

# An Ethical Analysis of the Modern Sanctions Regime Against Iran

Written by Scott Ridout

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<https://www.e-ir.info/2012/08/15/an-ethical-analysis-of-the-modern-sanctions-regime-against-iran/>

SCOTT RIDOUT, AUG 15 2012

Mad mullahs bent on destroying the state of Israel (as well as other western 'imperialist' powers), or rational actors who will play by the rules of mutually assured destruction? The intentions and impacts of Iran's nuclear program has been a focal point for debate on regional and international security since the Iranian revolution. In reaction to developments in its nuclear program, the international community has moved to uphold norms set by the Nuclear Non-Proliferation Treaty (NPT) and International Atomic Energy Agency (IAEA) protocol. The United Nations has imposed four sets of sanctions on Iran since December 2006 in regards to the country's nuclear program. Iranian officials, such as Ayatollah Khamenei, claim that the program is for peaceful purposes, but the United States and its allies fear it is aimed at producing nuclear weapons. The European Union and the United States have also imposed sanctions on Iran, targeting individuals and industries they believe are playing a role in Iran's nuclear development. This paper will assess the ethics of sanctions placed on Iran by the UN, the US, and the EU (they are referred to collectively as the modern sanctions regime). The sanctions' impacts are evaluated by assessing relevant literature on Iran's oil industry, bank industry, nuclear program, overall economy, and policy within the realm of international politics. At the end, the sanctions are examined in terms of Mark Amstutz's Just Sanctions Doctrine.[i] The following seven norms compose the Just Sanctions Doctrine:

- (1) **Just cause:** The aim of economic sanctions must be just.
- (2) **Right intention:** Sanctions are legitimate only if they are imposed to promote just structures and policies.
- (3) **Limited objectives:** Sanctions must have limited goals, involving behavioral reform of only those behaviors and institutions that are unjust and evil.
- (4) **Last resort:** The imposition of sanctions must be preceded by other, less-coercive instruments.
- (5) **Probability of success:** Economic sanctions must have a reasonable chance of success.
- (6) **Discrimination:** Economic hardship should not be imposed directly on innocent civilians.
- (7) **Proportionality:** The good intended from sanctions must be proportional to the harm inflicted on the target state.

Because of the heated debate over the justness of Iran's nuclear program, this paper will exclude just cause, right intention, and proportionality. It is found that the modern sanctions regime has had a powerful impact on Iran's oil industry, bank industry, government officials associated with its nuclear program, and overall economy. However, after 33 years of US sanctions, five years of UN and EU sanctions, desired behavioral changes have not been achieved. It is concluded that all of the sanctions are just in terms of the article on discrimination but are inconsistent with those on the probability of success, and last resort.

### Overview of Sanctions

The first multilateral sanction effort against Iran was adopted on July 31, 2006 when the United Nations Security Council (UNSC) passed Resolution 1696.[ii] Since 2006, the UNSC has adopted five additional resolutions on Iran. Resolution 1696 set an August 31, 2006 deadline for Iran to unconditionally comply with IAEA requirements for the suspension of nuclear enrichment-related activities. The resolution also encouraged all UN members to prevent transfers related to Iran's missile and nuclear programs. As of August 31, 2006, Iran had not complied with resolution 1696, forcing the UNSC to pass Resolution 1737.[iii]

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Resolution 1737 was passed on December 23, 2006 and demanded that Iran suspend enrichment and reprocessing activities by February of 2007. The resolution banned the sale or financing of technology related to Iran's enrichment or heavy water reprocessing activities, nuclear weapons development, and ballistic missile program. Additionally, the resolution required UN members to freeze the financial assets of designated entities and individuals related to the Iranian nuclear industry; called on states to notify the international community of travel undertaken by designated Iranian nuclear industry officials; and provided an exemption to permit Russian assistance in the construction of Iran's Bushehr reactor. According to then Under Secretary of State for Political Affairs R. Nicholas Burns, the U.S. regarded freezing individuals' assets to be an integral aspect of the resolution.[iv]

Following an IAEA report confirming Iran's enrichment activities and noncompliance with previous resolutions, the UNSC adopted Resolution 1747 in March 2007.[v] Like its predecessors, Resolution 1747 also set a date for the suspension of Iran's nuclear-related activities: May 2007. The Resolution implemented sanctions on key targets within the Islamic Revolutionary Guard Corps (IRGC); imposed an arms embargo on Iran; and called on UN member states to exercise restraint in financial dealings with Iran.

