

Illegitimacy of Pharmaceutical Sanctions and the Responsibility of States

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Abstract

This article examines the illegitimacy of pharmaceutical sanctions within the framework of international law and Islamic principles, highlighting their detrimental impact on public health and human rights. It argues that such sanctions violate the fundamental right to health and contravene the ethical obligations of states under both international humanitarian law and Islamic teachings. Furthermore, the paper discusses the responsibility of states to ensure access to essential medicines, emphasizing that punitive measures should not undermine humanitarian needs. The analysis calls for a reevaluation of sanctions policies to align with global health standards and moral imperatives, advocating for accountability and justice.

Keywords: Illegitimacy, Pharmaceutical Sanctions, Responsibility of States.

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1. Introduction

In contemporary international relations, sanctions are increasingly employed as instruments of economic and political coercion by the global community to compel states to alter their policies. Under the United Nations Charter, the UN Security Council (UNSC) bears primary responsibility for maintaining international peace and security, including the authorization of multilateral sanctions. However, the efficacy of such measures remains debated. While sanctions often inflict significant economic harm on target states, they frequently fail to achieve their intended behavioral changes. This outcome stems from the resilience of sanctioned regimes, geopolitical alliances, and unintended humanitarian consequences.

International sanctions may be categorized as follows: 1. UN-Mandated Sanctions: Imposed under Chapter VII of the UN Charter, these require a determination that a state has breached international peace (e.g., aggression, proliferation of weapons of mass destruction). 2. Unilateral Sanctions: Enacted by individual states or regional blocs without UNSC authorization, these must conform to peremptory norms (jus cogens) and general principles of international law to avoid illegality (Langford & King, 2009). Critically, sanctions that disproportionately harm civilian populations—by restricting access to essential goods, healthcare, or education—constitute violations of fundamental human rights under the International Covenant on Economic, Social and Cultural Rights (ICESCR). Such measures may be deemed invalid ab initio under the principle of proportionality in

international law, rendering the sanctioning entity liable for reparations (UN General Assembly¹, 2005). Defining Sanctions in Non-Proliferation Contexts: Within the non-proliferation regime, sanctions constitute a framework of coercive measures—political, economic, and diplomatic—designed to deter states from developing weapons of mass destruction (WMDs). These measures are codified through UNSC resolutions and implemented via specialized committees, such as the 1540 Committee for nuclear proliferation (UNSC Resolution 1540, 2004).

U.S. Sanctions Against Iran: The United States has historically utilized unilateral sanctions as a foreign policy tool, notably against Iran following the 1979 Islamic Revolution. The Iran Sanctions Act (ISA) of 1996 (formerly the D'Amato Act) exemplifies extraterritorial sanctions, penalizing third-party entities engaging with Iran's energy sector (U.S. Congress², 1996). Concurrently, the UNSC adopted six resolutions between 2006 and 2010 (1696, 1737, 1747, 1803, 1835, and 1929) to restrict Iran's nuclear program. For instance, Resolution 1737 (2006) mandated asset freezes against entities linked to proliferation activities, including those providing technical or financial support (UNSC, 2006, para. 12³).

Human Rights Implications of Sanctions on Iran: 1. Pharmaceutical Access: Restrictive measures on medical imports have disrupted Iran's healthcare system. Patients requiring specialized treatments (e.g., hemophilia) face shortages, forcing reliance on illicit markets with substandard or counterfeit drugs (Ansarian, 2017). 2. Right to Development: Prolonged sanctions impede Iran's capacity to fulfill obligations under the UN Declaration on the Right to Development (1986), particularly in healthcare, education, and environmental sustainability. These effects often persist post-sanction due to infrastructural degradation. 3. Nuclear Safety Risks: Sanctions limiting access to safety-critical technologies exacerbate risks of radioactive contamination at nuclear facilities. Such constraints violate the International Atomic Energy Agency (IAEA) principles on nuclear security and infringe upon the rights of local populations to a safe environment (IAEA, 2014).

Sanctions violating erga omnes obligations such as the right to life, health, and development lack legitimacy under international law. Measures must adhere to the principle of distinction (*ratione materiae*), avoiding collective punishment of civilians. Where sanctions contravene human rights norms, affected states may seek redress through mechanisms like the International Court of Justice (ICJ) or UN Human Rights Council.

2. Sanctions and Their Legitimacy

Private (non-state) sanctions are coercive measures imposed by individuals, civil society groups, or corporations to influence foreign state policies or nationals. Traditionally emerging as grassroots responses to geopolitical conflicts, these sanctions include historical examples such as China's anti-Japanese boycotts (1905–1933), organized by merchant guilds after Japan's 1931 occupation of Manchuria, which received quasi-official support from the Kuomintang government. Labor unions have also enforced moral sanctions, exemplified by dockworkers' boycotts of Cuban shipments (1962), South African cargo during apartheid (1963), and shipments to Greece's military junta (1969). Corporate sanctions, though rare, often arise under state pressure, such as U.S. firms halting operations with Cuba under the Trading with the Enemy Act (TWEA) (*Fruehauf Corp. v. Massardy*, 1965) or oil tanker companies embargoing Iran post-1951 nationalization of Anglo-Iranian Oil. Under international law, private sanctions typically fall under domestic jurisdiction unless state complicity is proven (e.g., treaty violations). State liability is exceptional, limited to breaches like diplomatic protection norms (Fayuzi, 1973).

States commonly deploy sanctions as foreign policy tools. U.S. unilateral measures include the *Cuba embargo* (1960–present), expanded extraterritorially under the *Helms-Burton Act* (1996) to penalize third-party entities trading with Cuba, and *Libya sanctions* (1986–2003), intensified post-1988 Lockerbie bombing and formalized via UNSC Resolution 748 (1992) imposing multilateral arms and air travel bans. The *Iran-Libya Sanctions Act* (ILSA, 1996) introduced secondary sanctions, penalizing firms investing over \$40 million in Iran's energy sector, criticized for infringing jurisdictional sovereignty (Berkeshli, 1996). Collective sanctions include the *Arab League's boycott of Israel* (1954–present), enforced through domestic laws across 20 member states, and *OAPEC's suspension of Egypt* (1979) following its peace treaty with Israel (Haddadi, 2003). International law debates unilateral sanctions through three frameworks: the *state sovereignty theory* (permitting

¹ international court of justice reports of judgments, advisory opinions and orders case concerning armed activities on the territory of the congo (democratic republic of the congo v. uganda)", judgment of 19 december 2005.

² Resolution, General Assembly. "International covenant on economic, social and cultural rights." General Assembly resolution A 2200 (1966).

³ Adopted by the Security Council at its 5612th meeting, on 23 December 2006.

sanctions as sovereign rights), the *neutrality theory* (prohibiting interference in third-party relations), and the *legal prohibition theory* (banning coercion under the UN Charter).

1. Theory of State Sovereignty: Proponents assert that sovereign states possess the inherent authority to regulate their foreign relations, including political and economic interactions. This view permits states to employ economic measures as tools to advance political objectives. The theory traces its origins to 18th-century legal scholars such as Emer de Vattel, a Swiss jurist (Zahrani, 1997). Advocates emphasize national priorities over international obligations, citing judicial precedents and United Nations resolutions: - The International Court of Justice (ICJ) ruled in *Nicaragua v. United States* (1986) that states lack a legal duty to sustain trade relations absent explicit treaty obligations (Ostrohliad & Reshyvska, 2024). - UN General Assembly Resolution 1803 (1962) reaffirms state sovereignty over natural resources. - Article 4 of the Charter of Economic Rights and Duties of States (1974) grants states autonomy in selecting trade partners. Critics argue this framework legitimizes coercive economic policies.

2. Theory of Neutrality: This intermediate position permits primary sanctions (direct economic restrictions against a target state) but prohibits secondary sanctions (measures affecting third-party entities). The theory seeks to mitigate harm to neutral parties while allowing limited economic coercion. Unlike the sovereignty theory, it distinguishes between permissible and impermissible sanctions. For example, a state may embargo goods from Country X but cannot penalize unrelated states trading with X.

