Humanitarian in Law, Impossible in Practice: Over-Compliance and the Iran Sanctions Regime

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King's Policy Journal

KCL Policy Research Centre

Centre for Social Justice and Human Rights

Word Count: 2549

January 2026

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Introduction

For over four decades, Iran has faced sustained economic sanctions. What began as episodic measures has evolved into one of the most complex and enduring sanctions regimes in the modern international system. Over time, sanctions have shifted from restricting goods to targeting the financial systems that enable their exchange.

Across UN, U.S., and EU sanctions frameworks, food, medicine, and humanitarian goods remain formally permitted. But in practice, legal permission does not guarantee access. In a globalised economy, essential goods only move if banks can process payments, insure shipments, and maintain correspondent relationships.

In Iran, even authorised humanitarian trade is routinely obstructed, not by legal prohibitions, but by financial paralysis. Banks and logistics providers face extraterritorial penalties, reputational risk, and exclusion from U.S. financial systems. Faced with such asymmetry, private actors often withdraw from lawful transactions entirely. As Gérard Araud observed, banks are "so terrified by the sanctions" that they avoid Iran altogether (Human Rights Watch, 2019).

This paper examines how financial over-compliance renders licensed humanitarian trade unworkable in Iran and evaluates reforms to realign legal exemptions with financial practice. The analysis is normatively grounded in proportionality: a principle of international law requiring that civilian harm not exceed a policy's stated objectives. Rather than an exception, financial over-compliance is understood here as a structural component of sanctions regimes, with serious implications for their legitimacy. Humanitarian access, in this context, is not a secondary concern, but a frontline test of whether sanctions can coexist with international human rights obligations.

A Longstanding Sanctions Case

From Bilateral Punishment to Asymmetric Pressure (1979–2005)

Sanctions on Iran began after the 1979 Islamic Revolution and the U.S. embassy hostage crisis. These early measures, such as asset freezes and trade restrictions, were largely symbolic. In the 1990s, the Clinton administration's "dual containment" policy expanded U.S. sanctions through the Iran and Libya Sanctions Act (1996), introducing early secondary sanctions against foreign investment in Iran's energy sector. Although contested, these extraterritorial claims coexisted with continued trade and financial relations maintained by European states. The result was asymmetric: U.S. pressure operated alongside ongoing international engagement.

Multilateralisation Without Financial Closure (2006–2009)

In 2006, multilateral sanctions were introduced through the UN Security Council in response to Iran's nuclear programme. Resolution 1737 and subsequent measures targeted nuclear-related goods and froze the assets of designated individuals and entities. These actions formalised Iran's pariah status but did not sever financial ties. Many international banks continued limited engagement, and financial isolation remained incomplete.

Financialisation of Coercion (2010–2012)

Between 2010 and 2012, sanctions deepened. UNSC Resolution 1929 broadened financial restrictions, and U.S. sanctions increasingly targeted Iran's banking and oil sectors. Iranian institutions were disconnected from SWIFT, and payments to the Central Bank of Iran became difficult to process. Sanctions evolved from policy instruments to conditions embedded in the architecture of global finance.

JCPOA: Legal Relief Without Financial Normalisation (2015–2018)

The 2015 Joint Comprehensive Plan of Action (JCPOA) offered significant legal relief in exchange for limits on Iran's nuclear program. UN and EU nuclear-related sanctions were lifted, and the U.S. committed to easing certain secondary sanctions on foreign firms doing business with Iran. However, U.S. primary sanctions remained firmly in place, particularly those related to terrorism, human rights, and missile activity. Critically, Iran remained excluded from dollar clearing systems and could not regain access to most major correspondent banking networks.

Maximum Pressure and Global Compliance Retreat (2018–2021)

In 2018, the United States withdrew from the JCPOA and reinstated all previously lifted sanctions under its "maximum pressure" strategy. It simultaneously escalated legal urgency by designating the Islamic Revolutionary Guard Corps as a Foreign Terrorist Organization. Although UN Security Council Resolution 2231 remained in effect, U.S. enforcement power effectively dictated global financial behaviour. European attempts to preserve trade, such as the INSTEX mechanism, proved insufficient. International banks, many of which had remained hesitant throughout the JCPOA period, fully disengaged from Iranian transactions due to heightened compliance risk.

