they permitted to provide maintenance and other services for U.S. parts⁸⁸ (ICAO working paper, A36-WP/275, EC/34 September 20, 2007, 3-4). However, during the Bush and Obama administrations, selling spare parts to Iran was permitted on a case-by-case basis by receiving export licenses from OFAC. In 2011, such permissions were reversed, when the U.S. accused Iranian airlines of transferring arms to Syria and authorized targeted sanctions on almost all main Iranian airlines⁸⁹ (Katzman May 7, 2014, 1-79; Middle East Report N°138 25 Feb 2013, 36). Iran tried to draw the attention of the International Civil Aviation Organization (ICAO) to the impacts of sanctions on Iran's civilian aviation safety. Iran claimed that U.S. sanctions contradict Article 44 of the Convention on International Civil Aviation (Chicago Convention December 7, 1944)⁹⁰. In response to Iran's claim, the ICAO deployed a Fact-Finding mission to Iran and then published its report on May 9, 2005. According to the ICAO, "the findings of ICAO should be upsetting to anyone who is committed to the safety of civil aviation" (ICAO working paper, A36-WP/275, EC/34 September 20, 2007, 4). The report affirmed that "in fact, the United States' sanctions had endangered the safety of civil aviation in Iran and they are contrary to the provisions, aims and objectives of the Chicago Convention." (Ibid, 3). According to the ICAO, U.S. unilateral sanctions against Iran and U.S. extraterritorial sanctions of the re-export provisions have had

⁸⁷ Iran's safety record is available at:

<http://aviation-safety.net/database/dblist.php?Country=EP>

⁸⁸ In 2010, the U.S. authorized extraterritorial sanctions in which countries and entities were banned from selling aviation fuel to Iran (Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA)).

⁸⁹ Iran Air was sanctioned under Executive Order 13382 and other major Iranian airlines were sanctioned under Executive Order 13224 (Katzman May 7, 2014, 6-7).

⁹⁰ The Chicago Convention is a document on rules of airspace, aircraft registration and safety. This document, which was signed on December 7, 1944 in Chicago, U.S., defines the rights of signatories in regard to air travel. The U.S. is a founder and party to Chicago Convention (Wikipedia website: https://en.wikipedia.org/wiki/Chicago_Convention_on_International_Civil_Aviation)

detrimental effects on Iran's civil aviation safety. And they have been inconsistent with both the letter and spirit of the Chicago Convention, in particular Articles 4 and 44⁹¹ (ICAO working paper, A36-WP/275, EC/34 September 20, 2007, 4).

After decades of implementation of sanctions, Iran's aviation system is in dire need of new aircrafts and spare parts. According to Iran Air chief Farhad Parvaresh, the implementation of sanctions has driven Iran to provide its needs from black markets, where in some cases it had to pay more than 30% of the original price (Traufetter October 1, 2012). What is more, the process of purchasing an airplane could last for about 9 months (Zare Chahaki 2008, 174). Moreover, providing aviation needs from black markets always come with safety uncertainties and safety delays. Regrettably, the toll has been taken on Iranian civilians.

The implementation of sanctions on Iran civil aviation has caused the following consequences:

- **Old fleet**

The average age of an aircraft that operates in Iran Air, the country's national airline, is 26 years while it is only 7 years in Emirates (The Economist July 21, 2015). Iran Air's ageing fleet causes dangerous troubles: wheels may not open, electronic systems may die, breaks may not work properly and wheels may blow up (Zare Chahaki 2008, 174). The process of properly renewing aircrafts is almost impossible due to sanctions on Iran's aircraft purchasing abilities, maintenance, post-sell services, and spare parts.⁹²

- **Less advanced aircraft**

Iran's aviation system is mostly constituted of Boeing aircraft. When Boeing was banned from selling aircraft, providing spare parts and other services to Iran due to sanctions, Iran had to stay with old Boeings as well as purchase less advanced aircraft from Russia (Pourhassan 2007, 94).

In sum, the implementation of sanctions on Iran's civil aviation system has caused poor air safety and has jeopardized the lives of Iranian civilians. Regretfully, statistics illustrate that Iranian airlines' accidents occur 40 times more frequently than North America's airlines (Middle East Report N°138 25 Feb 2013, 36).

⁹¹ Article 4 of the Chicago Convention requires signatories to avoid using civil aviation for any objectives which are inconsistent with the Convention. Article 44 lists the objectives of the Convention such as: the promotion of aviation safety and avoiding discrimination between contracting states (Convention on International Civil Aviation Done at Chicago on the 7th day of December 1944: http://www.icao.int/publications/Documents/7300_orig.pdf)

⁹² The value of Iran's current aviation is only \$ 1 billion while it needs \$11 billion to purchase new aircrafts (Zare Chahaki 2008, 174).

Table 6.4 The Impacts of Sanctions Implementation on Public Health and Safety

Areas of impact	Impacts	Consequences
Medicine and medical equipment	Difficulties in: (a) Payment for medicine and medical equipment; (b) Shipment of medicine and medical equipment; (c) Nuclear medicine production and research.	(a) Shortage; (b) High expenses; (c) Trafficking of counterfeit medication.
Air pollution	Difficulties in: (a) Importing standard fuel to avoid domestic shortage; (b) Increasing the refined petroleum products, and constructing, modernizing, and repairing petroleum refineries.	(a) Production of unstandardized and harmful fuel to circumvent sanctions and compensate shortages; (b) Deterioration of air quality
Civil aviation	Difficulties in: (a) Purchasing aircrafts and spare parts; (b) Access to post-sell maintenance and services	(a) Old fleet (b) Less advanced aircrafts (c) Poor air safety

1.1.4. Scientific and Educational Impacts

The implementation of sanctions has exacerbated preexisting hardships faced by Iran and added to the disappointment and hopelessness of Iranians, especially the educated class. Many educated Iranians decided to leave the country. There is no reliable statistic on “brain drain” in Iran. But, according to Seyyed Shahabedin Chavoshi, Political-security Deputy of the Province of Tehran, 180,000 elite people have left Iran over the recent years, and caused 50 billion dollars in losses for the country (Alef News Website August 25, 2014). Hassan Moslemi Naeini, former Vice President of Deputy of

Scholarship and Students Affairs Abroad, estimates that around 5,000 Iranian students leave the country annually to study in other countries mainly Malaysia, U.S., Canada, and the UK. This statistic only includes students who aimed to finance their studies themselves and does not include students who received scholarships (Khabaronline News Agency October 12, 2013). Unofficial statistics, therefore, show a massive brain drain in Iran.

The scientific and educational impacts of sanctions against Iran are classified into four categories: students, universities, publications, access to scientific journals and participation in online courses and scientific conferences.

- **Students**

- a) Ban on studying sensitive topics**

The UNSCR prohibits all Member States from providing “any technical assistance or training” in sensitive areas to Iranians (UNSCR 1737(2006), para.6). According to the Panel of Experts’ (POE) report, Member States have adopted different approaches to comply with the resolution. For instance, one country has prohibited Iranian students to study in engineering or science courses (POE Report June 2013 (S/2013/331)). Furthermore, many countries that have adopted policies such as rejections of student visa requests and closely monitor students from the Islamic Republic of Iran (Ibid, 32). The Netherlands and Norway were two such countries who remarkably expanded the implementation of scientific sanctions by not offering admissions to Iranian students in many fields. Furthermore, the residence permits of some post graduate Iranians in Norway were canceled in 2014. They received letters from the Directorate of Immigration to leave the country since their studies could contribute to Iran’s nuclear industry (BBC July 27, 2014). In 2013, around 60 Iranian student visa requests were rejected based on the Norwegian police security service recommendation (Ibid). The Norway embassy warned Iranian students that they may not be able to get student visas if they were seeking to study in the following fields:

Biotechnology, biochemistry, pure chemistry, nuclear physics, information and communication security, electronic engineering, aviation, aerospace engineering, mechanical engineering, material engineering, and cybernetic science. Some countries have included petroleum engineering in the list of restricted fields for Iranian students (BBC June 6, 2014).

b) Tuition payment hardship

The implementation of sanctions has directly (through sanctions on the banking and financial system) and indirectly (through the devaluation of the Rial) have impacted Iranian students studying abroad. Tuition remittances from the Iranian government and Iranian families became impossible as Iranian banks were cut off from the international financial system. Consequently, many Iranian students were not able to pay their tuition fees and continue their studies. Along with difficulties in tuition remittances due to banking and financial sanctions, there was the sharp devaluation of Iran's national currency against the US Dollar added to the difficulties faces by Iranian students. Subsequently, continuing to study abroad became extremely expensive. According to Moslemi Naeini, more than 3000 Iranian students opted to return to Iran in 2012 (1391) mostly due to a sharp devaluation of the Rial and inability to provide their tuition payments (Khabaronline News Agency October 12, 2013).

• Universities

Sanctions have directly targeted two Iranian universities:

- a) Malek Ashtar University:** has been subjected to UN and EU sanctions due to the allegation of its link to the Ministry of Defense and cooperation with Aerospace Industries Organization (AIO) (UNSCR 1929 (2010), Annex I, page:12, and Council Common Position 2008/479/CFSP, Annex)
- b) Sharif University of Technology (SUT):** was added to the EU sanctions list in 2012 due to the allegation of its contributions to Iran's proliferation activities (Council Implementation Regulation (EU) No 1264/2012 December 21, 2012).⁹³

Iran has objected to sanctions against its universities and believes that such actions are in violation of the International Convention against Discrimination in Education (IRNA Nov.9, 2014). The implementation of sanctions against Iranian universities has caused difficulties in (a) purchasing laboratory equipment and materials, (b) scientific exchanges including invitations of foreign professors and scholars to the sanctioned universities, and scientific exchanges between students and research centers.

⁹³ In addition to those two Iranian universities, approximately 75 research institutes in the world sanctioned Iran's Foreign Affairs Ministry research branch in 2007 sanctioned or were sanctioned? (Tabnak News Site, July 27, 2013).

- **Publications and access to scientific journals**

According to the U.S. Office of Foreign Assets Control (OFAC) laws, all U.S. owned journals are prohibited from publishing papers by authors employed by the government of Iran (Tasnim News Agency July 31, 2013). Consequently, some outstanding publishing companies adopted restrictive measures against Iran.

- a) **Elsevier publishing company**

Elsevier, one of the largest scientific publications in the world, has been legally obliged to comply with the OFAC rules, as Elsevier is a US owned journal⁹⁴.

Elsevier blocked the access of two Iranian universities, Shahid Beheshti and Maaleke Ashtar, to its scientific database following the US and EU sanctions implementations on Iran (Daavari and Azizi May 2012, 2-3). Elsevier sanctions have had a remarkable impact on Iran's scientific society, as Iranian researchers have had their most scientific exchanges with Elsevier (Daavari and Azizi May 2012, 5).

- b) **Taylor & Francis Group**

Taylor & Francis, a distinguished publisher of scientific books and journals, requested that its affiliated journals not publish Iranian papers in accordance with U.S. and EU sanctions against Iran (Tanbnak News Site July 28, 2013).

Furthermore, some other international scientific sites halted their services to Iran, as Iran was not able to pay its membership fees due to the financial sanctions placed on the country (BBC June 6, 2014).

- **Participation in online courses and scientific conferences**

- a) "Coursera", one of the largest companies offering online courses with the cooperation of top universities, restricted Iranians' access to all of its online courses in compliance with U.S. export control regulations. It, however, amended its policy after five months and announced that Iranians' access is blocked only in advanced STEM (Science, Technology, Engineering and Math) areas. According to Coursera's estimates, more than 20,000 Iranians had participated in courses before access was blocked (Coursera blog June 3, 2014).

⁹⁴ Elsevier is based in Amsterdam and publishes about 350,000 articles per year in 2000 journals. The article topics mainly include science, technology and health sciences (Wikipedia website, Elsevier: <https://en.wikipedia.org/wiki/Elsevier>)

- b) Scientific conferences focused on specific fields have restricted the participation of Iranian researchers. Additionally, researchers and professors from some American and European universities have been prohibited from attending conferences in Iran (BBC June 6, 2014).

Table 6.5 The impacts of sanctions implementation on Iran’s science and education fields

Areas of impact	Impacts
Students	Difficulties in: (a) Studying in sensitive topics (b) Tuition payment
Universities	Difficulties in: (a) Purchasing of laboratory equipment and materials (b) Scientific exchange
Publication and access to scientific journals	Difficulties in: (a) Publishing scientific papers (b) Access to scientific databases
Participation in online courses and scientific conferences	Difficulties in: (a) Access to online courses (b) Participation in scientific conferences

1.1.5. Cultural impacts

Sanctions have cultural impacts even if they do not target cultural sectors. As a general rule, sanctions trigger dissatisfaction and outrage in their target society (Boghairy 2013, 118). The more protracted sanctions are, the greater the possibility that cultural changes on the population will be perceivable. While sanctions are imposed to change the target regime, they have the potential to change the behavior of a society (Andreas 2005, 338).

The impacts of sanctions on Iran’s culture and behavior are noticeable at two levels of the state and the society. Yet, the cultural impacts of sanctions on Iran are too great to be measured and studied independently. They could be pointed out for further research as follows:

a) State level

- **Culture of rationalizing irrationality**

Prolonged sanctions provide grounds for the irrational behavior of the target state. Irrational policies and decisions can be justified as necessary policies to circumvent sanctions. Circumvention policies are usually costly and in some cases are harmful to civilians. For instance, the production of unstandardized and harmful fuels in petrochemical complexes was “irrational circumvention policy” by the Ahmadinejad government. This step was not only rationalized and justified under the pressure of sanctions but was also depicted as an achievement in self-sufficiency.

b) Society level

The prolonged implementation of sanctions has contributed to factors that have caused desensitization, inferior feelings and aggressive behaviors among Iranians.

- **Desensitization**

As a general rule, sanctions provide grounds for corruption and smuggling in the target country. The target society gradually loses its sensitivity as more cases of smuggling and corruption take place (Andreas 2005, 336). Iranians’ reaction to the news of embezzlements, corruption, smuggling and sanctions mafias have not been proportionate. In fact, Iranians have been getting more accustomed to practices of law breaking.

- **Inferior feelings**

A fraction of Iranian society has been developing a feeling of inferiority when compared to the international community. One of the reasons for this inferior feeling among Iranians is because Iran has been stigmatized for a long time as a threat to international peace and security and as a country that deserves the punishment of sanctions (Karimikia March 2013, 180-1). However, some other Iranians have been developing a proud feeling since they perceive their country as a sole resistance front against U.S. cruelty.

- **Aggressive behavior**

The general logic behind sanctions is that the pain of the populace will result in political gain (Biersteker and others 2012, 10). In other words, the dissatisfaction and anger of civilians would translate to violence and pressure against the target

state and would eventually result in a change in the behavior of the state. However, this logic does not work for Iran because there is no organic relation between the state and society. In other words, the state is not dependent on society for providing its resources; rather it is dependent on oil. Therefore, it is not dependent on the society to set the policies as well.

While sanctions have impacted the daily lives of Iranians, there has not been a noticeable, organized, and widespread opposition out of economic hardship against the government. On the contrary, the statistic shows a rise in aggressive and violent behavior among the people themselves. Based on the Iranian Legal Medicine Organization’s report, street conflict has increased in Iran and Tehran has the highest ranking. According to the report, a street conflict occurs every minute in Iran (Arman Newspaper June 15, 2015). Economic and family problems, psychological pressures, unemployment and air pollution are among the reasons for a decrease in Iranian tolerance and an increase in local violence (Jamejamonline News Website April 5, 2015).

This increase in violence and anger among Iranians is observable and is supportable by statistics. But it is difficult to ascertain to what degree it is linked to sanctions.

Table 6.6 The Impacts of Sanctions implementation on Iran’s Culture

Areas of Impact	Impacts
State level	(a) Culture of rationalizing irrationality
Society level	(a) Desensitized (b) Inferior feeling (c) Aggressive behavior

1.1.6. Environmental impacts

The implementation of sanctions has indirectly impacted Iran’s environment. On the one hand, sanctions have contributed to the creation of a new environmental deteriorating cause, while on the other, it has exacerbated the pre-existing environmental problems.

- **Contribution to a new environmental deteriorating cause**

The most tangible environmental impact of sanctions implementation is observable in the air quality of big cities of Iran. Big cities have been suffering from air pollution for a long time, but the implementation of sanctions exacerbated even further air pollution. As elaborated in the section “Impacts on Public Health and Safety”, sanctions on selling refined petroleum to Iran and any contribution and investment to develop this sector drove the Ahmadinejad government to adopt the unprecedented and irrational decision of producing unstandardized fuel in order to overcome the domestic shortage caused by sanctions. As a result, the environment, especially in large cities, was deteriorated further by a new cause. According to Masoumeh Ebtekar, Vice-President and Head of Iran’s Department of Environment, Iran’s access to the standards of air pollution, air quality and fuel was delayed by the implementation of sanctions (IRNA October 4, 2014).

- **Exacerbating pre-existing environmental problems**

Iran’s fragile environment has been struggling with difficulties such as drying ponds and lakes, an inadequate water supply, and air pollution. The implementation of sanctions has significantly worsened the pre-existing environmental problems in the following ways:

- a) **Reduction of government revenue**

Environmental projects require vast financial resources and budgets. The implementation of sanctions, especially sanctions on purchasing Iran’s crude oil, remarkably reduced the government’s revenue, which is highly dependent on oil exports. Consequently, environmental projects received less priority in governmental budget allocations and the allocated funds were far less than required.

- b) **Suspension of international aid**

Sanctions have affected the payment of international aid allocated to Iran’s environmental projects. The Global Environment Facility (GEF) has paid only 4.2 million dollars out of 30 million dollars of its financial commitment to Iran. According to Masoumeh Ebtekar, the GEF has suspended the payment of the remaining 26 million dollars due to the sanctions and pressure from western contributors (Khabaronline News Agency June 23, 2015).

c) Insufficient foreign investment, technical aid and regional-international cooperation

Iran has been struggling with large-scale environmental problems with regional impacts such as the Lake Orumieh crisis⁹⁵ and “dust storm phenomenon”⁹⁶. Tackling these problems requires foreign investments, technical aid and regional-international cooperation, which have become less accessible due to the sanctions against Iran. The Rouhani administration has paid special attention to environmental crises, to the extent that it has labeled itself an environmental government. President Hassan Rouhani has stressed that sanctions have had devastating impacts on Iran’s environment and solving environmental problems will be possible only when sanctions are lifted and foreign investments are allocated (ISNA June 7, 2015).

d) Restricted access to advanced and environment-friendly technologies

Iran is in need of advanced and environment-friendly technologies to improve its environmental standards in different sectors such as energy and fuel, air quality, water and waste management and green industries. The implementation of sanctions has impeded Iran’s access to these technologies. Masoumeh Ebtekar has warned UN Secretary-General Ban Ki-moon in a letter, that the implementation of sanctions has had devastating impacts on Iran’s environment by hindering Iran’s access to advanced and environment-friendly technology (Fars News Agency Nov 11, 2013).

Table 6.7 The Impacts of Sanctions implementation on Iran’s Environment

Levels of impact	Impacts
Contribution to creation of a new environmental deteriorating cause	Air pollution
Exacerbating pre-existing environmental problems	Further delay in tackling the environmental problems and reaching environmental standards

⁹⁵ Lake Uromieh was the largest lake in the Middle East before it shrunk to 10% of its initial size (Wikipedia website: https://en.wikipedia.org/wiki/Lake_Urmia). Reviving the lake is one of the largest and most difficult environmental projects undertaken by Iran.

⁹⁶ “Dust storms” are a new phenomenon in Iran that have mostly affected the southwestern parts of Iran. In some cases, schools were shut down and hospitals were filled. The source of dust storms in Iran is deserts in countries around the Persian Gulf. Dust storms could reach distances as far as Tehran and Afghanistan. Regional and international cooperation is necessary for tackling the dust storm phenomenon (Ali Boghairy, “**the Impact of Iran Sanctions on Persian Gulf Environment**,” *Middle East Studies Quarterly* 5, no. 3 (2013), 126).

1.2. Iran's government mismanagement

Iran's government mismanagement coupled with the implementation of sanctions took a great toll on the Iranian population. Ahmadinejad's major mismanagements in this regard are classified in the following four main categories:

a) Mismanagement in healthcare policies

The shortage of medicine was not only due to the implementation of sanctions and difficulties in providing western-made medicine, but also because of inadequate policies during Ahmadinejad's presidency. Marzieh Vahid Dastjerdi, Iran's Minister of Health and Medical Education under Ahmadinejad's presidency, was the first to officially disclose a series of financial violations supported by the government which interfered with the process of importation of medicines. She publicized the fact that some corporations were using subsidized dollars allocated for medicine importation to import unnecessary luxury goods such as Porsche cars and cosmetics. In an interview with Iran's National TV, she announced that only 41 million dollars out of 2.5 billion dollars allocated for the Ministry of Health was paid (Marzieh Vahid Dastjerdi's interview video). She was discharged shortly after she publicized her criticisms.

b) Mismanagement in fuel policies

Although sanctions on Iran's energy sector, especially on refined petroleum, caused a severe shortage of gas, the Ahmadinejad government adopted a harmful and unethical policy of producing highly unstandardized gas at petrochemical complexes to meet domestic consumption rates. Consequently, sanctions on refined petroleum and Iran's government fuel policy jeopardized the health and lives of Iranians and caused long-term irremediable harm.

c) Mismanagement in monetary policies

President Ahmadinejad adopted the "targeted subsidies reform" in December 2010 (1389). This policy, which he called economic "surgery", was based on gradual subsidy cuts on fuel, hydro, and some edible product and cash-handouts to people in return (Reza Farzin, Guillaume, and Zytek 2011, 3). In October 2010, around 80% of Iranians had these government payments (from the oil revenue, not taxes)⁹⁷ in their special bank accounts (Ibid, 3).

⁹⁷ The Ahmadinejad Government started to pay the cash subsidies from oil revenues when the crude oil was \$100 pb in 2010. The decline of the price of oil could cause many difficulties in the continuance of the targeted subsidies policy and for the post-Ahmadinejad Government (Yadoallah Dadgar and Roohoulah Nazar, "Welfare Analysis of Subsidy Policy in Iranian Economy," *Social Welfare Quarterly* 11, no. 42 (2011), 369).