3. Theory of Legal Prohibition : This approach, rooted in classical liberal economics, deems all unilateral sanctions unlawful. Key arguments include: - Broad Interpretation of UN Charter Article 2(4): Developing states contend that “the threat or use of force” encompasses economic coercion, supported by the 1970 Declaration on Friendly Relations (UNGA Res. 2625) (Wallace, 2003). - Violation of the Right to Development: The 1993 Vienna Declaration recognizes sanctions as infringements on this right, further reinforced by the 1994 UN Commission on Human Rights Resolution, which classifies trade blockades and asset freezes as human rights violations. - UNCTAD Resolution 152 (IV) (1983): Condemns sanctions as political tools undermining developing economies. Developed States’ Counterarguments: - “Force” in Article 2(4) refers exclusively to military action, as clarified in the 1974 Definition of Aggression (UNGA Res. 3314). - Article 51 (self-defense) and the Charter’s preamble contextualize “force” as armed conflict. UNGA Resolution 210 (1991): Urges industrialized states to avoid economic pressure to influence developing nations’ policies. - UNGA Resolution 152 (IV) (1983): Prohibits sanctions contravening the UN Charter’s principles. The principle of non-intervention in the internal and external affairs of states stands as a cornerstone of international law, enshrined in numerous declarations, charters, and conventions. Public international law imposes no obligation on states to engage in non-discriminatory trade relations with all nations. However, allegations of prohibited intervention may arise in exceptional circumstances, contingent upon the sanctioning state’s motives, the sanctions’ impact, and the economic interdependence between the affected states. Secondary sanctions—measures targeting third-party states trading with the sanctioned state—are widely regarded as unlawful interference. Article 2(4) of the UN Charter prohibits coercive actions aimed at compelling states to subordinate their sovereign rights, a principle echoed in General Assembly Resolution 2131 (1965): “No State may intervene, directly or indirectly, for any reason, in the internal or external affairs of another State.”

Restrictions on unilateral sanctions are also codified in bilateral trade agreements, the General Agreement on Tariffs and Trade (GATT 1947), and regional economic treaties. For instance, Articles 15 and 16 of the Charter of the Organization of American States (1948) explicitly ban economic coercion.

The recurrent condemnation of sanctions in multilateral resolutions and treaties suggests the emergence of a customary international rule against such measures. Nevertheless, persistent opposition from Western states, particularly the United States, challenges the universal application of this norm. While many developed states, including the U.S., assert that sanctions serve as lawful countermeasures against breaches of international obligations, their legitimacy remains contested. For example, the U.S. justifies sanctions against Iran by alleging violations such as support for terrorism and non-compliance with nuclear non-proliferation commitments. This raises a critical question: Can states lawfully employ sanctions as countermeasures for alleged international law violations?

Although the institutionalization of countermeasures within international law is evolving—exemplified by the 2001 Draft Articles on State Responsibility (Articles 49–54)—granting states unilateral authority to impose sanctions remains contentious. The Draft Articles permit countermeasures only under strict conditions, including proportionality and temporary application, to prevent abuse.

Accordingly, despite the contested legality of sanctions under international law, states may justify restrictive measures as countermeasures under specific conditions outlined in the 2001 Draft Articles on State Responsibility. These conditions include adherence to *jus cogens* norms and proportionality. Article 50 of the Draft Articles mandates that countermeasures must not violate peremptory norms (*jus cogens*), such as prohibitions against genocide or crimes against humanity. While the International Law Commission refrained from exhaustively listing *jus cogens* rules, states—particularly smaller nations—often advocate for broader interpretations to safeguard their interests (Mumtaz, 2008). Key limitations under Article 50 include: 1. Human Rights and Humanitarian Law: Countermeasures must not infringe on fundamental human rights or humanitarian obligations, as reflected in Article 60 of the Vienna Convention on the Law of Treaties (1969). 2. Sovereignty Over Resources: Sanctions violating a state's sovereignty over natural resources (a *jus cogens* principle) are unlawful. 3. Right to Development: Measures undermining this right, recognized in the 1993 Vienna Declaration, lack legitimacy.

States must exhaust dispute resolution mechanisms before enacting countermeasures under Article 50 of the Draft Articles on State Responsibility. For instance, the 1981 Algiers Accords required the U.S. to submit claims against Iran to the Iran-U.S. Claims Tribunal prior to imposing sanctions via the Iran-Libya Sanctions Act (ILSA). Iran challenged these sanctions in the Tribunal's "Case A/18" (Mumtaz, 2008). Proportionality and State Practice: Article 51 of the Draft Articles enshrines the principle of proportionality. Proportionality, enshrined in Article 51, mandates that countermeasures avoid excessive harm to the targeted state's sovereignty, a principle reinforced by state practice and customary law.

The League of Nations Covenant (1920) introduced collective sanctions under Articles 16–17, obliging members to sever trade with aggressors. However, its decentralized system proved ineffective, exemplified by failed sanctions against Italy during its 1935 invasion of Ethiopia. The UN Charter centralized enforcement under Chapter VII, granting the Security Council exclusive authority to authorize non-military measures under Article 41, including economic severance, diplomatic suspensions, and disruptions to transport links. Cold War-era applications included incremental sanctions on Southern Rhodesia (1966–1968) and a unanimous arms embargo against South Africa (1977), monitored by compliance committees (Haddadi, 2003). Post-Cold War, the Council significantly expanded sanctions to six states (Libya, Liberia, Iraq, Somalia, Yugoslavia, Haiti), reflecting their perceived utility as a lower-cost alternative to military intervention (Kharrazi, 1994).

UN sanctions primarily serve four objectives: behavioral change (e.g., Libya sanctions (1992–2003) to compel the extradition of Pan Am Flight 103 suspects), conflict containment (e.g., arms embargoes on Somalia (1992) and Yugoslavia (1991–2001)), precursor to military action (e.g., Iraq sanctions (1990) preceding force post-Kuwait invasion), and undeclared political aims like regime destabilization. The Iraq sanctions under Resolution 661 (1990) imposed a near-total embargo with humanitarian exemptions, uniquely extending compliance obligations to non-UN states. A Sanctions Committee (Resolution 687) mandated three conditions for lifting sanctions: recognition of Kuwait's borders, reparations via a UN fund, and full WMD disarmament (Kharrazi, 1994). While sanctions often inflict severe economic harm, their political efficacy remains limited, as seen in Iraq, where civilian suffering overshadowed outcomes (Tabatabaei, 2000). Challenges include low target-state economic dependence, evasion tactics, humanitarian crises, and reliance on voluntary compliance. Despite global adherence to Iraq's sanctions, their termination via Resolution 1483 (2003) underscored the difficulty of translating economic pressure into lasting policy shifts.

The UN Charter permits sanctions indefinitely, risking prolonged humanitarian crises (e.g., Iraq's malnutrition and healthcare collapse) and regime exploitation of civilian suffering. To address these ethical dilemmas, the Security Council must conduct pre- and post-implementation impact assessments and refine sanctions to align with humanitarian law (Mumtaz, 2008). Broader implications include disrupted trade, hindered development, and regional destabilization. UN sanctions, even when multilateral, often face politicization—such as Iraq's 1990–2003 sanctions, which shifted from WMD disarmament to regime change, or Libya's embargoes exacerbating civilian hardship.

Under Resolution 687, the Security Council's Sanctions Committee mandated three conditions for lifting Iraq's sanctions: recognition of Kuwait's UN-demarcated borders, reparations via a UN-administered fund, and complete WMD disarmament (Mumtaz, 2008). Despite unprecedented global compliance, sanctions were terminated only in 2003 (statement 1483) post-regime collapse.

Sanctions' efficacy depends on balancing primary goals (e.g., policy change) with secondary aims (domestic political appeasement). However, their success is often limited due to low target-state economic dependence, evasion tactics, and humanitarian fallout disproportionately affecting civilians (Tabatabaei, 2000). Reliance on voluntary compliance and lack of coordination further undermine effectiveness, highlighting the tension between coercive measures and ethical obligations.

Duration and Ethical Dilemmas : The UN Charter permits sanctions to compel compliance but offers no timeline for termination. Prolonged sanctions risk: - Escalating Humanitarian Crises: E.g., Iraq's malnutrition and healthcare collapse. - Exploitation by Regimes: Authoritarian leaders may weaponize civilian suffering to deflect blame. To mitigate harm, the Security Council must: 1. Conduct Impact Assessments: Pre- and post-implementation evaluations. 2. Monitor and Adjust: Regularly refine sanctions to align with humanitarian law (Mumtaz, 2008). **Implementation and Monitoring of Sanctions:** The Security Council established a Sanctions Committee, composed of all its members, to oversee enforcement of the embargo under Resolution 687. This resolution stipulated that sanctions against Iraq could only be lifted by a Council decision, contingent on periodic reviews (every 60 days) of Iraq's compliance with ceasefire terms. Three conditions were mandated for lifting the embargo: 1. Recognition of UN-demarcated borders between Iraq and Kuwait; 2. Payment of reparations to a UN-administered compensation fund; 3. Complete disarmament of Iraq's weapons of mass destruction (WMD) programs. The continuation of sanctions depended on Iraq's persistent threats to international peace. Unlike prior cases, these measures saw unprecedented global compliance. They were ultimately terminated via Resolution 1483 (2003) following Saddam Hussein's regime collapse. **Efficacy and Humanitarian Costs of Sanctions :** Sanctions' outcomes hinge on their objectives: - Primary Goals: Altering the target state's behavior (e.g., disarmament, policy shifts). - Secondary Goals: Addressing domestic political expectations in sanctioning states. While sanctions often inflict severe economic damage, their political success remains limited. Key challenges include: - Low Economic Dependence: Weak leverage if the target state has diversified trade partners. - Lack of Global Coordination: Reliance on voluntary state compliance undermines effectiveness. - Evasion Tactics: Businesses exploit loopholes to bypass restrictions. - Humanitarian Fallout: Vulnerable populations bear disproportionate suffering, as seen in Iraq under sanctions (Tabatabaei, 2000).