After Resolution 1747, Iran agreed to clarify its nuclear issues with the IAEA. Despite this agreement, Iran still failed to provide enough information regarding its centrifuge designs, intentions to construct or modify nuclear facilities, and the sources for Iran's centrifuge technology. Iran's continued noncompliance with previous resolutions led to the passage of Resolution 1803 on March 3, 2008.[vi] Resolution 1803 essentially updated the provisions of previous resolutions. In regards to travel restrictions, the resolution expanded and modified the list of targeted individuals. For financial measures, the resolution also expanded the list of individuals and organizations subject to asset freezes. In terms of technology transfers, the resolution attempted to strengthen the ban on the transfer of items with potential weapons or proliferation use, and urges nations to inspect all Iranian aircraft and cargo ships suspected of transporting sanctioned items.

Due to Iran's noncompliance with Resolution 1803, on September 27, 2008, the UNSC adopted resolution 1835.[vii] Unlike its predecessors, Resolution 1835 did not include substantive measures. After two years of failure, China and Russia began to doubt the effectiveness of sanctions and resisted efforts to add sanctions to Iran. Instead, Resolution 1835 simply reaffirmed previous resolutions.

Unsurprisingly, Iran continued to ignore UNSC resolutions. On June 9, 2010, the UNSC responded by adopting Resolution 1929.[viii] The resolution tightened the arms embargo, froze the funds and assets of the IRGC, and prohibited Iranian banks from entering into relationships with other UN member state banks. The resolution also expanded individual targets subject to travel bans and assets freezes. The sanctions outlined in resolution 1929 are the latest multilateral efforts against Iran. In just five years time, the UNSC has created a comprehensive sanctions regime against Iran. However, these sanctions have had little affect on Iran's behavior.

The US regards preserving its position in the Persian Gulf strategically important because the area possesses about two-thirds of the world's oil and gas reserves. Since its inception in 1979, The Islamic Republic of Iran has challenged US influence in the region. The US has responded with economic sanctions in hopes of changing Iran's 'hostile' behavior. The economic sanctions on Iran were started by President Jimmy Carter in 1979 and have continued to the present day. The US's most recent sanctions against Iran began on June 28, 2005 with Executive Order 13382 "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters." [ix] EO 13382 authorized relevant US government agencies to identify individuals and businesses supporting nuclear weapons proliferation. The executive order called upon the US Treasury Department's Office of Foreign Assets Control (OFAC) to administer a sanctions program prohibiting US firms and individuals from conducting business with identified target parties and their support networks. EO 13382 also required banks and other financial institutions to freeze any assets owned by designated individuals under US jurisdiction. As of November 2008, the US has identified over 90 Iranian organizations and individuals as nuclear proliferation supporters.[x] As a result, Iran's economy has been virtually cut off from US financial and commercial systems. Despite its unilateral authority, EO 13382 has also shaped responses from the international private sector. According to former US treasury assistant secretary Matthew Levitt, "major international financial institutions typically incorporate US Treasury designation lists into their due-diligence databases." [xi] As a result of EO 13382, over 80 banks in Europe, the Middle East, and Asia

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have ceased business with Iran. In sum, EO 13382 has made it increasingly difficult for Iranian firms to make international trading transactions.

The US adopted its second round of sanctions against Iran with the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISAD Act).[xii] As an updated version of the Iran Sanctions Act of 1996, the CISAD Act directs the president to impose sanctions on any firm or individual that invests over \$20 million annually in Iran's oil industry. In response to China and Russia's insistence on removing international sanctions that target Iran's energy industry, the U.S. introduced tougher measures under the CISAD Act. On July 1, 2010, the U.S. broadened the jurisdiction of its existing sanctions in order to ban non-US companies from selling refined products to Iran or investing in the country's oil and gas industry. The extraterritorial expansion of the CISAD Act prohibits violating non-US firms from doing business within the US. Fearing the loss of US commerce, many nations have undertaken measures to stop oil and gas trade with Iran.

Finally, the EU has also adopted comprehensive sanctions against Iran. Before 2010, the EU had only imposed visa bans on senior officials in Iran linked to its nuclear program. However, on June 17, 2010, the EU passed sanctions that prohibited investment, technical assistance, and technology transfers to Iran's oil and gas industry.[xiii] More specifically, the sanctions banned the sale of any equipment or technology that could be used for the refining, exploration, or production of liquefied natural gas. Additionally, all trade supports, particularly export credit guarantees, were prohibited. Banking relationships with Iranian financial entities were also banned within the EU. Moving forward two years, on January 23, 2012, the EU approved its latest sanctions against Iran.[xiv] The newest sanctions impose an oil embargo against Iran. This means that imports of Iranian crude oil and petroleum products, as well as the export of equipment and technology related to Iran's petroleum industry, are banned. The sanctions also froze assets of the Iranian central bank within the EU. Legitimate trade between the EU and Iran still continues under strict conditions.