As a general rule, such policies have the potential to reduce inequality in societies. However it has had reverse effects in Iran due to the following reasons:

- a) The implementation of the “targeted subsidies policy” was hasty, ambitious, and without enough expertise studies done in advance;
- b) The necessary economic infrastructure was not provided prior to the implementation of the targeted subsidies policy;
- c) The payments were distributed unjustly; the cash subsidies were paid to both high-income and low-income classes at the first stages;
- d) The government was in noncompliance with the law and was repeatedly violating the law in paying the cash subsidies (e.g. withdrawing from the Central Bank of Iran resources to provide the payments);
- e) The government was not providing transparent reports on the implementation of the targeted subsidies policy implementation; the misleading information delayed criticisms and reforms to the policy. (Dadgar and Nazar 2011, 362-70).

Hence, the targeted subsidies policy resulted in inflation, inequality, unemployment, budget deficits and economic growth reduction (Ibid, 362-8).

In sum, Ahmadinejad’s government targeted subsidies reforms is one of the policies to be blamed due to its negative economic consequences (Khajehpour, Marashi, and Parsi March 2013, 12). Some Iranian officials asserted that 50% of Iran’s dire economic situation is due to the sanctions and the other 50% is the result of domestic mismanagement and detrimental decisions (Ibid, 12).

d) Mismanagement in sanctions circumvention policies

Sanctions are a recipe for corruption. Hadi Haghshenas, an economic expert and former MP in Iran, asserts that the country has never been more prone to economic corruption than the time of sanctions implementation (Fararu News Website Aug.3, 2015). He adds that since some official trades were impossible under sanctions, the government allowed some individuals to conduct unofficial trades in order to circumvent sanctions. For instance, some individuals were authorized to sell Iran’s oil through unofficial channels (Ibid). Some of these individuals, known as “sanctions traders”, took advantage of the given privilege to earn money. The most well-known and controversial sanctions trader, who was authorized under the Ahmadinejad government to sell Iran’s oil, is Babak Zanjani. He was arrested and put in jail in 2013 for withholding around \$2

billion of oil income (BBC Dec.30, 2013). Zanjani’s case is one of the biggest economic corruption cases in Iran’s history.

Ali Ghanbary, an Iranian economic expert and the CEO of the Government Trading Corporation, affirms that a lack of transparency during the implementation of sanctions paved the way for sanctions traders to work in pursuit of their self-interests. Yet it is the responsibility of the government to observe and impede their activities in accordance with national interests (Fararu News Website Aug.3, 2015). In fact, Iran had to circumvent sanctions, especially for selling its crude oil. However, insufficient supervision by the government over sanctions traders paved the way for profiteers. The policies created to circumvent sanctions resulted in the creation of sanctions traders and added to the lack of transparency, economic corruption and financial scandals. Many of these scandals were revealed after Ahmadinejad’s presidency.

Iran’s Corruption Perceptions Index (CPI) became worse when Ahmadinejad became Iran’s sixth president in 2005 and when UNSC sanctions were authorized in 2006. The CPI refers to “perceptions of the degree of corruption as seen by business people and country analysts” (Transparency International: <http://www.transparency.org/research/cpi/cpi>) .

Table 6.8 Iran’s annual ranking based on the Corruption Perceptions Index (CPI)

Year	Rank	Number of Countries/Territories
2003	78	133
2004	87	146
2005	88	159
2006	105	163
2007	131	180
2008	141	180
2009	168	180
2010	146	178
2011	120	183
2012	133	174
2013	144	177
2014	136	175
2015	130	168

Source: Transparency International: <http://www.transparency.org/research/cpi/cpi>

In sum, Ahmadinejad’s poor policies and mismanagement exacerbated the impacts of sanctions on the Iranian population.

Table 6.9 Major mismanagements by Ahmadinejad government

Areas of major mismanagement	Impacts
Healthcare policies	Shortage of medicine Rise in medicine and medical care costs
Fuel policies	Air pollution -Harm to Iranians’ health
Monetary policies	Inflation Inequality Unemployment -Budget deficit -Economic growth reduction
Sanctions circumvention policies	Emergence of sanctions traders Corruption

Chapter 7: Just Implementation of Sanctions (Part III)

- Proportionality Principle
- Prospect of Success Principle
- Negotiation Principle
- Monitoring and Evaluation Mechanism
- Judicial Review Mechanism

Just Implementation of Sanctions (Part III)

1. Proportionality Principle (Inflicted harm & Committed wrongs)

As mentioned earlier, proportionality in authorization refers to the equivalence between the breached rule/norm and its consequences on one hand and the nature and scope of the countermeasures on the other (Cannizzaro 2001, 891). Proportionality should be maintained during the implementation of sanctions. In fact, there should be proportionality between applying the chosen tool (sanctions), including its impacts or inflicted harms, and the original and additional committed wrongs. In other words, “measures must remain proportional to the original wrong. Only when the wrongdoer commits new wrongs may more or different measures be taken” (O’Connell 2002, 77).

The implementation of sanctions should therefore be monitored and adjusted for the purpose of retaining proportionality. For instance, if the UN comprehensive sanctions against Iraq, due to its invasion of Kuwait, were proportionate, it ceased to be proportionate when the reason for sanctions changed from invasion to the allegation of WMD possession. The sweeping sanctions could have been adjusted to lesser countermeasures such as arms embargo to retain proportionality (Ibid, 78). Furthermore, it should be taken into account that the standard of countermeasure proportionality is unconnected with standards of effectiveness (Ibid, 78). Therefore, it would be unjust to implement sanctions disproportionately in order to increase effectiveness.

1.1. Sanctioners’ narrative

According to the sanctioners’ narrative, proportionality has been maintained during the implementation of sanctions. In other words, the pressure against Iran has been intensified in step with the increase in Iran’s wrongs in being noncompliant with the UNSCRs, and in escalating its nuclear program and getting close to the nuclear breakout capacity.

- **Iran’s noncompliance with the UNSCRs**

According to the UNSCR, Iran had to suspend all of its enrichment activities including R&D and all its heavy water reactor projects (UNSCR 1737 (2006) para.2 (a) and (b)). Not only did Iran not comply with the requirements, but it also accelerated its nuclear program by increasing its uranium enrichment level, enriched uranium stockpile, the number of centrifuges it possessed, production of new generation of centrifuges, and by working on its heavy water projects. Thus, while the implementation of sanctions has inflicted harm on the civilian population, they had to be intensified and implemented at full force in order to force Iran to comply with the UNSCRs.

- **Iran's Breakout capacity threat**

Based on the sanctioners' narrative, the implementation of sanctions had to be broad in order to prevent Iran from reaching its "breakout capacity". Breakout capacity or critical capability refers to "the time it would take to produce enough highly enriched uranium for a nuclear weapon, should Iran at some point decide to build one"⁹⁸ (Thielmann and Wright June 18, 2014). According to some estimations, it would take roughly a month for Iran to reach its breakout capacity while it would take over a year to actually make one nuclear bomb, provided the political decision is made (Hirsch March 30, 2015; Katzman March 5, 2014, 23-24).

In sum, the magnitude of Iran's breakout capacity threat and the urgency to deter it overshadows the harm inflicted on the Iranian population through the implementation of sanctions. In other words, not only has the full force of the implementation of sanctions been proportionate to Iran's breakout capacity threat, but it could still be proportionate even if it was followed by a military attack to defy the exposed threat.

Table 7.1 Iran's breakout capacity

Nuclear bomb requirement	Iran's stockpile (2015)	Iran's breakout capacity
20 kg HEU 90% (or 1000-1500 kg LEU, after further enrichment)	About 8,000 kg LEU 5% (After further enrichment, would be sufficient for 4-7 nuclear bombs)	Estimation varies from 45 days to several months (to reach to 20 kg HEU required for one nuclear bomb)

Source: Hirsch 2015:

<http://www.nationalreview.com/article/416161/irans-breakout-capacity-jordan-chandler-hirsch>

1.2. Iran's narrative

According to Iran's narrative, the implementation of sanctions against Iran have been disproportionate due to the following arguments:

⁹⁸ A common mistake is the interpretation of the "breakout capacity" as the time it would take to actually make a nuclear bomb (Thielmann and Wright, 2014).

- **Hypothetical global threat**

Nuclear-related sanctions were authorized because of the alleged original mistake committed by Iran of not reporting some of its legal nuclear activities. Sanctions were intensified and implemented in full force because of the alleged secondary wrong committed by Iran of pursuing its inalienable right to a peaceful nuclear program. Iran has constantly affirmed that it is not seeking nuclear weapons. Moreover, it has demonstrated remarkable cooperation and transparency in its nuclear program by suspending its uranium enrichment for two years and by its voluntary implementation of the Additional Protocol. Thus, the dominant narrative in Iran is that sanctioners' concern is far beyond nuclear allegations. Sanctioners have depicted Iran as a threat to international peace and security, as it is always justifiable to do everything, including the disproportionate implementation of sanctions, to deter a hypothetical global threat. In other words, once an actor has been depicted as a global threat, the only thing that matters is the effectiveness of the countermeasures, not proportionality or justice. In sum, proportionality is meaningless in the face of a hypothetical global threat.

- **Scope of inflicted harm**

According to Iran's narrative, even if the sanctions were authorized proportionately, they were merely supposed to block the channels that could contribute to Iran's nuclear program. Yet in practice, they blocked the entire economy and curbed even legitimate trades and financial transactions directly and/or indirectly. In fact, the comprehensive implementation of the so-called "targeted sanctions" turned out to be a collective punishment for all Iranians. Sanctions implementation began by targeting Iran's arms trade and some Iranian individuals and assets. But the actions changed in that disproportionately encompassed sanctions came to affect almost all aspects of Iran's economy including energy, shipping, insurance, banking and financial sectors. The implementation of sanctions has vastly and deeply inflicted harm to 77 million Iranian civilians. They have directly and/or indirectly impacted almost every aspect of Iranian life including the entire market and economy, public health, science, education, culture and environmental sectors. Consequently, the scope of the inflicted harm to civilians has been disproportionate to Iran's alleged wrongdoings.

- **Duration of inflicted harm**

Considering the scope of the inflicted harm to civilians and Iran's infrastructures, it is conceivable to conclude that the longer harms are inflicted, the more irreversible the occurred damages will be. The prolonged implementation of sanctions has deeply affected Iran's infrastructure to the point that there is no promising prospect of compensation for the foreseeable future. In addition, there are many post-

sanctions ramifications to be revealed later. In sum, the implementation of sanctions for a long period of time fundamentally challenges the proportionality principle.

Table 7.2 proportionality of the implementation of sanctions against Iran

Sanctioners' narrative	Iran's narrative
Proportionate: (a) Iran's noncompliance with the UNSCRs (b) Iran's Breakout capacity threat	Disproportionate: (a) Hypothetical global threat (b) Scope of the inflicted of harm (c) Duration of the inflicted harm

2. Prospect of Success Principle

The high possibility of success should not only be predictable before authorizing sanctions, but also it should be reconsidered and reassessed during the process of implementing sanctions. In fact, it would be unjust to continue the implementation of sanctions when there are indications that sanctions are not working and the prospect of success is poor.

There are three approaches towards the success of Iran sanctions:

2.1. Iran sanctions have been successful

Sanctions against Iran have been successful because of the following arguments:

- **Economic hardship**

Sanctions against Iran, especially sanctions on energy and banking sectors have been successful because they have had crippling effects on Iran's economy (Dubowitz February 10, 2010).

- **Political isolation**

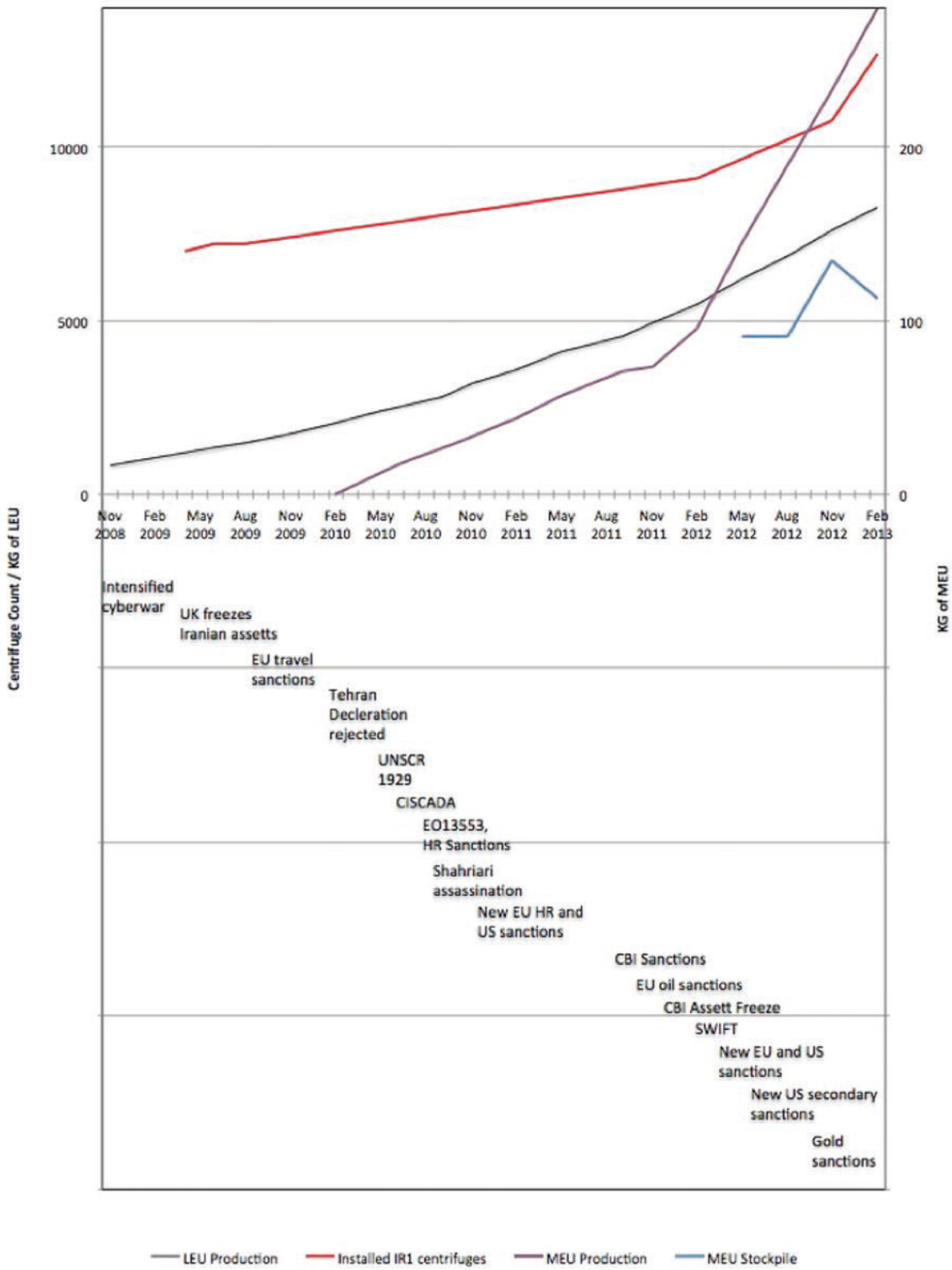
Sanctions against Iran have been gradually expanded and more countries have joined the sanctioners' cluster. The increasing consensus in the international community against Iran resulted in the political isolation of Iran, a sign of the success of sanctions (Levitt October 25, 2007).

2.2. Sanctions on Iran have not been successful

Sanctions against Iran have not been successful because of the following reasoning:

- **Sanctions' objectives were not met**

The core objective of nuclear-related sanctions against Iran was to halt Iran's nuclear program. Since Iran's nuclear program progressed after the authorization of sanctions, it should be concluded that sanctions were not working (Esfandiary Oct 11, 2012) Iran never gave up uranium enrichment and nuclear R&D whereas according to the UNSCRs, Iran should have suspended "all enrichment-related and reprocessing activities, including research and development" (UNSCR 1737 (2006), para.2 (a)). In fact, Iran's nuclear program not only remained unaffected by the sanctions but also escalated along with the escalation of sanctions (Khajehpour, Marashi, and Parsi March 2013, 26-7).



Graph 7.1 Nuclear Escalation vs. Sanctions Escalation

Source: Khajepour, Marashi, and Parsi 2013, 27

- **Sanctions logic did not work**

The logic behind sanctions, especially economic sanctions, is that the suffering of the general population will boost opposition groups, weaken the regime and force it to change its policies and comply with the sanctioners' demands (Gareis 2012, 130). The economic hardship in Iran neither triggered unrest nor destabilized the political system (Kordzadeh Kermani 2014, 96). Thus, the logic that sanctions pain would lead to political gain failed in the case of Iran.

2.3. The middle ground approach

The success of sanctions requires the assessment of sanctions against their general objectives: coercion, constraint, and signaling (Biersteker and others 2012, 14).

- **Coercion**

The nuclear-related sanctions against Iran have not been able to coerce Iran to abandon its nuclear program, yet they had a share in the nuclear talks and the final nuclear deal. In fact, even under the most unprecedented and toughest sanctions ever imposed on a country, Iran did not give up on its nuclear program. In fact, Iran was able to achieve the following nuclear developments:

a) Centrifuge number:

In 2003, when nuclear negotiations started and before the UN and EU authorized any sanctions, Iran was assembling only 164 centrifuges. During the implementation of toughest sanctions imposed by the U.S., UN and EU, Iran was able to increase its number of centrifuges to more than 18,000 (Vaez Oct.9, 2013).

b) Centrifuge generation:

In 1986 (1365), Ali Akbar Velayati, former Iranian foreign minister and representative of the Iranian Supreme Leader, brought Iran's first centrifuge from Pakistan (Panjareh Weekly Magazine April 24, 2010). Ali Akbar Salehi, the head of Atomic Energy Organization of Iran, asserts that in 1991, (1369) Iran purchased some centrifuges from the black market and it took Iran about 15 years to run the imported machines and start uranium enrichment with the combination of Pakistani centrifuges (P-1) and its Iranian copies (IR-1) in the mid 2000s (1380s) (DW Website April 10, 2015). During the implementation of sanctions, Iran made remarkable progress in designing and running the indigenous centrifuges. In 2010 (1389), Iran built the third generation of its centrifuge, IR-3 (Ahmadinejad's official website Nov.23, 2013).

According to Ali Akbar Salehi, Iran has accomplished the design of more advanced generations of centrifuges, IR-4, 5,6,7, and IR-8 (IRINN April 10, 2015).

c) Enrichment:

During the implementation of multilateral sanctions, Iran gained the ability to increase its level of uranium enrichment from 3.5% to 20% in 2010 (1388) (Ahmadinejad's official website Nov.23, 2013).

d) Stockpile:

Iran was able to increase its uranium stockpile during the implementation of sanctions. According to some sources, as of November 2015, Iran's low-enriched uranium (5% enriched) stockpile reached to 8,306 kg (Iran Watch Website November 18, 2015).

e) Heavy water reactor (Arak):

Iran had been working on the heavy water reactor in Arak since 1998 (1377) and was able to complete it in 2006 (1385) and work on it after that (Donya-e-eqtasad Newspaper August 27, 2006).

- **Constraint**

Since Iran is dependent in its nuclear activities, multilateral sanctions have been able to constrain Iran's nuclear program by curbing its access to foreign technologies and materials (Esfandiary and Fitzpatrick 2011, 143). In spite of Iran's remarkable progress in its nuclear and missiles programs, in particular in making these technologies indigenized, sanctions have had a partial success in their "constraining" objective in the sense of "slowing down" Iran's activities (Semati and Hormozi 2014, 14).

- **Signaling and stigmatizing**

Sanctions against Iran, especially UN sanctions, have had the most success in achieving the signaling and stigmatizing objective of sanctions. Sanctions have been successful in stigmatizing Iran as a threat and they have also been successful in signaling other countries on the importance of the non-proliferation norm and the cost of noncompliance (Ibid, 14-15).

Table 7.3 The prospect of success of nuclear-related sanctions against Iran during implementation

Approaches	Arguments
Sanctions on Iran have been successful	Signs of success: (a) Economic hardship (b) Political isolation
Sanctions on Iran have not been successful	Signs of failure: (a) Sanctions' core objective was not met (b) Sanctions' logic did not work
The middle ground approach	Share of success: (a) Coercion: Partially successful (b) Constraint: Partially successful (c) Signaling & stigmatizing: Successful

Terrorism and human rights-related sanctions have had the least success in coercion and constraint objectives and the most success in the stigmatizing objective.

3. Negotiation Principle

There are two dominant narratives regarding the role of sanctions in Iran's nuclear talks. Some believe that sanctions against Iran have promoted the nuclear talks whereas some others deem that they have curbed negotiations.

3.1. Sanctions have promoted negotiations with Iran

Proponents of this narrative argue that even if sanctions against Iran were not successful in meeting their initial core objectives, at least they have been able to drive Iran to the negotiating table (Canada Parliament. Senate. Standing Committee on Foreign Affairs and International Trade 2012, 17).

- **Sanctions along with military threat promote negotiations;**

Some believe that sanctions would better promote negotiations with Iran if there had been an open military option (Takeyh and Lindsay 2010). Accordingly, the U.S. has implemented sanctions along with military threats against Iran to enhance its leverage in nuclear talks. Proponents of this strategy do not consider sanctions as a sufficient coercive tool to drive Iran to serious negotiations unless they are paired with a credible military threat.

- **The JPA was the result of sanctions;**

One of the dominant discourses is that not only was the interim nuclear agreement with Iran, the Joint Plan of Action (JPA) agreed on November 24, 2013 possible because of sanctions, but also the election of Hassan Rouhani as the president of Iran. In other words, sanctions on Iran's energy and financial sectors drastically impacted Iran's economy and drove desperate Iranians to vote for the candidate who had pledged to resolve Iran's nuclear issue (Katzman May 7, 2014). Thus, the argument goes, sanctions had harmed Iran's economy so intensely that Iran had no choice but to accept the JPA in return for sanctions relief.

3.2. Sanctions have curbed negotiations with Iran

Iran has frequently stated that strengthening sanctions curbs constructive negotiations, especially when sanctions are coupled with military threats.