Duration and Ethical Dilemmas : The UN Charter permits sanctions to compel compliance but offers no timeline for termination. Prolonged sanctions risk: - Escalating Humanitarian Crises: E.g., Iraq's malnutrition and healthcare collapse. - Exploitation by Regimes: Authoritarian leaders may weaponize civilian suffering to deflect blame. To mitigate harm, the Security Council must: 1. Conduct Impact Assessments: Pre- and post-implementation evaluations. 2. Monitor and Adjust: Regularly refine sanctions to align with humanitarian law (Mumtaz, 2008). **Broader Implications :** Sanctions disrupt free trade, impede the right to development, and destabilize regional neighbors. Even UN-mandated measures are often politicized and selectively enforced. For instance: - Iraq (1990–2003) : Sanctions aimed at WMD disarmament became tools for regime change. - Libya (1992–2003) : Embargoes sought to compel terrorism-related concessions but exacerbated civilian hardship. Permanent Security Council members occasionally exploit sanctions to advance national interests, undermining the Council's impartiality.

2.1. *Violation of human rights in drug restrictions resulting from sanctions against Iran*

U.S. Withdrawal from JCPOA and Subsequent Sanctions: On May 8, 2018, the United States unilaterally withdrew from the Joint Comprehensive Plan of Action (JCPOA) and reinstated stringent sanctions against Iran, while actively pressuring other nations to adopt similar measures. In response, Iran petitioned the International Court of Justice (ICJ) for provisional measures, arguing that U.S. sanctions violated the 1955 Treaty of Amity, Economic Relations, and Consular Rights between the two states. The ICJ, recognizing the potential for irreparable harm, unanimously asserted jurisdiction and issued a provisional order in October 2018 (ICJ Order¹, 2018, para. 102). **Key Provisions of the ICJ Provisional Measures:** 1. Humanitarian Exemptions: - The U.S. was ordered to lift restrictions on exports of medicines, medical devices, and agricultural products to Iran. - Financial transactions related to humanitarian goods, including aviation safety services (e.g., spare parts and

¹ "international court of justice reports of judgments, advisory opinions and orders alleged violations of the 1955 treaty of amity, economic relations, and consular rights) islamic republic of iran v. united states of america(, order of 3 october 2018.

maintenance), were to be permitted. 2. Obligations for Third Parties: - Other states were instructed to refrain from assisting the U.S. in enforcing sanctions affecting the specified humanitarian sectors.

U.S. Response and Compliance: The U.S. claimed exemptions for humanitarian goods in its sanctions regime, yet Iran and international human rights organizations disputed this assertion. Reports from entities such as Human Rights Watch and Amnesty International documented severe disruptions to Iran's healthcare system, including shortages of critical medications and medical equipment, directly linking these issues to U.S. sanctions. Despite the ICJ's binding order, the U.S. demonstrated non-compliance, consistent with its historical disregard for ICJ rulings, notably in *Nicaragua v. United States* (1986). Legal and Humanitarian Implications:- Violation of Treaty Obligations: The U.S. sanctions contravened Article X(1) of the 1955 Treaty, which guarantees freedom of commerce between the two nations. - ICJ's Authority Challenged: The U.S. refusal to adhere to provisional measures underscores the enforcement limitations of international courts absent political will. - Humanitarian Crisis: Sanctions exacerbated public health vulnerabilities, violating principles of international humanitarian law and the right to health under Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

2.2. Dimensions of Violation of International Human Rights in the Pharmaceutical Sanctions against Iran

U.S. Sanctions Against Iran Post-JCPOA Withdrawal: Economic sanctions are frequently employed as instruments of foreign policy, often aiming to inflict maximal economic harm on adversarial states (Razavi et al., 2022). Following the 1979 Islamic Revolution, the United States has systematically utilized sanctions to pressure Iran, targeting critical sectors such as energy, transportation, and banking (Mansourian, 2019). Legally, unilateral sanctions lack legitimacy under international law, as affirmed by the 1970 Declaration on Friendly Relations (UNGA Res. 2625), which prohibits coercive interference in sovereign states' affairs. Even as countermeasures, sanctions must comply with proportionality, necessity, and *jus cogens* norms—peremptory principles like the prohibition of crimes against humanity, which are non-derogable under Article 53 of the Vienna Convention (Haddadi, 2003). Critics argue that U.S. sanctions violate human rights and humanitarian law, particularly restrictions on Iran's access to medicines and medical supplies (Montazeran, 2018). UN Special Rapporteurs, including Alena Douhan, condemn secondary sanctions as coercive tools that unlawfully force third-party compliance, undermining global trade and sovereign equality. Despite the Security Council's mandate to align sanctions with international law, comprehensive measures often exacerbate humanitarian crises, highlighting the tension between political objectives and legal-ethical obligations.

The International Court of Justice (ICJ) has affirmed that provisional measures, such as those ordered in *Iran v. United States* (2018), are legally binding under Article 94(1) of the UN Charter and Article 59 of the ICJ Statute. Non-compliance with these orders constitutes a breach of international law, as established in *LaGrand* (2001), where the ICJ clarified that interim measures carry the same legal weight as final judgments. Despite this, the U.S. has consistently defied ICJ rulings, including its refusal to lift sanctions impacting Iran's humanitarian sector despite the 2018 order. This defiance violates the 1955 Treaty of Amity, which guarantees unimpeded commerce, and contravenes the right to health under the International Covenant on Economic, Social, and Cultural Rights (ICJ Order¹, 2018, para. 102). Reports from Human Rights Watch and Amnesty International document severe consequences, including medicine shortages and restricted access to medical imports, exacerbated by U.S. secondary sanctions on Iranian banks. (Montazeran & Musazadeh, 2021). These restrictions have crippled Iran's healthcare system, particularly during the COVID-19 pandemic, disrupting payments for humanitarian goods and hindering treatment for patients with rare diseases (Nabizadeh Arbabi & Hakim, 2019). Iran may invoke U.S. non-compliance with the ICJ's provisional measures as a basis for establishing international liability and claiming compensation for material and moral damages. The systemic violation of interim orders undermines the ICJ's authority and highlights the broader erosion of judicial enforcement mechanisms (Rules of the ICJ, 1978). Legally, the U.S. actions breach *jus cogens* norms and humanitarian law, as sanctions disproportionately harm civilians and weaponize access to essential goods. The humanitarian impact extends beyond economic metrics, violating the right to health and perpetuating a cycle of suffering that underscores the ethical and legal failures of unilateral sanctions regimes.

¹ "international court of justice reports of judgments, advisory opinions and orders alleged violations of the 1955 treaty of amity, economic relations, and consular rights) islamic republic of iran v. united states of america(, order of 3 october 2018.

2.3. *Violation of the right to health and access to medicine for Iranians*

The reality is that following the imposition of US sanctions on Iran, various Iranian patients have been suffering from a shortage of medicine. The greatest impact of these sanctions can be seen in patients with specific diseases who require access to pharmaceutical facilities and medical and therapeutic equipment produced abroad for the treatment or control of their disease. Among these, one of the groups that has been clearly harmed by the sanctions is the Iranian patients. The Iranian banking embargo and currency restrictions are one of the factors that prevent or make it difficult for Iranian patients to receive medical supplements. One of the most effective ointments for butterfly patients to repair skin tissues is not found in Iran, which, if available to butterfly patients, accelerates the healing process of their wounds and blisters. There are many of these pharmaceutical supplements and ointments that cannot be imported to Iran due to economic sanctions and banking sanctions. The most effective dressings are produced by a Swedish pharmaceutical company called "Monlike". It is estimated that there are between 800 and 1200 butterfly patients in Iran. This is despite the fact that, despite the sanctions, their access to the products of this Swedish company has become almost impossible over the past two years. For example, the Swedish company "Mönlike"¹ announced in an official correspondence with "Home Without a Home" Iran² that it has been banned from exporting special dressings to Iran due to sanctions (Tasnim, 2019). In fact, the US government targets any country, institution, or company that trades and exchanges medical and therapeutic goods with Iran with its secondary sanctions, and has effectively blocked the export of medicine and medical equipment to Iran. This action is considered a violation of the right to health of Iranians. The most important international document in the field of the right to health is the International Covenant on Economic, Social, and Cultural Rights (1966). The most important international document in this field is the International Covenant on Economic, Social, and Cultural Rights (1966). The Covenant addresses the issue of the right to health in Article 12 and states that: 1. States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The measures that States Parties to the present Covenant shall take for the full realization of this right.

