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Title

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Journal

Berkeley Undergraduate Journal, 40(1)

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Publication Date

2026-08-02

DOI

10.5070/B3.67414

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THE LONG GAME

Constraints and Exceptions in US Foreign Policy toward Israel–Palestine and Iran, 1980–2024

By Ella Macallair

United States foreign policy is governed by the American system of checks and balances which fosters a tug-of-war dynamic between the legislative and executive branches. This institutional friction, observed by those involved in policy development, implementation, and analysis, has produced a pattern of unpredictable and politicized decision-making, driven by legislative constraints and ad hoc exceptions. This volatility is particularly evident in US diplomacy in the Middle East, as demonstrated by its attempts over the last five decades to facilitate a two-state solution to the Israel–Palestine conflict and to negotiate a nuclear agreement with Iran. In these cases, key US diplomatic tools including economic assistance, diplomatic recognition, terrorist designations, foreign aid restrictions, and sanctions have been applied through a series of executive orders and congressional legislation. These policies, sometimes seemingly narrow in scope or aimed at isolated issues, have played a long game of constraint that ultimately impairs executive flexibility and diminishes US diplomatic credibility, impeding long-lasting resolutions. This long game is revealed through case studies of failed diplomatic efforts in Israel–Palestine and Iran, analyzed through legislative history—a perspective that has yet to be fully explored in existing scholarship.

I. Introduction

In 1995, Congress passed the Jerusalem Embassy Act, mandating the relocation of the US embassy from Tel Aviv to Jerusalem by 1999. Yet, for over two decades, successive presidents invoked national security waivers to delay its implementation, hoping to preserve the US’s image as a fair intermediary in efforts to resolve the Israeli–Palestinian conflict. Then, in 2017, the Trump administration abruptly enforced the act, formally recognizing Jerusalem as Israel’s capital. The decision, widely seen as a drastic and one-sided shift in US policy, effectively sidelined the two-state solution and severely damaged the reputation of the US as a neutral mediator in the Israeli–Palestinian peace process. But in reality, this move was neither sudden nor solely a product of executive overreach. It was the culmination of a legislative long game—one in which Congress had laid the groundwork decades earlier, gradually binding diplomatic flexibility and shaping the trajectory of US foreign policy.

For the past five decades, American legislation has simultaneously imposed constraints on and created exceptions within diplomatic policymaking, accentuating the inconsistencies of a volatile decision-making system shaped by the government’s checks and balances. Congressional legislation, alongside executive orders, has played a pivotal role in shaping US diplomatic strategy through mechanisms such as allocating economic assistance, designating terrorist organizations, imposing sanctions, and determining territorial and diplomatic recognition. These policies draw attention to the evolving power shifts between Congress and the executive

branch, with Congress both restricting and enabling presidential authority, especially in times of crisis. Meanwhile, broader political forces, including lobbying efforts, concerns over presidential popularity, partisan divisions, and the increasing politicization of foreign policy, further shape the ways these legislative constraints and exceptions influence American diplomacy. Together, these structural and political forces reveal how legislation does not simply react to foreign policy needs but actively plays a long game, embedding strategic constraints and exceptions that shape American engagement in the Middle East often before their full impact is realized.

This research examines how legislative constraints and exceptions, shaped by congressional-executive dynamics, affect US foreign policy flexibility and credibility. The selected case studies of US involvement in negotiations concerning Israel–Palestine and Iran demonstrate the volatility of the US foreign policymaking process. Interview data from policymakers, advisors, negotiators, and government officials provide insight into how key decision-makers perceive and navigate legislative constraints and exceptions, as well as their assessments of how the US government approaches diplomacy in the Middle East.

Over the past five decades, US foreign policy toward Israel–Palestine and Iran has displayed a pattern in which congressional oversight and executive overreach have eroded US credibility and restricted its ability to pursue lasting diplomatic solutions. In the case of Israel–Palestine, legislative and executive actions have systematically eclipsed the very conditions necessary for mediating a two-state solution. In the case of Iran, an institutionalized sanctions regime, difficult to revoke due to the complexities of the checks and balances system, has invalidated American reliability in negotiating a sustainable nuclear deal. Through these case studies, this research demonstrates how congressional legislation and executive orders have gradually, and often subtly, impeded the process and prospects for effective diplomacy, as revealed through an analysis of legislative history.

II. Why Israel–Palestine and Iran? Case selection and literature review

The cases of Israel–Palestine and Iran illustrate the prominence of American influence in both domestic and regional politics. They stand out for the major diplomatic efforts pursued over the past five decades—namely, the push for a two-state solution in Israel–Palestine and a nuclear agreement with Iran. Both efforts have been shaped by legislative constraints and policy exceptions, reflecting congressional–executive tensions that have gradually eroded US diplomatic credibility and flexibility. These cases are connected by salient policy issues, including economic aid, terrorist designations, and the consequences of politicizing foreign policy. Analyzing them reveals how policy instruments and political pressures have shaped US diplomacy.

US engagement in the Israel–Palestine conflict has been deeply influenced by domestic politics, lobbying efforts, and a long-standing alliance with Israel. Since recognizing Israel’s creation in 1948, causing the displacement of 750,000 Palestinians, the US has provided substantial economic assistance and engaged in repeated, though unsuccessful, efforts to broker a two-state solution.¹ David Makovsky, writing in the Transition 2021 policy memo series for the Biden administration by the Washington Institute for Near East Policy (WINEP), determined in his memo, titled “Building Bridges for Peace,” that Palestinian diplomatic representation in the US remained absent and would require significant policy shifts and congressional approval. He pointed to the 2018 closure of the Palestine Liberation Organizations (PLO)’s Washington, DC office by the Trump administration in accordance with the Anti-Terrorism Clarification Act (ATCA) of 2018, drafted following the PLO’s actions at the International Criminal Court (ICC) to seek prosecution against Israel. The ATCA (which amends the Anti-Terrorism Act of 1987) specified that any US office associated with the PLO would place its officials under US federal court jurisdiction,² thus discouraging future efforts to reopen a Palestinian mission.³ These developments illustrate how legislation has become a fundamental barrier to official dialogue.

1 Michael Ottolenghi, “Harry Truman’s Recognition of Israel,” *The Historical Journal* 47, no. 4 (2004), <http://www.jstor.org/stable/4091664>.

2 “S.2946 - 115th Congress (2017-2018): Anti-Terrorism Clarification Act of 2018,” Library of Congress, October 3, 2018, <https://www.congress.gov/bill/115th-congress/senate-bill/2946>.

3 David Makovsky, “Building Bridges for Peace: U.S. Policy Toward Arab States, Palestinians, and Israel,” The Washington Institute for Near East Policy, January 2021, 15, <https://www.washingtoninstitute.org/sites/default/files/pdf/TransitionPN93final.pdf>.

According to Makovsky, these legislative constraints influence how US aid is delivered to Palestinians, often channeling funds through Israeli creditors and NGOs instead of the Palestinian Authority (PA), the latter of which maintains partial civil control in the West Bank.⁴ In 2019, when the Trump administration cut all Palestinian aid, including funding for the East Jerusalem Hospitals Network, Congress passed a bipartisan bill allocating \$75 million for fiscal year 2019–2020, which the administration withheld.⁵ This disconnect between Congress's legislative intent and the executive's implementation reveals that policy outcomes hinge not just on legislation but on how those policies are interpreted, enforced, or sidestepped in practice. Although Biden campaigned on restoring Palestinian aid as both humanitarian relief and a diplomatic tool, his actions remained bound by congressional restrictions, particularly the 2018 Taylor Force Act, which blocks funding to the PA until it halts payments to individuals convicted of anti-Israeli violence. Makovsky argues that Biden should have defied political risk and authorized the already-approved \$75 million, which qualifies for an exception under the act if directed toward civil society, the private sector, and East Jerusalem hospitals.⁶ These examples reveal how legislative barriers have sabotaged the effectiveness of US aid policy and left little room for diplomatic innovation or bold leadership in resolving the Israel–Palestine conflict.

The constrained approach caused by the predicament of aid policies has been widely criticized. Critics from the news outlet *Middle East Eye* argue that recent legislation, specifically the US House's "Anti-BDS Labeling Act," fortifies US policy alignment with Israel by labeling products from Israeli settlements in the occupied West Bank as "Israeli." They contend that this codifies a Trump-era policy of subverting Palestinian territorial claims and supporting Israeli annexation efforts while directly opposing the Palestinian-led Boycott, Divestment, and Sanctions (BDS) global movement.⁷ This development supports Mearsheimer and Walt's research on the Israeli lobby's influence in Congress and illustrates how legislation both enables and reflects a one-sided, inflexible approach to diplomacy in Israel–Palestine.

A similar situation is evident in US policy toward Iran, where congressional actions have curtailed diplomatic options and reinforced a hardline approach. US policy toward Iran has been dominated by debates over stringent sanctions aimed at curbing its nuclear program, the 2015 Joint Comprehensive Plan of Action (JCPOA), and the subsequent US withdrawal from the agreement. The JCPOA marked a brief moment of diplomatic collaboration, as the US lifted certain sanctions in return for Iran limiting its nuclear program and reducing its enriched uranium stockpile.⁸ Yet, the unraveling of the agreement in 2018 soon exposed the fragility of such diplomacy within a system constrained by legislative barriers. The case of Iran exemplifies how the expansion of executive powers intersects with policy constraints, producing a foreign policy impasse.

Dr. Trita Parsi, a leading writer on US–Iranian affairs, traces this fraught relationship back to the 1979 revolution, when the Shah was overthrown and replaced by Ayatollah Khomeini. After 1990, when the US emerged as the dominant superpower, it excluded Iran from key post–Gulf War diplomatic forums, such as the Madrid summit on Israel's relations with Arab states and the Palestinians, which Parsi argues contributed to Tehran's alignment with rejectionist Palestinian factions. This realignment, he notes, was exacerbated by Israeli efforts to cast Iran as the primary regional threat in the early 1990s, thereby shifting US attention away from the Palestinian crisis. According to Parsi, Israel and the pro-Israel lobby have repeatedly created political barriers that derail US–Iran engagement, even when both countries showed interest in diplomacy.⁹ These developments indicate how one-sided policy stances, pushed by foreign and domestic lobbying, have impeded open negotiations and fostered confrontational tactics that prevent viable resolution.

4 Makovsky, "Building Bridges for Peace," 15.

5 Makovsky, "Building Bridges for Peace," 16.

6 Makovsky, "Building Bridges for Peace," 15.

7 "US House Passes Bill to Label Products from Settlements in Occupied West Bank as 'Made in Israel,'" *Middle East Eye*, September 20, 2024, <https://www.middleeasteye.net/news/us-house-passes-bill-label-products-settlements-occupied-west-bank-made-israel>.

8 Kali Robinson, "What Is the Iran Nuclear Deal?" Council on Foreign Relations, October 27, 2023, <https://www.cfr.org/background/what-iran-nuclear-deal>.

9 Haggai Ram, review of *Treacherous Alliance: The Secret Dealings of Israel, Iran, and the United States*, by Trita Parsi, *International Journal of Middle East Studies* 41, no. 2 (2009), <https://doi.org/10.1017/S0020743809090825>.

After bilateral relations briefly improved during the late 1990s, tensions rose again under the Bush administration (2001–2009) when Iran was labeled part of the “Axis of Evil” and treated as a major threat due to its nuclear program and support for militant groups. US policy at this time relied on sanctions, diplomatic isolation, and the threat of military actions. Under the Obama administration (2009–2017), US policy shifted from containment toward engagement which led to the short-lived 2015 JCPOA. In his first term (2017–2021), President Trump significantly reshaped US policy toward Iran, exercising broad presidential authority often in response to, or despite, legislative constraints.¹⁰

Research by Negin Shahiar argues that Trump’s hardline approach was shaped by powerful regional allies, including Saudi Arabia, the U.A.E., and Israel, as well as anti-Iran donors, leading to a policy that prioritized antagonism over diplomacy.¹¹ Central to this shift was the Iran Nuclear Agreement Review Act (INARA), passed in 2015, which requires the president to certify Iran’s compliance with the JCPOA every ninety days. Shahiar contends that INARA, intended as a legislative check, ultimately contributed to the JCPOA’s collapse when Trump cited the review requirement as justification for the US withdrawal in 2018.¹² This episode illustrates how legislative mechanisms intended to impose oversight can inadvertently enable executive actions that undercut long-term diplomatic goals, exposing the nuanced and often contradictory role of congressional constraints and exceptions in shaping US foreign policy.

An analysis by Dennis Ross echoes Shahiar’s conclusions, pointing to the Trump administration’s “maximum pressure” campaign as a turning point that imposed severe sanctions on Iran and weakened its ability to fund regional proxy groups.¹³ In 2019, President Trump escalated tensions with Iran by designating the Islamic Revolutionary Guard Corps (IRGC), a branch of Iran’s military, as a Foreign Terrorist Organization (FTO), marking the first time the US applied such a label to part of a foreign government. Legal scholar Jean Galbraith found that while the designation had limited material impact due to preexisting sanctions, it exemplified the extraordinary use of presidential authority to frame military threats.¹⁴

These trends of avoiding congressional oversight also reflect broader debates around the War Powers Resolution of 1973. Brian Finucane, writing for the journal *Just Security*, asserts that successive administrations, including President Trump’s, have adopted a narrow interpretation of “hostilities” under the Resolution. This narrower view allows the executive branch to avoid notifying Congress about significant military incidents, such as the Iranian downing of a US drone over the Persian Gulf in 2019 and the near-retaliatory strikes that followed, reinforcing the executive’s unchecked power to escalate tensions with Iran without congressional authorization.¹⁵ However, even as presidential power expands in the security arena, enduring legislative constraints continue to shape the boundaries of US policy toward Iran. Ross’s memo on the Iran nuclear talks noted that although Iran remains under immense economic strain, new engagement initiatives, such as allowing dollar-clearing operations or trade via special-purpose vehicles, would require congressional approval and international coordination.¹⁶ Thus, while the Trump administration exemplified the executive branch’s capacity to unilaterally shift US policy through exceptional authority, reversing course through sanctions relief or renewed diplomacy remains contingent on navigating legislative stipulations governing economic policy.