- **Sanctions along with military threat harms negotiations;**

Iran's supreme leader has repeatedly asserted that sanctions and military threats are destructive to nuclear talks and Iran's cooperation with the IAEA (Delavar pour aghdam , Mostafa and Moadi roodsary 2014, 121-148). Velayati states that the U.S. military threat "endangers the negotiation principle". He asserts that negotiations require an engaging and not a threatening atmosphere (Entekhab News Website May 17, 2015). Iran perceived that economic pressure and military threat as an insult to its dignity and threatened to abandon negotiations if sanctions strengthening and military threats continued to be forced on it.

- **The JPA was not merely the result of sanctions;**

Although the implementation of sanctions against Iran played a role in Iran's reaching the nuclear deal, one should be careful about how much credit is given to the role of sanctions. There is a combination of factors that paved the way for the JPA, such as:

a) *War*;

Avoiding a war has been an incentive for both Iran and the U.S. to seriously follow the nuclear talks. On one hand, Iran had reached the conclusion that although the probability of war is tremendously low, the risk would be extremely high. On the other hand, the U.S. had reached the conclusion that a military attack would not halt Iran's nuclear program. On the contrary, it would probably lead Iran towards weaponizing its nuclear program. Hence, negotiation was the best option for both sides to avoid a potential war (Hadian Dec.25, 2013).

b) Sanctions:

Sanctions persuaded both Iran and the sanctioners to take more serious steps in the nuclear talks. Sanctions had been taking a great toll on Iran's economy and its impacts were becoming more visible and tangible. At the same time, the sanctioners were convinced that further sanctions would no longer be effective in the sense that they were unable to stop Iran's nuclear program (Ibid). In 2010, Robert Gates, United States Secretary of Defense (2006-2011), had secretly warned the White House over the inefficacy of the US long-term strategy in halting Iran's nuclear progress (Sanger and Shanker April 17, 2010). According to President Obama, neither further sanctions nor war, but only diplomacy could resolve the issue. He defended diplomacy over other options and asserted that "either the issue of Iran obtaining a nuclear weapon is resolved diplomatically through a negotiation or it's resolved through force, through war" (Saenz Jul.15, 2015). Thus, the negative prospect of further sanctions persuaded both sides to move towards diplomacy.

c) Momentum:

The election of Hassan Rouhani in Iran's presidential elections in June 2013 generated a momentum for both sides to bring the nuclear negotiations to a historic success. In fact, the Obama Administration and Iran's new government both had the political will to resolve the nuclear issue. Furthermore, negotiations with Rouhani's moderate government would have had less political costs for Obama's administration in comparison with Ahmadinejad government (Hadian Dec.25, 2013). If Rouhani was not elected, it is likely that the same policies could have continued and the nuclear deal could have been very far off from reaching a final point. In a counterfactual approach, if another presidential candidate like Saeed Jalili, Iranian conservative politician and chief nuclear negotiator, who was conducting the nuclear negotiations for six years (2007- 2013), could win the election, reaching a nuclear deal would hardly be conceivable. In other words, sanctions and the dire economic situation could hardly result in a nuclear deal if

Saeed Jalili were the president of Iran⁹⁹ (Semati and Hormozi 2014, 13-14). In sum, both sides took advantage of the opportunity.

d) *Nuclear capability;*

One of the reasons that Iran followed the negotiations seriously was that Iran was able to reach to its desirable nuclear capability when it started the final round of nuclear talks resulted in the JPA. In fact, the nuclear technology had become indigenous by the time the final round of nuclear talks began (Hadian Dec.25, 2013).

e) *Regional developments;*

The civil war in Syria, Iran's regional strategic ally, the emergence of the Islamic State of Iraq and Syria (ISIS), and the increasing instability in Iraq fundamentally changed the security matrix of the region and Iran's perception of threat. Consequently, Iran was driven to recalculate its priorities and policies including its nuclear policies. In fact, the emergence of new regional threats and increasing instability persuaded Iran to resolve its international problems quicker, and focus on the regional and national problems. Furthermore, Iran was provided with an opportunity of cooperation in the region. Therefore, the new regional security matrix had a share in enhancing Iran's political will for nuclear reconciliation (Hadian Dec.25, 2013).

Ultimately, it is important to notice that even though sanctions had a share in reaching the JPA, the multi-layered nature of sanctions turned out to be a serious barrier in reaching the final deal, the JCPOA. One of the main obstacles that prolonged the period between the interim agreement (JPA in Nov.24, 2013) and the final deal (Joint Comprehensive Plan of Action (JCPOA) in July 14, 2015) was the difficulties in finding a strategy for sanctions' relief. In fact, sanctions against Iran have been so intertwined, multilayered, and with different objectives and termination requirements that it was extremely difficult to find an action-for-action settlement strategy. Thus, even if sanctions had a share in bringing Iran to the negotiating table, they turned out to become a vital obstacle in negotiations to reach the final nuclear deal.

⁹⁹ Those who have closely observed Iran's domestic politics development know that the election of someone other than Rouhani was highly possible and many Iranians were not convinced to vote even under economic hardship. It was only in the last week to the elections that a strong wave in support of Rouhani emerged among Iranians (Hadi Semati and Shani Hormozi, "The Effect of the Geneva Accord on the Sanctions in Iran," *Iranian Review of Foreign Affairs* 5, no. 2 (2014) , 13-14).

Table 7.4 The dominant narratives on negotiation principle under sanctions against Iran

<p style="text-align: center;">Sanctions have promoted nuclear negotiations with Iran</p>	<p style="text-align: center;">Sanctions have curbed nuclear negotiations with Iran</p>
<p>Sanctions along with military threats promote negotiations</p>	<p>Sanctions along with military threats destabilize negotiations</p>
<p>The JPA was the result of sanctions</p>	<p>The JPA was not merely the result of sanctions, but also:</p> <ul style="list-style-type: none"> (a) War; (b) Momentum; (c) Nuclear capability; (d) Regional developments.

4. Monitoring and Evaluation Mechanism

It is the responsibility of sanctioners to watch the impacts of sanctions and to adjust the sanctions to reduce humanitarian harms and unintended damages. The implementation of sanctions in a just manner requires regular monitoring and evaluation. The regular evaluation of sanctions impacts during the implementation of sanctions is one of the ways to ensure that sanctions would be more compatible with the fundamental humanitarian principle (Momtaz 2009, 348). There are bodies to monitor sanctions implementation yet in most cases what is being monitored is the possible violation of sanctions rather than the impacts of sanctions on civilians. Consequently, the major objective of monitoring is to tackle the implementation problems and improve the efficacy of sanctions, not to reduce their inhumane impacts.

4.1. UN monitoring and evaluating mechanism

The UN has different monitoring bodies on sanctions regimes, but the duty of the monitoring bodies is identifying the violations and obstacles of sanctions implementation. There are two UN monitoring bodies to oversee Iran sanctions: Sanctions Committee (SC), and Panel of Experts (POE).

a) Sanctions committee (SC)

Sanctions committees were the first UN mechanism to monitor sanctions implementation. SCs are subsidiary bodies to the UN and are constituted of the UNSC members. Each SC forms pursuant to a specific sanctions regime on an ad hoc basis (Weschler 2009, 37-8). However, not all sanctions regimes have SCs (Farrall 2009, 123-143). In 1968, the first UN sanctions committee was formed pursuant to the UN sanctions against Rhodesia (Weschler 2009, 38-9). SCs collect information and reports on the relevant sanctions regime and make their decision by consensus (Charron 2011, 15). The SC's monitoring responsibility is focused on collecting reports on violations of sanctions and ways to strengthen the implementation of sanctions. It is not monitoring the impacts of sanctions on civilians, which is critical to the just implementation of sanctions.

In 2006, Iran's SC was formed pursuant to paragraph 18 of UNSCR 1737 (2006). Iran SC has the following duties:

- Seek information from all Member States and the IAEA on their taken measures to implement sanctions effectively;
- Take necessary measures on the collected information on the alleged violation of sanctions;
- Consider and decide on exemption requests;
- Designate additional individuals and entities to be sanctioned;
- Publish guidelines to facilitate the implementation of sanctions;
- Report to the UNSC on sanctions implementation every 90 days.

(UNSCR 1737 (2006), para.18).

In sum, though the Iran SC is a monitoring body, it has not watched the unintended consequences of sanctions implementation. As it is confirmed in UNSCR 1929(2010), Iran SC's responsibility is "to promote the full implementation" of all resolutions against Iran (UNSCR 1929(2010), para.27).

b) Panel of experts (POE)

In addition to SCs, the UNSC has established diverse expert bodies to conduct monitoring tasks for different sanctions regimes. These expert bodies include a variety of forms such as commissions, panels and groups with an ad hoc nature, in the sense that every single expert body is mandated to monitor a specific sanctions regime. The expert bodies are technically independent and work for different intervals from weeks to years (Farrall 2009, 195-6).

In 2010, the UNSCR 1929(2010) requested the Secretary-General establish a POE for the Iran sanctions regime. In 2011, 8 experts were elected (renewable each year) and in June 2012, the POE’s first report was published. In fact, however the first UN sanctions against Iran were authorized in 2006, the POE as a monitoring body on the Iran sanctions regime was absent until 2011. The POE on the Iran Sanctions Regime has the following duties:

- Assist the Iran SC to conduct its duties; Collect information on sanctions implementation, “in particular incidents of non-compliance”; (UNSCR 1929(2010), para.29).
 - Provide recommendations to improve sanctions enforcement;
 - Provide annual reports.
- (Ibid).

The POE on Iran was established with 8 experts mostly in areas such as non-proliferation, arms control, and export control. None of the experts elected in this monitoring body were specialists in human rights. In sum, the POE on Iran, similar to the Iran SC, was not mandated to monitor the impact of sanctions implementation on Iran’s civilian population¹⁰⁰ (Gordon 2013, 986).

Table 7.5 Members of the first UN POE on Iran in 2011

Name	Nationality	Expertise
Salomé Zourabichvili (Coordinator)	France	Non-proliferation/ nuclear and conventional disarmament
Jonathan Brewer (Expert)	UK	-Finance and private sector/ non-proliferation
Kenichiro Matsubayashi (Expert)	Japan	Maritime transport
Thomas Mazet (Expert)	Germany	Logistic transport
Jacqueline Shire (Expert)	US	Nuclear issues/ defense trade/ non-proliferation/

¹⁰⁰ The UN has established the Office of the Ombudsperson as a monitoring body that is mandated to ensure the fair and clear procedure of listing and delisting individuals and entities. Although the Office of the Ombudsperson has a human rights agenda, it is only applicable to the Al-Qaida Sanctions List. In 2006, pursuant to UNSCR 1730(2006), the Focal Point was established for receiving delisting requests on the Al-Qaida Sanctions List. In 2009, the Focal Point was superseded by the Office of the Ombudsperson, which was established pursuant to UNSCR 1904 (2009). (The United Nations website: <http://www.un.org/sc/committees/dfp.shtml> , and Wikipedia website: https://en.wikipedia.org/wiki/Al-Qaida_Sanctions_Committee#Monitoring_Team)

		weapons of mass destruction
Elena Vodopolova (Expert)	Russia	Missile technology/non-proliferation/ arms control/ export control
Olasehinde Ishola Williams (Expert)	Nigeria (The only member from Africa is from Nigeria, where Iran is accused of violating UN arms embargo by illicit shipment of arms to Algeria.)	Conventional weapon
Wenlei Xu (Expert)	China	Export control/arms control and disarmament

Source: Letter by the UN Secretary-General, Ban Ki-moon, addresses the President of the Security Council (S/2011/405), July 1, 2011

The POE on Iran sanctions has conducted pervasive activities to ensure that the sanctions are fully implementing against Iran and to block all the possible ways for Iran to circumvent sanctions. According to the reports of the POE on Iran, this body has been highly involved in the following activities:

- *Investigating the cases of violation and non-compliance;*

The POE investigated the cases of non-compliance and violation such as illicit shipments reported by the Member States, especially by Turkey (POE report June 2012 (S/2012/395), para.16, 30).

- *Increasing awareness on the sanctions and identifying the challenges of implementation;*

The POE on Iran reached out to many Member States, private sector, international organizations, NGOs and individual experts, to increase the awareness about the implementation of sanctions, especially on the importance of export controls (Ibid, para.18, 22, 26, and 137). It consulted many experts from different UN bodies. But human rights experts were absent in the processes¹⁰¹.

Additionally, the POE has worked actively at the ideational level by reaching out to think tanks

¹⁰¹ The consultations were conducted with the “United Nations Office for Disarmament Affairs, the United Nations Institute for Disarmament Research, the United Nations Conference on Trade and Development, the United Nations Office on Drugs and Crime, the Economic Commission for Europe, the United Nations Office for Outer Space Affairs, the International Civil Aviation Organization” (POE report June 2012).

and universities¹⁰² and by participating in conferences and seminars to deepen the actors' understanding on sanctions' implementation and to discuss the challenges (Ibid, para.23,24, and 25).

- *Making recommendations to enhance sanctions implementation;*

The POE has provided recommendations for the effective implementation of sanctions based on the identified implementation challenges and Iran's strategies to circumvent sanctions. In spite of the fact that the POE has received reports and comments by Member States on the excessive implementation of sanctions against Iran, it has not made any recommendations to prevent excessive implementation, which goes beyond the UNSCR framework. For instance, according to the POE report, many countries have acknowledged that all trade "including legitimate trade", has ceased with Iran (POE Report June 2013 (S/2013/331)), para.138). Likewise, the report reflects a Member State behavior in denying Iranian students admission in all science and engineering courses (Ibid. para.156). However, the POE is silent in providing recommendations on sanctions adjustment and modification even when the cases of excessive implementation were revealed.

Table 7.6 UN monitoring bodies on Iran sanctions

	Structure	Duties	Deficits
<p>(a) Sanctions Committee (SC) Pursuant to UNSCR 1737(2006)</p>	<p>(a) Subsidiary body to the UNSC (b) Constitutes of 15 members of the UNSC (c) Ad hoc nature (d) Filter between the UNSC and POE (e) Decisions are made by consensus</p>	<p>(a) Monitoring the implementation of sanctions by receiving reports from the IAEA, Member States, and POE (b) Considering and deciding on exemption requests (c) Designating additional individuals</p>	<p>(a) No monitoring and evaluating responsibility on humanitarian impacts (b) Not an independent body</p>

¹⁰² The POE has been working actively with think tanks and universities such as the International Institute for Strategic Studies (IISS), the Institute for Security Studies, the Institute for Science and International Security (ISIS), the Carnegie Endowment for International Peace, Columbia University, Massachusetts Institute of Technology, Princeton University, RAND Corporation, King's College London, the Brazilian Center for International Relations, the BRICS Policy Center, the Stockholm International Security and Peace Research Institute and the Geneva Centre for Security Policy (POE report June 2012, para.23).

		<p>and entities to be sanctioned</p> <p>(d) Providing recommendations for full implementation</p> <p>(e) Providing reports every 90 days to the UNSC</p>	
<p>(b) Panel of Experts (POE)</p> <p>Pursuant to UNSCR 1929(2010)</p>	<p>(a) Independent subsidiary body to the SC</p> <p>(b) Constituted of 8 experts</p> <p>(c) Ad hoc nature</p> <p>(d) Renewable each year</p>	<p>(a) Investigating and reporting cases of violation and non-compliance to the SC</p> <p>(b) Increasing the awareness on the sanctions + identifying challenges of implementation</p> <p>(c) Providing recommendations for sanctions implementation enhancement</p> <p>(d) Providing annual reports to the SC</p>	<p>(a) No monitoring and evaluating responsibility on humanitarian impacts</p> <p>(b) Created years after sanctions were authorized against Iran</p> <p>(c) No diversity of experts for multifaceted sanctions (expertise were limited in arms control and export control)</p>

Recommendations:

- a) POE members should include specialists in diverse fields such as human rights, public health and socioeconomic;
- b) POE members should be appointed from evenhanded geographical distribution (Ryan March 2014, 8);
- c) POE should be mandated to monitor and report the humanitarian consequences of sanctions implementation as well as the excessive implementation of sanctions;

- d) POE should make judgments and provide recommendations for more humane implementations of sanctions;
- e) POE reports and assessments should be provided in shorter frequency (similar to the rule that the SC should report on sanctions violations every 90 days, not annually)
- f) Information sharing should be boosted (Ibid, 9);
- g) POE or any other monitoring body should be established immediately after sanctions authorization (a delay may add to impacts on target civilians).

4.2. U.S. monitoring and evaluating mechanism

The U.S. has a number of monitoring and investigating bodies on Iran sanctions. Specifically, they monitor how effectively sanctions have impacted Iran's economy. The U.S. monitoring and investigating bodies include:

- a) Treasury's Office of Foreign Assets Control (OFAC): an administrative body for U.S. financial sanctions against Iran. Additionally, it identifies cases of sanctions violations, and issues forfeits for violators (Ebner 2013, 122).
- b) The office of Terrorist Financing and Financial Crimes: mandated to identify illegal financial transactions by Iran related to WMD and terrorist activities sponsorship (Ibid, 122)
- c) The Financial Crimes Information Network: mandated to collect banking and financial information and monitor Iran's compliance with U.S. banking and financial sanctions (Ibid, 122).
- d) The Office of Intelligence Analysis: collects and analyzes all the information regarding the impacts of U.S. sanctions on Iran, in particular Iran's economy. It gathers information from Iran on trade, gold, real estate and other economic indicators (Ibid, 122-3)
- e) GAO (United States Government Accountability Office): an independent agency, which provides reports on different topics including the impacts of U.S. Sanctions and their efficacy. These reports are often provided upon the U.S. congress' request (U.S. Government Accountability Office (GAO) website).
- f) Department of Justice: conducts investigations on possible violations of the U.S. sanctions against Iran. For instance, it has conducted criminal investigations against several banks and has issued forfeitures due to their violations of the U.S. sanctions against Iran¹⁰³ (GAO-13-326 in Ebner 2013, 128-9).

¹⁰³ The Department of Justice has conducted investigations and issued forfeitures for the following banks:

a) HSBC Bank USA N.A. (\$1.256 billion)

In sum, none of the U.S. monitoring and investigating bodies are mandated to watch the humanitarian impacts of the U.S. sanctions on Iran's civilian population.

4.3. EU monitoring and evaluating mechanism

The EU has delegated the responsibility of monitoring sanctions to the following bodies:

- a) Member States: should inform the Commission of cases of violation and any difficulties in the full implementation of sanctions against Iran (Council Regulation 423/2007 19 April 2007, Article 14).
- b) The Commission: mandated to exchange information with Member states on Iran sanctions violations and enforcement impediments (Ibid, Article 14).

In sum, the EU monitoring mechanism is mostly mandated to ensure the effective implementation of sanctions against Iran rather than monitoring the humanitarian consequences.

5. Judicial Review Mechanism

The sanctioners are responsible to not only establish a monitoring and assessing body on their own initiative to watch the impacts of sanctions on the target, but also to establish a judicial review mechanism so that the listed individuals and entities can exercise their right to due process and can plead for justice.

5.1. UN Judicial review mechanism

There are two UN mechanisms for delisting and exempting from Iran sanctions: (a) Sanctions Committee (SC) and (b) the Focal Point.

a) **Sanctions Committee (SC)**

The Sanctions Committees are responsible for delisting and granting exemptions to sanctioned individuals and entities (petitioners) that are seeking delisting or exemption. The Sanctions

-
- b) Standard Chartered Bank (\$227 million)
 - c) ING Bank N.V. (\$619 million)
 - d) Barclays Bank PLC (\$298 million)
 - e) ABN AMRO Bank N.V. (\$500 million)
 - f) Credit Suisse AG (\$536 million)
 - g) Lloyds TSB Bank PLC (\$350 million) (Source: GAO analysis of court documents in Ebner 2013, 128-9).

Committees conduct this responsibility in collaboration with the Focal Point (also with the Office of the Ombudsperson merely on the Al-Qaida sanctions regime). Delisting and granting exemptions to sanctioned individuals and entities only became possible from 2006 with the creation of the Focal Point. The development took place only after criticisms mounted against the UNSC transparency on listing without following the due process standard and on the lack of due process mechanism for delisting (United Nations Security Council Website: Focal Point for De-listing).

b) The Focal Point (2006)

In 2006, the UN adopted the Resolution 1730 under which the Focal Point was established. The Focal Point was amended to receive de-listing requests (petitions) from sanctioned individuals and entities of any sanctions regime (Smeulers and Grünfeld 2011, 434). A total number of 85 requests from petitioners (sanctioned individuals and entities) were received by the Focal Point until December 2012, out of which 31 petitioners were delisted (Eckert and Biersteker 2012, 13). Only one Iranian entity, which was listed under Sanctions Regime 1737, had sent a request to the Focal Point until 2012, which was rejected and remained listed (Ibid, 13). The Focal Point is an intermediate loop between petitioners and the Sanctions Committee. It receives de-listing requests from petitioners and after collecting and verifying information from states; it forwards the request and relevant information to the Sanctions Committee though the requests could also be sent directly to the Sanctions Committee (UNSCR 1730 (2006)). The Focal Point would also convey the Sanctions Committee's final decision (whether it is de-listed or will remain on the list), to the petitioner (Ibid). The Focal Point role has been like a "UN mailbox" that exchanges requests and decisions (Huber 2012, 107-142). The Focal Point has a procedural role to receive requests, gather relevant information and convey the final decisions rather than be an independent judicial authority (Ryan March 2014, 6).