Article 12 of the International Covenant on Economic, Social and Cultural Rights, paragraph 1, concerns the right to the enjoyment of the highest attainable standard of physical and mental health¹ and section a, paragraph 2, concerns the reduction of infant and child mortality², section c, paragraph 2, concerns the right to prevention of the spread of communicable and widespread diseases³ and section d, paragraph 2, concerns the right to access to medicines, medical equipment and treatment. Therefore, paragraph 1 of this article deals with the right to health, and paragraph 2 of it also concerns the necessary measures to achieve this right.

Therefore, since the right to medicine is considered to guarantee the survival of human life, depriving citizens of access to medicine causes widespread deaths in the targeted country, and consequently, deprives individuals of the right to life. The right to life can be interpreted narrowly and broadly. According to the narrow interpretation, the right to life is limited to inanimate and vegetative life and its meaning is to be alive; however, the Human Rights Committee has explicitly rejected the narrow interpretation of the right to life. According to the Human Rights Committee, the right to life in the context of article 6 of the Covenant on Civil and Political Rights means the individual's enjoyment of a dignified life and cannot be limited to inanimate and vegetative life (Kokabisaghi, 2018). There are compelling reasons that US sanctions have had a clear negative impact on citizens' right to access medicine, treatment, and medical equipment. These sanctions have had a devastating and negative impact on a wide range of Iranians and have caused the lives and livelihoods of Iranian citizens to be deeply affected. US sanctions have often violated the right to life and health by depriving Iranian citizens of access to vital medicines (Mansourian, 2019). A right that is considered the most fundamental human right, like other rights foreseen in international human rights documents, is based on the right to life, which cannot be ignored even in emergency situations.

While numerous articles and documents in international legal texts strongly condemn attempts to create negative effects on treatment processes and access to medicines and medicine resulting from war or sanctions or special critical conditions. In any case, the effects of US sanctions on areas that are more directly related to the health sector are noticeable. These effects can be expressed in the price of health services, the economics of medicines and medical equipment, and general health indicators. Especially in the field of treatment, the effects of economic sanctions are significantly evident in the two areas of prevention and treatment. In the field of prevention, since the prices of all goods and services have increased significantly over the past several years, it has reduced people's purchasing power and therefore has adverse effects on the health and treatment sector

now and perhaps in the future. In the field of treatment, with the increase in medical costs, diseases easily kill patients (Zamani & Gharibabadi, 2017).

Medicines, masks, and medical equipment play a significant role in the prevention, treatment, and control of the coronavirus pandemic, and in this regard, they are an important factor in realizing the right to health for those affected. Unfortunately, the US government has not paid any attention to the right to health of Iranians during the coronavirus outbreak in Iran and has even made the process of embargoing Iranian medicines more difficult. Therefore, it can be stated with certainty that the US sanctions against Iran, which have also included the health of the Iranian people during the coronavirus outbreak, are in complete contradiction with the right to health of Iranian citizens, and in other words, it can be called a clear sign of the violation of the right to health of Iranians during the coronavirus outbreak (Montazeran, 2018).

Meanwhile, the US Treasury Department's sanctions against the first Iranian vaccine producer (home.treasury.gov¹, 2021) are in complete contradiction with the right to health of Iranian citizens and indicate a lack of attention to the "right to life of Iranians." This US action to ban the Iranian vaccine producer will undoubtedly have negative effects on the vaccine production process and ultimately the health of Iranians. In the meantime, more than 40 American non-governmental organizations active in the fields of peace and humanitarianism have written a letter to the three secretaries of state, finance, and commerce of this country, calling on the government to lift the sanctions that have hindered the control of Covid-19 in Iran. The group's letter refers to Joe Biden's statements during the election campaign and asks the US President to now fulfill his promise regarding sanctions on Iran and the priority of fighting Corona. At the end of this letter, it is proposed to the US government to give Tehran the opportunity to buy food and medicine by freeing up the Iranian government's access to this country's assets in foreign banks.

3. Principles for establishing international responsibility of states (arising from sanctions)

The concept of state responsibility in international law evolved through decades of effort, beginning with the unsuccessful 1930 Hague Conference and culminating in the 2001 Draft Articles on State Responsibility. Though not yet a binding treaty, the Draft Articles established a framework to hold states accountable for breaches of international obligations. Historically, classical international law favored powerful states, enabling them to violate weaker states' rights without consequences. Contemporary reforms aimed to redress this imbalance by institutionalizing state responsibility, obligating states to compensate victims for unlawful acts or omissions (Beigzadeh, 1999). Scholars like Professor Bedoun define state responsibility as a legal mechanism requiring states to remedy damages caused by violations of international law. Charles Deutscher emphasized its restorative role in disputes, though he noted its limitations in fully nullifying wrongful acts. The scope of responsibility expanded beyond states: the 1949 ICJ advisory opinion affirmed that international organizations, as legal persons, can also incur liability (Ziaei Bigdali, 2008). There are two theories in international law regarding why states are required to accept their responsibility and, as a result, accept compensation for damages.

A - The theory of danger with risk: Theory A (Risk-Based Responsibility) asserts that states incur liability *regardless of fault* if their actions breach international obligations, whether customary or treaty-based. This principle, shaped by technological advancements and inherent risks, mandates compensation solely based on the violation (Ziaei Bigdali, 2008).

B - The theory of fault with mental responsibility: Theory B (Fault-Based Responsibility) requires proof of *negligence or intent* to establish liability, emphasizing that mere breach of obligations is insufficient without culpable conduct (Mokshemi & Taromsary, 1998). Judicial practice reflects the coexistence of both theories: risk applies to strict obligations (e.g., environmental harm), while fault governs intent-driven violations (e.g., human rights abuses). The 2001 ILC Draft Articles simplify responsibility to two core elements breach of obligation and attribution to the state rejecting additional conditions like causation to balance sovereignty with accountability.

1- Attribution: For a state to bear international responsibility, the unlawful act or omission must be attributable to it under international law (Zamani, 2018). Article 3 of the *ILC Draft Articles on State Responsibility* clarifies that the characterization of a wrongful act is governed by international law, though domestic law may assist in determining whether an entity or

¹ home.treasury.gov

individual qualifies as a state organ. For instance, domestic law defines whether an institution (e.g., judiciary, military) is part of the state's structure, but international law ultimately governs attribution. According to Article 4, acts of state organs even if exceeding their authority are attributable to the state, including those of the army, police, or government bodies. The ILC emphasizes three factors for attribution: organic/organizational ties (e.g., institutional hierarchy), control/supervision (state-directed actions), and territorial jurisdiction (acts occurring within state territory) (Wallace, 2003). Thus, while domestic law identifies state organs, international law determines liability based on these criteria, ensuring accountability for state conduct irrespective of internal legal boundaries.

2- A state incurs international responsibility if its act or omission breaches an obligation under international law, irrespective of its compliance with domestic law. The legality of state conduct is judged solely by international standards, as affirmed in the ILC Draft Articles on State Responsibility (2001), which define breach of obligation as the violation of treaty or customary law (Articles 12–15). For instance, Iraq's unlawful invasions of Iran and Kuwait constituted breaches of the prohibition on aggression, establishing its international responsibility. Such wrongful acts may arise from actions, omissions, or a combination, depending on the violated obligation's requirements (Articles 12 to 51 of the Commission's draft adopted in 2001¹). Critically, a state cannot evade responsibility by claiming adherence to domestic law. The Permanent Court of International Justice emphasized this in the *Treatment of Polish Nationals* case, ruling that states cannot invoke constitutional provisions to justify internationally wrongful acts (Ebrahim-Gol, 2021). This principle ensures accountability transcends national legal frameworks, upholding the supremacy of international law in governing state conduct. Judicial precedents like the *Corfu Channel* and *Moroccan Phosphate* cases further reinforce that breaches automatically trigger responsibility, creating legal consequences between states.