Sanctions as Structural Condition (2021–Present)

By the early 2020s, sanctions had become a structural feature of Iran's economy. Executive Order 13902 (2020) extended penalties to construction, mining, manufacturing, and textiles sectors. Risk exposure became systemic. Iran turned to informal finance, barter systems, and alignment with non-Western partners. For most Western institutions, however, Iran became functionally inaccessible.

While humanitarian exemptions technically remained in place, the withdrawal of financial and logistical infrastructure rendered them largely inoperative.

Diagnosis: Structural Over-Compliance in Transnational Finance

Despite the formal legality of humanitarian trade with Iran, banks, insurers, and logistics firms routinely refuse to process such transactions. Payments for food and medicine are often delayed, blocked, or abandoned, not because they are illegal, but because facilitating them exposes private actors to significant risk.

This pattern is known as financial over-compliance: the systemic tendency of institutions to go beyond the requirements of sanctions law by withdrawing from even lawful activity. It is not driven by confusion, but by strategic avoidance. Faced with the threat of regulatory penalties, reputational damage, and exclusion from U.S. financial systems, many institutions choose to disengage entirely.

UN Special Procedures have described this behaviour as an "excessive avoidance of risk" that paralyses humanitarian operations. The design of modern sanctions regimes encourages such outcomes. Legal liability is placed on private intermediaries, yet there is no matching obligation to facilitate authorised humanitarian trade. As a result, under-compliance is punished, while over-compliance is effectively risk-free. In this environment, humanitarian exemptions may exist in law but have little effect in practice.

Legal Ambiguity and the Chilling Effect

The first mechanism stems from regulatory uncertainty. When legal frameworks conflict or remain vague, especially across jurisdictions like the U.S. and Europe, financial institutions cannot assess in advance whether a transaction is lawful. This is particularly acute post-2018, after the U.S. withdrawal from the JCPOA, when the EU maintained authorisation for humanitarian trade, but U.S. sanctions returned in full force. Even with the EU Blocking Statute in place, companies exited the Iranian market, not because trade was formally banned, but because it was legally indeterminate.

This indeterminacy itself becomes a deterrent. Humanitarian transactions must navigate opaque ownership structures, indirect links to designated entities, and inconsistent standards from compliance departments and correspondent banks. Banks do not reject payments for food and medicine because they are expressly prohibited, but because they are *not clearly safe*. In this environment, ambiguity acts as a signal of danger. The result is a "chilling effect": humanitarian transactions are withdrawn pre-emptively, and legal uncertainty becomes a structural barrier to access (Graduate Institute Global Governance Centre, 2020).

Enforcement Asymmetry and Compliance Signalling

The second mechanism is not about ambiguity, but about enforcement excess. Here, banks may know a transaction is permitted but withdraw regardless, because the cost of even an accidental misstep is extreme. As reported by Reuters in 2015, major international banks made clear that they would not restore financial ties with Iran even if nuclear-related sanctions were lifted, explicitly assessing that the commercial benefits available in Iran were insufficient to justify the risk that a single transaction could trigger multibillion-dollar fines (Torbati, Yukhananov, & Freifeld, 2015). Between 2012 and 2019, U.S. authorities imposed penalties totalling billions of dollars on banks for Iran-related activity, including an $8.9 billion settlement with BNP Paribas and substantial fines levied against Standard Chartered, UniCredit, HSBC, Commerzbank, and Crédit Agricole.

In this logic, over-compliance becomes a performance of due diligence. Instead of assessing the legality of individual transactions, institutions adopt blanket withdrawal as the safer course. The Iran case reflects this shift: global banks increasingly internalise U.S. enforcement preferences, effectively Americanising compliance standards across jurisdictions. As a result, humanitarian exemptions are sidelined not because they are unclear, but because no institution wants to risk the appearance of misalignment.