Research on US policy toward Israel–Palestine and Iran illustrates how lobbying efforts, sanctions policy, military designations, and the tension between congressional authority and executive discretion shape American

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- 10 Clayton Thomas, “Iran: Background and U.S. Policy. CRS Report R47321,” Congressional Research Service, September 8, 2023, https://www.congress.gov/crs_external_products/R/PDF/R47321/R47321.6.pdf.
 - 11 Negin Shahiar, “Between Diplomacy and Decertification: A Renewal and Unraveling in U.S.-Iran Relations” (UC Berkeley, 2018), 6.
 - 12 Shahiar, “Between Diplomacy and Decertification,” 32–33.
 - 13 Dennis Ross, “The Coming Iran Nuclear Talks,” The Washington Institute for Near East Policy, January, 2021, 2, <https://www.washingtoninstitute.org/sites/default/files/pdf/PolicyNote92Ross.pdf>.
 - 14 Jean Galbraith, “The State Department Designates Iran’s Islamic Revolutionary Guards Corps as a Foreign Terrorist Organization,” *The American Journal of International Law* 113, no. 3 (2019), <https://www.jstor.org/stable/26729285>.
 - 15 Brian Finucane, “Regional Conflict in the Middle East and the Limitations of the War Powers Resolution,” *Just Security*, January 8, 2024, <https://www.justsecurity.org/91069/regional-conflict-in-the-middle-east-and-the-limitations-of-the-war-powers-resolution/>.
 - 16 Ross, “The Coming Iran Nuclear Talks,” 9.

foreign policy, often at the expense of sustainable diplomacy. In the Israeli–Palestinian context, terrorist designations have produced legislative constraints that restrict diplomatic maneuvering, while executive exceptions, such as conditional aid decisions, have reinforced inflexible or contradictory policies. In the Iranian case, the imposition of stringent sanctions showcases the legislative tools at Congress’s disposal, while the designation of the IRGC as a foreign terrorist organization and the executive’s circumvention of military reporting requirements reveal how presidential war powers have expanded in ways that sideline diplomatic cooperation. The fragmentation of authority between Congress and the executive has produced a foreign policy apparatus that struggles to adapt or respond coherently to evolving realities on the ground, particularly in regions as volatile and consequential as the Middle East. Building on this scholarship, this thesis evaluates the legislative history of the Israeli–Palestinian and Iranian cases to demonstrate how US legislation has shaped, restricted, or enabled American foreign policy in ways that have ultimately impeded long-term diplomatic solutions and negotiations.

III. Foreclosing the Israeli–Palestinian two-state solution

A. Background

Over the past few decades, the viability of a two-state solution has been systematically eclipsed by legislative constraints that restrict funding, impede the executive’s ability to engage with the Palestinians, and compromise the viability of the Palestinian Authority (PA). For decades, the two-state solution has been widely seen as the only viable path to peace, yet repeated negotiations between Israelis and Palestinians have failed. Its origins date back to the 1947 UN Partition Plan, which aimed to divide British-controlled Mandatory Palestine into separate Jewish and Palestinian Arab states. The plan allocated 56 percent of the land to Jewish leaders, despite Jews making up a smaller share of the population at the time. It also designates Jerusalem, sacred to Judaism, Christianity, and Islam, as an internationally administered city.¹⁷ The Arab League rejected the plan, arguing it disproportionately favored the Jewish population, many of whom had recently immigrated to the region. Nonetheless, Israel declared statehood in 1948, with the US being the first to recognize it, establishing a long-standing alliance. This led to the displacement of 750,000 Palestinians who were violently dispossessed and forced to flee their homes in an event known as the Nakba (“catastrophe” in Arabic).¹⁸

In the 1967 Six-Day War, Israel captured the West Bank and East Jerusalem, along with the Sinai Peninsula (from Egypt) and the Golan Heights (from Syria)—territorial acquisitions deemed illegal under international law. UN Resolution 242 called for Israeli withdrawal, but the US did not pressure Israel to comply.¹⁹ Since 1967, negotiations for a two-state solution have been led primarily by the Palestine Liberation Organization (PLO), an umbrella group representing Palestinians from the West Bank, Gaza Strip, East Jerusalem, and the diaspora. Palestinian demands have centered on reclaiming occupied land, securing the right of return for refugees, and regaining Jerusalem as a shared capital.²⁰

A major obstacle to achieving a two-state solution has been the division within Palestinian leadership: Fatah governs the West Bank, while Hamas exercises *de facto* control of Gaza after winning the legislative elections in 2006. Attempts at political reconciliation and unification are essential to achieving a two-state solution but have failed due to disagreements between the factions and American policies that have prevented their reconciliation. This ongoing deadlock has prevented Palestinian elections from taking place since 2006, and Gaza has remained politically separated from the West Bank following the 2007 Hamas–Fatah civil war.²¹

17 “The Status of Jerusalem,” United Nations Question of Palestine, 1981, <https://www.un.org/unispal/document/auto-insert-195301/>.

18 “Nakba of 1948 and Today Are Not Separate Events, but Ongoing Process of Palestinian Displacement, Replacement, Speakers Tell Panel, Urging Immediate Ceasefire in Gaza,” UN Meetings Coverage and Press Releases, May 17, 2024, <https://press.un.org/en/2024/gapal1467.doc.htm>.

19 “Resolution 242,” UN Security Council, November 22, 1967, <https://digitallibrary.un.org/record/90717>.

20 “Key Issues at Stake,” United Nations Question of Palestine, <https://www.un.org/unispal/permanent-status-issues/>.

21 Ghaith al-Omari, “Palestinian Politics Are More Divided Than Ever,” The Washington Institute for Near East Policy, May 27, 2021, <https://www.washingtoninstitute.org/policy-analysis/palestinian-politics-are-more-divided-ever>.

US foreign policy has exacerbated divisions within the Palestinian government, blocked progress on resolving post-1967 border disputes, and prevented the realization of the internationally recognized right of return for displaced Palestinians. The interplay of executive orders and congressional legislation has severely hindered any US efforts to engage with Palestinian leaders, recognize Palestinian sovereignty, or support humanitarian initiatives. The pro-Israel bias in US policymaking is installed in legislative provisions, deterring the executive branch from taking constructive steps toward Palestinian statehood. Over time, this legislative long game has incapacitated the foundational elements required for a two-state solution through symbolic measures, restrictive laws, and selective executive actions. US policy has focused on isolated issues that dissolve preconditions of the solution while sidestepping the fundamental challenge: the establishment of a Palestinian state as the only viable path to peace.

B. Embassy moves and territorial recognition: land loss and Jerusalem's future

This process of US congressional legislation systematically sabotaging the possibility of recognizing Palestinian territory began in the 1980s, when US policies on embassy relocation and territorial recognition reinforced Israel's claims over Jerusalem and the 1967 borders. Provisions in the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, signed by President Ronald Reagan, marked an early legislative effort to reinforce diplomatic, financial, and territorial support for Israel.²² The act directly undermined the United Nations Resolution 242, which called for Israel's withdrawal from the territories occupied after 1967,²³ by threatening to suspend US participation in the UN if Israel were illegally expelled or otherwise denied the right to participate in any organization of the UN.²⁴ Additionally, it authorized withholding 25 percent of the funds for the UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, demonstrating one of the first moments when American policymakers worked to weaken international legal mechanisms that scrutinized Israel's occupation.²⁵

The Foreign Relations Authorization Act for Fiscal Years 1988 and 1989 also set limitations on US foreign missions in the region, prohibiting "the use of funds under this title for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank," reinforcing the contested status of Jerusalem and the West Bank under US law and signaling that the US does not recognize Palestinian claims to sovereignty over them.²⁶ This restriction cemented the status quo, keeping its embassies, consulates, and diplomatic missions aligned with Israeli control, rather than establishing new facilities and infrastructure that could support or legitimize a future Palestinian state. By validating these territorial configurations, the act favored Israeli claims and policies in the West Bank and Jerusalem, erecting an early barrier to diplomatic discussions toward a two-state solution.

Reflecting this same stringent policy direction, the relocation of the US Embassy from Tel Aviv to Jerusalem, finalized in 2017 under the Trump administration, was the culmination of a process set in motion decades earlier. It began with the Jerusalem Embassy Act of 1995, one of the first standalone legislative measures explicitly supporting Israel. The act stated that "each sovereign nation, under international law and custom, may designate its own capital" and that "since 1950, the city of Jerusalem has been the capital of the State of Israel."²⁷ This language represents a clear disregard of Palestinian rights to the city under international law, and a marginalization of the Palestinians living in Jerusalem—an estimated 350,000 as of 2024.²⁸ By declaring that "the

22 "H.R.1777 - 100th Congress (1987-1988): Foreign Relations Authorization Act, Fiscal Years 1988 and 1989," Library of Congress, December 22, 1987, <https://www.congress.gov/bill/100th-congress/house-bill/1777>.

23 UN Security Council, "Resolution 242."

24 UN Security Council, "Resolution 242."

25 Library of Congress, "H.R.1777 - 100th Congress (1987-1988)," part A.

26 Library of Congress, "H.R.1777 - 100th Congress (1987-1988)," part B.

27 "S.1322 - 104th Congress (1995-1996): Jerusalem Embassy Act of 1995," Library of Congress, November 8, 1995, sec. 2, <https://www.congress.gov/bill/104th-congress/senate-bill/1322>.

28 "Quick Facts: East Jerusalem," Institute for Middle East Understanding, June 16, 2024, <https://imeu.org/article/quick-facts-jerusalem>.

United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999,” Congress took a clear stance in support of Israel’s sovereignty over the city.²⁹

However, despite the law’s passage, successive US presidents repeatedly postponed the embassy’s relocation for over two decades to avoid derailing Israeli–Palestinian peace negotiations. They did so by invoking a national security waiver, an exceptional provision within the act allowing the president to delay implementation for six months if deemed necessary for “the national security interests of the United States.”³⁰ This use of executive authority reflected an ongoing tension in US foreign policy—balancing congressional pressure to recognize Jerusalem as Israel’s capital with the diplomatic imperative of maintaining prospects for a negotiated settlement. This tension was underscored by insights from a former advisor to the Palestinian Authority (PA) negotiating team (1999–2011) who described the Jerusalem Embassy Act as a congressional measure designed to exert pressure on the president. The former advisor argued that the act transformed the issue into a persistent political headache for the executive and, while it may seem symbolic, was in fact a highly political maneuver. It signaled what many interpreted as an American abandonment of a core component of the two-state solution: the recognition of Palestinian claims to East Jerusalem. Without a Palestinian capital in East Jerusalem, the advisor concluded, no Palestinian leader could agree to a peace deal.³¹

This political pressure and symbolic signaling were on full display during a hearing led by Chairman Ron DeSantis before the House Oversight and Government Reform Subcommittee on National Security on November 8, 2017, just prior to the embassy move. Chairman DeSantis expressed support for US policy recognizing Jerusalem as Israel’s capital. He also acknowledged, in front of witnesses and testimonies made up entirely of individuals holding actively pro-Israel positions, that this recognition had been a gradual process due to the known potential of the relocation interfering with peace talks. Chairman DeSantis referenced testimony from King Abdullah of Jordan, who “reported to members of the House Foreign Affairs Committee that moving the US Embassy to Jerusalem now, unilaterally, will threaten the two-state solution and could lead to a ‘violent escalation’ in the Israeli–Palestinian conflict.”³² This warning divulges the fact that policymakers were fully aware of the potential consequences of the embassy relocation dismantling the two-state solution and straining US relations with Arab allies, and yet they proceeded with the relocation regardless.

On December 6, 2017, in the Office of the Press Secretary, President Donald Trump became the first US president to forgo invoking the waiver, formally announcing that he was fulfilling the long-delayed Jerusalem Embassy Act by moving the American embassy from Tel Aviv to Jerusalem as Israel’s capital.³³ This decision marked the culmination of decades of legislative groundwork, effectively cementing a stance that inhibits negotiators from pursuing a two-state solution. By taking such a definitive position, the administration shed a critical element necessary for advancing a two-state solution, practically ensuring that Palestinian claims to East Jerusalem as part of a future Palestinian state would never be realized.

During his first term, President Trump continued legitimizing the Israeli occupation, pushing the prospect of a two-state solution further out of reach. In 2019, he issued an executive proclamation—this time without congressional support—recognizing the Golan Heights, previously part of Syria, as part of Israel.³⁴ The move exemplifies the executive branch’s ability to bypass international norms, as evidenced by the UN’s condemnation, and unilaterally assert foreign policy preferences without congressional approval.³⁵ The proclamation imposed a

29 Library of Congress, “S.1322 - 104th Congress (1995-1996),” sec. 2.

30 Scott Anderson and Yishai Schwartz, “On Waiving the Jerusalem Embassy Act (or Not),” *Lawfare*, January 18, 2023, <https://www.lawfaremedia.org/article/waiving-jerusalem-embassy-act-or-not>.

31 Ghaith al-Omari, interview by Ella Macallair, January, 2025.

32 “Moving the American Embassy in Israel to Jerusalem: Challenges and Opportunities,” Library of Congress, November 8, 2017, <https://www.congress.gov/event/115th-congress/house-event/106601/text>.

33 “Statement by Former President Trump on Jerusalem,” U.S. Embassy in Israel, December 7, 2020, <https://il.usembassy.gov/statement-by-president-trump-on-jerusalem/>.

34 Donald J. Trump, “Proclamation on Recognizing the Golan Heights as Part of the State of Israel,” The White House, March 25, 2019, <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-recognizing-golan-heights-part-state-israel/>.

35 “Security Council Members Regret Decision by United States to Recognize Israel’s Sovereignty over Occupied Syrian Golan,” UN Meetings Coverage and Press Releases, March 27, 2019, <https://press.un.org/en/2019/sc13753.doc.htm>.

precedent for recognizing territorial claims against the principles of the world's largest international organization and further accelerated the decline of the two-state solution by legitimizing more of the 1967 borders, which lack validity under international law.

A former advisor for the PA, now a fellow at the Washington Institute for Near East Policy (WINEP), has observed a growing trend, particularly among Republican members of Congress, toward rejecting the two-state framework entirely. This, the fellow finds, is exemplified by many Republican lawmakers increasingly referring to the West Bank as Judea and Samaria (Israel's name for the region) and advocating for full Israeli sovereignty over these territories, underscoring deepening partisan divides on foreign policy issues.³⁶ Senator Tom Cotton (R-AR) reinforced this shift in December 2024 by reintroducing legislation to eliminate federal use of the term "West Bank." The bill, titled "Retiring the Egregious Confusion Over the Genuine Name of Israel's Zone of Influence by Necessitating Government-use of Judea and Samaria (RECOGNIZING Judea and Samaria) Act," would mandate that all official US documents use "Judea and Samaria" instead of "West Bank."³⁷ This would prohibit the US government from referencing the region as the West Bank, effectively ending any possibility of American diplomatic engagement with the Palestinian government, which is based there. This move counters a precedent set in 1995, when the Clinton administration required that Israeli goods produced in the West Bank be labeled with the country-of-origin designation "Made in West Bank," rather than "Made in Israel." While these products were still treated as Israeli for trade purposes, the labeling policy acknowledged the territorial distinction—marking an effort to maintain US neutrality on sovereignty claims. The Obama administration later reinforced this distinction in 2016 as part of its broader opposition to Israeli settlement expansion.³⁸ If passed, Senator Cotton's legislation would dismantle these efforts, effectively codifying a shift toward accepting Israeli sovereignty over the West Bank. This bill is part of a broader, decades-long process of legitimizing Israel's annexation of the region, marking an overt departure from two-state solution attempts and toward a permanent Israeli control over Palestinian territories.