3.1. *International responsibility of states against drug sanctions*

Economic sanctions must adhere to international legal standards, including the UN Charter, human rights treaties, and humanitarian principles, to avoid violating state sovereignty and equality (Zamani & Gharibabadi, 2017). Unilateral sanctions, such as the U.S. *D'Amato Act* against Iran, often contravene international law by undermining cooperation (Article 1(3) of the UN Charter) and prohibiting force (Article 2(4)). Such measures disrupt developing economies and violate trade agreements like GATT, as highlighted by the Asia-Africa Legal Consultative Committee.

The right to health, enshrined in international frameworks like the WHO Constitution, obligates states to ensure equitable healthcare access. While economic and social rights necessitate state intervention, civil and political rights demand protection without overreach. Emergency measures (e.g., pandemics) must comply with necessity, proportionality, and non-discrimination principles. However, underdeveloped states often lack infrastructure to fulfill health rights, a challenge exacerbated by comprehensive sanctions. These sanctions create a "dual state" of quasi-war, destabilizing normal relations and deepening health crises in targeted nations (Habibzadeh et al., 2022). Thus, sanctions violating human rights and impeding health equity lack legitimacy under international law. The international responsibility of states arises from breaches of their obligations under international law, rooted in the principle that sovereign states must respect the rights of other actors in the global community. This responsibility is triggered by any internationally wrongful act—whether through action or omission—that violates customary or treaty-based obligations (Ebrahim-Gol, 2021). The 2001 Draft Articles on State Responsibility by the International Law Commission (ILC) codifies this framework, requiring two core elements: (1) breach of an international obligation (e.g., failure to cooperate under UN Charter Article 1(3)) and (2) attribution of the act to the state (ILC Draft, Art. 2). These rules, largely derived from customary law, apply not only to states but also to international organizations, reflecting the expanding scope of accountability in global governance (Ziaei Bigdali, 2008). For instance, states violating cooperative principles (e.g., unilateral sanctions impeding humanitarian aid) incur responsibility for resulting harms. The ILC's work underscores that responsibility transcends mere interstate relations, embedding accountability into the broader fabric of international law (Zamani & Gharibabadi, 2017). By institutionalizing these norms, the framework ensures redress for wrongful acts while balancing sovereignty with collective legal obligations. After years of study on the rules of international

¹ International Law Commission. "Draft articles on responsibility of states for internationally wrongful acts." Yearbook of the International Law Commission 2.2 (2001): 49.

responsibility, the International Law Commission presented its final draft on the international responsibility of states in 2001. This draft is derived from the customary rules of international law that include all legal entities, and the rights of international responsibility can be extended to all subjects of international law, including states and organizations ([Gholizadeh & Panah, 2018](#)).

Another analysis that can be presented of primary and secondary sanctions and violations of international rules related to the right to life, health and sanitation (especially in epidemic conditions of diseases) is that if sanctions with obstructive characteristics are imposed, they are considered crimes against humanity and can be investigated by the International Criminal Court. In order to counter sanctions that violate the right to health, the target country can demand respect for the right to health of its citizens through judicial or non-judicial resolution methods. The authorities that can file a lawsuit to demand respect for the right to health of citizens during sanctions, provided that the conditions of jurisdiction exist, are the International Court of Justice, the Court of Justice of the European Union and the domestic judicial institutions of the countries imposing sanctions. Among the prominent examples of leaving the sanctions list by filing a lawsuit are Sharif University of Technology, Saderat and Melli banks, etc. ([Aminzadeh, 2021](#)). However, the responsibility of international organizations, especially the World Health Organization, in managing the transfer of information, equipment, and essential medicines in the context of pandemics is an important and thought-provoking issue for all countries, especially countries under sanctions. Basically, the international responsibility law of governments and international organizations seeks to compensate for any effects of current acts or omissions that have arisen following the violation of international obligations, that is, to be accountable for the effects and consequences that are brought to nations. Such responsibility has been established in the case of governments. Today, the issue of responsibility has also been clarified in the case of international organizations, and an organization can be considered responsible for a specific act or omission or delay in performing an act and be required to compensate for damages ([Habibzadeh et al., 2022](#)).

As a conclusion, it can be said that, in line with a general commitment to interaction and cooperation within the framework of international law, governments are obliged, and in accordance with human rights documents such as the International Covenant on Economic, Social and Cultural Rights or the Human Rights Regulations of the World Health Organization, they are not only obliged to make reasonable decisions in providing medicines and medical equipment to other governments, but they must also generally help remove economic barriers to countries in order to become more capable of facing the economic dimensions resulting from sanctions. According to the studies conducted, basically none of the international sanctions mentioned in the text of the article are factors that remove responsibility. If we hypothetically consider these sanctions as a coercive factor, the obligations of third countries will be solid due to the illegality of the principle of sanctions. Therefore, it seems that, based on the draft plan on international state responsibility and international custom, the non-compliance of third countries with their obligations towards target countries, especially in the category of unilateral sanctions, is unacceptable and provides grounds for international responsibility. Undoubtedly, the right to health is one of the fundamental rights raised in human rights discussions that the international community and all governments are obliged to protect and help ensure. Therefore, countries are obliged to observe human rights standards in imposing economic sanctions against the target country and the impact of those sanctions on the rights of the people of the target country. International human rights instruments should also move more towards recognizing the human rights obligations and duties of countries that unilaterally impose comprehensive economic sanctions against other countries, and according to Article 1 of the International Law Commission's draft on the international responsibility of states adopted in 2001, any internationally wrongful act of states gives rise to the international responsibility of states. Among the obligations whose violation gives rise to an internationally wrongful act, we can mention Article 1, paragraph 3, of the United Nations Charter. States cooperate with each other in solving international problems that have economic and humanitarian aspects so that all peoples can enjoy human rights and fundamental freedoms without discrimination.

In the final draft of the International Responsibility of States in 2001, in articles 40 and 41, the term grave breach was replaced by international crime. In fact, the fundamental and fundamental obligations of States under international law, which are mentioned as a peremptory rule in the Vienna Convention, cannot be violated under any circumstances, and everything related to the fundamental interests of human beings is also considered part of these peremptory rules. In the case of sanctions with obstructive characteristics, they are considered as examples of crimes against humanity and can be investigated by the

International Criminal Court. In order to counter sanctions that violate the right to health, the target country can demand respect for the right to health of its citizens through judicial or non-judicial settlement methods.

3.2. *The principle of judicial immunity and property of States*

The principle of judicial immunity and property of States is considered as a principle of customary international law in the preamble to the International Convention on International Immunities of States adopted in 2004 (Beigzadeh, 1999). In discussing unilateral sanctions on state property, it is apparently contrary to the provisions of Article 19 of the draft of this convention, which prohibits the seizure of state property, but the examples of state property mentioned in this article are cases that, in principle, cannot be in the possession of natural persons. These cases include bank property for diplomatic affairs, property of the Central Bank, military property, and cultural property. However, bank property for diplomatic affairs and property intended for military purposes can be held in the name of a natural person holding a government position. For example, some US financial sanctions against Iranian military commanders are aimed at preventing military transactions, which is contrary to the appearance of paragraph (b) of Article 19. In contrast, some countries such as the United States of America, Canada, England, and Australia have passed a law entitled the immunity of foreign states that prohibits the exercise of jurisdiction over the property of foreign states within their territory. However, the United States government has exempted organizations and individuals supporting international terrorism from judicial immunity in its law. In any case, the financial sanctions imposed on some Iranian officials are not based on support for international terrorism but on nuclear activities, which cannot be justified within the framework of US domestic law (Ziaee & Mohammadi Motlagh, 2014).

Treaty of Amity: The Treaty of Amity and Economic and Consular Relations was concluded between Iran and the United States in Tehran on August 15, 1955. This treaty generally includes provisions regarding the development of trade between the two countries and the regulation of legal and consular relations, as well as the continuation of the emphasis on peace and friendship between the two countries. This treaty entered into force on May 16, 1957, after its ratification was exchanged in Tehran (Yousefi, 2012). This treaty concerns economic relations, consular rights, and the most important legal frameworks of relations between the two countries of Iran and the United States for more than 60 years. Typically, governments welcome these treaties because of their flexibility, which allows the parties to establish economic, political, and even legal relations while taking into account their national and domestic interests. Therefore, according to the 1969 Convention on the Law of Treaties, the Treaty of Amity between Iran and the United States of America is still legally binding in relations between the parties, as the practice of the International Court of Justice in cases such as the case of the diplomatic and consular employees of the United States of America in Tehran, the oil platforms, and the practice of the Iran-United States Arbitration Court also confirms this by using and citing this treaty.