Normative and Legal Framework

Human rights obligations and extraterritorial duties

As a State Party to the International Covenant on Economic, Social and Cultural Rights, Iran remains entitled to protection of the rights to adequate food (Article 11) and health (Article 12) (ICESCR, 1966). Under General Comment No. 8, states must refrain from imposing measures, such as economic sanctions, that foreseeably impair access to essential goods in other countries (CESCR, 1997). The Maastricht Principles on Extraterritorial Obligations reinforce this view: states hold duties beyond their borders where their policies threaten the realisation of basic rights (Maastricht Principles, 2011, Principles 13–15).

Within this framework, humanitarian harm arising from sanctions is not legally incidental. Where sanctions design or implementation foreseeably undermines civilian access to essential goods through financial intermediaries, the resulting deprivation becomes normatively relevant and subject to proportionality assessment.

Humanitarian-law–derived design principles

UN Special Procedures have increasingly advocated for sanctions design to be assessed against criteria drawn from humanitarian law: necessity, proportionality, and distinction. Following the U.S. withdrawal from the JCPOA, the Special Rapporteur on Unilateral Coercive Measures described reimposed sanctions as a form of "economic warfare" with humanitarian effects akin to a blockade (UN Human Rights Council, 2018). Subsequent reports warn that expansive, unilateral sanctions are eroding humanitarian carve-outs entirely, transforming sanctions from targeted pressure tools into systems of civilian deprivation (UNHRC, 2020).

These legal and normative critiques converge on the same point: when humanitarian exemptions are systematically neutralised by compliance structures, sanctions lose their legitimacy as calibrated instruments. Instead, they risk functioning as indiscriminate tools of collective punishment.

Sectoral Evidence of Humanitarian Harm in Iran

Food: Price Shocks and Supply Disruption

Sanctions reimposed in 2018 disrupted Iran's ability to import agricultural inputs, including livestock feed, oilseeds, and cooking oil. UN Human Rights Council reporting estimates that access to approximately 10 million tonnes of such goods was impeded (UNHRC, 2022). These disruptions triggered sharp domestic price inflation: between 2017 and 2019, food prices rose by over 60% (Associated Press, 2021).

Crucially, these outcomes did not result from explicit bans, but from the inability to finance trade. Payment systems broke down, insurance became unavailable, and supply chains stalled. Studies confirm a corresponding rise in food insecurity, with rural and urban households reporting increased hardship (Hejazi & Emamgholipour, 2022). The causal mechanism was not legal prohibition, but systemic financial blockage.

Health: Medicine Shortages and Financial Disconnection

Similar dynamics are evident in healthcare. A review of pharmaceutical access in Iran found 73 essential drugs in shortage, nearly half of them on the WHO's essential medicines list (Setayesh & Mackey, 2016). Human Rights Watch (2019) documented the withdrawal of major international pharmaceutical suppliers, citing compliance risk as a primary factor.

Even during the COVID-19 pandemic, sanctions impeded vaccine procurement, with COVAX payments reportedly stalled due to U.S. banking restrictions despite formal exemptions. Iranian officials attributed failures in COVAX participation to the absence of viable financial channels (Karimi & Salimi Turkamani, 2021). Healthcare costs rose by over 60% between 2018 and 2022 (Batmanghelidj, 2022), amplifying barriers to access for an already-stressed population.

Policy Recommendations

When financial over-compliance neutralises humanitarian exemptions, sanctions no longer function as lawful, proportionate instruments. Instead, they inflict predictable civilian harm while failing to intensify pressure on sanctioned elites. Two targeted governance reforms can mitigate this structural failure by aligning legal authorisation with financial operability.

1. Transaction-Level Humanitarian Pre-Clearance

Addressing legal ambiguity and the chilling effect

To restore proportionality, humanitarian exemptions must shift from ambiguous permissions to enforceable authorisations at the level where risk is calculated: transaction processing. A coordinated U.S.–EU–UK framework should issue pre-cleared, transaction-specific licences for food, medicine, and medical equipment, based on standardised due diligence criteria.