In a similar effort to compromise Palestinian sovereignty through labeling and trade policy, the recent passage of the Anti-BDS Labeling Act of 2024 by the House codified Trump-era US policy on country-of-origin labeling for goods from the West Bank and Gaza. The act mandates that products from Israeli-controlled areas of the West Bank be labeled as originating from Israel. It explicitly bans the use of terms like "West Bank/Gaza," reinforcing Israeli occupation and stripping the executive branch of any leverage to adjust labeling policy in response to potential future shifts in US–Palestinian relations or peace process developments.³⁹ The legislation remains active in the Senate as of March 2025 and, having passed in the House, could have future implications, further obstructing US recognition of Palestine and complicating the broader peace process. These risks are heightened amid the ongoing war since October 7, 2023 which fueled support for the BDS movement, a global nonviolent resistance campaign advocating economic and cultural boycotts of Israel in protest of its policies toward Palestinians.⁴⁰

A fellow at the Senate Foreign Relations Committee (2024) at the time of the vote underlined the act's divisive title, noting that its failure to pass in the Senate, despite passing in the House, makes clear its controversial nature.⁴¹ This points to the act's symbolic significance: even without becoming law, its introduction signals strong congressional opposition to the BDS movement. A former advisor to the PA, now at WINEP, described the act as a "purely domestic" action, framing it as a political stance rather than a foreign policy tool.⁴² While the act clearly targets a movement that has recently been at the forefront of domestic politics—the act's title signals a firm US

36 Al-Omari, interview.

37 "S.5431 - 118th Congress (2023-2024): RECOGNIZING Judea and Samaria Act," Library of Congress, December 5, 2024, <https://www.congress.gov/bill/118th-congress/senate-bill/5431>.

38 Tom Cotton, "Cotton Reintroduces Legislation to Eliminate Federal Use of the Term 'West Bank,'" Senator Tom Cotton, February 4, 2025, <https://www.cotton.senate.gov/news/press-releases/cotton-reintroduceslegislation-to-eliminate-federal-use-of-the-term-west-bank>.

39 "H.R.5179 - 118th Congress (2023-2024): Anti-BDS Labeling Act," Library of Congress, September 19, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/5179>.

40 "BDS Call," BDS Movement, <https://bdsmovement.net/bds-call>.

41 Lauren Ross, interview by Ella Macallair, January, 2025.

42 Al-Omari, interview.

legislative stance against it—it also restricts how Palestinian territories can be referenced in official discourse. Through the restriction of language, the legislation reinforces a pro-Israel position, undermines the perceived impartiality of the United States, and restricts the flexibility of American diplomats, who are bound by laws that refuse to acknowledge the existence of Palestinian land.

These concerns were echoed by dissenting views from Committee Democrats who warned that the bill has the potential for international repercussions. Representative Richard E. Neal (D-MA-1) stated that the bill “would seriously impair the ability of the Biden administration to pursue a viable two-state solution for Israel and the Palestinian territories.” Moreover, the dissenters called out the legislation’s rigidity, noting that it “does not provide the flexibility necessary to permit the administration to align policy with respect to country-of-origin marking for imported goods with adjustments in US foreign policy in the future.”⁴³ This lack of adaptability strengthens its role as an impediment on diplomatic efforts, undermining the US’s credibility and impartiality as a negotiating broker by effectively legitimizing Israeli annexation and formalizing the legalization of settlements. Additionally, the dissenting views of the Democrats stress how the two-state solution has become increasingly divisive among lawmakers along partisan lines.

It is evident that executive actions and congressional legislation over the past five decades have steadily betrayed support for the two-state solution through policies that legitimize Israel’s 1967 annexation of Arab territories. Limitations and changes to US foreign missions in the region during the late twentieth century, culminating in the 2017 relocation of the US Embassy to Jerusalem, gradually worked to silence Palestinian voices in negotiations and solidified Israel’s claims to the city. The Anti-BDS Labeling Act of 2024 further undermines Palestinian sovereignty by mandating how goods from Palestinian-controlled territories are labeled, reinforcing Israeli occupation. All these policies combined have played a long game in making a key element of the two-state solution—Palestinians regaining their occupied territory from 1967—impossible for American diplomats to pursue.

C. Terrorist designations and legal representation: barriers to Palestinian governance

A crucial element of achieving a two-state solution is the viability of the Palestinian Authority (PA), as a lasting resolution requires both a legitimate negotiating partner and a functioning government to govern a Palestinian state. Palestinian politics have long been fractured and lacked legitimacy, in large part due to the physical separation of Gaza and the West Bank, the lack of American recognition of their sovereignty, and the ongoing Israeli occupation, which has led to dire living conditions for many Palestinians. Rather than supporting PA unification, the US has enacted policies that label Palestinian authorities as terrorists and restricting contact with the internationally recognized Palestine Liberation Organization (PLO), debilitating the PA’s functionality and ensuring that a two-state solution remains unattainable.

The terrorist label disproportionately affects the Middle East, with twenty-four of the seventy-seven groups designated as Foreign Terrorist Organizations (FTOs) originating from the region.⁴⁴ Prior to the 1980s, the US lacked a standardized legal definition of terrorism, and even today the designation remains subjective, often reflecting geopolitical alliances and security priorities. The Foreign Relations Authorization Act for Fiscal Years 1988–1989 defined terrorism as “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents,” a definition the US State Department adopted to guide counterterrorism efforts.⁴⁵ Though intended to standardize counterterrorism policies, this framework has ultimately served to restrict US foreign aid and limit official diplomatic channels with Palestinian leadership.

In perhaps its most consequential blow to the viability of a two-state solution, the Foreign Relations Authorization Act for Fiscal Years 1988–1989 also codified the Anti-Terrorism Act of 1987, which declared the PLO a terrorist organization and a threat to US interests, stating that it “should not benefit from operating in the

43 “H. Rept. 118-661 - ANTI-BDS LABELING ACT,” Library of Congress, September 10, 2024, <https://www.congress.gov/committee-report/118th-congress/house-report/661/1>.

44 “Foreign Terrorist Organizations,” Bureau of Counterterrorism, U.S. Department of State, <https://www.state.gov/foreign-terrorist-organizations/>.

45 Library of Congress, “H.R.1777 - 100th Congress (1987-1988),” sec. 140(d)(2).

United States.”⁴⁶ In doing so, Congress prevented US administrations from engaging diplomatically with the PLO, making it politically and legally difficult to adopt any policy seen as conciliatory with the organization. While the act includes provisions that allow for contact with the PLO through formal waivers, presidents must actively invoke these waivers, creating a structural impediment to diplomatic engagement.⁴⁷ This legislation stiffened US policy in a manner compromising Palestinian statehood prospects and barring the PLO from maintaining offices or conducting political activities in the US, delegitimizing the Palestinians’ internationally recognized representative government.

In a 1987 statement on signing the Anti-Terrorism Act, President Ronald Reagan drew attention to the tension between legislative constraints and executive authority within the act, particularly regarding Section 1003, which prohibits the establishment of any office in the US “to further the interests [of the PLO].” He acknowledged that this legislative provision, which closed the PLO office in Washington, DC, effectively banned diplomatic contact with the PLO. While Reagan affirmed his constitutional authority under Article II, Section 3, to determine diplomatic recognition, he also remarked that “no constitutional conflict is created by this provision” because he had no intention of engaging with the PLO.⁴⁸ Although it did not discourage Reagan himself, the legislative restriction set a binding precedent by reducing the opportunity for future presidents to pursue diplomacy. Congress played a long game, indefinitely cutting off a crucial channel for interaction with Palestinian leadership and undermining the viability of a two-state solution by isolating the Palestinian people.

Since the 1993 Oslo Accords, the PLO has lost significant influence in Palestinian politics as widespread opposition to the accords grew following the organization’s failure to secure Palestinian demands during negotiations. The negotiations led to the creation of the PA, the governing body based in the West Bank which remains weak and largely ineffective due to its internal political party divisions that persist under stringent US laws preventing its elections and reconciliation.⁴⁹

Coming just a year after the PA’s creation, Executive Order 12947, issued by President Bill Clinton in 1995, marked the first official designation of Hamas as a terrorist organization. This move was the first step in a long game of counteracting Palestinian unification and preemptively crippling two-state negotiations by isolating a key political party. The order aimed to prohibit “transactions with terrorists who threaten to disrupt the Middle East peace process.”⁵⁰ The designation became more complex after Hamas won 74 of the 132 seats in the Palestinian Legislative Council in the 2006 elections, securing a majority and exercising *de facto* control over Gaza since 2007, with the West Bank remaining under the control of the Fatah political party.⁵¹

Notably, in 2005, during a joint press conference with Palestinian President Mahmoud Abbas, President George W. Bush stated, “A viable two-state solution must ensure contiguity of the West Bank, and a state of scattered territories will not work. There must also be effective linkages between the West Bank and Gaza.”⁵² This recognition was betrayed the following year with the passage of the Palestinian Anti-Terrorism Act of 2006, drafted in response to Hamas’s electoral victory, imposing strict congressional constraints on the executive branch’s ability to promote the development of democratic institutions and provide aid to the PA when Hamas is in government. As stipulated, US assistance is only permissible if a presidential certification determines that no PA ministry is controlled by Hamas unless the group has publicly recognized Israel’s right to exist and adhered

46 Library of Congress, “H.R.1777 - 100th Congress (1987-1988),” tit. X.

47 “Bush Waives Provisions of Anti-Terrorism Act on PLO Office/Memorandum - USDOS Press Release,” United Nations Question of Palestine, October 14, 2005, <https://www.un.org/unispal/document/auto-insert-206078/>.

48 Ronald Reagan, “Statement on Signing the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,” Ronald Reagan Presidential Library & Museum, December 22, 1987, <https://www.reaganlibrary.gov/archives/speech/statement-signing-foreign-relations-authorization-act-fiscal-years-1988-and-1989>.

49 Ghaith al-Omari, “Oslo’s Mangled Legacy,” The Washington Institute for Near East Policy, March 4, 2019, <https://www.washingtoninstitute.org/policy-analysis/oslos-mangled-legacy>.

50 William J. Clinton, “Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process,” *Federal Register* 60, no. 16 (1995), <https://www.govinfo.gov/content/pkg/FR-1995-01-25/pdf/X95-110125.pdf>.

51 Mohammad Yaghi and Ben Fishman, “Political Participation and Palestinian Legislative Elections,” The Washington Institute for Near East Policy, October 31, 2005, <https://www.washingtoninstitute.org/policy-analysis/political-participation-and-palestinian-legislative-elections>.

52 “President Welcomes Palestinian President Abbas to the White House,” Office of the Press Secretary, The White House, May 26, 2005, <https://georgewbush-whitehouse.archives.gov/news/releases/2005/05/20050526.html>.

to previous agreements with the United States, Israel, and the international community, including the Roadmap for Peace of 2003—a two-state solution attempt under the Bush administration that ended in deadlock due to its failure to specify terms for final status negotiations.^{53,54}

These legislative restrictions have also affected internal Palestinian reconciliation efforts. Repeated attempts at Hamas's reconciliation with Fatah have failed due to ideological and political differences, security concerns, and fears of further US aid cuts. Under the Obama administration, no certification was issued to lift restrictions on US aid to the PA. Instead, the administration withheld non-humanitarian aid and supported the continued isolation of Gaza, mirroring the approach of President Bush. This further obstructed the creation of a viable Palestinian government, reinforcing the division between the Fatah and Hamas factions as though Gaza and Hamas were separate from the broader peace process and the conflict with Israel. Direct communication with Hamas-controlled Gaza remained impossible, even for Palestinian leaders willing to cooperate with the US and Israel. As a result, the PA remained divided, leaving no unified Palestinian leadership to negotiate a peace deal.⁵⁵

The Biden administration also made little effort to engage with the PA and missed a critical opportunity to support Palestinian political unification. In 2021, President Mahmoud Abbas of the Fatah party called for elections but later canceled them, fearing a repeat of Hamas's 2006 electoral victory—further eroding the PA's democratic legitimacy. Elections remain long overdue, but political and logistical barriers, such as Israel's control over East Jerusalem and the detention of many Hamas legislators, make them extremely difficult to hold. The Palestinian parliament remains paralyzed, and without Israeli cooperation, voting in key areas is nearly impossible.⁵⁶ These challenges were compounded by the lack of clarity from the Biden administration on whether it would accept the outcome if Hamas-affiliated candidates were elected. Following Hamas's 2006 electoral win, the US responded by cutting aid and halting engagement with the PA under the Palestinian Anti-Terrorism Act of 2006. In 2021, those same legal and policy constraints remained in place, and there were growing concerns that US support would again be withdrawn if Hamas members, classified as terrorists, were elected.⁵⁷ The administration's failure to support the elections or reassure the PA that aid would continue played a significant role in Abbas's decision to cancel the vote. This missed opportunity, blocked by long-standing legislation and the continued designation of Hamas as a terrorist group, kept Palestinian leadership divided, cut off US–Palestinian dialogue, and helped set the conditions that led to Hamas's attack on October 7, 2023.⁵⁸

The long game that has played out since the 1980s—beginning with the PLO's designation as a terrorist organization, followed by the closure of the PLO office, the creation of a divided and weak PA, and the designation of Hamas as a terrorist organization—has perpetuated the inviability of the PA. Specifically from 2006 to 2021, attempts at elections and reconciliation efforts have been impeded by American legislative measures and executive actions that discouraged unity. These measures, which included restricting aid and refusing to negotiate with a government that includes Hamas as a political party, have sustained the inviability of the PA, the unification of which is crucial for both conducting negotiations for a two-state solution and establishing a Palestinian state within that framework.