## **The Effects of Sanctions**

On February 16 2011, Iranian President Mahmoud Ahmadinejad claimed that UNSC sanctions have not affected the regime's economy.<sup>[xv]</sup> He added that they have increased prices and allowed Iran to become self-sufficient. However, according to Dean A. DeRosa and Gary Clyde Hufbauer of the US National Foreign Trade Council, "in the medium-term, lifting US sanctions on Iran would increase Iran's total trade annually by as much as \$61 billion (at the 2005 world oil price of \$50/bbl), adding 32 percent to Iran's GDP."<sup>[xvi]</sup> Over the past seven years, the sanctions regime against Iran has affected many aspects of the Iranian economy.

The Iranian oil and gas industry is one sector that has been heavily targeted by sanctions. Because of the US and EU sanctions, which ban the transfer of funds and equipment to the Iranian oil industry, Iran is short on refining capacity. According to petroleum economists Tom Nicholls and Simon Crompton, as of 2010, Iran had to import 40 per cent of its gasoline needs.[xvii] Thus, even with the fourth largest oil reserves in the world, Iran still struggles to meet local gasoline demand. Importing gasoline may also be problematic for Iran considering that seven major oil companies—Total, Shell, British Petroleum, Reliance, Glencore, Petronas and Lukoil—have all stopped gasoline sales to Iran. US and EU sanctions have also caused losses to Iran by not permitting international oil companies to transfer oil through Iranian pipelines. Azerbaijan, Kazakhstan, and Turkmenistan do not have access to seaports and are forced to transport their oil through pipelines. Experts believe that exporting Caspian oil through Iran's pipelines has the lowest transportation cost. The sanctions, however, prohibit Caspian oil from crossing through Iran. According to Akbar E. Torbat, the "pipeline route can transport about 370,000 barrels of Caspian oil per day at the lowest cost. The oil swap from this source potentially could have generated about \$67.5 million per year profit for Iran. This is based on an estimation of \$0.50 net profit out of the \$2 per barrel transportation fee Iran would receive from the swap."<sup>[xviii]</sup> On April 18, 2011, Mahmoud Bahmani, head of Iran's central bank, said that if economic sanctions are not lifted, gasoline prices will soar to \$150 a barrel.[xix] Overall, the sanctions have caused gas prices to rise within Iran, but they have not crippled the Iranian oil and gas industry. Iran is still able buy and sell oil with eastern economies such as Russia and China.

Iran's banking and financial sector has also been hit hard by sanctions. Sanctions have been placed on nearly all

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Iranian state owned banks. Today, there are eight Iranian banks on the US sanctions list alone.[xx] As mentioned previously, the sanctions have made it increasingly difficult for Iranian banks to make international transactions. According to the Central Bank of Iran, the percentage of interbank foreign exchange transactions carried out in dollars fell from 65.9% in 2006-07 to just 1.7% in 2008-09. As a result, Iranian banks redirected their business to the Eurozone. Over the same period, the proportion of Euro transactions rose from 32.4% to 83%.[xxi] However, the regime of sanctions imposed by the EU in July 2010 has cut off that line of business. The sanctions are also hurting Iran's currency market. Since 2001, the Iranian central bank has supported the Rial by artificially engineering a single rate against hard currencies. However, the gap between market and official central bank rates has been widening since January 2011. The central bank has tried closing the gap, but it has been unsuccessful due to restrictions imposed by sanctions. In sum, the Iranian Rial is devaluing causing the price of goods and services to rise (relative to the Rial).