These licences would constitute binding, ex ante determinations of legality, foreclosing retrospective enforcement even if counterparties or ownership structures later shift. Attaching automatic safe-harbour protections would resolve the ambiguity that currently deters financial institutions from processing even lawful trade.

Precedents such as the general licences issued after UNSCR 2664 show that the infrastructure for coordinated humanitarian carve-outs already exists. But without transaction-level specificity, such measures fail to alter compliance behaviour. This reform would return interpretive authority to public regulators, curbing the unchecked influence of private risk-avoidance on humanitarian access.

2. Humanitarian Enforcement Corridors

Addressing enforcement asymmetry and compliance signalling

Currently, banks face high penalties for under-blocking transactions that intersect, often unintentionally, with sanctioned entities, while over-blocking humanitarian payments carries no consequence. This asymmetric risk structure incentivises total withdrawal.

Designated humanitarian banking corridors would correct this imbalance. By routing authorised transactions through pre-approved financial institutions, supervised under collective due diligence, banks would no longer shoulder enforcement exposure individually. Risk would be absorbed by a publicly governed infrastructure.

The Swiss Humanitarian Trade Arrangement provides proof of concept: it enabled humanitarian trade that stalled under standard compliance systems despite formal legality. Scaled multilaterally and across currencies, such corridors could recalibrate compliance incentives, making participation rather than avoidance the dominant signal of sanctions conformity. This model reasserts

the distinction between civilian protection and coercive pressure, operationalising humanitarian law principles without weakening sanctions regimes overall. Well-designed compliance corridors reduce opportunities for sanctions evasion as well as preventing sanctioned entities from exploiting humanitarian exemption, by narrowing operational scope, centralising oversight and enabling access for non-sanctioned, humanitarian actors.

Strategic Incentives for Reform

Any reform of over-compliance must confront a central reality: the United States has few structural incentives to curtail its enforcement dominance. Dollar primacy gives U.S. regulators expansive leverage, not only over direct transactions, but over any institution operating within dollar-clearing systems or relying on U.S. financial infrastructure. In this system, ambiguity is not a flaw but a feature: it magnifies deterrence, expands extraterritorial reach, and consolidates interpretive authority within U.S. agencies.

For the United States and its allies, the case for reform is not only moral but strategic. Sanctions that routinely obstruct humanitarian trade risk being perceived as indiscriminate economic warfare: blunt instruments that punish civilians rather than pressure regimes. This perception undermines their credibility, weakens multilateral support, and fuels narratives of Western overreach.

Maintaining the legitimacy of sanctions as targeted, proportionate tools requires visibly aligning stated humanitarian exemptions with actual financial operability. Reform would not weaken U.S. leverage but strengthen its reputation as a steward of lawful, rules-based enforcement. In an international environment increasingly sceptical of unilateral sanctions, credibility is a strategic asset.

Multilateral licensing frameworks and supervised banking corridors offer a way forward. They allow the U.S. to retain enforcement leadership while distributing responsibility and restoring normative clarity. If humanitarian protection is seen not as an exception but as an integrated design feature, sanctions policy will be harder to contest and easier to uphold across shifting geopolitical alignments. Otherwise, in the absence of credible Western frameworks, sanctioned states will continue turning to opaque channels or alternative financial systems—often with weaker transparency and fewer humanitarian safeguards.

Conclusion

Iran illustrates how the financial enforcement of sanctions can hollow out humanitarian carve-outs. Banks, insurers, and shippers, operating under legal ambiguity, reputational risk, and disproportionate penalties, routinely block even lawful trade in medicine and food. The result is a system where civilian access depends not on legal authorisation, but on the risk tolerance of private intermediaries.

This is not a malfunction but a structural outcome of enforcement design. As Brzoska (2003) cautions, sanctions that appear “smart” in principle often become “dumb” in practice, by inflicting civilian harm while undermining the legitimacy of sanctions as calibrated policy tools.

Reasserting humanitarian proportionality is therefore not a matter of softening sanctions; it is a matter of governing them. By correcting the legal and enforcement asymmetries that drive over-compliance, sanctions regimes can preserve their coercive function without displacing costs onto civilians.

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