In spite of the progressive steps taken by the UNSC to provide targeted individuals and entities with mechanisms for delisting and exemption, there is still a long way to go before reaching the standards of due process (Portela 2009, 27). Some of the deficits are as follows:

- Political decision-making process;
Delisting and granting exemptions by Sanctions Committees are conducted through a “political decision-making process” rather than a “judicial review” mechanism (Smeulers and Grünfeld 2011, 434).
- Conditional review;
There is no guarantee that a delisting request be reviewed by the Sanctions Committee. A request would be rejected without review if neither the states consulted by the Focal Point (designating government(s) and the government(s) of petitioners’ citizenship and residence) nor any member from the Sanctions Committee support delisting (UNSCR 1730 (2006), para.5 and 6).
- Member-based rejection;
Since all the members of the Sanctions Committee should unanimously approve a delisting request, disapproval by just one of the members would result in the rejection of the request (Cortright and others November 2009, 3).
- Classified information;
The listing process is sometimes grounded on classified information. The designated state would refuse to disclose the evidence either during the listing or delisting processes.
- Right to a hearing
The sanctioned individuals are not allowed to attend revision processes at Sanctions Committees (Aminzadeh and Gholamy 2013, 196)

In sum, both listing and delisting procedures by the UNSC “do not fully respect internationally recognized human rights law[s]” (Cortright and others November 2009,1). The UNSC’s permanent members have always opposed proposals aiming to establish a mechanism to review the UNSC process of listing and delisting individuals and entities. Since the prospect of the establishment of any independent judicial review mechanism to oversee the UNSC decisions is poor, it would be more feasible to take steps towards enhancing “quasi-judicial review procedures” (Ibid, 10).

Recommendations:

- The role of Focal Point should be boosted (Ryan March 2014, 8);
- The role of the Office of the Ombudsperson should be more inclusive. The Office of the Ombudsperson is a more progressive body to oversee delisting related to the Al-Qaida sanctions regime. It should become comprehensive, and encompass all the UN sanctions regimes¹⁰⁴ (Ibid, 8).
- All of the delisting requests by the petitioners should be placed on the SC agenda¹⁰⁵ (Cortright and others November 2009,12).

5.2. US judicial review mechanism

There are two bodies in the U.S. where sanctioned individuals and entities could petition: (a) OFAC (Office of Foreign Assets Control, U.S. Department of the Treasury) and (b) district courts.

a) OFAC (Office of Foreign Assets Control, U.S. Department of the Treasury)

Listed individuals and entities may submit their reconsideration requests to OFAC. They may seek delisting by providing OFAC with argument and/or evidence, which refute the foundation for designation. They may also request a meeting, however OFAC may reject. Eventually, OFAC would review the request and declare its decision (U.S. Government Publishing Office (GPO): 31 CFR 501.807). Reconsideration review by OFAC suffers from serious deficits. There is no judicial review and no response timeframe. Alike the listing process that is not necessarily evidence-based, or could be based on classified information, reconsideration procedure could go through the same path. Furthermore, it may take a long time, even years, until OFAC provides a designee with its decision (Ensign and Rubenfeld Jan. 9, 2014).

¹⁰⁴ In 2009, the UNSC established the Office of the Ombudsperson through Resolution 1904(2009). Its mandate was later stretched in 2011, 2012, and 2014 (<http://www.un.org/en/sc/ombudsperson/>). The Office of Ombudsperson is an independent overseeing body (Jane Boulden and Andrea Charron 2009, 6). The Office of Ombudsperson receives delisting and exemption requests from petitioners, gathers information from relevant states and organizations and provides the sanctions Committee both with a comprehensive report and that includes recommendations. If the sanctions Committee has no objection within 60 days, the delisted request would be accepted, otherwise the Sanction Committee could decide to keep the sanctions on the targeted individual or entity or it could refer it to the Security Council (<http://www.un.org/en/sc/ombudsperson/>). The Office of Ombudsperson is more progressive than the Focal Point, however it “does not constitute formal judicial review of Security Council decisions”. It is closer to “*de facto* judicial review” (Eckert and Biersteker December 2012, 24). According to an evaluating report conducted by Eckert and Biersteker, the Ombudsperson mechanism has become more progressive over the past years in terms of providing due process for sanctioned individuals. It provides “the right to review by an independent and impartial authority, the right to be informed of the case against them and to be heard (and respond), and approximates the provision of effective remedy – removal from the list “(Sue E. Eckert and Thomas J. Biersteker, "Due Process and Targeted Sanctions. an Update of the" Watson Report," *Watson Institute for International Studies, Brown University.Providence, Rhode Island* (2012).

¹⁰⁵ For more policy recommendations on listing and delisting procedures, read: “Human Rights and Targeted Sanctions, An Action Agenda for Strengthening Due Process Procedures”, David Cortright, with George A. Lopez, Linda Gerber-Stellingwerf, Eliot Fackler, Sarah Persinger, and Joshua Weaver, The Sanctions and Security Research Program, Policy Brief SSRP 0911-01, November 2009: http://sanctionsandsecurity.nd.edu/assets/110270/human_rights_targeted_sanctions.pdf

b) Federal district courts

Designated individuals and entities may file a lawsuit against OFAC in the U.S. district courts if their reconsideration requests are denied by OFAC. For instance, Yassin A. Kadi, a Saudi Arabian businessman, who was placed on the terrorist list, filed a lawsuit in a U.S. district court against OFAC, when his reconsideration request was rejected by OFAC. He had also appealed to the EU courts, but unlike the EU courts, which ruled in favor of Kadi, the U.S. district court rejected his claims (Charity & Security Network April 3, 2012).

Iran has never appealed to the U.S. courts on sanctions related issues. According to Abbas Araghchi, Deputy for Legal and International Affairs of the Ministry of Foreign Affairs of Iran, the Supreme National Security Council (SNSC) of the Islamic Republic of Iran has forbidden Iran's attendance in the US courts (Shargh Newspaper April 26, 2016). To wit, Iran does not recognize the US courts and their verdicts on issues related to Iran.

5.3. EU judicial review mechanism

The EU has a well-defined mechanism for judicial review. There are three bodies that are assigned to review requests of annulment from individuals and entities vs. institutions of the EU, including the EU Council, which authorizes restrictive measures (sanctions). (European Union website).

a) European General Court (EGC)

The General Court reviewed some of the EU's restrictive measures against Iranian individuals and entities and decided to annul some and leave others. Some of the EGC verdicts on EU sanctions against Iran include:

- *9 Iranian entities and an individual:*

In 2013, the General Court annulled the EU restrictive measures on freezing the assets of 7 Iranian companies and an individual who were claimed to be involved in Iran's nuclear proliferation. According to the EGC, the EU Council had "not proved the facts" and had "made an error of assessment". The GC decided to uphold the EU restrictive measures against two other entities¹⁰⁶ (Judgment of the General Court of the European Union, Press release No 99/13 September 6, 2013).

¹⁰⁶ The general court annulled the EU Council action on freezing the assets of the following entities and individuals: Persia International Bank plc; Export Development Bank of Iran; Iran Insurance Company; Post Bank Iran; Bank Refah Kargaran, Good Luck Shipping, Iranian Offshore Engineering & Construction Co. v Council and Naser Batani.

- *Sharif University of Technology (SUT):*
In 2014, the General Court annulled the EU restrictive measures (assets freeze) against Sharif University of Technology (SUT). The EU Council had claimed that the SUT was providing support to Iran’s nuclear program. The EGC found that the EU Council “committed a manifest error of assessment” and was unable to provide evidence to support its claims (Judgment of the General Court of the European Union, Press release No 91/14 July 3, 2014).
- *National Iranian Tanker Company (NITC):*
In 2014, the National Iranian Tanker Company (NITC), the biggest tanker company in the Middle East, won their case against the EU Council. The NITC was targeted by the EU Council on the grounds that it was “*effectively controlled*” by the Iranian State and was providing financial support to it, and eventually funding Iran’s nuclear program. According to the General Court, the EU Council had “committed a manifest error” in its assessment and was unable to provide evidence to support its claims (Judgment of the General Court, case T-565/12 July 3, 2014).
- *National Iranian Gas Company (NIGC) and Bank of Industry and Mine (BIM):*
In 2015, the General Court rejected the annulment applications by the National Iranian Gas Company (NIGC) and Bank of Industry and Mine (BIM). The EU Council had frozen the funds of the NIGC and BIM on the grounds that since they are *State owned*, they provide financial support to the Iranian state and possibly to Iran’s nuclear program (Judgment of the General Court, cases T-9/13, and T-10/13 April 29, 2015).¹⁰⁷

The EGC verdicts would not be effective immediately. The EGC gives the EU Council two months, after the notification of the decision, to fix the irregularities (Judgment of the General Court of the European Union, Press release No 91/14 July 3, 2014).

According to the General Court decision, Bank Melli Iran and Europäisch-Iranische Handelsbank’s assets remained frozen (General Court of the European Union, Press release No 99/13, 6 September 2013). Shortly after the GC annulled the restrictive measures on the Export Development Bank of Iran, the EU Council sanctioned it again with a new allegation. According to the Iranian lawyer of the Bank, Gholam Nabi Feizi chakab, instead of objecting to Court verdicts (Feizi chakab, Shargh newspaper October 27, 2014).

¹⁰⁷ The GC have annulled the EU Council restrictive measures against Iran in some other cases such as: Bank Mellat (Case T-496/10, 29 Jan.2013), Bank Saderat (Case T-494/10, 5 Feb.2013), Islamic Republic of Iran Shipping Lines (IRISL) and 17other shipping companies (Case T-489/10, 16 Sep. 2013), Central Bank of Iran (partial annulment) (Case T-262/12, 18 Sep. 2014).

b) European Court of Justice (ECJ)

Petitioners would bring an appeal against the General Court's decision through the Court of Justice (Judgment of the General Court of the European Union, Press release No 99/13 September 6, 2013). For instance, after the General Court decided to uphold the EU restrictive measures against Europäisch-Iranische Handelsbank, Iran brought the appeal to the European Court of Justice (ECJ). The Court of Justice rejected Iran's appeal against the General Court. It was acknowledged that the bank had conducted transactions with listed entities and the General Court was right to reject Iran's annulment request (Order of the Court of Justice, Case C-585/13 July 9, 2015).

The EGC and ECJ considered the necessity of whether hearing (oral stage) was needed, and would respected the right of hearing before issuing its judgement (European Union website). For instance, in the cases of the Bank of Industry and Mines (BIM) (restrictive measures remained), and Sina Bank¹⁰⁸ (restrictive measures partially annulled), the GC judgements were issued after both written and hearing procedures were conducted (Judgment of the General Court, case T-10/13, 29 April 2015, and Case T-10/13, 4 June 2014).

c) The European Court of Human Rights (ECHR)

The targeted individuals and entities could also appeal to the European Court of Human Rights (ECHR) especially, in cases where the process of listing is in contradiction with due process and/or the implementation of sanctions is in violation of human rights. For instance, the "Nada case" is an example that illustrates how the implementation of UNSC sanctions was affected by the ECHR decision. In 2001, Youssef Moustafa Nada, an Egyptian-Italian businessman, was listed under the anti-terrorism sanction by the UNSC (UNSCR 1267 (1999)). The implementation of the sanction largely affected his life in Switzerland where his assets were frozen and he was banned from traveling. After the Swiss Federal Court rejected his claim, Nada appealed to the ECHR. The ECHR found that the implementation of UNSC sanctions has violated Nada's rights¹⁰⁹ (The European Conventions on Human Rights and Fundamental Freedoms (ECHR) Blog). Eventually, after both Switzerland and Italy's

¹⁰⁸ In spite of the GC verdict on the Sina Bank case to annul the restrictive measures, the EU did not implement the decision (Feizi chakab, Shargh newspaper, October 27, 2014).

¹⁰⁹ The implementation of sanctions was in violation of the European Convention on Human Rights and Fundamental Freedoms, "Article 8 ECHR (respect for private and family life) and Article 13 ECHR (effective remedy)" (ECHR blog: <http://echrblog.blogspot.ca/2012/09/nada-grand-chamber-judgment.html>).

investigations found no evidence against Nada, even the UNSC removed his name from the terror blacklist in 2009.

5.4. General mechanisms for judicial review

There are general judicial review mechanisms for targeted individuals and entities who for any reason, such as lack of proper judicial review mechanism or lack of hope for fair process, wish to appeal to a judicial body.

a) International Court of Justice (ICJ)

In general, all States have access to the International Court of Justice (ICJ), a UN organ, to file a lawsuit (including sanctions-related lawsuits) against another State. Accordingly, Iran has had the option to appeal to the ICJ against the U.S. and EU. In 2006, Francis A. Boyle, a professor of international law at the University of Illinois, was asked by the Iranian government to represent Iran in ICJ to sue the U.S. over its unilateral sanctions against Iran. Boyle submitted his proposal, yet the Iranian government eventually opted for diplomacy instead of taking the case to the Court¹¹⁰ (Boyle April 6, 2013).

b) National and regional courts

In general, targeted individuals and entities have the opportunity to appeal to the national and/or regional courts. Depending on the court's jurisdiction, sanctions could be annulled or the national and regional implementation of sanctions could be stopped. For instance, the EGC, a regional court, could order the EU Council to annul its unilateral sanctions against an entity. Furthermore, the same court or a national court (e.g. Switzerland's court), could order that the national/regional implementation of sanctions be stopped where the court has no jurisdiction over the body that has authorized sanctions (e.g. the UNSC). In this case, the implementation of UNSC sanctions could be stopped due to its contradiction with the national/regional fundamental values and rules.

One of the most well-known examples in which the UNSC sanctions were challenged by regional and national courts, is the Kadi case. Kadi (Yasin al-Qadi), a Saudi Arabian businessman, was listed in the absence of due process, by the UNSC under the AI

¹¹⁰ Boyle asserted in an interview in 2013 that if Iran had appealed to the ICJ in 2006 it "could have stopped a lot of the sanctions" "**Anti-Iran Sanctions (no. 8) Francis A. Boyle: I'm Ready to Help Iran Freeze the Sanctions,**" Iranreview website, , <http://www.iranreview.org/content/Documents/Anti-Iran-Sanctions-No-8-Francis-A-Boyle-I-m-Ready-to-Help-Iran-Freeze-the-Sanctions.htm>.

Qaida/Taliban sanctions regime. Kadi challenged the UNSC mechanism for listing him and for violating his rights, such as his right to a hearing and access to information, by filing lawsuits in several national courts and one regional court, ECJ (Heupel 20 Feb. 2015). He won the cases in national courts, a Swiss court (2007) and a United Kingdom court (2008) and the regional court, ECJ (2008) (Wikipedia website: Yassin Kadi) . The Kadi case was a consequential and critical challenge to the UNSC due process mechanism and swayed the UNSC to improve its listing and delisting mechanisms in accordance with human rights values, such as the establishment and enhancement of the Office of the Ombudsperson for Al Qaida-related sanctions (Heupel 20 Feb. 2015). Hence, although the regional and national courts do not have jurisdiction over the UN, targeted individuals and entities have the opportunity to initiate legal proceedings before them and stop the national and regional implementation of the UNSC sanctions.

Table 7.7 Sanctioners’ Judicial Review Mechanisms on Iran sanctions

Sanctioners	Mechanism	Process
UN	Access to: (a) Sanctions Committee (b) Focal Point	Political review (Consensus-based decisions rather than evidence-based decisions)
U.S.	Access to: (a) OFAC (b) District courts	(a) administrative/political review (b) Judicial review
EU	Access to: (a) EGC (b) ECJ (c) ECHR	Judicial review

Chapter 8: Conclusion

- The implications of the research for the sanctions tool
- Iran
- Authorization of sanctions against Iran
- Implementation of sanctions against Iran
- Has the implementation of sanctions against Iran been comprehensive?
- How globalization has served the comprehensive implementation of sanctions against Iran?
- Just Post Sanctions; the next step of the research

Conclusion

In this final chapter, I draw the conclusions of my research into two main sections: (1) sanctions, and (2) the case study of Iran. In the first section, I describe the implications of my research for sanctions, as a global governance and/or foreign policy tool. In the second section, I single out some of my important findings in an assessment of justice in the “authorization” of sanctions against Iran. Additionally, the “implementation” of sanctions against Iran will be reviewed from the perspective of “comprehensive” and “targeted” sanctions. To this end, I probe on the question: “How has globalization served the comprehensive implementation of sanctions against Iran?” Lastly, given recent developments in Iran’s nuclear case and the partial sanctions relief the country has been granted, I briefly discuss “Just Post Sanctions” in Iran’s case with a focus on the “Compliance” criterion. Here I assess the compliance with the agreed nuclear deal and the implementation of sanctions relief.

1. The implications of the research for the sanctions tool

My research illuminates serious deficits in both the authorization and implementation of sanctions.

Considering the growing interest in appealing to sanctions as a global governance and/or foreign policy tool, I believe that there is a legal and ethical obligation to reform the sanctions tool.

This research sheds light on the following urgent requirements when it comes to sanctions:

- a) A humane well-developed and multifaceted *theoretical framework* for the use of sanctions;
- b) An international *legal framework* on sanctions: “Law of Sanctions” (like the “Law of War”); and
- c) The establishment of global bodies for overseeing sanctions, including monitoring, assessing and judicial review bodies.

As Reisman and Stevick have asserted, the UNSC “has given inadequate considerations to International Law standards” in appealing to the sanctions tool, and there is a need for a comprehensive “legal framework” for the sanctions regime (Reisman and Stevick 1998, 86-7). In recent decades, the UN and powerful States have been increasingly appealing to sanctions as a global governance tool or as a foreign policy tool despite there being no specific International Law on sanctions. Nor are there legal restrictions on sanctioners either in their authorization or implementation. Furthermore, sanctioners are not held accountable - both during the carrying out of sanctions and in the post sanctions era - for their inflicted harm to the targets despite the fact that they had authorized sanctions unjustly and vastly violated human rights. In fact, there is no international law and competent body first to recognize the wrongdoer(s) in the authorization and implementation of sanctions and second to designate proportionate countermeasures.

My research reveals how sanctions drastically impacted the country of Iran and its citizens for years. Sanctioners had complete latitude to squeeze Iran as much as and as long as they desired. In the absence or weakness of well-defined global norms, international laws, and competent authoritative bodies on sanctions, targets of sanctions have had little voice to plea for justice. “Global Justice” will continue to suffer from a serious deficit as long as global governance tools such as sanctions are authorized and implemented in a non-legally binding context.

In order to move towards more just sanctions, sanctions norms should firstly be generated and cascaded. The cascaded sanctions norms should then be codified into law (Law is codified norms). Eventually and in accordance with the “Law of Sanctions”, international, governmental and nongovernmental bodies and networks should be established. These might include an “International Sanctions Monitoring Organization”, and an “International Sanctions Tribunal”.

In sum, a humane and well-developed theoretical framework for sanctions is an integral building block in the path towards more just sanctions. I attempted in my research to take a step forward in this vital path first by generating norms, values and discourse on sanctions, and second by bridging theory and practice through a study of sanctions’ standards and norms in the case of Iran. The focus of the existing literature on sanctions is largely based on the efficacy of sanctions, while unfortunately morality and legality are at the margins. Given the inhumane impacts of some sanctions, as demonstrated by the devastating impact of the different types of sanctions that have been imposed on Iran for decades, I believe that a humanitarian perspective is required. It should be the center of sanctions studies in order to promote justice in appealing to sanctions and to promote Global Justice.

I hope that the generating and cascading of sanctions norms could lead to a global consensus on creating an international “Law of Sanctions”. I believe that there is an indispensable need for defining legal terms in sanctions such as “recognition of illegitimate authorizer”, “illegitimate sanctions”, and “sanctions crime”, similar to what exists in the “Law of war” These include “war crime”, “recognition of aggressor”, “compensation to victims”, and “crime against humanity”.

- If a *war of aggression* can be condemned by the UNSC and there could be ramifications for the aggressor, the same should be possible when an actor authorizes *unjust sanctions* against a target;
- If a war party who attacks civilians or civilian targets can be condemned for committing a *war crime*, the same should be possible when a sanctioner commits a *sanctions crime* by targeting civilians and illegitimate targets;

- If a recognized war aggressor can be ordered to *compensate* inflicted damages and would face *punishment* and *deterrence* measures, the same should be possible in the case of a sanctioner who authorizes and implements sanctions in an unjust manner.

Even if sanctions norms do not codify into International law, more developed studies on just sanctions would generate a new or more progressive international tradition (trend) regarding just sanctions. For instance, after the revelation of widespread inhumane impacts by the UN's comprehensive sanctions against Iraq, the UN stopped authorizing comprehensive sanctions.¹¹¹ The UN began to adopt "targeted" or "smart" sanctions to reduce such inhumane and unintended consequences. Such a shift in the UN policy was never codified into law but became a tradition or norm.

2. The case study of Iran

In examining my hypothesis regarding justice in the authorization and implementation of sanctions against Iran, I attempted to reflect reality in a balanced way. Scholars and researchers are expected to respect objectivity in their studies; I felt that this responsibility was even greater for me, a citizen of Iran, as I was writing about justice. Therefore I was watchful throughout my thesis to not only present my argument in a just manner, but also to choose a "just" writing style. Accordingly, in all chapters on the "Just Authorization of Sanctions", I followed a "one to one correspondence" writing style while I reflected on the narratives of both sides: the opposing countries and Iran. I also provided summarizing tables on the two narratives at the end of each criterion to state clearly the comparisons. My aim was to provide readers with organized and simplified judgment tools, and to leave it to them to consider which party had the most just cause for its course of action. Though I believe that the facts, evidence, and explanations in the research substantiate my hypothesis, I have attempted to leave enough space for the reader to make their own judgment.

My approach in the chapters on the "Just Implementation of Sanctions" was different. The impacts of sanctions on Iran and its citizens are not something to be judged based on sanctioners' and target's narratives and perceptions. They are tangible realities that have to be observed and should be discussed based on official and unofficial statistics and statements. In addition, they should be assessed as changes in the country's economic indicators, education standards, public health and safety situations over time,

¹¹¹ The UN has increasingly appealed to targeted rather than comprehensive sanctions since the early 1990s, in order to decrease the humanitarian consequences and increase the efficacy (Thomas Biersteker and Sue E. Eckert, "Strengthening Targeted Sanctions through Fair and Clear Procedures," *Watson Institute for International Studies*. Available at http://www.watsoninstitute.org/pub/strengthening_targeted_sanctions.pdf (2006) ,3).

maintaining cultural norms, and the status of environmental situations. Even for an individual such as myself, who has lived in Iran under sanctions, it was not an easy task to provide reliable data. The Iranian government has been denying the impacts of sanctions in the country for a long time.