Despite economic pressure, the modern sanctions regime has not produced the desired results in transforming Iran's behavior. Washington and Brussels have argued that pressure works, pointing to past reversals by Iran, including the acceptance of a cease-fire to end its eight-year war with Iraq. However, such concessions are rare. Since the 1979 revolution, Iran has endured 33 years of tremendous economic pressure to change its security policy, yet that policy has remained remarkably durable. In the face of the modern sanctions regime, Iran remains confident in its ability to adopt austerity measures as needed. Thus, rather than yield to economic pressure, Iran has learned to live with sanctions. Between 2007 and 2012, the Iranian government has allowed the IAEA to inspect various nuclear facilities. However, despite the inspections, Iran has not fully complied with sanctions. According to IAEA reports, there is evidence that Iran is still developing nuclear weapons.[xxii] According to Kayhan Barsegar, director of the institute for Middle East strategic studies and chair of the department of political science and international relations at the science and research branch of the Islamic Azad University in Tehran, Iran will not compromise its ability to enrich uranium at home.[xxiii] The sanctions regime has actually weakened support for nuclear talks among the Iranian public. Just after the EU announced its ban on Iranian oil (which would go into effect in July of 2012), the Iranian parliament drafted legislation banning oil exports to Europe. Since then, Iranian students from various universities have organized themselves to lobby parliament to expedite the new law's approval. Thus, further outrage at Western economic pressure would increase tensions, making it extremely difficult for the Iranian government to enter into new negotiations.

## Ethical Analysis

In *International Ethics*, Mark Amstutz offers the Just-Sanctions Doctrine as a framework for analyzing the justice of whether to use sanctions and the justice of how to apply them. The Just-Sanctions Doctrine is based off of the Just-War tradition, which affirms international moral constraints on war in order to limit violence. Similarly, the Just-Sanctions Doctrine promotes international moral constraints on economic sanctions in order to limit the suffering of economic warfare. Both philosophies ultimately assume that all interstate relations are subject to moral criticism. The justice of Iran's nuclear program is a difficult topic to address. Although Iran has ratified the NPT, the US and its allies still question the intentions behind Iran's nuclear program. To complicate matters, even the moral legitimacy of the NPT is debated. Because of length constraints, the justice of Iran's nuclear program will not be analyzed here. Rather, this paper will focus on the justice of how the sanctions are applied. The modern sanctions regime against Iran is examined using last resort, probability of success, and discrimination.

The last resort norm affirms that sanctions are just only when less coercive state actions, such as peaceful negotiations, have failed. According to Amstutz, the level of cohesiveness for state actions are ranked as follows: "secret diplomacy, speeches, public condemnations, mild sanctions, comprehensive sanctions, military action."

The US sanctions against Iran do not meet the moral standard set by the last resort norm. For the past 33 years, there has been no formal diplomatic relations between Iran and the US. Instead of exchanging ambassadors, the US, since 1980, has maintained an interests section at the Swiss embassy in Tehran, while Iran maintains an interests section at the Pakistani embassy in Washington. Although Washington is involved in the "P5+1" initiative to negotiate with Iran, it has as done little to unilaterally engage Iran diplomatically. For example, it has almost become a tradition for the US delegation to the UN to walk out of the General Assembly when Mahmoud Ahmadinejad gives a speech.

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Additionally, in 2002, George W. Bush labeled Iran as part of the “axis of evil.”<sup>[xxiv]</sup> These poor diplomatic practices have ensured that Iran stays away from the negotiating table. At the very least, the US could open up a dialogue with Iran. Instead, Washington continues to create sanctions and embargoes to pressure Iran. After enduring 33 years of this policy, Iran simply does not trust the US. According to Suzanne Maloney, another problem with US policy towards Iran is that it offers no viable endgame for dealing with Iran’s leadership. She writes, “The impression that the sanctions are permanent—indeed, the new law does not specify any conditions that Tehran might satisfy in order to lift the siege on its central bank—conforms to Iranian hard-liners’ darkest delusions about Washington’s intentions.”<sup>[xxv]</sup>

Unlike the US, the UNSC and EU sanctions do meet the last resort norm. Since the early 2000s, the IAEA has conducted a number of negotiations with Iran regarding its nuclear program. After numerous negotiations and conferences, Iran permitted IAEA inspectors to assess various nuclear facilities in 2007. Although the IAEA ultimately determined that Iran was not in compliance with NPT and IAEA standards, the UNSC exhausted all coercive actions before adopting comprehensive sanctions in 2007. The EU, led by France, Germany, and United Kingdom (EU3), has also conducted negotiations with Iran. Between 2004 and 2006, the EU3 and Iran traded proposals regarding regional security and Iran’s nuclear program. The EU3 proposed:

- 1) that Iran does not pursue fuel cycle technologies, reviewable after 10 years;
- 2) to establish a buffer store of nuclear fuel in a neutral third country; and
- 3) arrange for the assured supply of low enriched uranium for any light water reactors constructed in Iran.<sup>[xxvi]</sup>

Iran rejected the EU3 proposal. As a result, in 2010 and 2012, the EU adopted comprehensive sanctions against Iran. Both the UNSC and EU exhausted all diplomatic means before resorting to economic sanctions.