53 “S.2370 - 109th Congress (2005-2006): Palestinian Anti-Terrorism Act of 2006,” Library of Congress, December 21, 2006, <https://www.congress.gov/bill/109th-congress/senate-bill/2370>.

54 Sharon Otterman, “Middle East: The Road Map to Peace,” Council on Foreign Relations, February 7, 2005, <https://www.cfr.org/background/middle-east-road-map-peace>.

55 Khaled Elgindy, “Obama's Record on Israeli-Palestinian Peace: The President's Disquieting Silence,” *Brookings*, October 6, 2016, https://www.brookings.edu/?p=335807&post_type=article&preview_id=335807.

56 Nathan J. Brown, “Palestinian Presidential Elections,” Carnegie Endowment for International Peace, July 15, 2008, <https://carnegieendowment.org/research/2008/07/palestinian-presidential-elections?lang=en>.

57 Ghaith al-Omari et al., “Institute Experts Urge Biden Administration to Clarify to Palestinian Authority Implications of Hamas Participation in Elections,” The Washington Institute for Near East Policy, May 15, 2021, <https://www.washingtoninstitute.org/about/press-room/press-release/institute-experts-urge-biden-administration-clarify-palestinian>.

58 Adnan Abu Amer, “Postponed Palestinian Elections: Causes and Repercussions,” Carnegie Endowment for International Peace, May 11, 2021, <https://carnegieendowment.org/sada/2021/05/postponed-palestinian-elections-causes-and-repercussions?lang=en>.

D. Restrictions on humanitarian funding: the right of return and Palestinian unification

At the heart of the two-state solution is the Palestinian right of return, which allows displaced Palestinians, including the 750,000 who fled during the 1948 Nakba and the 420,000 displaced after the 1967 war, to return to their homeland.⁵⁹ Although the United States has historically been the largest donor to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), established in 1949, it has systematically restricted funding to the agency through appropriations bills and has withheld aid from the Palestinian Authority (PA). These financial restrictions thwart the PA's ability to function as a governing body and weaken its capacity to advocate for refugee rights. By leveraging funding restrictions, Congress has fixed executive policy in ways that obstruct both the right of return and the broader viability of a Palestinian state, further dismantling the path to a two-state solution.

As funding is Congress's most significant tool for shaping US diplomacy, foreign operations appropriations bills have long served as a primary mechanism for influencing policy. Many smaller, more controversial legislative measures are incorporated into these larger appropriations bills to ensure their passage, allowing lawmakers to advance specific foreign policy objectives without standalone scrutiny. A prominent example of this strategy is the Taylor Force Act, introduced in 2017 and later planted into the Consolidated Appropriations Act of 2018.⁶⁰ By attaching the act to a must-pass omnibus spending package, Congress ensured its enactment while preserving funding for certain diplomatic and security programs. This strategy not only guaranteed passage but also framed the measure as a responsible use of taxpayer dollars rather than a unilateral foreign policy shift.

Originally reviewed in a July 12, 2017 hearing by the Senate Committee on Foreign Relations, the bill—named after Taylor Force, an American tourist killed in a 2016 attack in Israel—sought to prohibit US foreign assistance to the PA unless it met specific conditions. These conditions included ending violence against American and Israeli citizens, publicly condemning such acts, and ceasing payments to individuals convicted of terrorism as well as their families.⁶¹ This latter requirement targeted the PA's longstanding prisoner and "martyr" compensation system, which provides stipends to families of Palestinians killed or imprisoned by Israel and which US lawmakers characterized as incentivizing violence. Noting that no US diplomats actively pushed for the act, and that it was instead a product of external lobbying and political pressure from Israeli leadership, a professor at George Washington University stated that Israel has long ceased serious negotiations. Instead, Israel was focusing on sensitive PA policies, such as the prisoner and martyr payments, to influence US policy action. The act capitalized on this, conditioning US aid on the PA's cessation of these payments. The professor stressed that ending these payments is nearly impossible for the PA without severe domestic backlash, leaving it trapped between US demands and internal stability, and making the act not just a barrier to receiving aid, but an impediment to fostering the conditions necessary for a Palestinian state and government that could meaningfully engage in prospective multilateral negotiations.⁶² A former PA negotiating advisor, now a senior fellow at the Washington Institute for Near East Policy (WINEP), alleged that the act severely restricted the chance of such diplomatic opportunities. The fellow explained that while US administrations have at times found supporting the PA necessary for maintaining regional stability, this legislation "constrains the [PA's] governing structure's ability to function and limits the possibility of reaching a two-state solution."⁶³ The Taylor Force Act reinforced a one-sided pressure dynamic that leaves little room for negotiation, ensuring that both Palestinian self-determination and regional stability remain further out of reach.

Compounding this legislative pressure is the political rhetoric that surrounds the Israeli–Palestinian conflict. The same former negotiator remarked, "Every time the president tries to take a step that requires pressuring Israel,

59 "Right of Return of Palestinian Refugees Must Be Prioritised over Political Considerations: UN Experts," UN Human Rights Office, June 21, 2023, <https://www.ohchr.org/en/statements-and-speeches/2023/06/right-return-palestinian-refugees-must-be-prioritised-over>.

60 "H.R.1625 - 115th Congress (2017-2018): Consolidated Appropriations Act, 2018," Library of Congress, March 23, 2018, tit. X, <https://www.congress.gov/bill/115th-congress/house-bill/1625>.

61 Jim Zanotti and Jeremy M. Sharp, "Taylor Force Act: Palestinian Terrorism-Related Payments and U.S. Aid," Congressional Research Service, December 12, 2017, <https://www.congress.gov/crs-product/IN10761>.

62 Nathan Brown, interview by Ella Macallair, January, 2025.

63 Al-Omari, interview.

he faces unscrupulous rhetoric bent on undermining him.” This rhetoric was evident in a congressional testimony supporting the bill, notably from Elliott Abrams, a senior fellow for Middle Eastern Studies at the Council on Foreign Relations and a vocal pro-Israel advocate. Abrams argued that “the Palestinian government and society are, by this scheme [making prisoner payments], glorifying and honoring acts of violence.” This testimony helped solidify bipartisan support for the bill, reinforcing a narrative that framed Palestinian governance as inherently complicit in terrorism and justifying continued legislative and financial constraints.

The consequences of the act extend beyond diplomacy to critical public services. A former legal advisor for the Palestinian negotiating team, who participated in peace negotiations during the 2010s, underlined how the Taylor Force Act imposed both diplomatic and financial limitations on Palestinians. On the diplomatic front, one of the most significant outcomes has been the use of the act to justify lawsuits against the PA and PLO, as well as the continued refusal to reopen the Palestinian diplomatic mission in Washington, DC. Financially, the act blocks nearly all direct US funding to the PA, except for security services, severely impacting essential public institutions, including hospitals.⁶⁴

The extent to which humanitarian concerns were sidelined is evident in a Senate hearing, where Senator Bob Corker (R-TN) acknowledged the dilemma: “Do we just want to make sure the \$260 million goes to safe projects such as hospitals . . . or do we want the punitive impact of stopping monies going to the Palestinians? . . . It’s not going to be easy, but in some cases, it’s going to have to be rough justice.”⁶⁵ By invoking “rough justice,” Corker signaled an acceptance of imprecision and collateral harm as a necessary policy cost. Rather than ensuring mechanisms to protect humanitarian channels, the bill’s design tolerated the neglect of civilian welfare in favor of applying pressure on Palestinian political actors, treating deprivation not as an unintended consequence, but as a coercive tool.

The Taylor Force Act thus exemplifies how Congress wields financial restrictions to check the executive branch and derail US diplomatic efforts in the Israel–Palestine conflict. By tying aid to punitive conditions, framing Palestinians as complicit in terrorism, and undermining Palestinian governance, the act cements a foreign policy asymmetry that favors Israel while sidelining the humanitarian and political needs of Palestinians. As Palestinian refugees lose access to essential services, are forced to flee, and are denied their right of return, the viability of a two-state solution is steadily threatened. Yet the Taylor Force Act is just one piece of a broader legislative blueprint—a long game—in which US lawmakers leverage funding mechanisms to weaken the institutional foundations of Palestinian statehood. One of the most consequential targets of this strategy has been UNRWA, the backbone of humanitarian relief for Palestinian refugees.

With approximately six million Palestinian refugees living in Gaza, the West Bank, Jordan, Lebanon, and Syria, UNRWA provides critical services, including education, healthcare, and social welfare, essentially functioning as a governing body for displaced Palestinians. Cutting UNRWA’s funding is not merely a budgetary decision but rather a deliberate move to undervalue the recognition of Palestinian refugees and their right of return.⁶⁶ As UNRWA’s resources shrink, so too does the political viability of Palestinian refugee claims in negotiations over a two-state solution, where the right of return remains a core issue.

This approach tightened in the Further Consolidated Appropriations Act of 2024. The 1,254-page bill, a sweeping piece of legislation funding various government initiatives, buries a key directive in its text: cutting all US funding for UNRWA. At the very bottom of the page, it states explicitly, “The bill also prohibits State Department funds from being used to make payments to the U.N. Relief and Works Agency until March 25, 2025.”⁶⁷ This restriction on executive authority underscores how congressional appropriations to UNRWA have

64 Diana Buttu, interview by Ella Macallair, December, 2024.

65 Bob Corker, “S for Rel Hearing on Consideration of the Taylor Force Act,” ProQuest Congressional, July 12, 2017, <https://congressional.proquest.com/congressional/docview/t65.d40.07120003.u82?accountid=14496>.

66 “Joint NGO Statement: EU and Member States Must Sustain Funding to UNRWA,” United Nations Relief and Works Agency for Palestine Refugees in the Near East, February 29, 2024, <https://www.unrwa.org/newsroom/official-statements/joint-ngo-statement-eu-and-member-states-must-sustain-funding-unrwa>.

67 “H.R.2882 - 118th Congress (2023-2024): Further Consolidated Appropriations Act, 2024,” Library of Congress, March 23, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/2882>.

functioned as a political instrument—one that methodically dismantles the foundational structures supporting a path to Palestinian statehood while reinforcing the status quo of US support for Israel.

The director of UNRWA's Washington, DC office explained that US funding was cut due to claims that UNRWA was “in league with Hamas,” a narrative that even the US intelligence community found questionable.⁶⁸ Out of the nineteen names of UNRWA employees originally provided by the Israeli government to the US and the UN Inspector General, over half were dismissed. In one case, no evidence was obtained to support the allegations, and in nine other cases, the evidence was insufficient to support claims of involvement.⁶⁹ Despite this, the director alleged that Israel has used this narrative to portray UNRWA as “penetrated by Hamas,” even though the agency is a severely underfunded humanitarian organization with no police force or intelligence capabilities of its own, relying on member states to provide such information.⁷⁰ The director further explained that, given UNRWA's 33,000 staff—13,000 of whom are located in Gaza—some level of interaction with Hamas, which has governed the region since 2006, is inevitable and doesn't negate the fact that UNRWA is an apolitical organization, focused solely on humanitarian relief.⁷¹

This portrayal, the director insisted, is part of a deliberate Israeli disinformation campaign to discredit UNRWA, shaping congressional narratives and influencing US funding decisions. This coercive campaign resulted in the non-renewal of UNRWA's framework agreement with the US and a complete loss of American funding.⁷² This course of action seeks to erase the refugee question from political negotiations by eliminating UNRWA itself. Since U.N. resolutions enshrine refugee rights in international law, specifically Resolution 3236 which “reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return,”⁷³ dissolving UNRWA would not resolve the underlying issue. Palestinian refugees would still exist, and their right of return would remain a core issue in any peace process. If UNRWA were dismantled, Israel would also be legally responsible, as the occupying power, for providing education, healthcare, and food distribution to Palestinian refugees. Yet no administrative or institutional alternative currently exists to replace UNRWA's extensive service network, raising the specter of a humanitarian catastrophe. Rather than resolving the refugee issue, defunding UNRWA thus risks exacerbating human suffering and undermines both regional stability and the prospects for Israeli–Palestinian peace.⁷⁴ The consequences go beyond humanitarian fallout: they further isolate Palestinian leadership, obstruct governance, and block the right of return—derailing the viability of a two-state solution and diminishing fruitful diplomatic interactions by placing peace efforts at the mercy of politicized aid restrictions.

Legislative appropriations thus serve as powerful instruments of influence, shaping foreign policy in ways that take the right of return off the table and disrupt Palestinian governance. Congressional offices, often understaffed and lacking deep foreign policy expertise, rely on advocacy groups and lobbyists for drafting legislation. The UNRWA Restoration Act, for example, was shaped by input from various stakeholders, including Israeli and Palestinian advocacy groups. A lobbyist at the Friends Committee on National Legislation (FCNL) described these ongoing efforts to reinstate funding, but negotiations have involved significant political maneuvering. Some lawmakers, including Senator Chris Coons (D-DE) and Representative Gregory Meeks (D-NY-5), have proposed partial funding restorations, limiting aid to UNRWA operations outside Gaza. Others advocate restoring funding

68 Nancy A. Youssef, et al., “U.S. Finds Some Israeli Claims on U.N. Staff Likely, Others Not,” *The Wall Street Journal*, February 21, 2024, <https://www.wsj.com/world/middle-east/u-s-finds-claims-that-u-n-aid-agency-staff-took-part-in-hamas-attack-credible-957b747e>.

69 Farhan Haq, “Daily Press Briefing by the Office of the Spokesperson for the Secretary-General,” UN Meetings Coverage and Press Releases, August 5, 2024, <https://press.un.org/en/2024/db240805.doc.htm>.

70 “Final Report: Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality – Independent Review Group on UNRWA,” United Nations Question of Palestine, April 20, 2024, <https://www.un.org/unispal/document/report-independent-review-group-on-unrwa-22april2024/>.

71 Bill Deere, interview by Ella Macallair, January, 2025.

72 Deere, interview.

73 “Resolution 3236,” United Nations, November 22, 1974, [https://docs.un.org/en/A/RES/3236\(XXIX\)](https://docs.un.org/en/A/RES/3236(XXIX)).