Furthermore, it has been almost redlined for Iranian scholars and journalists to write on this issue. It was only after President Rouhani was elected to serve as Iran's 7th president in June 2013 and mostly after the interim nuclear agreement --the Joint Plan of Action (JPA) -- was signed in November 2013, that the unspoken reality crept out of the dark. The JPA was a turning point because it revealed some of the statistics and data on the impacts of sanctions on Iran. It split Iran's domestic political forces into two groups of opponents and proponents of the JPA. Proponents aimed to turn the interim agreement (JPA) into a final nuclear agreement. The Joint Comprehensive Plan of Action (JCPOA) was signed in July 2015, while opponents sought to derail the JPA. The debates and challenges between them in seeking to reach their goals resulted in more revelations about the impacts of sanctions.

I will single out some of the most significant findings of my research on the authorization of sanctions against Iran. Then, I will review the implementation of sanctions from an alternative perspective that has been presented in the research. Reading the chapters on the implementation of sanctions against Iran is a prerequisite for comprehending my new angle of assessment in this conclusive chapter. I will end the conclusion by taking a glimpse at Just Post Sanctions in the case study of Iran.

2.1. Authorization of sanctions against Iran

The findings of my research substantiate the first part of my hypothesis: the authorization of non-UN sanctions against Iran has not been *just* and the authorization of UN sanctions on Iran was less unjust. Some of the main arguments are summarized as follow:

d) Nuclear deviation dilemma

The most important chapter of the thesis on the authorization of sanctions against Iran is Chapter Two: Comparative Just Cause. In this chapter, I illustrated how the narratives of sanctioners and Iran differ from each other, and how each side has a share of reasonable causes for their course of actions. Iran admitted its failure to report some of its nuclear activities yet insisted that the unreported activities were legal. Iran rejected the opposing countries' allegation on the violation of the NPT.

The sole legal reference on this dispute is the IAEA. In spite of the IAEA negative reports on Iran, until now it has never been able to conclusively prove Iran's purported violations as well as military dimension

to Iran's nuclear program ¹¹². Unfortunately, the alleged nuclear deviation turned out to be the basis of 13 years of dispute, which had been escalating in the context of hostility and misperception. In fact, the process of Iran's nuclear dossier was more political than technical; thus it could have been resolved earlier if there had been enough political will on both sides and more mutual understanding instead of enmity.

In a counterfactual approach, it is not unconceivable to imagine that if a country other than the Islamic Republic of Iran had the same failure in its nuclear program, it would not have gone through the same path. Furthermore, if a more experienced government were in power instead of Ahmadinejad's government, the nuclear dispute wouldn't have escalated so drastically. The antagonistic political atmosphere between Iran and its opposing countries played an essential role in how the issue unfolded and escalated over time.

e) *Controversy on ballistic missiles*

Iran's missiles program has always been a controversial issue along with its nuclear program. According to the opposing countries, Iran's ballistic missiles could potentially be a delivery vehicle for nuclear warheads. Considering Iran's chaotic security environment (having the headquarters of the most frightening terrorist groups: ISIS, Al-Qaeda, and Taliban in its neighborhood), it is unreasonable to expect Iran not to advance its military capabilities. This argument is especially unreasonable given the fact that Iran was left alone during its eight years of defensive war with Iraq. Great powers stood behind Iraq by supplying weapons for it and remained silent when Saddam Hussein attacked Iran with chemical weapons.

f) *Complexity of proportionality*

As mentioned in the first chapter, first, proportionality refers to the *equivalence* between the breached rule/norm and its consequences on one hand and the nature and scope of the countermeasures on the other (Cannizzaro 2001, 891). Secondly, according to the logic of proportionality, the standards of countermeasure proportionality is unconnected with standards of effectiveness (O'Connell 2002, 78). Lastly, proportionality is only measurable against wrongdoing/violation, not a hypothetical threat.

¹¹² Gholamali Khoshroo, Iran's ambassador to the UN, affirmed in his speech to the UNSC, on the day the Res. 2231 was passed in endorsement of the nuclear deal, that no proof was found other than that Iran's nuclear program has been peaceful. He underscored: "They (sanctions) were grounded on nothing but baseless and pure speculation and hearsay. Nobody has ever presented any proof indicating that Iran's program has been anything but peaceful." ("UNSC Resolution on Nuclear Conclusion A Major Development: Iran's Envoy," <http://www.tasnimnews.com/en/news/2015/07/20/805225/uns-res-resolution-on-nuclear-conclusion-a-major-development-iran-s-envoy> (Tasnim News Agency July 20, 2015).

Nuclear related sanctions (the countermeasures) against Iran were authorized due to (a) Iran's alleged nuclear deviation (the wrong), and (b) Iran's nuclear threat (hypothetical threat). Concerning Iran's hypothetical threat: Iran seeks to possess nuclear weapons and then use them against its enemies; proportionality is immeasurable, or more precisely irrelevant. It can always be claimed that any countermeasure that could deter the threat of nuclear war would be acceptable. In Iran's case, the validity of the threat should be verified.

Proportionality is measurable by looking at Iran's alleged nuclear deviation (the wrong), and the authorized sanctions (the countermeasures). The UNSC sanctions against Iran were, therefore, more proportionate in comparison with the U.S. and EU expanded and extensive sanctions. Iran had inflicted no harm, whereas the authorized sanctions impacted the entire population of Iran (around 77 million citizens). This outcome was not through collateral damage, but intended damage which was not unknown to the sanctioners at the time of authorization. The authorized nuclear-related sanctions against Iran were the most comprehensive and unprecedented in the history of sanctions. As it is described in Chapters 5 and 6 (on Target Discrimination Principle and Civilian Immunity Principle), the country's infrastructures and many aspects of its citizens' lives were affected. According to the sanctioners' narratives, tightening sanctions (the authorization of new sanctions) during the time was indispensable if the efficacy of sanctions against Iran had to increase. However, it is unjust to authorize sanctions disproportionately in order to increase their effectiveness.

g) *Extraterritorial sanctions phenomenon*

The authorization of secondary sanctions (extraterritorial sanctions) by the U.S. against Iran is a vivid example of the actions of an illegitimate authorizer of sanctions and the negligence of an important criterion of justice in sanctions. National legislations should be territorial and no single state should be a legitimate authorizer of unilateral sanctions with extraterritorial applications. The UN is the sole legitimate authorizer for international sanctions. But the U.S. has positioned itself in the UNSC's place by designing a complicated and intertwined web of secondary sanctions related to Iran's nuclear program and allegations of human rights violations and terrorism sponsorship. Under the threat of the U.S. secondary sanctions and penalties, major companies and banks are still reluctant to resume transactions with Iran even after the UNSC lifted the nuclear-related sanctions against Iran. In sum, not only were the U.S. secondary sanctions illegitimate and unjust from the very beginning, but also they have turned out to be the main obstacle for the implementation of nuclear-related sanctions relief in Iran.

h) Expanded and extensive sanctions in the context of ambiguity

The language of sanctions' resolution/document should not be vague, contain undefined terms or non-evidentiary requirements. An ambiguous sanctions resolution/document would obstruct from justice as it paves the way for misinterpretation, auto-interpretation and consequently the authorization and implementation of expanded sanctions beyond the original framework. This kind of development occurred in the case of UNSC sanctions resolutions against Iran. In the UNSCRs against Iran, Member States are repeatedly required to "exercise vigilance" towards Iran while it is not clear what vigilance precisely constitutes. The ambiguity of the UNSCRs facilitated the authorization of extensively expanded sanctions against Iran by the U.S. and the EU. Accordingly, some actors decided to ban all interactions (legitimate or illegitimate) with Iran. These actions could always be justified as the full or maximum exercising of vigilance.

Aside from the language of vigilance, the UNSCRs contain non-evidentiary requirements. The Member States are required to impose additional prohibitions on trading, shipping and financial transactions if they *believe* that such activities *could* contribute to Iran's nuclear program. Therefore the authorizers and implementers of sanctions did not have to go through the trouble of providing any evidence to substantiate their allegations against Iran. In sum, the vague language and non-evidentiary requirements of sanctions' resolutions added to injustice in the authorization of sanctions against Iran.

2.2. Implementation of sanctions against Iran

The findings of this research substantiate the second part of the hypothesis: non-UN sanctions have not been implemented justly and the implementation of UN sanctions on Iran were less unjust. However, the impacts of sanctions implementation against Iran, in general, have been overarching and indiscriminate. Therefore, I would like to use another angle to assess the implementation of sanctions. Considering the arguments I made in Chapters 5, 6 and 7 (on criteria of Just Implementation of Sanctions) the multifaceted impacts of sanctions on Iran and its population, I would like to ask and discuss two important questions: (1) Has the implementation of sanctions against Iran been comprehensive? and (2) How has globalization served the comprehensive implementation of sanctions against Iran?

2.3. Has the implementation of sanctions against Iran been comprehensive?

As a general rule, any form of collective punishment including comprehensive sanctions is unacceptable and unjust. The indiscriminate nature of comprehensive sanctions triggered the criticisms of human rights advocates and paved the way for the emergence of "targeted" or "smart"

sanctions. These sanctions were supposed to be more humane by targeting the responsible individuals and entities. In spite of the theoretical distinctions between comprehensive and targeted sanctions, the practical framework of targeted sanctions may cause them to turn into comprehensive ones. In fact, targeted sanctions may have comprehensive implementations under the following circumstances:

- If they were targeting core economic infrastructures;
- If they were combined with other sanctions.

Sanctions against Iran are claimed to be “targeted” or “smart”, whereas different sanctions have not only been in place in an intertwined web arrangement, but also they have targeted both wings of Iran’s economy: (a) energy sector and (b) banking and financial system. Therefore, sanctions against Iran are far from being smart or targeted due to their indiscriminate nature and comprehensive implementation. Chapters 5 and 6 on target discrimination and civilian immunity are the most central chapters to the Just Implementation of Sanctions which reflect how sanctions have been implemented comprehensively. It is also important to notice that the comprehensive implementation of sanctions against Iran was possible due to the characteristics of globalization.

2.4. How globalization has served the comprehensive implementation of sanctions against Iran?

The comprehensive implementation of sanctions against Iran was possible because of globalization’s characteristics.

- **Global economy**

The world economy has been increasingly intertwined and connected to the point where a country would face critical consequences were it to be excluded. However, the ramifications vary based on the extent the country is integrated into the global economy. One of the most remarkable characteristics of the global economy which has contributed to the comprehensive implementation of sanctions against Iran, is the electronic payment system/method. In the purported globalized world, economic actors conduct their financial transactions through electronic methods. The emergence of multinational banking and financial services companies such as HSBC, and the global payments network SWIFT (Society of Worldwide Interbank Financial Telecommunications) have changed global finance arrangements. Secure international payment have integrated financial transactions worldwide. This incorporated globalized financial network has contributed to the comprehensive implementation of sanctions against Iran in at least three ways:

a) Financial transactions

When Iran was cut off from SWIFT and major financial institutions were banned from doing transactions with Iran, the country was essentially excluded from the global financial system. Therefore, Iran had serious difficulties in conducting its international financial transactions for almost all goods and services;

b) Circumvention policies

With electronic financial transactions, it is easy to trace the record of payers, payees, sources and destinations of transactions. Consequently, the tractable mechanism has made it difficult for Iran to circumvent sanctions without being traced. For instance, some banks had to pay millions of dollars of forfeit to the U.S. when it was revealed that they were involved in financial transactions with Iran in violation of U.S. secondary sanctions against Iran. Hence, the less chances Iran had for sanctions circumvention the more comprehensive sanctions could be implemented.

c) World business currency

The global business currency is dominated by US dollars, especially for oil and gold. Whereas, according to U.S. sanctions, not only US financial institutions, but also foreign ones are prohibited from conducting U.S. dollar-based transactions with Iran. This prohibition was not lifted even after the final nuclear deal was reached. The domination of US dollars in global markets has vastly contributed to the comprehensive implementation of sanctions against Iran.

- **Global transportation**

In the globalized world, international shipping companies and insurance firms have a fundamental role in international transportation of goods across the world. Their significance was even greater for Iran, as its own shipping sector was targeted by sanctions. Most of the major international shipping and insurance companies refused to provide services to Iran in compliance with sanctions. Therefore, Iran was fundamentally excluded from global transportation. In sum, exclusion from the global transportation network along with exclusion from the global market and global financial system, constituted some of the pieces in the comprehensive implementation of the sanctions' puzzle.

- **Global media**

The global mass media, such as international satellite TV channels and the Internet, have played an important role in convincing the audience of the threat of Iran's nuclear program. Iran and its nuclear program were successfully securitized and consequently Iran's market was depicted as a controversial

one that all economic actors should avoid. The widespread acceptance across the globe of this perception provided the ideational support for comprehensive implementation of sanctions against Iran. The comprehensive implementation of sanctions was possible, despite its inhumane impacts on Iranians. The sanctioners' narratives and discourses were so dominant in the global mass media that any voice against years of sanctions and inflicted harms to Iranians could hardly be heard.

- **Global and international bodies and treaties**

Global and international organizations and institutions also contributed to the comprehensive implementation of sanctions against Iran either by their actions, (the UNSC's ambiguous resolutions) or inactions (human rights organizations' silence). Furthermore, being a partner to the international treaties such as the NPT turned out to be the basis for Iran's nuclear crisis instead of contributing to its nuclear program. If Iran had not voluntarily committed itself to the NPT, perhaps it could pursue its nuclear program free of international scrutiny similar to Israel. Despite regional and international pressure, Israel has never accepted to sign the NPT and therefore it has always been exempted from monitoring by the IAEA. How would Iran's nuclear story have unfolded, if like Israel it had not committed itself to the international treaty: the NPT?

3. Just Post Sanctions; the next step of the research

As it is mentioned in Chapter 1 (on Theoretical Framework), Just Post-Sanctions encompasses five criteria: (a) Compliance, (b) Compensation and Punishment, (c), Proportionality, (d) Deterrence, and (e) Collateral damage responsibility. Since the UN and the EU nuclear-related sanctions and the U.S. secondary sanctions have been partially lifted since 2016, I had the opportunity to briefly study the first criterion of "compliance" in the case of Iran and include it in my research conclusion. However the other criteria are not yet applicable to the case of Iran. I hope that in my next research project I will be able to accurately develop the theoretical framework of "Just Post Sanctions" and apply it to Iran as a case study.

3.1. Compliance

According to the "compliance" criterion, when sanctions are lifted through a designated mechanism (for instance a new UNSC Resolution) sanctioner(s) should comply with the agreed upon time of

termination of sanctions. It would be unjust to keep sanctions in place or hinder and delay the termination process.

Iran and P5+1 were able to put an end to the 13 years dispute over Iran’s nuclear program through the final nuclear deal: Joint Comprehensive Plan of Action (JCPOA) on 14 July 2015. Shortly after, the UNSC Resolution 2231 was passed on 20 July 2015 in which it endorsed the JCPOA and asked for its full implementation (UNSCR 2231 (2015), 2). According to the resolution, should the IAEA present a positive report on Iran’s compliance with the agreement, nuclear-related sanctions on Iran should be lifted in accordance with the JCPOA. On the historic day of 16 January 2016, the IAEA presented a positive report on Iran and verified that Iran has met its nuclear commitments. Correspondingly, January 16, 2016 was marked as “Implementation Day” of the JCPOA (U.S. Department of Treasury January 16, 2016).

- **Compliance and commitments**

Compliance of the participants of the JCPOA is measured against their commitments in accordance with the nuclear deal. According to the JCPOA, nuclear-related sanctions relief would happen in 10 years. During this period of time, Iran, the EU and the U.S have different commitments to meet. For instance, when Iran met the first round of its nuclear commitments (verified by the IAEA) the new phase “Implementation Day” began, and it was the turn of the EU and the U.S’ to comply with their obligations by taking necessary actions to lift certain sanctions.

Table 8.1 Phases of Commitments & compliances

“Adoption Day” Oct.18, 2015	“Implementation Day” Jan.16, 2016	“Transition Day”	“ Termination Day” Oct.18, 2025
“Adoption Day is the date 90 days after the endorsement of this JCPOA by the UN Security Council, or such earlier date as	“Implementation Day is the date on which, simultaneously with the IAEA report verifying implementation by	“Transition Day is the date 8 years after Adoption Day or the date on which the Director General of the IAEA submits a	“UN Security Council resolution Termination Day is the date on which the UN Security Council resolution endorsing

<p>may be determined by mutual consent of the JCPOA participants, at which time this JCPOA and the commitments in this JCPOA come into effect”</p>	<p>Iran of the nuclear-related measures described in Sections 15.1. to 15.11 of Annex V, the EU and the United States take the actions described in Sections 16 and 17 of Annex V respectively and in accordance with the UN Security Council resolution, the actions described in Section 18 of Annex V occur at the UN level. “</p>	<p>report stating that the IAEA has reached the Broader Conclusion that all nuclear material in Iran remains in peaceful activities, whichever is earlier.”</p>	<p>this JCPOA terminates according to its terms, which is to be <u>10 years from Adoption Day</u>, provided that the provisions of previous resolutions have not been reinstated” .”</p>
--	---	---	--

*Source of definitions: JCPOA 14 July 2015, Vienna, 16

The EU and the US commitments differ largely from each other. While the EU is committed to lift all the nuclear-related sanctions against Iran (human rights-related sanctions will remain in place), the U.S. is only committed to remove secondary sanctions with some exceptions and it would keep almost all of the primary sanctions. U.S. primary sanctions ban “US persons” from any transactions dealing with Iran. “US person” refers to all US individuals (citizens and green card holders all over the world and anyone in the US territory) and all the entities under US law (including non-US entities in the U.S. territory) (Sherman & Sterling LLP January 20, 2016, 3). In fact, the U.S. would largely maintain its sanctions (nuclear, human rights and terrorism-related) that have been accumulated and tightened since the hostage crisis in 1979. Iran and the U.S. would not resume their economic relations even after the JCPOA. However, following the Implementation Day, some exceptions were made in the U.S. primary sanctions and OFAC issued licences

for the importation of pistachios, rugs, Saffron and caviar from Iran and the exportation of medical supplies to Iran. U.S. secondary sanctions have largely been removed with some critical exceptions. The most important secondary sanction still in place is the prohibition on US dollar-based transactions. Accordingly, non-US financial institutions would be subject to US secondary sanctions (such as exclusion from the U.S. financial system and penalties) in cases of non-compliance (Ibid, 4-5).

Given that it would be unjust to keep sanctions in place or to hinder and delay the termination process, and considering that the IAEA has verified Iran's compliance with its nuclear commitments in the first phase, it is important to ask the following question: have sanctioners been in compliance with the implementation of sanctions relief so far? The compliance challenges suggest that it will take a long time for sanctions relief to become a reality in practice.

- **Compliance challenges**

The main compliance challenges are classified as follows:

- a) *Remaining sanctions*

The remaining sanctions against Iran have been affecting the implementation of the JCPOA. One of the most important barriers in the compliance of sanctions relief is the prohibition on transactions in U.S. dollars - the most dominant currency in global business. Since 1995, U.S. banks were banned from any direct transactions with Iranian banks. However, transactions in U.S. dollar were permissible via "U-turn" banking¹¹³ (Bauer April 5, 2016). In 2008, the U.S. revoked the "U-turn" exemption to tighten sanctions against Iran (Ibid). Thus, Iran's reintegration into the international financial system in the post nuclear deal era has turned out to be impossible, because U.S. and non-U.S. banks are still banned from U.S. dollar transactions with Iran.

- b) *The vague statements of the US Treasury Department*

Since the Implementation Day, the US Treasury Department and its' Office of Foreign Assets Control (OFAC) have issued vague statements instead of providing clear guidance. For instance, on

¹¹³ "A **U-turn transaction**, generally speaking, is a banned financial transaction done by a bank in country A (example: USA) for the benefit of a bank in country B (example: Iran) through offshore banks (example: Switzerland). This loophole is used by Iranian banks to avoid U.S. sanctions on US dollar based transactions. The phrase "U-turn" applies because the funds are transferred to a U.S. bank and instantly turned back as dollars to a European bank" ("**U-Turn (Banking)**", [https://en.wikipedia.org/wiki/U-turn_\(banking\)](https://en.wikipedia.org/wiki/U-turn_(banking))).

Implementation Day, the US Treasury Department issued an explanatory document on sanctions relief which could add to concerns rather than to clarity:

“Foreign financial institutions should continue to undertake their customary due diligence to ensure that they are not facilitating transactions that remain sanctionable.” (The Treasury Department January 16, 2016).

Major banks need to be assured on legal bases and through precise guidance that they would not violate U.S. sanctions if they were to financially work with Iran (Cullis March 31, 2016). The head of the French banking federation, Marie-Anne Barbat-Layani, believes that the U.S. should resolve all the legal uncertainties regarding dealing with Iran. She affirms "To be able to intervene, we banks need to have complete legal security and clarity ... We're not there yet." (Press TV Feb.16, 2016) . The delays of the U.S. in providing an accurate roadmap for major banks and economic actors has made sanctions relief unworkable.

c) *Risk aversion approach*

The confusion, vagueness and complicated regulations around re-engaging with Iran have swayed major economic actors towards risk aversion and consequently resulted in unworkability of sanctions relief. According to a survey conducted by Clyde & Co, more than 50% of companies across the globe, who are willing to do business with Iran have been held back mainly because they are confused with the remaining sanctions and are fearful of U.S. penalties (Nasseri May 17, 2016). Furthermore, they are concerned with uncertainties regarding the future of the nuclear deal and possible sanctions snapback, especially after Obama’s presidency and the first term of Rouhani’s presidency. Trump has vowed to tear up the "disastrous" Iranian nuclear deal and Ted Cruz has promised that he would "rip to shreds this catastrophic Iranian nuclear deal" (Chicago Tribune April 7, 2016). The fact is that most Republicans are against the deal and wish to renegotiate it or at least impede its implementation. Likewise, hardliners in Iran call the JCPOA a “disaster” and they have done their best to derail the deal (Khabaronline News Agency October 5, 2015).

I elaborate more on the compliance challenges through explaining some of the most important examples in sanctions relief implementation.