Therefore, according to paragraphs 2 and 3 of Article 23 of the Treaty of Amity, since neither of these two countries requested its termination in bilateral relations, it is still in force in legal relations between the parties, and according to paragraph 2 of Article 21 thereof, the International Court of Justice has the authority to interpret and resolve disputes between the two states, the actions of the United States of America since 2008 within the framework of unilateral economic sanctions on various issues such as the seizure and blocking of property and assets, trade and freedom of navigation, and the failure to pay dollars to Iranian banks and institutions (Mirfakhraei, 2016) are contrary to the spirit, purpose, and essence of the Treaty of Amity (1955) and can in a way result in international responsibility for that country.

Algiers Declaration: The Algiers Declaration, signed and published in 1970, consists of three main documents: a general declaration, a statement of claims settlement, and a document of commitments. The declaration generally contains the central and main commitments of the parties to each other, according to which the United States government has undertaken four main and central commitments in response to the same four conditions of the Majlis. These commitments include: 1. Non-interference in Iran's internal affairs - 2. Release of Iranian property and assets and restoration of Iran's financial situation to the date of the asset freeze so that their free movement is ensured - Termination of all lawsuits filed in US courts against the Iranian government and cancellation of the seizure order - Return of the property (estate) of the Shah and his relatives. The United States also pledged to lift all unilateral trade sanctions it had imposed on Iran, which it did not lift, but rather imposed new sanctions in recent decades. Therefore, this was not only a form of interference in Iran's internal affairs, but also a violation of the commitments contained in the Algiers Declaration (Mohebbi, 1987).

Joint Comprehensive Plan of Action known as the “JCPOA”: The JCPOA is a joint agreement regarding Iran’s nuclear program that was concluded on July 14, 2015 in Vienna, Austria between Iran and the 501 Group (including China, France, Russia, the United States, the United Kingdom, and Germany) and led to the issuance of United Nations Security Council Resolution (2231). On October 9, 2015, a vote was held in the Islamic Consultative Assembly regarding this agreement in the form of a “proportionate and reciprocal government action plan in implementing the JCPOA” and it has been officially implemented since January 16, 2015 (Pish & Rezaei, 2017). The JCPOA, along with the same Joint Comprehensive Plan of Action, has all the four conditions of the treaty in accordance with Article 2 of the 1969 Vienna Convention on the Law of Treaties. Therefore, one should not pay attention to the aforementioned title “the JCPOA” but rather to its nature, which is an international treaty. Also, the JCPOA is a written and signed document, and it is seen above the statements of official and political officials that Security Council Resolution 2231 It is an annex to it. Therefore, the JCPOA is a treaty and security agreement for the parties, and this document takes part of its validity from the Security Council resolution. Therefore, according to Article 25 of the United Nations Charter, this resolution is binding on all countries, and the JCPOA and Security Council Resolution 2231 influence each other (Molla Karimi & Jalali, 2017). Consequently, on the other hand, if we consider the JCPOA to be a political treaty, the political executive guarantee is stronger than the legal one. Therefore, the action of the United States government on December 11, 2016, to extend the D’Amato Act (ISA) for 10 years as a unilateral sanction that was first approved in 1996 with the aim of preventing investment, exports, imports in the oil, gas and derivatives sector and extended in 2006, which was supposed to end in 2016, and in Article 26 of the JCPOA, the commitment to prevent its extension by the United States is contrary to the text, spirit and purpose of the JCPOA, the principle of good faith in treaties and Security Council Resolution 2231, because Article 25 of the United Nations Charter imposes on all members of the United Nations the obligation to cooperate with the decisions of the United Nations Security Council in matters related to international peace and security, and member states are required to implement the decisions of the Security Council. Therefore, the weakening measures, including the new unilateral sanctions of the United States against the economic and political relations of the Islamic Republic of Iran with the world and outside the Iranian nuclear issue, are a violation of the JCPOA and Security Council Resolution 2231 and result in the international responsibility of the parties violating it (Delkhosh, 2017).

Provisions on international responsibility if proven: According to the International Responsibility of States approved in 2001, if the responsibility of a state is proven for violating unilateral, bilateral or multilateral obligations (if the violated obligation is among the peremptory rules of international law and the violation has occurred seriously and systematically, the violating state will have special and additional responsibility (Zwanenburg, 2005). The state violating the obligations will bear the following responsibilities.

Obligation to cease the criminal act and guarantee of non-repetition: Article 30 of the Commission on International Responsibility of States, entitled Cessation and Non-Repetition, states that the State responsible for an internationally wrongful act is obliged to cease that act in the first instance if it continues and, if necessary, to provide appropriate guarantees and assurances that it will not be repeated. Cessation of the act in violation of an international obligation is the first necessity in eliminating the effects of the violation. Therefore, the obligation of the responsible State to cease protects and guarantees both the interests of the State or States concerned and the interests of the international community in maintaining and relying on the rule of law (Ebrahim-Gol, 2021). The obligation to cease the wrongful act, which includes both the act and the omission of the act, Yearbook (International Law Commission 1988: 105). The guarantee of non-repetition and the obligation to cease the wrongful act were codified in one article due to their similarities. In fact, the two aforementioned obligations relate to the future behavior of the wrongful State. That is, the offending state must, after committing a breach of the obligation, stop the offending act and prevent its repetition. Article 30 of the draft of the Commission on International Responsibility of States has opened the aforementioned obligations to the offending state without referring to the type of obligation or defect committed. Yearbook (International Law Commission¹, 2001: 222). The obligations contained in Article 30 of the Commission's draft, although they can be a kind of compensation for damages in its general sense, are not sufficient to completely eliminate the effects of the offending act and cannot replace traditional methods of eliminating the effects of the offending act.

¹ International Law Commission. "Draft articles on responsibility of states for internationally wrongful acts." Yearbook of the International Law Commission 2.2 (2001): 49.

Compensation for damages: Among the effects and results of an internationally wrongful act is that the responsible state is obliged to fully compensate for the damage caused by this wrongful act. Although the continuous duty to fulfill the obligation and the obligation not to repeat the wrongful act have an important place in preventing the occurrence of the wrongful act, it is not responsible for the damages incurred by the injured state. Therefore, the role and position of the obligation to compensate for damages and its methods in the law of responsibility are still inviolable. Article 31 of the liability scheme, entitled "Obligation to make reparation", is dedicated to the compensation of the injured State. It is important to note that compensation is the result and effect of the breach of the obligation, not the right of the State to the injured State. The International Law Commission, Yearbook 2001 (224), has listed several methods of compensation under the international liability scheme of States.

a) Restitution: According to this principle, the guilty State is obliged to eliminate all the legal and material effects of its wrongful act by re-establishing the situation that would have existed if the act had not occurred (Mokshemi & Taromsary, 1998). Restitution means that the responsible State must establish the situation that existed before the commission of the wrongful act. Article 35 of the Commission's scheme considers two conditions for restitution. One is that it is not materially impossible and the other is that it does not involve imposing a disproportionate obligation on the injured State, in which case other forms of compensation will take priority. B) Payment of compensation: Among the various forms of compensation, payment of compensation is the most common method of compensation in international practice, and compensation should include any financially assessable damage and public benefit to the extent possible. Given the obstacles to restoring the previous status quo, monetary payment is often substituted for restoration. Of course, it should be kept in mind that first: compensation is usually paid for actual damages; second, in this method, there must be a direct and continuous causal relationship between the act causing the damage and its consequences in order to be able to claim compensation for it (Ziaei Bigdali, 2008). The issue of paying compensation is at the time of the damage, not when a breach of an international obligation arises. C) Satisfaction: When damage is directly inflicted on a state, it has the right to ask the offending state to take steps to compensate for the damage caused, especially if the damage is artificial (Ziaei Bigdali, 2008). Satisfaction can take various forms, such as an apology with any acknowledgement of the wrongfulness of the act, legal prosecution or punishment of the offender, and taking measures to prevent the repetition of the harmful act. The important point is that satisfaction must be proportionate to the language involved and not be humiliating for the responsible and guilty state. The most common method of satisfaction in the case of moral and non-material languages inflicted on a state is to declare the act to be infringing by a court or the International Court of Justice (Ebrahim-Gol, 2021). d) Delayed payment compensation: According to Article 38 of the International Law Commission's draft on the international responsibility of States, in cases where compensation is necessary to ensure full compensation, delayed payment compensation is attached to the principal amount payable in order to fully compensate for the damage caused. This amount is calculated from the date on which the principal amount should have been paid until the date on which the obligation is fulfilled.

Countermeasures: Countermeasures of a country include any measures that the responsible country can take against the responsible country that violates the obligations and the purpose of which is to force the responsible country to compensate for the damage caused by the breached obligation (Ziaei Bigdali, 2008). This type of action is if all previous ways to fulfill the international responsibility of the state have not been successful and the responsible country is not even willing to negotiate with the responsible country for compensation.