74 Riley Sparks et al., “Gaza In-Depth: Why Israel Wants to End UNRWA and What Its Closure Would Mean,” *The New Humanitarian*, March 6, 2024, <https://www.thenewhumanitarian.org/analysis/2024/03/06/gaza-depth-why-israel-wants-end-unrwa-and-what-its-closure-would-mean>.

only until a viable alternative to the organization emerges, though no such replacement currently exists. The influence of lobbying organizations, particularly AIPAC, has played a decisive role in shaping congressional votes and funding decisions. Lawmakers who challenge US military aid to Israel often face well-funded primary challengers backed by pro-Israel groups. In September 2024, over seventy members of Congress introduced the House version of the UNRWA Restoration Act, followed by a Senate companion from Senator Peter Welch (D-VT). While this signaled growing legislative support for restoring funding, political obstacles remain, especially under a second Trump administration.⁷⁵

These funding restrictions reflect a long-term scheme in US foreign policy where legislative maneuvers, such as the Taylor Force Act, terrorist designations, and funding restrictions, gradually erode the foundations for Palestinian participation in brokering peace. By undermining the PA and making the right of return impossible, these measures systematically stifle executive flexibility, derail peace efforts, circumvent international law, and install Palestinian political and geographical fragmentation. The US's legislative barriers—its refusal to recognize Palestinian territory, its role in deepening divisions within Palestinian leadership, and its obstruction of humanitarian aid for refugees—have effectively dismantled essential elements of the two-state solution, rendering it ultimately unattainable.

IV. The war with Iran that never ends

A. Background

Since the 1979 Iranian Revolution, American–Iranian relations have been defined by hostility, cycles of confrontation, missed opportunities, and an increasing reliance on economic sanctions as a primary tool of American foreign policy. The revolution, which toppled the US-backed Shah and ushered in the Islamic Republic, marked the beginning of an adversarial relationship between Washington and Tehran. The ensuing hostage crisis, in which fifty-two American diplomats were held captive for 444 days, confirmed Iran's status as a pariah in the eyes of US policymakers. This marked the beginning of a long game of punitive measures designed to isolate the regime over pursuing long-term rapprochement. Over time, legislative constraints have solidified, significantly limiting executive latitude and making it increasingly difficult to lift sanctions on Iran, even when diplomatic conditions justify doing so. This rigidity has eroded US credibility as a negotiating power, signaling to adversaries that American diplomacy is bound by legislative inertia incapable of adaptation.

In the aftermath of the revolution, the United States severed diplomatic ties with Iran and imposed broad economic sanctions initially targeting Iranian assets and trade. Over time, these measures expanded into a far-reaching sanctions regime, reinforced by growing concerns over Iran's regional activities, ballistic missile development, and nuclear ambitions. Codified into law, these sanctions increasingly narrowed the executive branch's ability to lift them. Unlike other historic adversarial relationships, such as US engagement with China and Vietnam, which saw periods of thawing, the US approach to Iran grew increasingly rigid. By the 1990s, legislation targeted foreign investment in Iran's energy sector, further solidifying economic pressure as the primary US policy tool. With each geopolitical flashpoint, from Iran's support for militant groups to its involvement in conflicts across the Middle East, American policymakers defaulted to sanctions as the primary response.⁷⁶

By the early 2000s, US sanctions aiming to curb Iran's nuclear ambitions not only expanded in scope but had also become embedded in the global financial system. The 2000s saw a shift toward financial warfare, with sanctions targeting Iran's access to global banking networks. The US Treasury leveraged the dominance of the dollar to cut Iran off from international markets, forcing banks and companies to comply or risk losing access to the American financial system. Efforts to isolate Iran financially were boosted by international cooperation, with European and Asian banks severing ties with Iranian institutions. The effectiveness of these measures, however, was not absolute. While Iran's economy suffered under mounting restrictions, its leadership adapted, fostering

⁷⁵ Hassan el-Tayyab, interview by Ella Macallair, January, 2025.

⁷⁶ Ashish Kumar Sen, "A Brief History of Sanctions on Iran," Atlantic Council, May 8, 2018, <https://www.atlanticcouncil.org/blogs/new-atlanticist/a-brief-history-of-sanctions-on-iran>.

alternative trade networks and deepening economic ties with US rival countries like China and Russia.⁷⁷ Moreover, Iran's nuclear program continued to advance despite sanctions, creating a diplomatic stalemate in which punitive measures failed to achieve their intended policy outcomes. This approach thus proved highly disruptive to Iran's economy but failed to achieve its intended policy objectives. Tehran continued its nuclear development, expanded its regional alliances, and deepened economic ties with non-Western powers.⁷⁸

The pursuit of a nuclear agreement in the 2010s presented a rare opening for diplomacy, culminating in the 2015 Joint Comprehensive Plan of Action (JCPOA), with the US agreeing to lift certain sanctions in exchange for Iran limiting its nuclear program, such as by limiting uranium enrichment levels and accepting IAEA inspections. These limitations were in exchange for economic relief, marking a departure from the long-standing sanctions-first approach. However, the agreement's implementation exposed a critical flaw in the American approach to Iran—sanctions had become so deeply systematized that even after diplomatic commitments were made, their practical reversal proved all but impossible. Financial institutions, wary of compliance risks and potential policy reversals, remained hesitant to reengage with Iran, further limiting the economic benefits that were meant to incentivize Iranian cooperation.⁷⁹

The US withdrawal from the JCPOA in 2018 under the Trump administration, followed by the reimposition of broad sanctions, laid bare the instability of American commitments across administrations and reinforced Tehran's skepticism about future negotiations, weakening the US's negotiating legitimacy. The Trump administration's Maximum Pressure campaign intensified sanctions to unprecedented levels, aiming to force Iranian concessions but instead incentivizing Tehran to expand its nuclear activities and harden its negotiating position.⁸⁰ By the time efforts to revive diplomacy resurfaced under the Biden administration in the 2020s, the repercussions were already in motion—Iran had expanded its nuclear program beyond previous limits, deepened its strategic partnerships outside of the Western sphere, and hardened its negotiating stance, rendering productive engagement effectively impossible.⁸¹

US foreign policy toward Iran has been increasingly stifled by a web of legislative provisions that have ruined American diplomatic legitimacy with Iran. Congress has played a long game, codifying sanctions into law in a way that severely impedes the capacity of the president to lift restrictions, even as circumstances potentially evolve that would open the door to de-escalation. This rigid legal framework poses steep political and procedural barriers for any future administration seeking diplomatic interaction. Sanctions, once intended as a strategic tool of coercion, have become a structural feature of US policy, defaulted to rather than deliberated. This normalized approach has failed to meaningfully change Iranian behavior while simultaneously sabotaging diplomacy. It has obstructed pathways to nuclear peace, blocked Iran's reintegration into the global economy, and deepened hardship for Iranian citizens.

B. Codifying sanctions: Congress's impact on executive flexibility

Since the fall of the Shah, Congress has gradually institutionalized sanctions against Iran, curbing the president's ability to negotiate their removal. While these measures were justified as countering an anti-US regime and deterring Iran's nuclear ambitions, particularly as its program escalated with Russian assistance in the 1990s, their long-term effect has been to entrench restrictions and sabotage the believability of American negotiators. Although some sanctions have been imposed through executive orders—such as President Jimmy Carter's 1979

77 Juan Carlos Zarate, *Treasury's War: The Unleashing of a New Era of Financial Warfare*, 1st ed. (PublicAffairs, 2013).

78 Esfandiyar Batmanghelidj and Nicholas Mulder, "Lifting Sanctions Isn't as Simple as It Sounds," *Foreign Policy*, April 15, 2019, <https://foreignpolicy.com/2019/04/15/lifting-sanctions-isnt-as-simple-as-it-sounds-sudan-iran-bashir-rouhani-obama-trump-jcpoa-reconstruction/>.

79 Sir Richard Dalton, "The Iran Nuclear Negotiations: One Year On," *Asian Affairs* 47, no. 3 (2016), <https://doi.org/10.1080/03068374.2016.1225896>.

80 Samuel M. Hickey, "A Worthless Withdrawal: Two Years Since President Trump Abandoned the JCPOA," Center for Arms Control and Non-Proliferation, May 11, 2020, <https://armscontrolcenter.org/a-worthless-withdrawal-two-years-since-president-trump-abandoned-the-jcpoa/>.

81 Kelsey Davenport, "Efforts to Restore Iran Deal Remain Stalled," Arms Control Association, April, 2021, <https://www.armscontrol.org/act/2021-04/news/efforts-restore-iran-deal-remain-stalled>.

freeze of \$12 billion in Iranian assets under Executive Order 12170 following the US Embassy hostage crisis⁸²—legislatively codified sanctions have had a more enduring effect. Unlike executive orders, which can be modified or revoked by subsequent administrations, congressional sanctions are difficult to lift, often including stringent reporting requirements that raise the political cost of any attempt to ease them. As a result, sanctions have shifted from tools of leverage to structural obstacles, making diplomatic breakthroughs harder to achieve and easier to unravel.

The gradual expansion of the International Emergency Economic Powers Act (IEEPA) between 1977 to 2007 demonstrates Congress's increasing oversight in sanctioning Iran. Originally designed to respond to "unusual and extraordinary threats"⁸³ by enabling the president to impose sanctions in response to national emergencies, IEEPA has evolved into a primary mechanism of economic coercion. Over decades, multiple administrations have used it to target Iran's banking, oil, and industrial sectors. The act requires congressional consultation and periodic reporting, reinforcing legislative control while empowering the Office of Foreign Assets Control (OFAC) to enforce sanctions.⁸⁴ The compliance burden on private financial institutions, which is overseen by OFAC, further isolates Iran as many avoid the risks associated with US restrictions.⁸⁵

Following the 9/11 attacks, the authority vested in the executive through the IEEPA expanded under the USA PATRIOT Act, signed into law by President George W. Bush in 2001, strengthening counterterrorism measures and financial surveillance. In 2007, the IEEPA Enhancement Act added more amendments that raised penalties for violations, deterring foreign financial institutions from engaging with Iran.⁸⁶ This legal framework became central to the Trump administration's 2018 Maximum Pressure campaign after withdrawing from the JCPOA (Iran Nuclear Deal), imposing secondary sanctions on foreign entities and forcing European companies to sever ties with Tehran.⁸⁷ The aggressive use of the IEEPA in this campaign stresses how sanctions have, over time, become deeply encased in US law, either empowering or containing the president, depending on the administration's objectives.

The first US legislative effort specifically targeting Iran's nuclear program was the Iran and Libya Sanctions Act of 1996 (ILSA), later renamed the Iran Sanctions Act (ISA) in 2006.⁸⁸ Initially enacted with a five-year sunset clause, it was repeatedly extended, most recently in December 2016 for another decade, ensuring that economic pressure remains a cornerstone of US policy toward Iran.⁸⁹ The act codifies economic sanctions, restricting both American and non-American investments in Iran's energy sector and penalizing firms conducting business with Iran and Libya. Section 5 mandates that the president "impose certain economic sanctions against persons who with actual knowledge have made an investment of \$40 million or more in any 12-month period that directly contributes to Iran's or Libya's ability to develop its petroleum resources."⁹⁰ Beyond targeting Iran's nuclear program, the act impedes broader economic integration by restricting financial transactions and penalizing foreign banks that facilitated trade with Iran. Section 6 reinforces these measures by authorizing the president to prohibit loans from US financial institutions and directs the Export-Import Bank to deny guarantees, insurance, or credit extensions for sanctioned entities, effectively cutting off Iran's access to global capital.⁹¹ In blocking investment and restricting financial engagement with Iranian markets, the act not only crippled Iran's economic development

82 "Executive Orders," Office of the Federal Register, National Archives, August 15, 2016, <https://www.archives.gov/federal-register/codification/executive-order/12170.html>.

83 Christopher A. Casey et al., "The International Emergency Economic Powers Act: Origins, Evolution, and Use," Congressional Research Service, January 30, 2024, <https://www.congress.gov/crs-product/R45618>.

84 Casey et al., "The International Emergency Economic Powers Act."

85 Zarate, *Treasury's War*, 329–336.

86 Casey et al., "The International Emergency Economic Powers Act."

87 Shayan Karbassi, "Nuclear Brinkmanship: U.S. Sanctions Against Iran Explained," *Lawfare*, January 18, 2023, <https://www.lawfaremedia.org/article/nuclear-brinkmanship-us-sanctions-against-iran-explained>.

88 Kenneth Katzman, "The Iran Sanctions Act (ISA)," Congressional Research Service, October 12, 2007.

89 "533. What are the requirements of CAATSA section 105 related to the imposition of sanctions on the IRGC, and how are those requirements being implemented?" Office of Foreign Assets Control, U.S. Department of the Treasury, October 30, 2017, <https://ofac.treasury.gov/faqs/533>.

90 "H.R.3107 - 104th Congress (1995-1996): Iran and Libya Sanctions Act of 1996," Library of Congress, August 5, 1996, sec. 5, <https://www.congress.gov/bill/104th-congress/house-bill/3107>.

91 Library of Congress, "H.R.3107 - 104th Congress (1995-1996)," sec. 6.

but also discouraged foreign companies from engaging with the region as a whole, reinforcing Iran's isolation from international financial systems.⁹² By writing these restrictions into law, Congress made it much harder for the executive branch to lift sanctions, even as it paradoxically gave the president broad powers to impose them.

Building on this legal framework, the Iran Nonproliferation Act of 2000, signed by President Bill Clinton, marked a pivotal step in US efforts to curb Iran's nuclear, biological, chemical, and ballistic missile programs. The act mandates regular reporting from the president to Congress on foreign entities supporting Iran's proliferation activities and authorizes measures such as blocking US government sales, suspending export licenses, and imposing import bans on goods, services, or technology from foreign persons determined by the Secretary of State to be involved in weapons of mass destruction (WMD) proliferation.⁹³ By limiting the president's ability to waive or lift sanctions without certifying Iran's compliance with nonproliferation agreements, the act reinforces congressional oversight and exemplifies the broader trend of codifying sanctions into law, impressing long-term constraints on executive diplomacy.

In 2012, prior to the 2015 JCPOA, President Barack Obama signed into law the Iran Threat Reduction and Syria Human Rights Act (ITRA), a multilateral set of sanctions designed "to strengthen Iran sanctions laws for the purpose of compelling Iran to abandon its pursuit of nuclear weapons and other threatening activities."⁹⁴ This legislation further tightened economic pressure on Tehran by targeting its crucial energy sector and imposing unprecedented restrictions on financial institutions engaging in transactions related to Iran. Section 216 of the law made it illegal for foreign banks to conduct "significant financial transactions" with designated Iranian institutions, effectively severing Iran from the global banking system.⁹⁵ These restrictions extend even to non-designated Iranian banks suspected of acting as intermediaries for sanctioned institutions, demonstrating how the legislative framework preemptively blocked potential avenues for economic reintegration. Obama, while advocating for diplomacy, still echoed the aggressive stance on sanctions in his 2012 State of the Union address, which is cited in the ITRA, stating unequivocally, "Let there be no doubt: America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal."⁹⁶ This rhetoric reinforced the perception that sanctions were not merely a temporary bargaining tool but a deeply rooted lever that would choke future diplomatic efforts even if Iran complied with nuclear commitments. The foundation laid by the ITRA and other congressional sanctions made it clear that any attempt to ease economic restrictions would face legal and political obstacles. Even as the Obama administration pursued negotiations leading to the JCPOA, these restrictions signaled to Iran that any diplomatic breakthrough could be fragile and subject to legislative constraints beyond the president's control.^{97,98} The very tools Obama used to bring Iran to the table created structural barriers that later administrations, particularly under President Donald Trump, would leverage to derail diplomatic engagement entirely.

