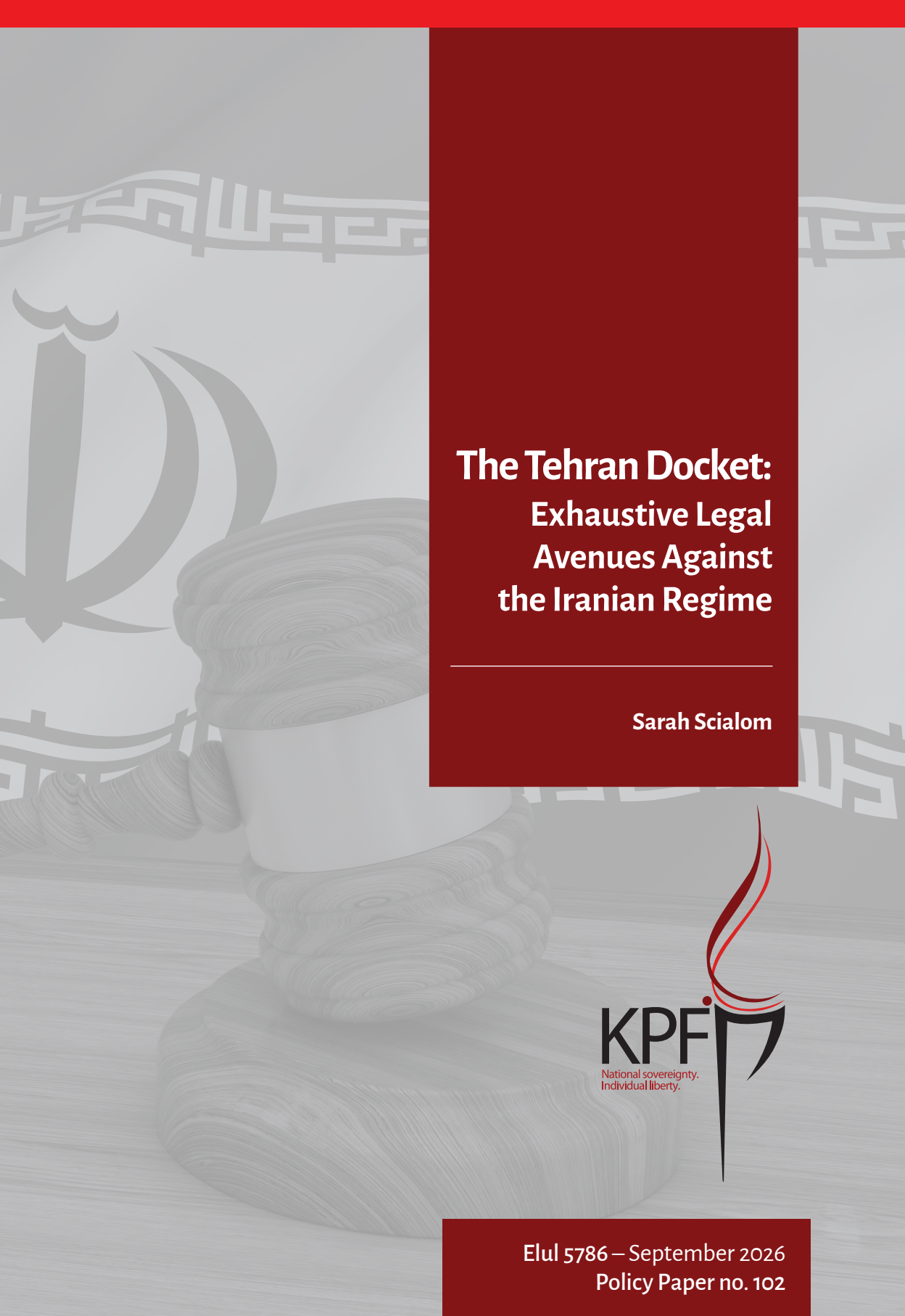




The Tehran Docket: Exhaustive Legal Avenues Against the Iranian Regime

Sarah Scialom



**Elul 5786 – September 2026
Policy Paper no. 102**

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Printed in Israel Elul 5786 September 2026

ISBN **978-965-7796-24-5**



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Executive Summary and Strategic Recommendations

I. Findings

Since 1979, the Islamic Republic of Iran has constituted the principal existential threat to the State of Israel. Over the past decades, that threat has materialised through a coherent and systematic pattern combining material, financial, operational and doctrinal support to organisations designated as terrorist by the European Union, the United States, the United Kingdom, Canada, Australia and many other States; direct attacks against Israeli territory (notably the ballistic operations of April 2024, October 2024 and June 2025); a public, sustained and institutional rhetoric of elimination emanating from the highest authorities of the Iranian State; a nuclear programme which presents grave proliferation concerns, the International Atomic Energy Agency having found Iran in non-compliance with its safeguards obligations and being unable to provide assurance that the programme is exclusively peaceful; and a strategy of outsourcing violence through non-State armed groups, long presented by Tehran as a means of evading international responsibility.