4. The effects and human rights consequences of sanctions regulations and the responsibility of the state

imposing the sanctions. According to the general principle, states are solely responsible for events that occur within their territorial territory. However, this principle has an important exception, according to which, if an event occurs outside the territorial territory of that state due to the actions of the state and that state has the ability to control and prevent the damage caused by that event, international responsibility will be created for that state. Therefore, the International Court of Justice, in its interim order, in view of the effects of the sanctions imposed by the United States, emphasized the importance of the responsibility of the parties for their obligations related to fundamental human rights and concluded that the import and purchase of humanitarian goods is an essential element in the sanctions regulations that require the necessary measures to

protect The security interests of the sanctioning country cannot be a justification for violating this type of humanitarian obligation. 1 Furthermore, instead of examining the written sanctions laws of the sanctioning country and paying attention to the authorizations of humanitarian goods, the Court focuses its attention on the effects and consequences of the sanctions measures and states that the declaration of sanctions exemptions in the written laws and the mention of exceptions that are only specified in the text are not sufficient and do not exempt the sanctioning country from the responsibility to protect the fundamental rights of the people of the sanctioned country and serious harm to the rights in question.

According to Article 41 of the Statute of the International Court of Justice, the Court has the power and authority to take provisional measures and measures when it determines that there is a risk of irreparable harm to the rights in question, or that disregard for these rights would have immediate and irreparable consequences. 2 According to Iran, the United States' actions in revoking licenses and preventing the purchase and sale of passenger aircraft and their equipment and services, the import of foodstuffs and general prohibitions on financial transfers with Iran have led to serious and irreparable harm to the rights of the Iranian people in the field of aviation safety and security, and the food and medicine sanctions have put the health of Iranians at serious and immediate risk.

The United States claims that Iran's evidence against the "irreparable harm" requirement is insufficient and that several factors, including "Iranian government mismanagement," have led to the economic recession and existing problems in Iran, and therefore believes that proving the impact of the United States' actions on Iran's problems is not conclusive. This claim was rejected by the Tribunal due to the difficulty of accurately assessing the negative impact of the Iranian government's actions on economic problems. 1 In contrast, the Court emphasizes the negative effects and objective consequences of the sanctions on the Iranian people and states that, despite the exemption of imports of food, medical equipment and services from the United States sanctions, since the implementation of the United States economic sanctions against Iran, Iranian companies and citizens have faced many difficulties in importing food, medical supplies and equipment, to the extent that such imports have become practically impossible and have led to the emergence of numerous problems in Iran. In determining the existence of a "real and imminent risk" and "irreparable harm," the Court goes beyond the sanctions provisions of the sanctioning country in order to take provisional measures and considers the consequences and irreparable harm that the imposition of sanctions would cause to the rights of the people of the sanctioned country. The Court also refers to sanctions that violate human rights, such as sanctions restrictions on companies providing aircraft repair, maintenance, and spare parts that are contracting parties to Iranian air carriers, and declares that it will consider the sanctions provisions as a criterion and basis for the application of sanctions measures, regardless of the text of the sanctions provisions.

4.1. Licensing Procedures

One of the most important elements when designing and drafting humanitarian sanctions exemptions is the manner in which licenses are issued and a wide range of goods and services are exempted from the scope of the sanctions. For example, bans on the import of essential medical equipment, such as neonatal resuscitation devices or neonatal catheters, have caused serious problems and harms in the production, manufacture and availability of medicines for these diseases in the sanctioned country. The negative impact of these shortcomings and the ineffectiveness of human rights obligations has been observed in targeted sanctions against Iraq, Yugoslavia and Burundi (Petrescu, 2016).

Under U.S. sanctions regulations, humanitarian exemptions often require prior approval and authorization from the U.S. government, such that prior to any transaction or bank transfer, relevant licenses from the U.S. Treasury Department are required to issue a sanction exemption. The ambiguity in the scope, selective, contradictory, and varying interpretations of these exemptions have caused delays and confusion among companies active in the trade of humanitarian goods. In most cases, the Treasury Department has reserved its right to refuse to issue licenses without giving reasons and has denied requests to export humanitarian goods to a sanctioned country. In addition to the difficulties and problems in obtaining permits related to sanctions exemptions from the United States, the fear of legal and criminal prosecution and being placed on the United States sanctioned persons list due to establishing economic relations and interactions with the sanctioned government prevents relief and humanitarian organizations from providing services (Miner et al., 1998: 58) and many international companies, firms and institutions refrain from selling humanitarian goods to sanctioned countries such as Iran, seriously compromising access to essential and vital goods, medicines and food.

In contrast, the European Union, in implementing sanctions measures against Iran in 2010, applied greater flexibility than the US sanctions for issuing licenses for humanitarian goods. On 15 October 2010, the EU regulations included limited and weak humanitarian exemptions. However, the Council of the European Union gradually moved towards tightening sanctions against Iran and in this context adopted Regulation 267/2012, which introduced a new mechanism for granting licenses to facilitate investment and trade in goods and foodstuffs, agriculture, medical equipment, or other humanitarian purposes.

Given the varying procedures for granting humanitarian permits under sanctions regulations, the most important factor influencing the effectiveness of written humanitarian exemptions is oversight of the process for granting these permits. It is important to establish uniform criteria and definitions for these exemptions, as well as to develop usable and effective criteria by sanctions working groups.

In this context, the UN Committee on Economic, Social and Cultural Rights emphasizes that sanctions measures should have “a transparent set of agreed principles and procedures based on respect for human rights” and “structures with greater flexibility and universality” and considers the proposal to create “exceptions and exemptions for a wider range of goods and services, with a view to greater compatibility with human rights obligations” in sanctions measures. A prominent example is “goods and services that are necessary and essential for the safety of passenger aircraft transportation,” which was not cited in Iran’s petition to the Court, but the Court referred to it in the interim order issued as one of the examples of humanitarian goods (Razavi et al., 2022).

The interim order of the Court, which was issued following the Iranian government’s petition, provides requirements on how the exceptions to the written human rights rules in the sanctions regulations are implemented. The Court accepts in its ruling that the mere inclusion of humanitarian exceptions that are explicitly included in the text of the sanctions regulation, but do not have the necessary ability to be implemented in practice, is not sufficient and does not result in the practical compliance of the sanctioning country with its humanitarian obligations and requires the United States to ensure the issuance of “necessary and essential licenses for goods, services and humanitarian rights matters.”

4.2. *Interim Order of the Court to Remove Obstacles to Bank Payments for Human Rights Goods and Services*

One of the main factors that increases the impact of sanctions measures is the control and monopoly of the sanctioning country over the chains and systems of money transfer and credit in transactions and trade. The monopoly of the United States on the global banking network and its prominent role in financial markets and the dependence of companies and institutions on bank payment services have multiplied the effect of this country’s sanctions programs. Banking sanctions, such as blocking banking service systems in messengers similar to SWIFT and preventing sanctioned banks, are among the items on the agenda and sanctions list of the United States Treasury Department.

In its submissions to the Court, Iran claims that the United States’ actions in imposing severe sanctions and issuing the Executive Order dated August 6, 2018 are in conflict with Iran’s rights under Article 4, paragraph 1, of the 1955 Treaty, which “provides for fair and equitable treatment of Iranian companies and individuals, as well as Iranian financial institutions, and prohibits the parties from taking unreasonable and discriminatory measures that would prejudice their legally acquired rights.” Iran also states, citing Article 7, Paragraph 1, of the Treaty on the Term and Prohibition of Any Restrictions on Payments, Remittances, and Other Transfers of Funds to or from Iran, that the severe effects of the United States banking sanctions prohibiting the purchase and access to the US dollar, as well as restrictions on the purchase and sale of the Iranian rial, have caused numerous problems in paying bills, issuing remittances, and other bilateral banking transactions and transfers between Iran and other countries, given that major and significant transactions in the Iranian economy are based on financial exchanges through the Iranian rial. 1. The International Court of Justice therefore confirms that certain rights claimed by Iran under the 1955 Treaty of Amity are credible and that the actions of the United States have clearly led to restrictions on payments and the movement and transfer of funds in Iran and are in clear violation of Article 7, paragraph 1, of the Treaty of Amity. In view of the above, the Court concludes that some of the measures alleged by Iran, such as the restrictions on financial transactions and the prohibition of commercial transactions under the 1955 Treaty of Amity, have led to a violation of Iran’s rights, and, noting the current situation in Iran and noting that, although financial transactions are not impossible for Iran, they are accompanied by very serious difficulties which have made international financial transactions practically impossible for Iranian nationals and companies for the purpose of purchasing humanitarian items such as food, services and medical equipment.