In the lead-up to the Trump administration's withdrawal from the JCPOA, Congress passed the Countering America's Adversaries Through Sanctions Act (CAATSA) in 2017, codifying a sweeping set of sanctions targeting Iran's missile program, support for terrorism, and human rights abuses.⁹⁹ While framed as a legislative check on hostile regimes, CAATSA expanded the executive's ability to impose sanctions with limited congressional oversight. A former senior government official, who worked for the Department of Defense, described CAATSA as a coercive tool of US foreign policy, designed not only to penalize adversaries but also to pressure allies into avoiding arms deals with states like Iran and Russia. In this sense, the legislation functions as a "forcing

92 Zarate, *Treasury's War*, 329–336.

93 "H.R.1883 - 106th Congress (1999-2000): Iran Nonproliferation Act of 2000," Library of Congress, March 14, 2000, <https://www.congress.gov/bill/106th-congress/house-bill/1883>.

94 "H.R.1905 - 112th Congress (2011-2012): Iran Threat Reduction and Syria Human Rights Act of 2012," Library of Congress, August 10, 2012, <https://www.congress.gov/bill/112th-congress/house-bill/1905>.

95 Library of Congress, "H.R.1905 - 112th Congress (2011-2012)," sec. 211, sec. 216.

96 Library of Congress, "H.R.1905 - 112th Congress (2011-2012)," sec. 101.

97 Paul K. Kerr et al., "Possible U.S. Return to Iran Nuclear Agreement: Frequently Asked Questions," Congressional Research Service, January 29, 2021, <https://www.congress.gov/crs-product/R46663>.

98 Zarate, *Treasury's War*, 329–336.

99 "H.R.3364 - 115th Congress (2017-2018): Countering America's Adversaries Through Sanctions Act," Library of Congress, August 2, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/3364>.

mechanism” in diplomacy, signaling that security cooperation with US adversaries could jeopardize defense relationships with Washington.¹⁰⁰ This underlines how sanctions saturated in law directly impact diplomacy by signaling unyielding hostility toward the target country and indirectly by deterring other nations from engaging with Iran altogether.

CAATSA’s statutory obligations, particularly its mandatory sanctions on the Islamic Revolutionary Guard Corps (IRGC), reflect a more restrictive approach than previous frameworks such as the International Emergency Economic Powers Act (IEEPA), which granted presidents more autonomy in regulating economic transactions.¹⁰¹ By codifying sanctions under CAATSA, Congress both standardized punitive measures and limited future diplomatic maneuverability. This legislative rigidity ultimately enabled the Trump administration’s “Maximum Pressure” campaign, transforming sanctions from temporary bargaining chips into long-term instruments of isolation. As a result, CAATSA not only escalated Iran’s economic marginalization but also made future negotiations significantly more difficult by undermining the president’s ability to offer sanctions relief, thereby damaging the executive’s credibility in pursuing a resolution.

This erosion of diplomatic leverage is no longer a theoretical risk but has become a defining characteristic of US sanctions policy. As former foreign policy advisor to the US House of Representatives (2001–2004) and current executive vice president of the Quincy Institute explains, Congress has effectively rendered negotiations meaningless by making sanctions permanent. “Leverage, by definition, needs to be movable; if sanctions are immovable, they cease to be tools of negotiation and become pure punishment.”¹⁰² Over the long game, through legislation enacted by successive administrations, Congress has deliberately designed a web of sanctions requirements, sometimes constraining the president and sometimes granting exceptions, but always discrediting reputation and proving to be rigid and enduring rather than flexible, calculated tools of action. This transformation has turned sanctions into a structural constraint on US foreign policy, severely debilitating American credibility in negotiations—a reality that became especially evident during the JCPOA talks.

C. The illusion of sanctions relief: the collapse of the JCPOA

Although the JCPOA (Iran Nuclear Deal) promised Iran relief from nuclear-related sanctions, the outcome was constrained by the US legislative apparatus. During the Obama administration, executive efforts to promote diplomacy clashed with congressional blueprints that favored sustained economic pressure. Even before the deal was finalized, Congress passed the Iran Nuclear Agreement Review Act (INARA), limiting the president’s ability to lift sanctions. Even after the deal’s implementation, international banks remained wary of US penalties and avoided engagement with Iran. This combination of legal constraints and financial risk aversion blocked Iran’s access to the global economy, impairing the JCPOA’s durability and setting the stage for its unraveling.

In May 2015, while President Barack Obama was negotiating the terms of the JCPOA, Congress passed INARA to assert its oversight over the president’s authority to lift statutory sanctions. The act stipulated that “The President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran or refrain from applying sanctions pursuant to an agreement prior to and during the transmission period and during the congressional review period.” While INARA allowed the president to proceed with agreements if Congress did not explicitly disapprove, this pathway was politically fraught in that it imposed reporting obligations and review periods, slowing executive action and hindering the Obama administration’s ability to swiftly implement sanctions relief.¹⁰³ These legislative constraints ensured that even after the JCPOA’s signing in July 2015, economic relief for Iran remained limited and uncertain.

A former special assistant for the Senate (2015–2016) recalled that Obama’s efforts to minimize congressional involvement in the JCPOA provoked unified Republican opposition and dissent from prominent Democrats, including Chuck Schumer, Bob Menendez, Ben Cardin, and Joe Manchin. This backlash helped

100 Anonymous, interview by Ella Macallair, February, 2025.

101 Library of Congress, “H.R.3364 - 115th Congress (2017-2018),” sec. 105.

102 Trita Parsi, interview by Ella Macallair, January, 2025.

103 “H.R.1191 - 114th Congress (2015-2016): Iran Nuclear Agreement Review Act of 2015,” Library of Congress, May 22, 2015, <https://www.congress.gov/bill/114th-congress/house-bill/1191>.

cement the passage of INARA, which institutionalized congressional oversight over sanctions relief.¹⁰⁴ The act's enduring influence became evident during the Trump administration, which leveraged its provisions to reimpose sanctions after withdrawing from the JCPOA in 2018. Approximately 400–500 sanctions were reinstated in November 2018, expanding to around 1,500 by the end of Trump's term.¹⁰⁵ INARA thus facilitated a broad and systematic sanctions regime that outlasted the agreement itself, effectively betraying the JCPOA's core promise of economic relief for Iran.

The impact of INARA didn't end with Trump's withdrawal from the JCPOA. The executive vice president of the Quincy Institute maintained that the law continued to constrain executive leeway in diplomacy. By requiring congressional approval for any modifications to a nuclear agreement, INARA created a substantial obstacle to renegotiating a deal. According to the executive vice president, this legislative roadblock deterred the Biden administration (2021–2025) from pursuing a new agreement, illustrating how INARA not only reinforced congressional oversight at the time of the JCPOA but also hampered Biden's ability to respond to the new circumstances.¹⁰⁶

These long-term effects were compounded by the politicization of the JCPOA. Signed on July 14, 2015, the agreement was designed to ensure that Iran's nuclear program remained peaceful by imposing strict limitations in exchange for phased sanctions relief. The agreement mandated verification of Iran's compliance by the International Atomic Energy Agency (IAEA) before sanctions relief would take effect.¹⁰⁷ A senior fellow at the Washington Institute for Near East Policy (WINEP) stated that the politicization of Iranian foreign policy contributed to this fragility, citing Israeli Prime Minister Benjamin Netanyahu's unprecedented address to Congress in 2015, which at least 50 Democratic lawmakers boycotted.¹⁰⁸ In his speech, Netanyahu warned that the JCPOA would pave Iran's path to nuclear weapons, destabilize the Middle East, and endanger Israel's security. He used inflammatory language to provoke fear, stating, "If Iran is gobbling up four countries right now while it's under sanctions, how many more countries will Iran devour when sanctions are lifted?"¹⁰⁹ His intervention reinforced congressional opposition and deepened partisan divisions over Iranian policy, while also emphasizing the broader partisan divide on Israel. Republicans, who had invited Netanyahu to speak, showed stronger support for the Israeli right-wing leader compared to Democrats.¹¹⁰

Despite the Obama administration's diplomatic efforts, congressional constraints made long-term success of the JCPOA impossible. The executive's inability to guarantee meaningful sanctions relief sabotaged the deal's effectiveness and legitimacy. The financial sector, wary of compliance burdens and potential punitive measures, refrained from engaging with Iran. This self-sustaining risk aversion meant that despite US assurances, banks remained hesitant.¹¹¹ A year into the deal, Iran saw little economic benefit, prompting then—Secretary of State John Kerry to personally urge European financial institutions to engage with Iran—efforts that ultimately failed. Iranian officials, expecting broader economic benefits, quickly became disillusioned, questioning whether the US and its allies were truly upholding their commitments.¹¹² Decades of congressional-imposed sanctions meant that economic reintegration was practically impossible.

104 Anonymous, interview by Ella Macallair, January, 2025.

105 Kelsey Davenport, "The P5+1 and Iran Nuclear Deal Alert, September 11," Arms Control Association, 2025, <https://www.armscontrol.org/blog/2015-09-11/p51-iran-nuclear-deal-alert-september-11>.

106 Parsi, interview.

107 "Joint Plan of Action (JPOA) Archive and Joint Comprehensive Plan of Action (JCPOA) Archive," Office of Foreign Assets Control, October 18, 2015, <https://ofac.treasury.gov/sanctions-programs-and-country-information/iran-sanctions/joint-plan-of-action-jpoa-archive-and-joint-comprehensive-plan-of-action-jcpoa-archive>.

108 Al-Omari, interview.

109 Benjamin Netanyahu, "Israeli Prime Minister Address to Joint Meeting of Congress," C-SPAN, March 3, 2015, video, 1:05:51, <https://www.c-span.org/program/us-house-of-representatives/israeli-prime-minister-address-to-joint-meeting-of-congress/391182>.

110 Al-Omari, interview.

111 Zarate, *Treasury's War*, 329–336.

112 Stuart Levey, "ICYMI: Chief Legal Officer of HSBC Bank Stuart Levey Says U.S. Government Can't Pressure Private Sector to Conduct Risky Iran Business," United Against Nuclear Iran, May 13, 2016, <https://www.unitedagainstanucleariran.com/press-releases/icymi-chief-legal-officer-of-hsbc-bank-stuart-levey-says-us-government-cant-pressure>.

By the time the Trump administration withdrew from the deal in 2018, sanctions had become so systematized that even a fully committed administration would have struggled to reverse their effects. This case uncovers a broader lesson: once a sanctions regime is deeply embedded within the global financial system, neither diplomacy nor executive action can easily undo its impact. Iran's continued economic isolation reflects not just political decisions in Washington but also the financial sector's perception of risk—an outcome no administration, regardless of intent, can unilaterally reverse. In the long game, the entrenched nature of sanctions and legislative constraints on executive action laid the groundwork for a more aggressive approach under President Trump, culminating in the designation of the IRGC as a terrorist organization and the implementation of the Maximum Pressure campaign.

D. The IRGC designation and maximum pressure: a declaration of war

The Trump administration's 2018 withdrawal from the JCPOA (Iran Nuclear Deal) fulfilled a key campaign promise rooted in the belief that, despite the deal permitting uranium enrichment for peaceful purposes under the UN Non-Proliferation Treaty (NPT),¹¹³ it would ultimately pave Iran's path to nuclear weapons. Trump and his advisors justified the withdrawal on the grounds that Iran was continuing with its missile development and deepening its relationship with regional proxy groups. The administration sought to impose tougher sanctions and maximize economic pressure, with the ultimate goal of either forcing Iran into a more comprehensive deal—which never materialized—or to reinforce its economic isolation.¹¹⁴ The Maximum Pressure campaign, beginning in 2018, not only sought to isolate Iran but also to make future diplomatic reversals politically untenable, marking a fundamental shift in US policy by transforming economic sanctions into a lasting instrument of coercion.

Trump's approach built upon legislative foundations laid before his presidency. While primary sanctions—freezing assets and restricting economic activity within the US—are largely imposed by the executive branch, Congress plays a crucial role in instituting secondary sanctions. These secondary sanctions, which penalize third-party entities for engaging with sanctioned nations, create a chilling effect on global trade with Iran. The administration utilized the 1977 International Emergency Economic Powers Act (IEEPA) to justify sweeping restrictions within the US, but the true coercive force lay in secondary sanctions.¹¹⁵ By pressuring international banks and corporations to sever ties with Iran through the fear of US penalties, Congress and the executive branch together weaponized financial isolation. Risk-averse behavior in the private sector reinforced a self-perpetuating cycle of deterrence, where the economic exclusion of Iran was not merely a product of international consensus, but part of a long game orchestrated by the US to cripple its financial connections worldwide.¹¹⁶

The Countering America's Adversaries Through Sanctions Act (CAATSA) of 2017, which codified Iran-related sanctions into law, was also a key element of the Maximum Pressure Campaign of 2018.¹¹⁷ Section 105 of CAATSA required the imposition of global terrorism-related sanctions under Executive Order 13224 against the IRGC and affiliated individuals. On October 13, 2017, the Treasury Department implemented these sanctions accordingly, specifically targeting the IRGC's military intelligence Qods Force branch, which had already been sanctioned for aiding terrorist groups. Just weeks later, the Office of Foreign Assets Control (OFAC) amended the Global Terrorism Sanctions Regulations (31 C.F.R. Part 594) to freeze the property and financial interests of foreign individuals linked to the IRGC,¹¹⁸ reinforcing the campaign's chokehold. By layering these actions on top of CAATSA's framework, the administration triggered retaliatory moves from Tehran, including missile tests,

113 Robinson, "What Is the Iran Nuclear Deal?"

114 Donald J. Trump, "Statement from the President on the Reimposition of United States Sanctions with Respect to Iran," The White House, August 6, 2018, <https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-reimposition-united-states-sanctions-respect-iran/>.