That outsourcing strategy, long effective at the diplomatic level, is today legally vulnerable. The degree of control exercised by Iran over Hamas, Palestinian Islamic Jihad, Hezbollah, the Houthis and the Iraqi and Syrian Shia militias has reached a threshold such that the international responsibility of the Iranian State can validly be engaged on several distinct grounds: attribution *stricto sensu*, complicity, aid and assistance, and breach of primary obligations of prevention and suppression of terrorism.

“That outsourcing strategy, long effective at the diplomatic level, is today legally vulnerable. The degree of control exercised by Iran over Hamas, Palestinian Islamic Jihad, Hezbollah, the Houthis and the Iraqi and Syrian Shia militias has reached a threshold such that the international responsibility of the Iranian State can validly be engaged on several distinct grounds...”

II. Strategic Recommendations

This memorandum identifies twenty-three distinct avenues of action, prioritized into four lines of defence. The principal recommendations are as follows.

First line, rapid-impact filings with strong media leverage:

- Seize the Working Group on Arbitrary Detention (WGAD) on behalf of Israeli, Jewish or dual nationals detained in Iran, starting with emblematic cases (notably Ahmadreza Djalali).
- Multiply joint urgent appeals from Special Procedures of the Human Rights Council on Iranian genocidal rhetoric and on executions on charges of “espionage for Israel”.
- Actively support the Independent International Fact-Finding Mission on Iran (FFM), whose mandate was broadened in January 2026 to cover all recent and ongoing serious violations, by transmitting documented evidentiary materials.

Second line, individual criminal proceedings before national courts:

- Initiate universal jurisdiction proceedings in permissive States (Germany, Argentina, Belgium, France, Netherlands, Sweden, Switzerland) against Iranian officials identified as responsible for the planning and financing of attacks against Israel and its civilian population.
- Submit to the Office of the Prosecutor of the Special Tribunal for the Crime of Aggression against Ukraine (STCAU, established by agreement signed in Strasbourg on 25 June 2025 and undergoing institutional implementation in 2026), as a strategic submission to be tested against the Statute and prosecutorial policy of the Tribunal once established, structured argumentation calling for the inclusion of identified Iranian officials in the personal scope of the proceedings, on the basis of Article 3(g) of UNGA Resolution 3314 (XXIX) and Article 2 of the Statute of the Tribunal.
- Mobilise national civil and criminal extraterritoriality statutes on terrorism: in the United States, the Anti-Terrorism Act and the Justice Against Sponsors of Terrorism Act with the State-sponsor-of-terrorism exception to the Foreign Sovereign Immunities Act; in Canada, the Justice for Victims of Terrorism Act read with the State Immunity Act

-
- amendments. For the United Kingdom and Australia, recourse should be primarily channelled through sanctions, criminal-law tools, asset-freezing measures and state-threats regimes, unless a precise civil cause of action and immunity exception is identified in the case file.
 - Coordinate documentation in view of a future international criminal case file, drawing on the FFM, the Commission of Inquiry on the Occupied Palestinian Territory and specialised NGOs.

Third line, international contentious proceedings:

- Explore the Article IX route of the 1948 Genocide Convention before the International Court of Justice, on the ground of direct and public incitement to commit genocide (Article III(c) of the Convention) emanating from the highest Iranian authorities.
- Bring before the International Criminal Court the question of territorial jurisdiction through attacks committed on the territory of States Parties to the Rome Statute.
- Support a Security Council referral under Chapter VII characterising the Iranian nuclear programme as a threat to international peace and security, building on the snapback mechanism already triggered in August 2025.

Fourth line, diplomatic pressure, sanctions and advocacy:

- Promote the adoption of additional targeted sanctions by the European Union, the United States, the United Kingdom, Canada and other implementing jurisdictions against individually identified Iranian officials.
- Bring before the Human Rights Council and the United Nations General Assembly annual thematic resolutions on Iranian responsibility for violations committed against the Israeli civilian population.
- Support the creation of an international, impartial and independent mechanism dedicated to the documentation of crimes attributable to Iran and its proxies against Israel and its civilian population, modelled on the IIIM (Syria) and IIMM (Myanmar) mechanisms.

“Iran has deliberately constructed, since 1979, a treaty architecture designed to evade binding mechanisms: virtually all optional protocols opening individual complaint procedures have not been ratified, and the rare compromissory clauses accepted are subject to express reservations.”