1) *SWIFT and banking transactions:*

Iranian banks were disconnected from SWIFT in March 2012 and consequently Iran was excluded from the global financial system. Upon the implementation of the JCPOA, some of the Iranian banks have been slowly

reconnecting to SWIFT after four years. However, this development does not mean that normal banking has been resumed (Reuters Feb 17, 2016). Prohibition on US dollar transactions is still in place so even though Iran is reconnected to SWIFT, it cannot conduct transactions in US dollars which is the dominant currency of global business. Asadollah Asgar-Oladi, a member of Iran's Chamber of Commerce asserts that reconnecting to SWIFT has been useless so far and has had no advantage for the Iranian economy. He affirms that Iranian banks are able to send messages through SWIFT but they cannot transfer money. Asgar-Oladi stresses that the European banks still do not trust Iran and are not ready to sign necessary contracts for money transfers because they are afraid of sanctions snapback (Fars News Agency March 5, 2016). Likewise, Mohsen Rezaee, secretary of the Expediency Discernment Council of the Islamic Republic of Iran, compares the reconnection of Iranian banks to SWIFT with open channels/pipes with no water passing inside (Mehr News Agency April 17, 2016). Furthermore, the Iranian banking system is almost outdated as it was disconnected from the international financial system for years. Thus, the technical problems have also added to Iran's difficulties in reengaging with SWIFT and foreign banks.

2) *Financing the deals:*

Despite the fact that prohibitions on import and export have been greatly lifted, Iran has grave difficulties in financing the purchases and also receiving the payments for exported goods and materials. For instance, some Iranians conducting business in Dubai assert that they are still unable to open letters of credit (LC) to finance their business deals (Arnold and Saul March 22, 2016). In another example, Iran has signed a deal with the airline Airbus to purchase 118 new airplanes. The deal is worth \$27 billion, yet financing the deal is still challenging and there is a need for more serious cooperation from EU banks (Press TV Feb.16, 2016).

3) *Frozen assets:*

According to Valiollah Seif, the Governor of the Central Bank of Iran (CBI), "Three months after the implementation of the JCPOA, Iran has not been able to access 100 billion dollars of its assets that are confiscated abroad" (Mehr News Agency April 20, 2016). He affirms that "although Iran's assets in foreign banks are supposed to be accessible, European banks are still worried about violating U.S. sanctions and facing its heavy penalties" (Ibid). The prohibition on transactions in US dollars is the main obstacle in Iran's access to its assets.

4) *Trade partners:*

There are still many Iranian individuals and entities that are on the U.S., the EU and UK black lists. Therefore, it is an extremely difficult and complicated task for business firms and financial institutions to

reengage with Iran when Iran's business environment is not transparent. It is necessary for such entities to ensure their business would not touch the designated individuals and entities, such as IRGC, which has a prominent role in Iran's economy (Nasseri May 17, 2016). In sum, lack of transparency in doing business with Iran is one of the main challenges of compliance with sanctions relief.

- **Cases of Noncompliance**

In addition to compliance challenges, there are cases of clear noncompliance in the post nuclear deal era. For instance, the governor of Texas, Greg Abbott, has formally announced that Texas has no intention of complying with the nuclear accord, and will maintain all sanctions against Iran¹¹⁴. In his letter to President Obama who had requested all 50 states to review sanctions against Iran and not to interfere with the implementation of the JCPOA, Abbot asserts:

“Because the Iran deal is fundamentally flawed and does not permanently dismantle Iran's nuclear capability, Texas will maintain its sanctions against Iran... Further, because your administration has recklessly and unilaterally removed critical sanctions, I have called on the Texas Legislature to strengthen the Iran sanctions that Texas already has in place,”¹¹⁵ (The Jerusalem Post May 17, 2016).

- **What if Iran does not feel the benefits of sanctions relief?**

Given the challenges of compliance with sanctions relief, Iran is hardly receiving the expected economic benefits of the nuclear deal - something that would be a serious threat to the nuclear accord. Mohammad Javad Zarif warns “The JCPOA is in danger... Iranian people should feel the JCPOA as soon as possible, otherwise they may question the advantage of the nuclear deal” (Mehr News Agency April 20, 2016). He complains, “We have not gone through 30 months of the most compact negotiations to face a vain document” (Ibid). The Central Bank of Iran (CBI) Governor, Valiollah Seif, described Iran's achievements of the nuclear accord at the Council on Foreign Relations (CFR) in Washington: “Let me also give you a snapshot of what has happened over the last three months — the date of implementation of the JCPOA: almost nothing.” (Faghihi April 27, 2016). Both sides of the nuclear deal have recognized the danger of not benefiting from the accord.

In sum, all the partners to the nuclear deal have to comply with not only the letter but also the spirit of the JCPOA. The U.S should especially avoid policies that would undermine the JCPOA and that would hinder

¹¹⁴ Texas has economic significance: its ranking would be the 12th largest globally if it were a nation (The Jerusalem Post, May 17, 2016).

¹¹⁵ Watch the video of Greg Abbott's explanation here: <http://www.thepoliticalinsider.com/texas-just-flipped-obama-the-bird-on-iran-sanctions/>;

the implementation of sanctions relief such as changes in the Visa Waiver Program (VWP)¹¹⁶. The IAEA report acknowledges that Iran has complied with the first round of its nuclear obligations in accordance with the JCPOA. And if the other sides of the nuclear deal do not fully comply with the accord and do not facilitate the sanctions relief implementation, the Rouhani government might unwillingly be swayed to reconsider Iran's nuclear policy, something that hardliners on both sides along with global, regional, and national sanctions traders would strongly welcome.

¹¹⁶ According to the VWP, citizens of 38 countries (All from high-income economies: European states, Australia, Japan and South Korea), do not need to apply for a visa to travel to the U.S. However, according to recent changes anyone from the mentioned 38 countries who has traveled to Iran, Iraq, Syria and Sudan since 2011, are required to apply for a U.S. visa. The U.S. implemented the changes under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 (the Act), in January 21, 2016. Nonetheless, the U.S. may consider waiving the restriction for "*Individuals who traveled to Iran for legitimate business-related purposes following the conclusion of the Joint Comprehensive Plan of Action (July 14, 2015)*" ("United States Begins Implementation of Changes to the Visa Waiver Program," , <http://www.state.gov/r/pa/prs/ps/2016/01/251577.htm>. (U.S. Department of State: January 21, 2016)
The changes to the VWP is in noncompliance with the spirit of the nuclear deal, even considering the possible waiver, as it discourages individuals and entities to travel to Iran.

References

- Acton, James M. "Iran Violated International Obligations on Qom Facility." *Proliferation Analysis, Carnegie Endowment for International Peace, September 25*, (2009).
- Adebahr, Cornelius. "Easing EU Sanctions on Iran." *Atlantic Council* (2014).
- Adrian U-Jin Ang and Dursun Peksen. "When do Economic Sanctions Work? Asymmetric Perceptions, Issue Salience, and Outcomes." *Political Research Quarterly* 60, no. 1 (2007): 135-145.
- Aftab News Website. "The Number of Male and Female University Student has Become Equal." .
<http://aftabnews.ir/vdciqzazrt1azu2.cbct.html>.
- Ahmad khanbeigi, Samaneh. *Evaluating the U.S and EU Human Rights Related Sanctions Against Iran*. Tehran: The Research Center of Iran Parliament, October 2011.
- Ahmadinejad's official website. " غنی سازی ۲۰ درصد تا کشف منابع جدید در دولت دهم " .
<http://www.ahmadinejad.ir/28-غنی-سازی-۲۰-درصد-تا-کشف-منابع-جدید-در-دولت-دهم>.
- Albright, David and Robert Avagyan. *Cleanup Activity at Suspected Parchin Test Site Appears Complete: Site Considerably Altered*. Washington, DC: Institute for Science and International Security, July 31, 2012.
- Albright, David, Mark Dubowitz, Orde F. Kittrie, Leonard Spector, and Michael Yaffe. "US Nonproliferation Strategy for the Changing Middle East." *Institute for Science and International Security, Forthcoming* (2013).
- Alef News Website. " آمار جدید وزارت صنعت از کاهش تولید خودرو " .
<http://alef.ir/vdcjmoevvuqemyz.fsfu.html?168061>.
- . " خروج 180 هزار نخبه از درکشور سال های اخیر " .
<http://alef.ir/vdcepo8wpjh8xzi.b9bj.html?239166>.
- . " درخواست بازرسی مراکز نظامی دفاعی، درخواست جاسوسی رسمی از ایران است " .
<http://alef.ir/vdcjt8e8muqea8z.fsfu.html?272236>.
- Aminzadeh, Elham and Vahideh Gholamy. "**Ristricting the Implementation of Economic Sanctions in Light of Human Rights Norms, Competition Rules and Social Rights**." *Quarterly of Foreign Relations* 5, no. 3 (2013): 182-210.
- Amstutz, Mark R. *International Ethics: Concepts, Theories, and Cases in Global Politics*. 2end ed. Rowman & Littlefield Publishers, 2005.
- Andreas, Peter. "Criminalizing Consequences of Sanctions: Embargo Busting and its Legacy." *International Studies Quarterly* 49, no. 2 (2005): 335-360.
- Arman Newspaper. " هر دقیقه یک نزاع در ایران " .

<http://armandaily.ir/1394/03/25/Files/PDF/13940325-2778-16-4.pdf>.

Arnold, Tom and Jonathan Saul. "Iranians Exasperated as U.S. Sanctions Frustrate Deal Making." *Reuters* (March 22, 2016).

Bahgat, Gawdat. "Nuclear Proliferation in the Middle East: Iran and Israel." *Contemporary Security Policy* 26, no. 1 (2005): 25-43.

Bauer, Katherine. *Potential U.S. Clarification of Financial Sanctions Regulations*.

<http://www.washingtoninstitute.org/policy-analysis/view/potential-u.s.-clarification-of-financial-sanctions-regulations> ed. The Washington Institute, April 5, 2016.

<http://www.washingtoninstitute.org/policy-analysis/view/potential-u.s.-clarification-of-financial-sanctions-regulations>.

Bayat, Mohsen. "the History of Iran Sanctions: Evolution of Vulnerabilities and Nature of Sanctions." *Journal of Foreign Policy* 26, no. 4 (2012): 935-960.

BBC. "Iran Students Face Expulsion from Norway Over Sanctions." . <http://www.bbc.com/news/world-middle-east-28488024>.

———. "Iranian Billionaire Babak Zanjani 'Arrested' ." . <http://www.bbc.com/news/world-middle-east-25551849>.

———. "The Result of Iran' University Entrance Exam: %60 of Acceptants are Female." . http://www.bbc.co.uk/persian/iran/2012/09/120912_123_konkor91_iran_university.shtml.

———. "Washington 'Snubbed Iran Offer'." . <http://news.bbc.co.uk/2/hi/6274147.stm>.

———. "تحریم علمی؛ مرکز فیزیک نظری عبدالسلام از ایران به ترکیه رفت ." . http://www.bbc.com/persian/science/2014/06/140606_science_iran_sanction.

———. "رئیس بنیاد بیماری‌های خاص: جان بیماران ایرانی به دلیل تحریم‌ها در خطر ستا ." . http://www.bbc.co.uk/persian/iran/2012/10/121017_123_sanction_sickness_iranian_warning.shtml.

Bergman, Ronen. "WikiLeaks: Syria Aimed Chemical Weapons at Israel" . *Ynet News* (April 14, 2014).

Biersteker, T., Sue E. Eckert, Marcos Tourinho, and Zuzanna Hudáková. "Designing United Nations Targeted Sanctions: Findings from the Targeted Sanctions Consortium (TSC)." (2012).

Biersteker, Thomas and Sue E. Eckert. "Strengthening Targeted Sanctions through Fair and Clear Procedures." *Watson Institute for International Studies*. Available at Http://Www.Watsoninstitute.Org/Pub/Strengthening_Targeted_Sanctions.Pdf (2006).

Bisharat, George E. "Sanctions as Genocide." *Transnat'L L. & Contemp.Probs.* 11, (2001): 379.

Boghairy, Ali. "the Impact of Iran Sanctions on Persian Gulf Environment." *Middle East Studies Quarterly* 5, no. 3 (2013): 117-142.

- Bolton, John. "to Stop Iran's Bomb, Bomb Iran." *The New York Times*, March 26, 2015.
- Boulden, Jane and Andrea Charron. "Evaluating UN Sanctions." *Int'L J.* 65, (2009).
- Boyle, Francis A. "Anti-Iran Sanctions (no. 8) Francis A. Boyle: I'm Ready to Help Iran Freeze the Sanctions." Iranreview website. <http://www.iranreview.org/content/Documents/Anti-Iran-Sanctions-No-8-Francis-A-Boyle-I-m-Ready-to-Help-Iran-Freeze-the-Sanctions.htm>.
- Broad, William J. and David E. Sanger. "Relying on Computer, US Seeks to Prove Iran's Nuclear Aims'." *New York Times*, Nov. 13, 2005.
- Brough, Michael W., John W. Lango, and Harry Van der Linden. *Rethinking the just War Tradition* SUNY Press, 2007.
- Buzan, Barry and Ole Waever. *Regions and Powers: The Structure of International Security*. Vol. 91 Cambridge University Press, 2003.
- Canada Parliament. Senate. Standing Committee on Foreign Affairs and International Trade. *Iran in Focus: Current Issues for Canadian Foreign Policy* 2012.
- Cannizzaro, Enzo. "The Role of Proportionality in the Law of International Countermeasures." *European Journal of International Law* 12, no. 5 (2001): 889-916.
- Carswell, Robert. "Economic Sanctions and the Iran Experience." *Foreign Affairs* 60, no. 2 (1981): 247-265.
- Charity & Security Network. "the Kadi Case: Court Decisions on due Process for Terrorist Listing Differ in EU, U.S." . http://www.charityandsecurity.org/litigation/Kadi_Timeline.
- Charron, Andrea. *UN Sanctions and Conflict: Responding to Peace and Security Threats*. Vol. 7 Routledge, 2011.
- Chesterman, Simon and Beatrice Pouligny. "Are Sanctions Meant to Work? the Politics of Creating and Implementing Sanctions through the United Nations." *Global Governance* 9, (2003): 503-518.
- Chicago Convention. "Convention on International Civil Aviation done at Chicago." . http://www.icao.int/publications/Documents/7300_orig.pdf.
- Chicago Tribune. "Tear Up the Iran Nuclear Deal? then what??" . <http://www.chicagotribune.com/news/opinion/editorials/ct-iran-nuclear-obama-trump-cruz-edit-0408-jm-20160407-story.html>.
- CISADA (2010). "Comprehensive Iran Sanctions, Accountability, and Divestment Act ." . <https://www.treasury.gov/resource-center/sanctions/Documents/hr2194.pdf>.
- Clark, Harry L. and Lisa W. Wang. *Foreign Sanctions Countermeasures* (2007).
- CNN website. "IAEA: Iran Broke Law by Not Revealing Nuclear Facility." . <http://www.cnn.com/2009/WORLD/meast/09/30/iran.iaea.nuclear/index.html?iref=24hours>.

Cordesman, Anthony H., Bryan Gold, and Chloe Coughlin-Schulte. *Iran: Sanctions, Energy, Arms Control, and Regime Change* Rowman & Littlefield, 2014.

Cortright, David and George A. Lopez. *Economic Sanctions: Panacea Or Peacebuilding in a Post-Cold War World?* Westview Press, 1995.

———. *Smart Sanctions: Targeting Economic Statecraft* Rowman & Littlefield, 2002.

Cortright, David, George A. Lopez, Gerber Stellingwerf, Eliot Fackler, and Persinger Joshua Weaver. *Human Rights and Targeted Sanctions, an Action Agenda for Strengthening due Process Procedures*, November 2009.

Council Common Position 2007/140/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:061:0049:0055:EN:PDF>.

Council Decision 2010/413/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0039:0073:EN:PDF>.

Council Decision 2011/235/CFSP April 2011. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:100:0051:0057:EN:PDF>.

Council Decision 2012/152/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:077:0018:0018:EN:PDF>.

Council Decision 2012/168/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:087:0085:0089:EN:PDF>.

Council Decision 2012/35/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:019:0022:0030:EN:PDF>.

Council Decision 2012/635/CFSP. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:282:0058:0069:EN:PDF>.

Council Implementation Regulation (EU) No 1264/2012. "**Implementing Regulation (EU) no 267/2012 Concerning Restrictive Measures Against Iran**" . <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R1264&from=EN>.

protecting Against the Effects of the Extra-Territorial Application of Legislation Adopted by a Third Country, and Actions Based Thereon Or Resulting Therefrom (): .

Council Regulation 423/2007. . <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:103:0001:0023:en:PDF>.

Coursera blog. "Restoring Course Access in Iran." . <http://blog.coursera.org/post/87742596882/restoring-course-access-in-iran>.

- Crane, Keith. "Iran and International Sanctions: Elements of Weakness and Resilience." *Iran's Nuclear Programme. Strategic Implications. New York, : Routledge* (2012).
- Cullis, Tyler. ",Obama Administration Puttering on Sanctions Relief Risks Derailing Iran Accord." *Hofingtonpost*, March 31, 2016.
- Daavari, Ahmad and Mohammad Azizi. *Elsevier Sanctions and its Consequences*. Tehran: The Research Center of Iran Parliament, May 2012.
- Dadgar, Yadoallah and Roohoulah Nazar. "**Welfare Analysis of Subsidy Policy in Iranian Economy.**" *Social Welfare Quarterly* 11, no. 42 (2011): 337-380.
- Dalacoura, Katerina. *Engagement Or Coercion? Weighing Western Human Rights Policies Towards Turkey, Iran and Egypt* The Royal Institute of International Affairs, 2003.
- Dana News Agency. . <http://danakhabar.com/fa/news/1162376/> شد-خبرساز-هندی-الوده-های-برنج-هم-باز
- . " رشد خیره کننده کالای واردات هندی به ایران جایگزینی/ برنج، چای و گوشت گاو هندی به جای پول نفت ". [http://danakhabar.com/fa/news/1169767.](http://danakhabar.com/fa/news/1169767/)
- Dehshiri, Ameneh and Mohamad Sharif Shaahi. "**Sanctions Against Iran and the Right to Access Medicine: Standards and Obligations.**" In *The Collection of Articles of Symposium on Legal Dimensions of Security Council International Sanctions* [ها علیه ایران و حق دسترسی به دارو: تعهدات و معیارها]، edited by Momeni, Mehdi, 182-197. Tehran: Majd, 2013.
- Delaavar Pour Aghdam, Mostafa. *The Supreme Leader's Positions on Sanctions, and Islamic Republic of Iran's Nuclear Diplomacy*. Tehran: The Research Center of Iran Parliament, October 2012.
- Delavar pour aghdam , Mostafa and Mohamad Hassan Moadi roodsary. "**the Prospect of U.S Sanctions Laws from in the Context of Soft Power Theory.**" *Majlis & Rahbord Scientific Research- Quarterly Journal* 21, no. 78 (2014): 121-148.
- Delpech, Thérèse. "Negotiating with Iran: Lessons to be Drawn." *Iran's Nuclear Program: Strategic Implications* (2012): 34-52.
- Dobbins, James, Dalia Dassa Kaye, Alireza Nader, and Frederic Wehrey. "How to Defuse Iran's Nuclear Threat; Bolster Diplomacy, Israeli Security, and the Iranian Citizenry." *Rand Review* (Spring 2012).
- Donya-e-eqtasad Newspaper " بهره برداری از پروژه تولید آب سنگین " , August 27, 2006. <http://donya-e-eqtasad.com/news/384144>
- Dubowitz, Mark. "The Sanctions on Iran are Working." *Foreign Policy* (February 10, 2010).
- Dupont, Pierre-Emmanuel. "Countermeasures and Collective Security: The Case of the EU Sanctions Against Iran." *Journal of Conflict and Security Law* (2012).

- . "The ECJ and (Mis)Interpretation of Security Council Resolutions: The Case of Sanctions Against Iran." . <http://www.ejiltalk.org/the-ecj-and-misinterpretation-of-security-council-resolutions-the-case-of-sanctions-against-iran/>.
- DW Website. " : " صالحی: اولین سانتتریفیوژها را از بازار سیاه خریدیم ." .
<http://www.dw.com/fa-ir/ا-18374774/خریدیم-سیاه-بازار-از-را-سانتتریفیوژها-اولین-صالحی/>.
- Ebner, Lukas, ed. *Sanctions on Iran and their Impact*: Nova Science Pub Inc, 2013.
- Eckert, Sue E. and Thomas J. Biersteker. "Due Process and Targeted Sanctions. an Update of the" Watson Report." *Watson Institute for International Studies, Brown University.Providence, Rhode Island* (2012).
- Emadi, Seyed Mohsen. "The Effect of EConomic Sanctions of the. UN Security Council in the ENjoyment of Human Rights." *Journal of Foreign Policy* 26, no. 1 (2012): 121-161.
- Emamjomezadeh, Seyed Javad and Soosan Moradi. "International Bans and Formation of Destructive Movements: The Case of Iran." *Political and International Approaches Quarterly, Department of Economics and Political Science* no. 16 (2009): 37-62.
- Ensign, Rachel L. and Samuel Rubinfeld. "U.S. Blacklist Removal Requests Get no Response, Complaint Alleges." . <http://blogs.wsj.com/riskandcompliance/2014/01/09/u-s-blacklist-removal-requests-get-no-response-complaint-alleges/>.
- Entekhab News Website. " ولایتی: تهدید نظامی اصل مذاکرات را به خطر می اندازد ." .
<http://www.entekhab.ir/fa/news/204714/ولایتی-تهدید-نظامی-اصل-مذاکرات-را-به-خطر-می-اندازد-%E2%80%8Cولایتی>.
- Eriksson, Mikael. *Targeting Peace: Understanding UN and EU Targeted Sanctions* Ashgate Publishing, Ltd., 2011.
- Esfandiary, Dina. "Actually, the Sanctions on Iran Aren'T Working." The Atlantic.
<http://www.theatlantic.com/international/archive/2012/10/actually-the-sanctions-on-iran-arent-working/263474/>.
- . *Assessing the European Union's Sanctions Policy: Iran as a Case Study* 2013.
- Esfandiary, Dina and Mark Fitzpatrick. "Sanctions on Iran: Defining and Enabling 'success'." *Survival* 53, no. 5 (2011): 143-156.
- European Commission – Restrictive measures. . http://eeas.europa.eu/cfsp/sanctions/docs/index_en.pdf.
- European Commission Website: Dual-use export controls. "Dual-use Export Controls." .
<http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/>.
- European union website. "Court of Justice of the European Union (CJEU) ." . http://europa.eu/about-eu/institutions-bodies/court-justice/index_en.htm.