115 Casey, "The International Emergency Economic Powers Act."

116 Zarate, *Treasury's War*, 329–336.

117 Library of Congress, "H.R.3364 - 115th Congress (2017-2018)."

118 Office of Foreign Assets Control, "533. What are the requirements of CAATSA section 105?"

naval posturing, and a heightened military presence in the region,¹¹⁹ exacerbating regional tensions and further ensconcing the diplomatic impasse.

The pressure campaign reached a new height in April 2019, when the State Department designated the entire IRGC as an FTO¹²⁰—a move tantamount to an act of war. The IRGC, established in 1979 after the Iranian Revolution under Supreme Leader Ruhollah Khomeini, was created as a paramilitary force to protect the newly formed Islamic Republic and uphold its theocratic structure.¹²¹ Over time, it grew into a powerful military, economic, and political entity, heavily involved in Iran's regional operations. The designation marks the first time in US history that a state entity is classified as a terrorist organization, placing Iran's armed forces in the same legal category as non-state armed groups like Al-Qaeda and ISIS. The State Department's official fact sheet states, "The IRGC, with the support of the Iranian government, has engaged in terrorist activity since its inception 40 years ago"—an interesting rhetorical choice that seems to distance the IRGC from the Iranian state itself.¹²² The designation carries broad legal implications beyond the scope of the previous designation by OFAC, including criminal penalties for providing material support, automatic visa bans for individuals affiliated with the IRGC, and strict financial restrictions.¹²³ The designation along with the 2002 AUMF (Authorization for Use of Military Force) legalized, some would say spuriously, the assassination of Qasem Soleimani in January 2020, the head of the Islamic Revolutionary Guard Corps-Qods Force.¹²⁴ The designation has made diplomatic negotiations with the Iranian government practically impossible, as it creates a direct path to military action.¹²⁵

Experts across the policy spectrum have emphasized how this designation cemented both legal and political barriers to diplomacy. A former special advisor to the State Department's Iran Action Group (2019–2021) defended the designation as a vital counterterrorism measure, citing its role in blocking IRGC operatives from entering the US, freezing assets, and restricting Iran's ability to finance proxy groups. The former advisor also asserted its binding effect on US leverage, particularly in shaping the Biden administration's inability to re-enter the JCPOA. Iran demanded its removal while Congress insisted it remain, leaving Biden little choice but to abstain from initiating dialogue.¹²⁶ Critics, including the executive director at DAWN, viewed the IRGC designation as politically motivated rather than a legitimate counterterrorism measure, arguing that the selective application of FTO designations which targets adversarial state actors while overlooking allied regimes with similar behaviors, impairs the US's image as a credible diplomatic actor. The director warned that such designations disrupt diplomacy, pointing to cases like Yemen, where similar classifications have obstructed peace efforts rather than advancing US national interests.¹²⁷

Whether seen as a necessary security measure or a diplomatic landmine, the IRGC designation has become a defining element of US–Iran relations. As the State Department states, "The IRGC FTO designation is a significant step forward in our maximum pressure campaign against the Iranian regime."¹²⁸ In practice, its political weight has exceeded its operational consequences, as it has reinforced a climate in which diplomacy is not only disincentivized but increasingly untenable. From Tehran's perspective, the move was not merely punitive but a

119 "Treasury Designates the IRGC under Terrorism Authority and Targets IRGC and Military Supporters under Counter-Proliferation Authority," U.S. Department of the Treasury, October 13, 2017, <https://home.treasury.gov/news/press-releases/sm0177>.

120 "Designation of the Islamic Revolutionary Guard Corps," Office of the Spokesperson, U.S. Department of State, April 8, 2019, <https://2017-2021.state.gov/designation-of-the-islamic-revolutionary-guard-corps/>.

121 "Iran's Revolutionary Guards" Council on Foreign Relations, November 12, 2024, <https://www.cfr.org/backgrounder/irans-revolutionary-guards>.

122 Office of the Spokesperson, "Designation of the Islamic Revolutionary Guard Corps."

123 Bureau of Counterterrorism, "Foreign Terrorist Organizations."

124 Anderson and Schwartz, "On Waiving the Jerusalem Embassy Act."

125 Donald J. Trump, "Remarks by President Trump on the Killing of Qasem Soleimani," The White House, January 3, 2020, <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-killing-qasem-soleimani/>.

126 Anonymous, interview by Ella Macallair, January, 2025.

127 Sarah Leah Whitson, interview by Ella Macallair, December, 2024.

128 Office of the Spokesperson, "Designation of the Islamic Revolutionary Guard Corps."

direct act of aggression.¹²⁹ The combination of the IRGC designation and legislative sanctions have effectively institutionalized the Trump administration's Maximum Pressure campaign, severely limiting diplomatic options and isolating Iran from the global financial system.

In addition to the impact of the IRGC designation and the use of the IEEPA and CAATSA, the Maximum Pressure campaign reinforced and reinstated existing legislation by leveraging the national defense budget and executive orders targeting Iran. Executive Order 13846, issued in August 2018 and titled "Reimposing Certain Sanctions With Respect to Iran," restored and expanded upon sanctions that had been lifted under the JCPOA. Implemented in two phases, the order targeted key pillars of Iran's economy. One of its most consequential provisions was the restriction on financial transactions involving Iranian banks.¹³⁰

This financial pressure was bolstered by legislative measures like subsection 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA 2012), which empowers the president to penalize foreign financial institutions (FFIs) that conduct business with Iran's central bank.¹³¹ This provision effectively deterred global banks from processing Iranian transactions, further isolating Iran from international markets and illustrating how Congress's power of the purse played a crucial role in enabling the pressure campaign. Additional sanctions targeting specialized financial services, such as SWIFT (used to exchange wire transfer instructions between banks), further isolated Iran from the global banking system by cutting off access to foreign currency reserves.¹³² Building on these restrictions, the Maximum Pressure campaign also sought to strangle Iran's primary revenue streams. Executive Order 13846, along with NDAA provisions, sanctioned petroleum-related transactions involving entities like the National Iranian Oil Company (NIOC), the Naftiran Intertrade Company (NICO), and the National Iranian Tanker Company (NITC), forcing key trading partners to halt imports or face secondary sanctions. The campaign further extended to sectors essential to Iran's economic stability, including shipping, shipbuilding, port operations, and the automotive industry.¹³³ These measures aligned with subsection 1245(a) of NDAA 2012, which designated Iran's financial sector as a money laundering risk.¹³⁴ All of these targeted restrictions on Iran's revenue streams further obstructed Iran's ability to engage in global commerce, significantly raising the economic cost of pursuing diplomacy.

By layering executive action atop congressional budget mandates, the Trump administration effectively institutionalized Iran's economic isolation. OFAC regulations made clear that US persons were required to block the property of designated Iranian individuals and entities, while non-US actors faced secondary sanctions for engaging with them, broadening the campaign's global reach.¹³⁵ These overlapping legal mechanisms ensure that even if a future administration seeks to re-enter the JCPOA, reversing the sanctions would require congressional approval—a politically formidable barrier. What began as a pressure tactic thus became a structural shift in US foreign policy, placing sanctions into both executive and legislative frameworks and rendering diplomatic engagement increasingly unworkable.

Confronted with this legislative infrastructure, the Biden administration made few substantive changes to Iran policy. It opted not to rejoin the JCPOA and instead demanded that Iran first return to compliance with the deal's nuclear terms before the US would lift sanctions—an approach Iran had no incentive to accept, as the agreement had already failed to deliver the financial rewards it promised.¹³⁶ Biden's National Security Act of

129 Suzanne Maloney, "What Both Trump and His Critics Get Wrong about the IRGC Terrorist Designation," *Brookings*, April 11, 2019, <https://www.brookings.edu/articles/what-both-trump-and-his-critics-get-wrong-about-the-irgc-terrorist-designation/>.

130 Donald J. Trump, "Executive Order 13846—Reimposing Certain Sanctions With Respect to Iran," GovInfo, August 6, 2018.

131 "H.R.1540 - 112th Congress (2011-2012): National Defense Authorization Act for Fiscal Year 2012," Library of Congress, December 31, 2011, <https://www.congress.gov/bill/112th-congress/house-bill/1540>.

132 "Swift Campaign," United Against Nuclear Iran, <https://www.unitedagainstnucleariran.com/swift>.

133 Trump, "Executive Order 13846," sec. 1(ii).

134 Library of Congress, "H.R.1540 - 112th Congress (2011-2012)," sec. 1245.

135 Office of Foreign Assets Control, "533. What are the requirements of CAATSA section 105?"

136 Sina Toossi, "Biden Had a Chance to Undo Trump's Mistakes. He Dropped the Ball," *Responsible Statecraft*, May 8, 2024, <https://responsiblestatecraft.org/iran-nuclear-deal-2668189539/>.

2024, “Making emergency appropriations for the fiscal year ending September 3, 2024, and for other purposes,”¹³⁷ reflected the continuation of this approach, largely upholding existing sanctions on Iran and doing little to reverse the Maximum Pressure campaign.¹³⁸

Within this framework, Congress advanced several measures in 2024, packaged under the misleadingly titled the “21st Century Peace through Strength Act”¹³⁹ which reinforced sanctions and narrowed the possibility for diplomacy based on negotiation. One such measure was the Mahsa Amini Human Rights and Security Accountability Act (MAHSA Act), which expanded human rights-based sanctions on Iran. The law directed the president to assess whether the Supreme Leader and other top Iranian officials met the criteria for existing US sanctions related to human rights abuses, corruption, terrorism support, and other malign activities, mandating their imposition if violations continued.¹⁴⁰ By using sanctions as a means to confront human rights concerns, the legislation further codified confrontation, blurring the line between principled advocacy and strategic rigidity. Another significant measure within the 21st Century Peace through Strength Act was the Fight and Combat Rampant Iranian Missile Exports Act (Fight CRIME Act), which targeted Tehran’s missile capabilities and proliferation. Passed by the House on September 13, 2023, it mandated enforcement of UN Security Council Resolution 2231 (2015), which restricts missile-related activities and transfers involving Iran. Most notably, it required sanctions against any entity providing financial or technological support or engaging in significant transactions with sanctioned individuals, effectively increasing Iran’s diplomatic and economic isolation.¹⁴¹ Framed as a tool to uphold international norms, the Fight CRIME Act further fortified congressional constraints, reducing executive discretion and codifying punitive measures into law.

Additionally, the Stop Harboring Iranian Petroleum Act (SHIP Act) empowered the president to impose sanctions on foreign port owners and operators who knowingly dock vessels transporting Iranian oil.¹⁴² This legislation was influenced by congressional testimony from a policy advisor who declared the critical importance of enforcing oil sanctions to prevent Iran from funding terrorism and advancing its nuclear program. Recalling their involvement in securing the SHIP Act’s passage, the advisor described briefing Congress, which “took my suggestions and implemented them into law.” The advisor also noted that these laws placed “significant additional pressure on the executive branch to align its foreign policy with Congress”—a pressure that ultimately led President Biden to sign the legislation.¹⁴³ This case demonstrates how outside organizations can influence congressional action, creating a framework that constrains the executive branch unless the president is willing to take politically costly steps to pursue an independent diplomatic course.

In full, the passage of the 21st Century Peace through Strength Act, encompassing the MAHSA, Fight CRIME, and SHIP Acts, during the Biden administration displays how sanctions from the Maximum Pressure era not only remained in place but expanded, deepening economic warfare as the default US approach toward Iran. Rather than reversing course, the administration remained constrained by the legislative and political infrastructure of Maximum Pressure, ultimately maintaining a sanctions-driven agenda without fully re-engaging in diplomacy.

This trajectory is only deepening. The Maximum Pressure Act of 2023–2024, introduced by Senator Jim Banks (R-IN), seeks to codify executive orders and institutionalize existing sanctions.¹⁴⁴ The bill’s first provision of Section 2 states that “Iran is the world’s leading State sponsor of terrorism. It seeks ‘death to America’ and the

137 “H.R.815 - 118th Congress (2023-2024): Making emergency supplemental appropriations for the fiscal year ending September 30, 2024, and for other purposes,” Library of Congress, April 24, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/815>.

138 Zac Jutovich, “National Security Act of 2024 - Iran Sanctions Oversight Guide & Calendar,” FDD Action, May 24, 2024, <https://www.fddaction.org/policy-alerts/2024/05/24/national-security-act-of-2024-iran-sanctions-oversight-guide-calendar/>.

139 “H.R.8038 - 118th Congress (2023-2024): 21st Century Peace through Strength Act,” Library of Congress, April 23, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/8038>.

140 Library of Congress, “H.R.8038 - 118th Congress (2023-2024),” div. H.

141 Library of Congress, “H.R.8038 - 118th Congress (2023-2024),” div. G.

142 Library of Congress, “H.R.8038 - 118th Congress (2023-2024),” div. F.

143 Anonymous, interview by Ella Macallair, January, 2025.

144 “H.R.6114 - 118th Congress (2023-2024): Maximum Pressure Act,” Library of Congress, December 17, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/6114>.

destruction of the State of Israel,”¹⁴⁵ laying bare the reality of certain lawmakers viewing Iran as an existential threat and reinforcing sanctions through demonization rather than dialogue. Further, Section 2(19) cites International Monetary Fund data, noting that Iran’s accessible foreign exchange reserves plummeted from \$123 billion in 2018 to \$4 billion in 2020—a 96% decrease—which the bill uses to argue for the effectiveness of the first Trump administration’s policy.¹⁴⁶ However, rather than proving long-term success, this statistic exposes Iran’s financial isolation, which halts meaningful progress and stifles the possibility of negotiation. The bill also criticizes Biden’s Iran policy, stating in Section 2(22) that the administration failed to secure a “longer and stronger” agreement that extended sunset clauses and addressed Iran’s broader malign activities.¹⁴⁷ Section 2(23) even references the administration’s failed offer to remove the IRGC from the Foreign Terrorist Organization (FTO) list as a bargaining tool,¹⁴⁸ indicating the administration’s awareness of the designation’s diplomatic cost, yet its inability to overcome the political constraints the Maximum Pressure framework has imposed. In doing so, the proposed legislation continues the financial warfare trajectory and signals a closing of the door on any purposeful shift in US diplomacy toward Iran.

US foreign policy toward Iran has persistently favored economic coercion over diplomatic resolution. What began decades ago as targeted responses to Iranian actions has transformed into a rigid system of sanctions that persist beyond their original objectives, limiting future administrations from negotiating or changing course effectively. The failure to revive the JCPOA under the Biden administration, despite early intentions, is symptomatic of entrenched policy constraints. Sanctions once seen as leverage have become obstacles and ends in themselves. This is the long game and legacy of congressional sanctions that impedes diplomatic flexibility. As legislation accumulates, course corrections become politically and practically prohibitive. In this game, the cost of re-engagement rises over time while the path to resolution narrows, leaving diplomacy as the exception rather than the standard.