The Court noted in its interim order that “the granting of broad authorizations and sanctions exemptions for humanitarian activities does not meet the minimum requirements for the protection of human rights and does not absolve the sanctioning State of its responsibilities and obligations.” The Court also ordered the United States to “remove the obstacles resulting from the sanctions announced on May 8, 2018 to the export of essential humanitarian goods to the territory of the Islamic Republic of Iran, including: 1. Medicines and medical equipment; 2. Food and agricultural products; 3. Aircraft parts, equipment and services (including warranties, repairs and maintenance necessary for the safety and security of passenger aircraft).”

The Court’s interim order constitutes a general undertaking, binding and creating international legal obligations under Article 41 of the Court’s Statute, covering any legal or administrative obstacles that adversely affect trade in humanitarian goods, including obstacles to banking and financial payment gateways for humanitarian goods and services, whereby the United States is required to ensure that “payments and other transfers of funds to the extent that they relate to humanitarian goods and services shall not be subject to any sanctions prohibitions or restrictions.” “The issuance of the interim order and the Court’s good attention to the ineffectiveness of the permits issued by the sanctioning country in practice and implementation have initiated a new development and established a judicial procedure in international courts to enforce the fundamental rights of people affected by targeted sanctions and economic warfare of states, which has established a higher level of responsibility for the sanctioning state (Razavi et al., 2022).

5. Conclusion

As a conclusion, it can be said that according to the following, the imposition of pharmaceutical sanctions is against Islamic principles and international law. The imposition of sanctions is aimed at establishing and maintaining peace and security in the world, and this is what international law pursues. If the imposition of sanctions violates the rules and regulations of international law and human rights, the sanction is not a guarantee of the implementation of the rules of international law, but the implementation of such sanctions can be considered a violation of the rights of a nation and a violation of the rules of the international community. The result of such actions is the weakening or invalidation of international laws, and this is not in the interest of the international community.

Economic sanctions of the United Nations are considered the most severe type of political action based on Chapter VII of the Charter. These sanctions may be imposed based on political pretexts. In addition, economic sanctions can also be a prelude and basis for military action, provided that the economic sanction is not effective. Sanctions in accordance with the Charter should block all escape routes for the offending states and prohibit any other abuse by other states to break the sanctions. It seems that the guarantees of implementation of international law require a fundamental revision. Although the purpose of the Charter is to prohibit war, diplomatic sanctions have the same effect in this regard as economic sanctions. Also, the peremptory rules of general international law should be taken into account when imposing economic sanctions. The most important peremptory rule is the right to life of nations. As we know, this term has a broad meaning that includes the development of at least goods and services and health and medical facilities. In imposing economic sanctions by the Security Council, the principle of distinction should be observed and the target of sanctions should be the responsible and the violators and extremist leaders of governments, not ordinary and innocent people.

Targeted and intelligent sanctions are those that do not harm innocent people and ordinary people and only target authoritarian statesmen and leaders of terrorist or rebel groups. Sacrificing a nation for the strategic goals of a superpower or coalition of countries, as is sometimes established in the Security Council, is not morally justifiable in any way. As a result, the most important ethical principles in applying sanctions should be to observe human rights standards when planning and implementing sanctions. Ignoring these issues is what goes beyond the nature and purpose of coercive measures under Chapter VII of the United Nations Charter, and if the purpose of sanctions is to harm the people of a country, sanctions should be considered immoral. For example, arms sanctions that weaken the military power of the targeted country and put it in a weak position, or financial sanctions, are examples of these logical sanctions. Including bans on traveling abroad, blocking and seizing the personal assets of heads of states that violate international law.

International responsibility is considered one of the most important and fundamental international legal institutions and occurs when an international obligation is ignored by one of the active subjects of international law and results in a violation of an international obligation; in other words, any internationally wrongful act of a state is subject to the international

responsibility of that state and the issue of their international responsibility, that is, the person who caused the damage, arises. In such a case, if the responsibility of that country or state that committed the internationally wrongful act is proven, it must compensate for the damage caused.

Therefore, the sanctioning countries, by imposing unilateral economic sanctions that are contrary to and outside the provisions of the United Nations, the principles and purposes of the United Nations Charter of 1945, the Universal Declaration of Human Rights of 1948, the Convention on the Rights of the Child of 1989, the Universal Declaration on Nutrition of 1992, Article 4 of Protocol (1) and Article 1 of Protocol (2) of Additional Protocol (1997), and Security Council resolutions such as 2131 (1965), 2625 (1970), and... up to Resolution (2049 (2012) of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization, have caused devastating effects on the society and different segments of the Iranian people. This action is considered a form of economic pressure and a violation of human rights, which mainly affects children and the elderly in society, because creating such a famine is a prohibited act contrary to the standards of international criminal law, and the government of the Islamic Republic of Iran can, citing the provisions of the Charter of the United Nations, the International Covenant on Civil and Political Rights, the resolutions, the principle of inviolability of government property, the Headquarters Agreement, and economic and political treaties, including the Treaty of Amity. 1955, the Algiers Declaration of 1980 and unilateral economic sanctions, including the extension of the ISA, violate the JCPOA and Security Council Resolution 2231 (2015), which allows a lawsuit to be filed against the United States government through the International Court of Justice in The Hague, and the damage inflicted and imposed on the country and people of Iran as a result of the commission of an internationally wrongful act to be established and proven in the Court, and with the international responsibility of that country established, the amount of damage can be determined and the rights can be realized through the Court (Alaei, 2021).

The approach of the sanctioning state in applying maximum pressure on the sanctioned state, the comprehensive, all-encompassing and extraterritorial nature of the sanctions regulations, and factors such as the lack of transparent processes, generalizations and ambiguities in the legal and written text of sanctions exemptions, the existence of extratextual prohibitions in the financial gateway mechanism, the monopoly of the sanctioning state on one of the essential trade chains such as the monopoly of international banking networks and the imposition of heavy fines on important international financial institutions for facilitating payments and financial exchanges related to the sanctioned economies, have played a fundamental and important role in strengthening and intensifying the impact of the sanctions measures, which have had negative consequences on the sanctioned economy, including macroeconomic damage, a significant increase in the costs of trade transactions, and the import of humanitarian goods into the sanctioned country. The destructive impact of economic sanctions on human rights obligations and the trade of humanitarian goods to the sanctioned country in violation of human rights rules and principles has driven the sanctioning government to include exceptions and exemptions for humanitarian affairs and services in the sanctions regulations, in order to issue relevant permits to exempt such cases from sanctions. However, the examination of the situation in countries under targeted sanctions, such as Iraq, Iran, and North Korea, as well as monitoring the harm done to the fundamental and human rights of the people under sanctions and the ineffectiveness of permits related to humanitarian goods and goods in practice and implementation, has led to the strengthening of the view that the textual and legal exemptions for humanitarian goods in sanctions programs absolve the sanctioning government from its responsibilities and human rights obligations. Humanity does not exempt itself, and these governments have a supra-textual responsibility, such that the stronger the scope and severity of the economic sanctions imposed, the greater the commitment and obligation of the sanctioning government or the institutions imposing the sanctions to the human rights requirements of the sanctioned country. In the case of the Islamic Republic of Iran against the United States of America for violating the 1955 Treaty of Amity and reimposing targeted, unilateral, and extraterritorial sanctions against Iran on May 8, 2018, the International Court of Justice issued a temporary order, creating new legal obligations to further align the application of economic sanctions with the human rights obligations of the sanctioning country, and taking a step forward in strengthening this perspective by establishing new obligations for the country imposing economic sanctions against the human rights obligations of the sanctioning country (Razavi et al., 2022).

In its interim order, the Court requires the sanctioning country to ensure that the necessary permits for the provision of humanitarian goods are "effectively" granted. Furthermore, the Court states that merely granting written humanitarian permits and exemptions is not sufficient and that the sanctioning country is required to remove all existing obstacles to the import and trade of humanitarian goods into the sanctioned country. Given the United States' dominance and monopoly over the international financial system, the Court requires the United States in its interim order to ensure that the movement and bank

transfers related to humanitarian goods and services are carried out without any restrictions or prohibitions. In fact, the Court's interim order was a step forward in establishing and creating a judicial procedure on the responsibility and legal obligations of the sanctioning country in "protecting fundamental human rights" in the field of the rights of the civilian population of the sanctioned country, and it did not consider issuing merely textual and written permits in the sanctions laws and regulations sufficient, and by requiring the sanctioning country to a level of responsibility beyond textual and legal obligations, and effectively ensuring the removal of obstacles and restrictions, it made the criteria for the commitments of the sanctioning country obligations to be obligations that focus on results.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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