Executive order 12211. "

PROHIBITING CERTAIN TRANSACTIONS WITH IRAN " . <https://www.treasury.gov/resource-center/sanctions/Documents/12211.pdf>.

Executive Order 13622. "

Authorizing Additional Sanctions with Respect to Iran " . <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13622.pdf>.

Executive Order the Implementation of Certain Sanctions Set Forth in the Iran Freedom and Counter-Proliferation Act of 2012 and Additional Sanctions with Respect to Iran , Public Law 13645, (June 3, 2013): .

Faghihi, Rohollah. "How 'almost Nothing' in DC Turned into Something in Tehran." . <http://www.al-monitor.com/pulse/originals/2016/04/iran-central-bank-governor-seif-almost-nothing-cfr.html#>.

Fararu News Website. "بودند؟ کسانی چه تحریم کاسبان" . <http://fararu.com/fa/news/242178>.

Farrall, Jeremy. "Should the United Nations Security Council Leave it to the Experts? the Governance and Accountability of UN Sanctions Monitoring." In *Sanctions, Accountability and Governance in a Globalised World*, edited by Farrall, Jeremy and Kim Rubenstein, 123-143. New York: Cambridge University Press, 2009.

Farrell, Michael. *Modern just War Theory: A Guide to Research* Scarecrow Press, 2013.

Fars News Agency " مصاحبه با دانشمندان هسته ای را نمی دهیم / ۱+۵ به دنبال جاسوسی از نقاط استراتژیک نظامی ایران است." "هرگز اجازه

<http://farsnews.com/newstext.php?nn=13940311000991>.

———. "Iran's VP Urges UN to Stop Destructive Impacts of Western Sanctions on Environment." . <http://en.farsnews.com/newstext.aspx?nn=13920820001529>.

———. "مشکل سويفت حل نشده / بانک های اروپایی از ترس آمریکا با ایران همکاری نمی کنند." .

<http://www.farsnews.com/13941215000381>.

Feizi chakab, Gholam Nabi. "

"خنثی سازی تحریم با ابزار حقوقی." *Shargh Newspaper*, October 27, 2014.

Fisher, David. *Morality and War: Can War be just in the Twenty-First Century?* Oxford University Press, 2011.

Fisler Damrosch, Lori. "The Civilian Impact of Economic Sanctions." *Enforcing Restraint—Collective Intervention in Internal Conflicts* (1993).

Focal Point for De-listing (United Nations Security Council Subsidiary Organs.

<https://www.un.org/sc/suborg/en/sanctions/delisting>.

Gareis, Sven Bernhard. *The United Nations* Palgrave Macmillan, 2012.

Geneva Academy of International Humanitarian Law and Human Rights briefing No. 6.

what Amounts to ‘a Serious Violation of International Human Rights Law ? ,an Analysis of Practice and Expert Opinion for the Purpose of the 2013 Arms Trade Treaty: Geneva Academy of International Humanitarian Law and Human Rights, August 2014.

Gladstone, Rick. "Group Keeps Long-Distance Watch on Iran and Possible Sanction Violations." *The New York Times* (June 20, 2013).

Goldberg, Jeffrey. *The Point of no Return* Atlantic Monthly Group, 2010.

Gordon, C. Joy. "Crippling Iran: The UN Security Council and the Tactic of Deliberate Ambiguity." *Georgetown Journal of International Law* 44, no. 3 (2013).

———. "Economic Sanctions and Global Governance: The Case of Iraq." *Global Crime* 10, no. 4 (2009): 356-367.

———. "Economic Sanctions, just War Doctrine, and the" Fearful Spectacle of the Civilian Dead"." *CrossCurrents* (1999): 387-400.

———. *Invisible War: The United States and the Iraq Sanctions* Harvard University Press, 2010.

———. "UN Sanctions on Iran: The Dance of Mutual Deniability ." The Fletcher Forum of World Affairs. <http://www.fletcherforum.org/2013/03/27/gordon/>.

———. "When Unilateralism is Invisible: A Different Perspective on the Oil-for-Food Scandal." *Global Governance: A Review of Multilateralism and International Organizations* 13, no. 1 (2007): 59-77.

GOV/2003/40. *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran*, 6 June 2003.

GOV/2005/70. "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran **Resolution Adopted on 24 September 2005** ." . <https://www.iaea.org/sites/default/files/gov2005-77.pdf>.

International Atomic Energy Agency (IAEA) Board of Governors(, February 4,2006): .

GOV/2006/15. "

Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran *Report by the Director General* " . <https://www.iaea.org/sites/default/files/gov2006-15.pdf>.

GOV/2007/22, May 23. *Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolutions1 in the Islamic Republic of Iran*.

GOV/2011/65. *Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolutions in the Islamic Republic of Iran*, 8 November 2011.

- H.R.4310 - National Defense Authorization Act for Fiscal Year 2013. . <https://www.congress.gov/bill/112th-congress/house-bill/4310>.
- Haass, Richard. *Economic Sanctions and American Diplomacy* Council on Foreign Relations, 1998.
- Hadian, Nasser. "Iran's Nuclear Program: Multiplicity of Views and Discursive Context." *Political Quarterly* 40, no. 1 (2010): 355-374.
- . "دیپلماسی ایرانی باگفتگو در دکتر ناصر هادیان هزینه، مذاکرات میان نظام و دولت تقسیم خواهد شد". Dec.25, 2013. <http://www.irdiplomacy.ir/fa/page/1926322/هزینه+مذاکرات+میان+نظام+دولت+تقسیم+خواهد+شد>.
- Hadian, Nasser and Shani Hormozi. "Iran's Nuclear Program: Lawful Capability." *Research Letter of Political Science* 5, no. 3 (2010): 179-214.
- . "Iran's New Security Environment Imperatives: Counter Containment Or Engagement with the US." *Iranian Review of Foreign Affairs* 1, no. 4 (Winter 2011): 13-55.
- Halliday, Denis. "Sanctions have an Impact on all of Us." *Middle East Report* 28, (1998): 3-3.
- Hanke, Steve H. "Iran, Stable but Miserable." CATO Institute. <http://www.cato.org/blog/iran-stable-miserable>.
- . "Iran: Down, but Not Out." *Globe Asia* (October 2012).
- Hashemi Rafsanjani, Akbar. *Peace and Challenge (Record and Memo of 1983)* [آرامش و چالش]. 3rd ed. The Revolution knowledge Publication Office, 2007.
- Herman, Edward S. and David Peterson. "The Iran "Threat" in a Kafkaesque World." *Journal of Palestine Studies* 42, no. 1 (2012): 24-45.
- Heupel, Monika. "Targeted Sanctions and the Right to due Process." The International Relations and Security Network. <http://www.isn.ethz.ch/Digital-Library/Articles/Detail/?id=188227>.
- Himes, Kenneth R. "War by Other Means: Criteria for the use of Economic Sanctions." *Commonweal* (February 28,1997).
- Hirsch, Jordan C. "Iran's Breakout Capacity." National Review. <http://www.nationalreview.com/article/416161/irans-breakout-capacity-jordan-chandler-hirsch>.
- Hoile, David. *Understanding Sanctions* International Freedom Foundation (UK), 1988.
- Hormozi, Shani. "Securitization and Desecuritization of Iran's Nuclear Program." *Caspian Journal of Applied Sciences Research (CJASR)* 4, no. 11 (November 2015).
- House of Commons Committees - FAAE (40-3) - Human Rights in Iran. "**AHMADINEJAD'S IRAN: A THREAT TO PEACE, HUMAN RIGHTS AND INTERNATIONAL LAW** ". <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=e&Mode=1&Parl=40&Ses=3&DocId=4835870>.

- Hovell, Devika. "The Deliberative Deficit: Transparency, Access to Information and UN Sanctions." In *Sanctions, Accountability and Governance in a Globalised World*, edited by Farrall, Jeremy and Kim Rubenstein, 92-123. New York: Cambridge University Press, 2009.
- Huber, KatalinTünde. "An Ombudsperson in the United Nations Security Council: A Paradigm Shift?* Un Ombudsperson En El Consejo De Seguridad De Las Naciones Unidas:¿ Un Cambio De Paradigma?" *Anuario Mexicano De Derecho Internacional* (2012): 107-142.
- Hufbauer, Gary C. and Barbara Oegg. "Targeted Sanctions: A Policy Alternative." *Law & Pol'Y Int'L Bus* 32, no. 11 (2000).
- Human Rights Council (UNHRC). "U.N. Slams Iran Human Rights Violations in Canadian-Led Resolution." . <http://blog.unwatch.org/index.php/2012/11/26/text-unga-draft-resolution-condemning-irans-human-rights-abuses/>.
- Hurriyet Daily News. "Iran Denies Wanting to 'Wipe Israel Off the Map.'" . <http://www.hurriyetaidailynews.com/iran-denies-wanting-to-wipe-israel-off-the-map.aspx?pageID=438&n=iran-denies-wanting-to-wipe-israel-off-the-map-2006-02-22>.
- ICAO working paper, A36-WP/275, EC/34. "International Civil Aviation Organization (ICAO)." . http://www.icao.int/Meetings/AMC/MA/Assembly%2036th%20Session/wp275_en.pdf.
- ILNA News Agency. "بنزین تا ۴۰ برابر حد مجاز بوده است!" <http://www.ilna.ir/است-بوده-مجاز-حد-برابر-تا-بنزن-31/199136-انرژی-بخش>.
- . "مشکلات هانساجی دوچندان شد/ داتوار پارچه و نخ از هند به جای پول نفت." <http://www.ilna.ir/نفت-پول-جای-به-هند-از-نخ-پارچه-واردات-شد-دوچندان-هانساجی-مشکلات-31/190116-انرژی-بخش>.
- International Atomic Energy Agency (IAEA) website. . <https://www.iaea.org/safeguards>.
- . . https://www.iaea.org/sites/default/files/online_version_sg_fm-1170_model_subsidary_arrangement_code_1-9.pdf.
- . "IAEA and Iran - IAEA Resolutions." . <https://www.iaea.org/newscenter/focus/iran/iaea-and-iran-iaea-resolutions>.
- International Campaign for Human Rights in Iran. . <https://persian.iranhumanrights.org/1393/05/larijani/>.
- Iran Central Bank (ICB) website:. . <https://www.cbi.ir/datedlist/10807.aspx>.
- Iran Watch Website. "“Iran's Nuclear Timetable” Or “Iran's Nuclear Potential before the Implementation of the Nuclear Agreement”." . <http://www.iranwatch.org/our-publications/articles-reports/irans-nuclear-timetable>.
- Iran's supreme leader website. . <http://farsi.khamenei.ir/speech-content?id=30469>.
- . "Ayatollah Khamenei's Message to the First International Conference on Non-Proliferation and Nuclear Disarmament in Tehran-Iran." . <http://farsi.khamenei.ir/message-content?id=9171>.

- . "Statements in Meeting with Nuclear Scientists." .
<http://www.leader.ir/langs/fa/index.php?p=bayanat&id=9182>.
- . "The Supreme Leader's Statement among the Regim's Officials." .
<http://www.leader.ir/fa/speech/9581>.
- . "The Supreme Leader's Statements among the University faculties." .
<http://www.leader.ir/langs/fa/index.php?p=bayanat&id=2598>.
- . "The Supreme Leader's Statements in the 16th Summit of the Non-Aligned Movement in Tehran." .
<http://www.leader.ir/langs/fa/index.php?p=bayanat&id=9705>.
- Iranwatch website. "Public Pints for Qom Disclosure" (PPQD)." . <http://www.iranwatch.org/library/public-points-qom-disclosure>.
- IRIB News. "
Ahmadinejad: Israel must be Wiped Off the Map." .
http://web.archive.org/web/20070927213903/http://www.tribnews.ir/Full_en.asp?news_id=200247.
- IRINN. "نسل جدید سانتریفیوژها در دست ساخت است/ تاسیسات هسته ای تغییر کندمی." .
<http://www.irinn.ir/news/86851/نسل-جدید-سانتریفیوژها-جدید-نسل-است-ساخت-دست-در-سانتریفیوژها-جدید-نسل>.
- IRNA. "ابتکار: تحریم علیه ایران به محیط زیست جهان آسیب زندی." .
<http://www.irna.ir/fa/News/81337701/>.
- . "اعتراض ایران به تحریم مجدد دانشگاه شریف." .
<http://www.irna.ir/fa/News/81379791/>.
- ISA (1996). "Iran Sanctions Act ." . https://www.treasury.gov/resource-center/sanctions/Programs/Documents/isa_1996.pdf.
- ISNA. "تحریم های ظالمانه باید از بین برود تا مشکل محیط زیست حل شود." .
<http://www.isna.ir/news/94031709076/تحریم-ظالمانه-های-تحریم-از-باید-ظالمانه-های-تحریم>.
- . "توقف ورود ۱۷۰۰ آمبولانس به کشور به دلیل تحریم." .
<http://isna.ir/fa/news/94032916541/توقف-ورود-1700-آمبولانس-به-کشور-به-دلیل-تحریم>.
- . "سهم ۹۷ درصدی داروهای تولید داخل در بازار." .
<http://isna.ir/fa/news/93121106291/سهم-97-درصدی-داروهای-تولید-داخل-در-بازار>.
- . "قانونی برای کاهش ۸۰ درصدی اعدام ها." .
<http://isna.ir/fa/news/93091508951/قانونی-برای-کاهش-80-درصدی-اعدام-ها>.
- . "ماجرای ۴ ساله بنزین آلوده." .
<http://www.isna.ir/fa/news/93090402375/ماجرای-4-ساله-بنزین-آلوده>.

ITRSHRA (2012). "

Iran Threat Reduction and Syria Human Rights Act of 2012 " . https://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf.

Jamejamonline News Website. " ارجاع مپروند هسته ای ایران به شورای امنیت غیرقانونی است " .

<http://jamejamonline.com/NewsPreview/947393850857136766>.

—————. " عوامل مهم در افزایش آمار نزاع در کشور " .

<http://jamejamonline.ir/online/1894026777367420022>.

. *Joint Comprehensive Plan of Action (JCPOA)* (14 July 2015): .

Jorjani, Abidollah, Ali Mansour Khaki, Bahram Enayati, and Seyyed Hossein Sadati Baladehi. "The Impacts of Sanctions on Iran from the Viewpoint of Human Security Doctrine." *NATIONALPARK-FORSCHUNG IN DER SCHWEIZ (Switzerland Research Park Journal)* 102, no. 11 (2014).

Judgment of the General Court of the European Union, Press release No 91/14.

Judgment of the General Court of the European Union, Press release No 99/13.

Judgment of the General Court, case T-565/12.

Judgment of the General Court, cases T-9/13, and T-10/13.

Judiciary of the Islamic Republic of Iran High Council for Human Rights. . <http://www.humanrights-iran.ir/news-45587.aspx>.

Kalameh News Website. " احضار وزیر نفت دولت احمدی نژاد به دادگاه به اتهام تولید بنزین آلاینده " .

<http://www.kaleme.com/1393/08/20/klm-202315/>.

Karimikia, Hamane. "**the Impact of UN Sanctions on the Right to Development (1990-2011)**." M.Sc.

Thesis, School of International Relations Ministry of Foreign Affairs, March 2013.

katzman, Kenneth. *Achievements of and Outlook for Sanctions*

on Iran: Congressional Research Service, April 22, 2014.

Katzman, Kenneth. "Easing US Sanctions on Iran." *Atlantic Council South Asia Center* 3, (2014).

—————. . *Iran Sanctions*: Congressional Research Service, May 7, 2014.

Katzman, kenneth. *Iran Sanctions*: Congressional Research Service, May 18, 2016.

katzman, kenneth. *Iran Sanctions*: Congressional Research Service, July 26, 2013.

Katzman, Kenneth. *Iran: U.S. Concerns and Policy Responses*: Congressional Research Service, March 5, 2014.

—————. "The Iran-Libya Sanctions Act (ILSA)." DTIC Document, 2006.

Kaufman, Frederick. "Just War Theory and Killing the Innocent." *Brough, MW, J.Lango, & H.Van Der Linden.* (2007). *Rethinking the just War Tradition* (2007): 99-114.

Kayhan Newspaper. " دسترسی آژانس به مراکز نظامی مقدمه جاسوسی است "

<http://kayhan.ir/fa/news/45650>.

Kerr, Paul K. *Iran's Nuclear Program: Tehran's Compliance with International Obligations*: Congressional Research Service, April 28, 2014.

Kerr, Paul K. *Iran's Nuclear Program: Status*: Congressional Research Service, October 17, 2012.

Khabaronline News Agency. "ابتکار: تحریم دلیل تعلیق کمک ۲۶ میلیون دلاری صندوق جهانی محیط زیست به ایران است" .

<http://khabaronline.ir/detail/429043/society/environment>.

_____ . " این آمار نگران کننده است/ هر سال ۵۰۰۰ دانشجو برای تحصیل از ایران خارج می شوند" .

<http://www.khabaronline.ir/detail/317180/society/education>.

_____ . "کیهان برجام را فاجعه و طرح رییس راجس انحرافی خواند" .

<http://khabaronline.ir/detail/464641/Politics/4339>.

_____ . "مرگ نوجوان ۱۵ ساله دزفولی بر کمبود اثر دارو/ موجودی دارویی بیماران هموفیلی رو به پایان است" .

<http://www.khabaronline.ir/detail/257614/society/health>.

Khajehpour, Bijan, Reza Marashi and Trita Parsi. "Never Give in and Never Give Up; the Impact of Sanctions on Tehran's Nuclear Calculations." National Iranian American Council (NIAC).

Köchler, Hans. "Ethical Aspects of Sanctions in International Law: The Practice of the Sanctions Policy and Human Rights." *Étude De L'Organisation Internationale Pour Le Progrès*, <Http://Ipo.Org/Sanctp.Htm> (1994).

Koosha, Soheila and Mohammad Ali Eskandari. "Legal Challenges of the Referral of Iran's Nuclear File to the Security Council and Sanctions Resolutions." *Journal of Foreign Policy* 26, no. 2 (2012): 379-398.

Kordzadeh Kermani, Mohammad. "**Immorality and Illegality of Sanctions and Iranian Response.**"

Iranian Review of Foreign Affairs (IRFA) 5, no. 1 (2014): 89-120.

Krause, Joachim. *Iran's Nuclear Programme: Strategic Implications* Routledge, 2012.

Kroenig, Matthew. "Time to Attack Iran." *Foreign Affairs* 91, no. 1 (2012): 76-86.

Lektzian, David J. and Christopher M. Sprecher. "Sanctions, Signals, and Militarized Conflict." *American Journal of Political Science* 51, no. 2 (2007): 415-431.

Lenway, Stefanie Ann. "Between War and Commerce: Economic Sanctions as a Tool of Statecraft." *International Organization* 42, no. 02 (1988): 397-426.

Letter by the UN Secretary-General, Ban Ki-moon, addresses the President of the Security Council (S/2011/405):. . <http://www.iranwatch.org/sites/default/files/unscc-lettersg-panelexperts-063011.pdf>.

Committee on Foreign Relations, Subcommittee on Near Eastern and Central Asian Affairs. "**Iran's Support for Terrorism in the Middle East**" *Testimony before the U.S. Senate* . July 25, 2012.