V. Conclusion

The failed cases of American diplomacy toward Israel–Palestine and Iran, as displayed through legislative history, demonstrate how legislative constraints and executive exceptions have systematically hollowed out American diplomatic flexibility and credibility, steering negotiations in ways that have led to missed opportunities and obstructed long-term solutions.

Legislative constraints and exceptions influence strategies ranging from providing economic assistance, restricting representation, funding organizations, imposing sanctions, designating terrorist organizations, and overseeing military engagements. Their development and implementation are shaped by factors such as lobbying efforts and partisan politics, which should be viewed not merely as external pressures on policy but as integral forces shaping the policymaking process itself. These mechanisms, often embedded in long-term legislative frameworks, structure the limits within which diplomacy operates, locking executive administrations into rigid postures that erode trust and damage reputation.

While public opinion, leadership styles, and domestic political shifts are frequently cited as central to US foreign policy decisions, this research underscores that legislation, whether openly debated or tacitly imprinted in the system, remains a constant force shaping the trajectory of American diplomacy. By integrating well-documented case studies with primary source policy data, this research constructs the evolution of legislative and executive decisions, demonstrating their lasting impact on diplomacy. It shows how the US gradually forfeited its diplomatic autonomy and reputation, eroding the conditions for a two-state solution in Israel–Palestine and upholding a sanctions regime that has made a durable nuclear agreement with Iran increasingly unattainable. Ultimately, these case studies reveal that within diplomacy, a long game is unfolding—not one of strategic foresight, but of policy entrenchment—where legislative decisions harden into constraints, limiting future administrations’ ability to negotiate effectively or respond to shifting geopolitical realities.

145 Library of Congress, “H.R.6114 - 118th Congress (2023-2024),” sec. 2(1).

146 Library of Congress, “H.R.6114 - 118th Congress (2023-2024),” sec. 2(19).

147 Library of Congress, “H.R.6114 - 118th Congress (2023-2024),” sec. 2(22).

148 Library of Congress, “H.R.6114 - 118th Congress (2023-2024),” sec. 2(23).

VI. Appendix A: Interview information

Name	Title/Position	Date	Location (or Format)
Anonymous	Former Legislative Fellow, US Senate Committee on Foreign Relations; Senior Official, US Government	January 22, 2025	Phone Call
Anonymous	Former Senior Official, US Department of State	January 14, 2025	Washington, DC
Anonymous	Former Special Advisor, US Department of State; Policy Advisor, US Congress	January 14, 2025	Washington, DC
Anonymous	Former Senior Official, US Government	February 3, 2025	Phone Call
Nathan Brown	Professor of Political Science and International Affairs, George Washington University, Elliott School of International Affairs	January 15, 2025	Washington, DC
Diana Buttu	International Human Rights Lawyer; Former Legal Advisor to the Palestinian Negotiating Team	December 17, 2024	Phone Call
Bill Deere	Director, Washington DC Representative Office, United Nations Relief and Works Agency for Palestine (UNRWA)	January 16, 2025	Washington, DC
Hassan El-Tayyab	Legislative Director for Middle East Policy, Friends Committee on National Legislation (FCNL)	January 13, 2025	Phone Call
Harrison Mann	Associate Director for Campaigns and Policy, Win Without War; Former Executive Officer, Middle East/Africa Regional Center, Defense Intelligence Agency	January 17, 2025	Washington, DC
Seyed Hossein Mousavian	Middle East Security and Nuclear Policy Specialist, Program on Science and Global Security at Princeton University; Former Iranian Diplomat, Nuclear Negotiator, and Head of the Foreign Relations Committee of Iran's National Security Council	December 20, 2024	Phone Call

Name	Title/Position	Date	Location (or Format)
Ghaith al-Omari	Senior Fellow at the Washington Institute on Near East Policy; Former Executive Director of the American Task Force on Palestine; Former Advisor to the Palestinian Authority (PA)	January 17, 2025	Washington, DC
Trita Parsi	Executive Vice President, The Quincy Institute; Adjunct Professor, Georgetown University; Former Foreign Policy Advisor, US House of Representatives	January 16, 2025	Washington, DC
Josh Paul	Co-Founder & Director, A New Policy; Former Director, US Department of State	January 15, 2025	Phone Call
Lauren Ross	Former Middle East and North Africa Fellow, US Senate Committee on Foreign Relations	December 10, 2024	Phone Call
Sarah Leah Whitson	Executive Director, DAWN	December 9, 2024	Phone Call

VII. Appendix B: record of legislative and executive actions on Israel–Palestine

Date	Policy Action	Description	Consequence
1987	Anti-Terrorism Act	Labels PLO a terrorist organization and prohibits US funding to related groups.	Legally blocks PLO engagement by prohibiting executive agencies from funding or interacting with groups like the PLO, Hamas, or UNRWA, even for humanitarian purposes, thereby stifling diplomatic efforts and Palestinian self-representation in peace processes.
1988–1989	Foreign Relations Authorization Act for Fiscal Years 1988 and 1989	Codifies previous anti-PLO measures and bans the PLO from maintaining offices or conducting political activity in the US	Legally cements Palestinian diplomatic exclusion and signals inflexible legislative posture on Palestinian self-determination, weakening prospects for a two-state solution.
1995	Executive Order 12947	Designates several organizations, including Hamas, as Specially Designated Terrorists (SDTs) and prohibits US transactions with groups threatening the Middle East peace process.	Preemptively blocked future diplomatic engagement with Hamas, even before it became a political actor via elections.

Date	Policy Action	Description	Consequence
1997	U.S. Terrorist Designation of Hamas under Section 219 of the Immigration and Nationality Act	Ongoing Foreign Terrorist Organization (FTO) designation by the US Department of State.	Prevents engagement with Hamas-affiliated governance in Gaza and is cited as justification for cutting UNRWA funding.
1995	Jerusalem Embassy Act	Declared Jerusalem as Israel's capital, mandated embassy relocation by 1999, but included a presidential waiver for national security concerns.	Enabled the Jerusalem embassy move in 2017, undermining prospects of future negotiations by signaling unilateral US alignment with Israel.
2006	Palestinian Anti-Terrorism Act	Conditions US aid on the Palestinian Authority excluding Hamas from governance and formally recognizing Israel.	Passed after Hamas's 2006 electoral victory, severely restricts executive flexibility in delivering aid or supporting democratic processes, rendering Palestinian reconciliation politically untenable.
2017–2018	Taylor Force Act	Blocks most US economic aid to the Palestinian Authority (PA) unless it halts payments to individuals convicted of terrorism and their families.	Embedded in the Consolidated Appropriations Act of 2018, reduces executive discretion and frames Palestinian politics through a security lens, discouraging reform or engagement.
2018	Anti-Terrorism Clarification Act	Subjects Palestinian officials to US court jurisdiction if receiving aid or maintaining offices.	Amends Anti-Terrorism Act of 1987, blocking Palestinian diplomatic presence in the US and embedding legal barriers to dialogue.
2019	Proclamation on Recognizing the Golan Heights as Part of Israel	Unilaterally recognizes Israeli sovereignty over the Golan Heights.	Bypassed legislative checks, sets a precedent for US recognition of annexed land, and undermines international legal norms, damaging diplomatic credibility.
2023–2024	Anti-BDS Labeling Act	Requires labeling goods from Israeli settlements as “Made in Israel” rather than “West Bank/Gaza.”	Codifies territorial positions that marginalize Palestinians, limiting executive diplomatic flexibility.
2024	RECOGNIZING Judea and Samaria Act	Proposes rebranding “West Bank” as “Judea and Samaria” in US documents.	Signals legislative intent to block Palestinian sovereignty claims and affirms US recognition of Israeli control over occupied territories.
2024	Further Consolidated Appropriations Act	Explicitly prohibits US State Department funding for UNRWA until March 25, 2025.	Demonstrates legislative control over humanitarian diplomacy and entangles aid delivery on political conditionality.

Date	Policy Action	Description	Consequence
2024	UNRWA Restoration Act (2024)	Seeks restoration of UNRWA funds, following cuts from the Further Consolidated Appropriations Act of 2024.	Signals difficulty in reversing punitive funding policies and illustrates the influence of lobbying organizations in crafting or opposing legislation.

VIII. Appendix C: Record of legislative and executive actions on Iran

Date	Policy Action	Description	Consequence
1973	War Powers Resolution	Limits the president's ability to engage in military conflict without congressional approval, requiring notification within 48 hours of committing US forces to action.	Establishes a legal framework for congressional oversight of military operations but has become a point of contention between the executive and legislative branches over war-making powers, with its significance waning as administrations have adopted a narrow definition of "hostilities" and increasingly relied on Authorizations for Use of Military Force (AUMFs).
1977	International Emergency Economic Powers Act (IEEPA)	Grants the president authority to regulate international economic transactions during national emergencies.	Becomes structural foundation for executive-led unilateral sanctions and illustrates shift toward long-term economic coercion.
1979	Executive Order 12170	Froze \$12 billion in Iranian assets.	Marks onset of sanctions as dominant policy tool and highlights executive use of emergency powers.
1996	Iran and Libya Sanctions Act (ILSA)	Penalizes investment in Iran's energy sector by targeting foreign firms doing business with Iran and Libya.	Discourages multinational business in the region and codifies sanctions, reducing flexibility for future diplomacy.
2000	Iran Nonproliferation Act	Requires the president to report on foreign entities assisting Iran's WMD programs and authorizes sanctions against those involved in such activities.	Codifies congressional oversight and limits executive waiver ability, embedding legal diplomatic constraints.
2001	Executive Order 13224	Grants the president sweeping authority to designate individuals and entities as Specially Designated Global Terrorists (SDGTs), freeze their assets, and block transactions without prior congressional notification, using national emergency powers under IEEPA.	Expands executive dominance over sanctions policy by bypassing legislative oversight, restricting diplomatic flexibility, and enabling the 2017 US Treasury's designation of Iran's IRGC-Qods Force and secondary sanctions on Hamas-linked networks.

Date	Policy Action	Description	Consequence
2001	USA PATRIOT Act	Expands executive authority and financial surveillance powers under IEEPA to combat terrorism.	Reinforces OFAC's enforcement power, deterring global financial ties with Iran and hardening sanctions infrastructure.
2001–2002	Authorizations for Use of Military Force (AUMFs)	The 2001 AUMF grants sweeping authority for military action against terrorist threats; the 2002 AUMF authorizes the use of the United States Armed Forces against Saddam Hussein's government in Iraq.	Both established a precedent for broad executive war powers; the 2002 AUMF was cited to justify the 2020 US airstrike that killed Qasem Soleimani.
2006	Renaming of ILSA to Iran Sanctions Act (ISA)	Formalizes and extends ILSA provisions under a new title to maintain pressure on Iran.	Signals continuity of sanctions as a bipartisan tool, institutionalizing coercive policy and reducing diplomatic maneuverability.
2007	International Emergency Economic Powers Act (IEEPA) Enhancement Act	Increases penalties for violations of economic emergency powers.	Intensifies compliance pressure on global banks, escalating Iran's financial isolation and chilling potential re-engagement.
2012	National Defense Authorization Act (NDAA)	Empowers the president to sanction banks dealing with Iran's central bank.	Creates global financial risks that make lifting sanctions politically costly and leaves Iran with little incentive to pursue diplomacy.
2012	Iran Threat Reduction and Syria Human Rights Act (ITRA)	Broadens sanctions to energy and financial sectors and imposes secondary sanctions.	Preemptively impairs diplomatic reintegration, casting sanctions as enduring and bipartisan, despite executive attempts to diplomatically engage.
2015	Iran Nuclear Agreement Review Act (INARA)	Requires the president to submit any nuclear agreement with Iran to Congress for review and bars the executive from lifting statutory sanctions during the review period.	Erodes executive flexibility by imposing procedural hurdles and sets a precedent for rolling back agreements like the JCPOA, discouraging future diplomatic efforts.
2015	Joint Comprehensive Plan of Action (JCPOA)	A multilateral agreement, led by the US president, that limited Iran's nuclear program in exchange for phased sanctions relief.	Undermined by persistent congressional sanctions, leading to collapse post-US withdrawal.
2017	Countering America's Adversaries Through Sanctions Act (CAATSA)	Expands sanctions on Iran, targeting the IRGC and arms deals, and limits the president's waiver powers.	Expands executive authority to impose sanctions with limited oversight, acting as a coercive tool that deters allies from engaging with Iran.

Date	Policy Action	Description	Consequence
2018	Executive Order 13846	Reinstates and expands sanctions post-JCPOA withdrawal.	Renders promised relief under JCPOA void, reinforcing distrust and deepening structural sanctions entrenchment.
2019	US Terrorist Designation of the Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization (FTO) under Section 219 of the Immigration and Nationality Act	Labels Iran's military branch a terrorist organization.	Closes diplomatic channels, escalates confrontation, and sets a punitive precedent.
2023–2024	21st Century Peace through Strength Act Mahsa Amini Human Rights and Security Accountability Act (MAHSA Act) Fight and Combat Rampant Iranian Missile Exports Act (Fight CRIME Act) Stop Harboring Iranian Petroleum Act (SHIP Act)	Includes the MAHSA Act, Fight CRIME Act, and SHIP Act, reinforcing and expanding Maximum Pressure sanctions across multiple legislative divisions. MAHSA: Mandates human rights-based sanctions against senior Iranian leaders and officials. Fight CRIME Act: Sanctions entities involved in Iran's missile program and mandates enforcement of UN restrictions. SHIP Act: Authorizes sanctions on foreign ports harboring Iranian oil, targeting Iran's energy exports.	Codifies aggressive sanctions posture, tying executive hands and weakening prospects for future negotiations.
2023–2024	Maximum Pressure Act	Seeks to enshrine all Iran sanctions and define Iran as a permanent threat to US interests.	Signals efforts to codify a policy of financial warfare, marginalizing executive authority to de-escalate.

Date	Policy Action	Description	Consequence
2024	National Security Act of 2024 (formally titled ‘Making emergency supplemental appropriations for the fiscal year ending September 30, 2024, and for other purposes’)	Maintains Maximum Pressure restrictions by codifying and expanding sanctions targeting Iran’s oil exports and missile program.	Reinforces the institutional rigidity of US sanctions, signaling to Iran that policy is resistant to political or diplomatic change and offering little incentive to return to negotiations.

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