The probability of success norm asserts that economic sanctions must have a reasonable chance of achieving their intended goals. The intended goal for the modern sanctions regime is to halt Iran’s nuclear program. According to Amstutz, the political success of economic sanctions depends on three factors: the type of government sanctions that are imposed upon, the issue they are applied to, and multilateral support. Amstutz argues that sanctions are more likely to impact democracies than autocratic regimes. Autocratic governments depend less on public opinion than democracies. Thus, economic pressures directed at the masses are ineffective in influencing regime decision making. Amstutz also argues that sanctions are most effective when applied to minor issues. If the aim of sanctions is to compel major changes in international behavior, the target state will most likely resist them.

Although the modern sanctions regime is a multilateral effort, they fail to meet the other criteria for political success. Iran is by no means a democracy. In 2009, there were many reports of election fraud during the Iranian presidential elections. The aftermath of the elections resulted in massive protests throughout Iran, commonly known as the Green Revolution. As was expected, the Iranian government brutally repressed protestors until the movement was nonexistent. The 2009 election is just one of many examples of Iran’s autocratic behavior. Thus, even if sanctions are severely affecting the Iranian people, Iran’s government is unlikely to yield to domestic pressure, because they do not rely on their people’s approval for legitimacy. Additionally, Iran also regards its nuclear program as a vital interest to their national security. According to Kayhan Barzegar[AA1], “If the ruling elite suspect that Iran will be forced to give up uranium enrichment for civilian purposes, political leaders will simply reject further talks with the P5 plus 1.”<sup>[xxvii]</sup> Iran views its nuclear capabilities as the only deterrent to what it views as the ‘western imperialist crusade’ of the Middle East. Thus, it is no surprise that after years of pressure from the modern sanctions regime, Iran shows no signs of changing its behaviour.

Lastly, the discrimination norm asserts that economic pressures should not be imposed directly on innocent civilians. For the most part, the modern sanctions regime does discriminate between government elites and civilians. The UNSC sanctions imposed an arms embargo on Iran, banned the sale or financing of technology related to Iran’s nuclear program and ballistic missile program, froze the financial assets of designated entities and individuals related to the Iranian nuclear industry, and prohibited UN member states from entering into relationships with Iranian banks. The UNSC sanctions do not target civilians directly and have caused negligible hardship on Iran’s population. Although targeting Iran’s banking sector could result in widespread economic disaster, the sanctions are not airtight.

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Iranian banks have been able to continue business despite sanctions. The US sanctions have imposed a trade embargo, established an extra-territorial ban on Iranian oil, frozen assets of key IRGC elites and individuals related to Iran's nuclear program, and have prohibited financial relationships with Iranian banks. Similarly, the EU sanctions have frozen the assets of Iran's central bank, imposed an embargo on Iranian oil and gas, and have also frozen assets of targeted Iranian elites. Taken together, the US and EU sanctions do not directly target Iranian civilians. However, putting pressure on Iran's oil industry, the engine of the Iranian economy, could have devastating effects on Iran's population. By all accounts, the only hardship affecting Iranian civilians is a marginal rise in the cost of goods and services, particularly fuel. The modern sanctions regime has not prevented Iranian oil from flowing. Iran is still able to trade its oil with nations in the east such as China. For now, the modern sanctions regime is consistent with the discrimination norm. However, it is difficult to predict what affects they will have months into the future.

## Conclusion

Although the modern sanctions regime is consistent with the discrimination norm, and partially with that of last resort, the failure to meet the probability of success norm shows that the modern sanctions regime is an unsustainable strategy for containing a nuclear Iran. Instead of achieving desired behavioral changes, sanctions have only served to isolate and agitate Iran. The international community needs to accept that because Iran has already developed enrichment capabilities, it is irreversibly a nuclear power. This must be the premise for a realistic engagement strategy. Iran's current policy is that their nuclear program is only for peaceful energy production. The West, however, asserts that Iran is building nuclear weapons. Recently, the US and Israel have discussed precision bombing key nuclear targets within Iran. Reciprocating, Iran has threatened to close the Strait of Hormuz. In order to avoid tensions boiling over and possibly leading to violent military action, the US, UN, and EU need to work with Iran so as to ensure a peaceful nuclear program.

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2012. <http://www.foreignaffairs.com/features/letters-from/sanctions-wont-end-irans-nuclear-program?page=2>.

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*Date written: May 2012*