_____ . *Iran Sanctions: can they be Effective*: The Washington Institute, October 25, 2007.

- Levy, Philip I. "Sanctions on South Africa: What did they do?" *The American Economic Review* 89, no. 2 (1999): 415-420.
- Long, Austin and William Luers. *Weighing Benefits and Costs of Military Action Against Iran* Iran Project, 2012.
- Lowenfeld, Andreas F. "Congress and Cuba: The Helms-Burton Act." *The American Journal of International Law* 90, no. 3 (1996): 419-434.
- Manby, Bronwen. "South Africa: The Impact of Sanctions." *Journal of International Affairs* 46, no. 1 (1992): 193-217.
- Manchak, Benjamin. "Comprehensive Economic Sanctions, the Right to Development, and Constitutionally Impermissible Violations of International Law." *BC Third World LJ* 30, (2010): 417.
- Marzieh Vahid Dastjerdi's interview videis available at: <http://www.aparat.com/v/zmdp1> (دولت؟ پاکترین/).
- Mashregh News Website. " همه دانشمندان هسته ای که آمریکا و اسرائیل ترور کردند" .
<http://www.mashreghnews.ir/fa/news/426411> /همه-دانشمندان-هسته-ای-که-آمریکا-و-اسرائیل-ترور-کردند-تصاویر-کردندتصاویر
- McGillivray, Fiona and Allan C. Stam. "Political Institutions, Coercive Diplomacy, and the Duration of Economic Sanctions." *Journal of Conflict Resolution* 48, no. 2 (2004): 154-172.
- Mckenna, Barrie. " , " Canada 'Deeply Skeptical' Iran Will Follow through on Nuclear Deal." *The Globe and Mail* (Nov. 24 2013).
- Mehr News Agency. . <http://mehrnews.com/news/494948> /است-بوده-غفلت-دچار-بشر-حقوق-تدوین-در-اسلام-جهان-بر-مروری
- . "A Review on Twelve UN Resolutions on Iraq War Against Iran." .
<http://www.mehrnews.com/news/558871> /علیه-عراق-تحمیلی-جنگ-خصوص-در-ملل-سازمان-قطعه-نامه-12-بر-مروری-ایران
- mehr News Agency. " اعلام نتایج آنالیز نمونه های بنزین توسط هآلمانی / میزان گوگرد بنزین تهران ۲۰ برابر حد مجاز دبو"
<http://www.mehrnews.com/news/2326363> /گوگرد-میزان-ها-آلمانی-توسط-بنزین-های-نمونه-آنالیز-نتایج-اعلام
- Mehr News Agency. "تشدید بیماری اوتیسم به دلیل آلودگی هوا"
<http://www.mehrnews.com/news/2372164> /هوا-آلودگی-دلیل-به-اوتیسم-بیماری-تشدید
- . " تقریبا هیچ ، فرجامی که صدای دولتی ها را هم درآورد /گام متقابل ما چیست "
<http://www.mehrnews.com/news/3602297> /ماچيست-متقابل-گام-در-آورد-هم-را-ها-دولتی-صدای-که-فرجامی-تقریبا-هیچ
- . "سویفت لوله های باز ولی بدون آب"
<http://www.mehrnews.com/news/3600974> /آب-بدون-ولی-باز-های-لوله-سویفت
- . "شناسایی عوامل تولید و توزیع سرطانزاسوخت کار دستوردر مجلس قرار گرفت"
<http://www.mehrnews.com/news/2298270> /مجلس-کار-دستور-در-سرطانزاسوخت-توزیع-و-تولید-عوامل-شناسایی-قرار

- Mesbahi, Mohiaddin. "Iran's Foreign Policy Toward Russia, Central Asia, and the Caucasus." In *Iran at the Crossroads*, edited by Esposito, John and R. K. Ramazani, 149-150. New York: Palgrave, 2001.
- Meyer, Jeffrey A. "Second Thoughts on Secondary Sanctions." *University of Pennsylvania Journal of International Law* 30, no. 3 (2009).
- Middle East Report N°138. "**Spider Web: The Making and Unmaking of Iran Sanctions.**" International Crisis Group. <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iran/138-spider-web-the-making-and-unmaking-of-iran-sanctions.aspx>.
- Milaninia, Nema. "**Jus Ad Bellum Economicum and JUs in Bello Economico: The Limits of Economic Sanctions Under the Paradigm of International Humanitarian Law .**" In *Economic Sanctions Under International Law* , edited by Marassi, A. Z. and M. R. Bassett, 95-124: Asser press, 2015.
- Millward, William. "Containing Iran" , Canadian Security Intelligence Service (CSIS) 1995 .
- Ministry of Cooperatives Labour and Social Welfare website. " فصل اول متن کار قانون " .
<http://www.mcls.gov.ir/fa/law/265/فصل-اول-متن-اول-فصل-کار-قانون-متن-کار-قانون>.
- Mohamad, Rahmat. "Unilateral Sanctions in International Law: A Quest for Legality." In *Economic Sanctions Under International Law*, edited by Marassi, Ali Z. and Marisa R. Bassett, 71-81: Springer, 2015.
- Mohammad Nahavandian's speech video is available
at http://cdn.tabnak.ir/files/fa/news/1394/6/30/529867_326.mp4.
- Mohseni, Sajad and Alireza Salehi. "**the U.S Objectives in Securitizing Iran's Nuclear Activity (from the Perspective of the Copenhagen School) .**" *Foreign Policy Quarterly* 25, no. 3 (2011): 613-634.
- Momtaz, Jamshid. "**the Compatibility of the Economic Sanctions of the Security Council with the Human Rights and the International Humanitarian Law.**" *Law Quarterly, Journal of the Faculty of Law and Political Science* 38, no. 4 (2009): 341-349.
- Moshirzadeh, Homeira and Hormoz Jafari. "**Hegemonic Power and Revolutionary Sates: Case Study U.S and Islamic Republic of Iran.**" *Foreign Relations Quarterly* 4, no. 1 (2012): 47-77.
- Mousavian, Hossein. "The Iranian Nuclear Dispute: Origins and Current Options." *Arms Control Today* 42, no. 6 (2012).
- Mueller, John and Karl Mueller. "Sanctions of Mass Destruction." *Foreign Affairs* (1999): 43-53.
- Nasseri, Ladane. "Executives are Confused by Iran Sanctions." .
<http://www.bloomberg.com/news/articles/2016-05-17/iran-s-allure-tempered-by-confusion-on-sanctions-survey-shows>.
- NPT Treaty. "The Treaty on the Non-Proliferation of Nuclear Weapon (NPT)." Department for Disarmament Affairs, United Nations; <http://www.un.org/en/conf/npt/2005/npttreaty.html>;

- O'Brien, Matthew B. and Robert C. Koons. "Objects of Intention." *American Catholic Philosophical Quarterly* 86, no. 4 (2012): 655-703.
- O'Connell, Mary Ellen. "Debating the Law of Sanctions." *European Journal of International Law* 13, no. 1 (2002): 63-79.
- Orakhelashvili, Alexander. "The Impact of Unilateral EU Economic Sanctions on the UN Collective Security Framework: The Cases of Iran and Syria." In *Economic Sanctions Under International Law*, edited by Marassi, Ali Z. and Marisa R. Bassett, 3-21: Springer, 2015.
(July 9, 2015).
- Orend, Brian. *Michael Walzer on War and Justice* McGill-Queen's Press-MQUP, 2000.
- . "The Morality of War (Peterborough, Ontario." (2006).
- Orkin, Mark. *Sanctions Against Apartheid* New Africa Books, 1989.
- Panjareh weekly magazine. *Panjareh Weekly Magazine, no.39* (April 24,2010).
- Pape, Robert A. "Why Economic Sanctions do Not Work." *International Security* 22, no. 2 (1997): 90-136.
- Parent, Valerie and Parisa Hafezi. "Iran Turns to Barter for Food as Sanctions Cripple Imports." .
<http://www.reuters.com/article/us-iran-wheat-idUSTRE8180SF20120209>.
- Pierce, Albert C. "Just War Principles and Economic Sanctions." *Ethics & International Affairs* 10, (1996): 99-113.
- POE report June 2012 (S/2012/395). "**Final Report of the Panel of Experts Established Pursuant to Resolution 1929 (2010)** ." United Nations Security Council (UNSC).
http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_395.pdf.
- POE Report June 2013 (S/2013/331). "**Final Report of the Panel of Experts Established Pursuant to Resolution 1929 (2010)** ." United Nations Security Council (UNSC).
http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_331.pdf.
- POE report June 2014 (S/2014/394). "**Final Report of the Panel of Experts Established Pursuant to Resolution 1929 (2010)** ." United Nations Security Council (UNSC).
http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2014_394.pdf.
- Portela, Clara. "National Implementation of United Nations Sanctions: Towards Fragmentation." *International Journal* 65, no. 1 (2009): 13-30.
- Porter, Gareth. *Manufactured Crisis: The Untold Story of the Iran Nuclear Scare* Just World Books, 2014.

Pourhassan, Nasser. *Understanding U.S Economic War Strategy Against Islamic Republic of Iran* [راهبرد شناخت] [ایران اسلامی جمهوری علیه آمریکا اقتصادی جنگ]. Tehran: Iranian Police Ideological–Political Organization, 2007. Presidency of Islamic Republic of Iran website. "

President Says Zionist Regime of Israel Faces Deadend

" . <http://web.archive.org/web/20110716100837/http://www.president.ir/en/?ArtID=10114>.

Press TV. "Airbus Tells Banks Time to Dispel Iran Fears." .

<http://www.presstv.com/Detail/2016/02/16/450699/Airbus-tells-banks-time-to-dispel-Iran-fears/>.

———. "Process of Drafting N Deal Moving Forward, Zarif Says." .

<http://www.presstv.com/Detail/2015/05/04/409339/Iran-Zarif-Nuclear-Drafting-Araqchi-Baedinejad-New-York-Lausanne>.

Press TV Website. "Iran must Boost Defense Power: Rouhani" .

<http://www.presstv.com/Detail/2015/08/22/425853/Iran-Hassan-Rouhani-Defense->

———. "حضرت آیت الله خامنه ای: اجازه بازدید از مراکز نظامی را به بیگانگان نمی دهیم"

<http://www.presstv.com/DetailFa/2015/05/20/411970/No-inspection-military-sites-foreigners-allowed>.

Quiroga, Cecilia Medina. *The Battle of Human Rights: Gross, Systematic Violations and the Inter-American System*. Vol. 11 Martinus Nijhoff Publishers, 1988.

Raja News Website. "لاریجانی جلسه بررسی قطعنامه علیه ایران را به محاکمه غرب تبدیل کرد"

<http://www.rajanews.com/news/53873>.

Raji, Mohammad Mehdi. *Mr. Embassador " Interview with Mohammad Javad Zarif"* [محمد جواد ظریف «] [ی آقا سفیر «باگفتگو]. Tehran: Ney Publication, 2013.

Rajiv, S. Samuel C. "‘Politicised Safeguards’: Iran–IAEA Contentions, Drivers and Policy Implications." *Strategic Analysis* 38, no. 5 (2014): 688-702.

Rathbone, Meredith, Peter Jeydel, and Amy Lentz. "Sanctions, Sanctions Everywhere: Forging a Path through Complex Transnational Sanctions Laws." *Georgetown Journal of International Law* 44, no. 3 (2013).

Reardon, Robert J. *Containing Iran: Strategies for Addressing the Iranian Nuclear Challenge* Rand Corporation, 2012.

Reisman, W. Michael and Douglas L. Stevick. "The Applicability of International Law Standards to United Nations Economic Sanctions Programmes." *European Journal of International Law* 9, no. 1 (1998): 86-141.

Report of the Standing Committee on Foreign Affairs and International Development. *Ahmadinejad’s Iran: A Threat to Peace, Human Rights and International Law*, December 2010.

- Resolution 1929 (2010). United Nations Security Council (UNSC).
https://www.iaea.org/sites/default/files/unsc_res1929-2010.pdf.
- Reuters. "Iranian Banks Reconnected to SWIFT Network After Four-Year Hiatus." .
<http://www.reuters.com/article/us-iran-banks-swift-idUSKCN0VQ1FD>.
- Reza Farzin, Mohammad, Dominique M. Guillaume, and Roman Zytek. *Iran-the Chronicles of the Subsidy Reform*, 2011.
- Ryan, Astrid Forberg. *Sanctions Implementation and the UN Security Council: the Case for Greater Transparency* : International Peace Institute (IPI), March 2014.
- Saed, Nader. **"I.R. Iran Military Sanctions in the Security Council's Resolutions: Foundation Analysis and Anatomy in the Critical Approach."** *Defense Strategy Quarterly, Center for Strategic Defense Research* 8, no. 29 (2010): 169-203.
- Saenz, Arlette. **"President Obama Defends Nuclear Deal with Iran: Represents 'American Leadership and Diplomacy'."** . <http://abcnews.go.com/Politics/president-obama-defends-nuclear-deal-iran-represents-american/story?id=32469613>.
- Sahimi, Muhammad. **"has Iran Violated its Nuclear Safeguards Obligations?."** Tehran Bureau.
<http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2009/09/has-iran-violated-its-nuclear-safeguards-obligations.html#ixzz3ZZ0RQ3IV>.
- Sakhaei Ardakani, Roohollah. *the U.S. Sanctions Against Iran (Failure of a Sanction)* [ایران شکست یک تحریم علیه [تحریم آمریکا علیه]. Tehran: Arvan, 2010.
- Sanger, David E. and Thom Shanker. "Gates Says US Lacks a Policy to Thwart Iran." .
<http://www.nytimes.com/2010/04/18/world/middleeast/18iran.html?pagewanted=all>.
- Schwartz, Daniel. "Just War Doctrine and Nuclear Weapons: A Case Study of a Proposed Attack on Iran's Nuclear Facilities from an American and Israeli Perspective." *S. Cal. Interdisc. LJ* 18, (2008): 189.
- Semati, Hadi and Shani Hormozi. "The Effect of the Geneva Accord on the Sanctions in Iran." *Iranian Review of Foreign Affairs* 5, no. 2 (2014): 5-28.
- Semati, Hadi and Hamid Rahnavrd. "Securitization of Iran and the US National Security Strategy." *Foreign Relations Quarterly* 1, no. 2 (2009).
- Serat News Website. "Zarif Called the Nuclear Crisis as a Manufactured Crisis." .
<https://www.seratnews.ir/fa/news/199124/خواند-ساختگی-را-ای-%E2%80%8Cای-ظریف-ظریف-هسته-بحران-ظریف>.
- Shafiei, Zahra and Mohammad Reza Yazdani. **"the U.S. Policy Towards Iran (1979-1991) and Cuba (1959-1991) during the Cold War: A Comparative Study."** *Journal of Foreign Policy* 25, no. 3 (2011): 635-656.
- Shahrvand Newspaper. "هجوم داروهای تقلبی قاچاق به بازار" .

- Shargh Newspaper. *Shargh Newspaper*, April 26, 2016.
- Shariati-Nia, Mohsen and Zahra Towhidi. "**Iran and Sanctions Models: Blocking Access to Resources.**" *Strategy Quarterly, the Scientific Research Journal of the Center for Strategic Research* no. 68 (2013): 85-104.
- Shepherd, George W. *Effective Sanctions on South Africa: The Cutting Edge of Economic Intervention* Praeger Publishers, 1991.
- Sherman & Sterling LLP. "**Navigating Iran Sanctions After Implementation Day .**" .
<http://www.shearman.com/~media/Files/NewsInsights/Publications/2016/01/Navigating-Iran-Sanctions-after-Implementation-Day-LT-012016.pdf>.
- Shire, Jacqueline and David Albright. "'Iran's NPT Violations* Numerous and Possibly on-Going?'" *Institute for Science and International Security* (2006).
- Simons, Geoffrey Leslie. *Imposing Economic Sanctions: Legal Remedy Or Genocidal Tool?* Pluto Pr, 1999.
- Smeulers, Alette and Fred Grünfeld. *International Crimes and Other Gross Human Rights Violations: A Multi-and Interdisciplinary Textbook*. Vol. 32 Martinus Nijhoff Publishers, 2011.
- Tabatabaei yazdi, Mojgan. *Studying the Increasing Trend of Female University Students Over Male Students, and Effective Factors in this Trend* . Tehran: Center for strategic Research (CSR), Economic Research Group, August 2007.
- Tabnak News site. "آمار دردناک از سرطان کودکان ناشی از بنزین آلوده"
<http://www.tabnak.ir/fa/news/431737/آمار-دردناک-از-سرطان-کودکان-ناشی-از-بنزین-آلوده>.
- Tabnak News Site. "بیکارند-شهری-مناطق-در-جوان-زنان-از-نیمی"
<http://www.tabnak.ir/fa/news/417770/بیکارند-شهری-مناطق-در-جوان-زنان-از-نیمی>
- Tabyin Strategic Think Tank. *Popularised Sanctions in Following up the Supreme Leader's Statements* [مردمی شدن تحریم ها به تاسی از بیانات مقام معظم رهبری]. Tehran: Tabyin Strategic Think Tank, 2013.
- Tadayyoni, Abbas and Nahid Tavakkoli. "**Nuclear Iran Amid the IAEA Board of Governors and the UN Security Council.**" *Middle East Studies Quarterly* 17, no. 2 (2010): 139-162.
- Takeyh, J. Lindsay and R. and James Lindsay. "After Iran Gets the Bomb: Containment and its Complications." *Foreign Affairs* 89, no. 2 (2010).
- Tanbnak News Site. "اقدام جدید غرب در راستای تحریم علمی"
<http://www.tabnak.ir/fa/news/334851/ایران-علمی-تحریم-راستای-در-غرب-جدید-اقدام>.
- Tasnim News Agency. "**UNSC Resolution on Nuclear Conclusion A Major Development: Iran's Envoy.**" .
<http://www.tasnimnews.com/en/news/2015/07/20/805225/unsc-resolution-on-nuclear-conclusion-a-major-development-iran-s-envoy>.

_____ "دستور دولت آمریکا برای تحریم مقالات علمی ایران." _____

<http://www.tasnimnews.com/fa/news/1392/05/09/107742/دستور-دولت-آمریکا-برای-تحریم-مقالات-علمی-ایران-سند>

_____ "روحانی: با حل بحران هسته ای تمرکز بر حل چالش مشترکهای ظاهر شودمی." _____

<http://www.tasnimnews.com/Home/Single/799594>.

The European Conventions on Human Rights and Fundamental Freedoms (ECHR) Blog. .

<http://echrblog.blogspot.ca/2012/09/nada-grand-chamber-judgment.html>).

The Institute for Science and International Security (ISIS)website. "**Nuclear Sites, Kalaye Electric Company.**" . <http://www.isisnucleariran.org/sites/detail/kalaye/>.

The Jerusalem Post. "Texas to Ignore Iran Nuclear Deal and Maintain Sanctions, Governor Says." .

<http://www.jpost.com/Diaspora/Texas-will-not-be-an-accomplice-to-the-Iran-nuclear-deal-Governor-says-454152>.

The Treasury Department. "**Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day** ." The Treasury Department. https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf.

The UN General Assembly Resolution A/RES/51/22. "Elimination of Coercive Economic Measures as a Means of Political and Economic Compulsion." .

Thielmann, Greg and Robert Wright. "The Trouble with "Breakout Capacity" how a Widely Misunderstood Term could Doom the Iran Nuclear Negotiations." American Foreign Policy Project.

<http://americanforeignpolicy.org/the-trouble-with-breakout-capacity/>.

Trade Promotion Organization of Iran website. " کالا: نیمی از یزانتجه پزشکی مورد نیاز در داخل تامین می‌شود " مدیرکل دفتر توسعه صادرات

<http://farsi.tpo.ir/index.aspx?fkeyid=&siteid=1&pageid=425&newsview=2585>.

Transparency International: <http://www.transparency.org/research/cpi/cpi>.

Traufetter, Gerald. "**the Geopolitics of Jet Fuel: Sanctions Create Headaches for Iran Air in Europe.**" Spiegel Online International. <http://www.spiegel.de/international/world/sanctions-create-problems-for-iran-air-in-europe-a-858886.html>.

U.N. Doc. S/2012/395. . http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_395.pdf.

U.S. Department of Sate. "United States Begins Implementation of Changes to the Visa Waiver Program." . <http://www.state.gov/r/pa/prs/ps/2016/01/251577.htm>.

U.S. Department of Treasury. "Iran Sanctions." . <https://www.treasury.gov/resource-center/sanctions/Programs/pages/iran.aspx>.

U.S. Government Accountability Office (GAO) website. "**Iran Sanctions** ." . http://www.gao.gov/key_issues/iran_sanctions/issue_summary#t=1.

U.S. Government Publishing Office (GPO) : 31 CFR 501.807. . <https://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-sec501-807.pdf>.

United Against Nuclear Iran (UANI) Website. . www.unitedagainstnucleariran.com.

UNSC website: Voting System and Records. . <http://www.un.org/en/sc/meetings/voting.shtml>.

UNSCR 1730 (2006). United Nations Security Council (UNSC). <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Terrorism%20S%20RES%201730.pdf>.

UNSCR 1737 (2006). United Nations Security Council (UNSC). https://www.iaea.org/sites/default/files/unsc_res1737-2006.pdf.

UNSCR 1803 (2008). United Nations Security Council (UNSC). https://www.iaea.org/sites/default/files/unsc_res1803-2008.pdf.

UNSCR 2231 (2015). United Nations Security Council (UNSC). http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2231.pdf.

Vaez, Ali. "Iran's Nuclear Program: Cause for Concern, but Not Alarm." Aljazeera. <http://america.aljazeera.com/articles/2013/10/9/iran-nuclear-programprimer.html>.

Van Brabant, Koenraad. "Can Sanctions be Smarter." *The Current* (1998).

Van Engeland, Anicee and Rachael Rudolph. "From Terrorism to Politics." (2008).

Video of Greg Abbott's Explanation: <http://www.thepoliticalinsider.com/Texas-just-Flipped-Obama-the-Bird-on-Iran-Sanctions/>

Vielhaber, David and Philipp C. Bleek. "SHADOW WARS: Covert Operations Against Iran's Nuclear Program." *The Nonproliferation Review* 19, no. 3 (2012): 481-491.

Waltz, Kenneth N. "Why Iran should Get the Bomb." *Foreign Affairs* 91, no. 4 (2012): 2-5.

Walzer, Michael. *Just and Unjust Wars : A Moral Argument with Historical Illustrations*. New York: Basic Books, 1977.

Weschler, Joanna. "The Evolution of Security Council Innovations in Sanctions." *International Journal* 65, no. 1 (2009): 31-43.

- Whang, Taehee. "Playing to the Home Crowd? Symbolic use of Economic Sanctions in the United States." *International Studies Quarterly* 55, no. 3 (September 2011): 787-801. doi:10.1111/j.1468-2478.2011.00668.x.
- wikipedia. "People's Mujahedin of Iran." . https://en.wikipedia.org/wiki/People%27s_Mujahedin_of_Iran.
- Wikipedia website. "**Israel and Weapons of Mass Destruction.**" .
http://en.wikipedia.org/wiki/Israel_and_weapons_of_mass_destruction.
- . "**Operation Orchard.**" . http://en.wikipedia.org/wiki/Operation_Orchard.
- . "**U-Turn (Banking).**" . [https://en.wikipedia.org/wiki/U-turn_\(banking\)](https://en.wikipedia.org/wiki/U-turn_(banking)).
- wikipedia website: Desmond Tutu. . https://en.wikipedia.org/wiki/Desmond_Tutu.
- Wikipedia website: Yassin Kadi. . https://en.wikipedia.org/wiki/Yassin_Kadi.
- Winkler, Adam. "Just Sanctions." *Human Rights Quarterly* 21, no. 1 (1999): 133-155.
- Wood, Reed M. "'A Hand upon the Throat of the Nation': Economic Sanctions and State Repression, 1976–2001." *International Studies Quarterly* 52, no. 3 (2008): 489-513.
- Yazdanfam, Mahmmoud. "**International Sanctions and the Islamic Republic of Iran's National Security.**" *Strategic Studies Quarterly* 9, no. 4 (2007): 789-819.
- Zahedi, Dariush.
A Growing Crisis: The Impact of Sanctions and Regime Policies on Iranians' Economic and Social Rights The International Campaign for Human Rights in Iran, 2013.
- Zahrani, Mostafa and Zahra Dowlatkah. "**Comparing Security Council's Sanctions Against Iran and North Korea.**" *Strategy Quarterly, the Scientific Research Journal of the Center for Strategic Research* 19, no. 55 (2010): 139-170.
- Zare Chahaki, Azam. "**Sanctions Against Iranian Aviation : An Approach to the Chicago Convention.**" *Journal of Legal Research* 7, no. 14 (2008): 173-182.
- Zarif, M. Javad. "The Case for Iran." *Los Angeles Times* (2006).
- Ziabari, Kourosh. "**Glaring Western Hypocrisy on Human Rights Notion.**" PressTV website.
<http://www.presstv.com/detail/2013/12/23/341514/western-hypocrisy-on-human-rights-notion/>.