III. Anticipated Obstacles

Several legal and political obstacles must be anticipated and squarely addressed. First, Iran has deliberately constructed, since 1979, a treaty architecture designed to evade binding mechanisms: virtually all optional protocols opening individual complaint procedures have not been ratified, and the rare compromissory clauses accepted are subject to express reservations. Second, the effective control standard laid down by the International Court of Justice in the Military and Paramilitary Activities in and against Nicaragua case (1986), then confirmed in the Application of the Genocide Convention case (2007), is demanding and may, at first sight, appear out of reach as regards the Iran-Hamas or Iran-Houthi relationships; it must however be established that this standard is only one of the available grounds, and that alternative grounds are legally more accessible. Third, the Iranian strategy of hostage diplomacy, illustrated by Sweden's release of Hamid Nouri in June 2024, must be anticipated for any criminal proceedings targeting an Iranian national abroad. Fourth, and this is a point to which this memorandum devotes specific development, several of the United Nations institutions through which certain avenues of action pass display a documented structural anti-Israel bias; This challenge should be viewed not as an insurmountable obstacle but as a component of the strategic landscape, where its seemingly paradoxical use in the name of the law is integrated into the overall plan.

IV. Architecture of the Memorandum

This memorandum exhaustively identifies the legal grounds and available avenues of action. It is structured in seven parts. The first establishes the factual framework and the legal characterisation of the relationship between Iran and its proxies. The second examines the international responsibility of the Iranian State on primary grounds (attribution, complicity, aid and assistance, primary obligations). The third identifies substantive criminal grounds (genocide, crimes against humanity, war crimes, crime of aggression, international terrorism). The fourth maps international and regional judicial and quasi-judicial avenues, opening with an explicit analysis of the structural anti-Israel bias of several of those institutions and the logic of their paradoxical mobilisation. The fifth maps national avenues (universal jurisdiction, transnational civil claims, sanctions). The sixth is devoted to the individual criminal responsibility of Iranian dignitaries. The seventh proposes an operational prioritized sequencing.

General reservation: This memorandum does not contend that all acts of all Iran-aligned armed groups are automatically attributable to the Islamic Republic of Iran. It identifies a graduated set of legal grounds, namely direct State conduct, effective control where provable, aid or assistance, breach of primary obligations, financing of terrorism, and failure to prevent internationally wrongful acts, each requiring an actor-specific and operation-specific evidentiary assessment. Throughout the memorandum, the discussion distinguishes between established facts, converging evidence, arguable legal qualifications, settled jurisdictional conclusions and strategic submissions.



Part One: Factual Framework and Legal Characterisation of the Iran-proxies Relationship

Section 1: The Iranian Doctrine of the “Axis of Resistance”

Since the outbreak of the 1979 Revolution, the Islamic Republic of Iran has elevated to a doctrine of State the armed struggle against the State of Israel and the mobilisation, to that end, of a structured network of non-State armed organisations. That doctrine, officially designated by the Iranian authorities as the “front of resistance” or “Axis of Resistance” (*mehvar-e moghavemat*), is articulated around three complementary principles: the denial of the legitimacy of the State of Israel as a legal and political entity,¹ the logistical and financial organisation of armed groups acting directly against Israel and its nationals, and the concentration of strategic planning within the Islamic Revolutionary Guard Corps (*Sepâh-e Pâsdârân-e Enghelâb-e Eslâmi*, hereinafter “IRGC”), whose Quds Force (*Niru-ye Qods*) constitutes its operational arm abroad.

This doctrine is not the work of a few isolated officials. It is consistently reaffirmed by Supreme Leader Ali Khamenei (in office from 1989 until his death on 28 February 2026) and now by his successor Mojtaba Khamenei (in office since 8 March 2026), by successive Presidents (Mahmoud Ahmadinejad, Hassan Rouhani, Ebrahim Raisi, Masoud Pezeshkian), by successive commanders of the IRGC (Mohammad Ali Jafari, Hossein Salami, then Mohammad Pakpour killed on 28 February 2026) and of the Quds Force (Qassem Solei-

“Since the outbreak of the 1979 Revolution, the Islamic Republic of Iran has elevated to a doctrine of State the armed struggle against the State of Israel and the mobilisation, to that end, of a structured network of non-State armed organisations.”

1 The 1979 Constitution of the Islamic Republic of Iran, in its preamble, presents Iran as a State carrying a universal mission of eliminating political structures deemed unjust. Tehran's official doctrine systematically describes Israel as the “Zionist regime”, a rejection which goes beyond mere political contestation and reaches the legal negation of statehood.

mani until his elimination in January 2020, then Esmail Ghaani), as well as by the religious and political institutions of the Iranian State.² It is reflected in substantial budgetary commitments: according to converging estimates by the United States Department of State and several specialised research centres, Iran's annual financial support to its proxies exceeds several hundred million US dollars, notwithstanding international sanctions.

Section 2: The Principal Actors Under Iranian Influence or Control

§ 1. Hamas and Palestinian Islamic Jihad

Hamas (Islamic Resistance Movement, *Harakat al-Muqawama al-Islamiyya*) and Palestinian Islamic Jihad (*Harakat al-Jihad al-Islami fi Filastin*) have for several decades been structural beneficiaries of Iranian support. That support, long presented by Tehran as mere “solidarity with the Palestinian cause”, intensified massively from the 2010s onward, and even more so after the outbreak of the conflict in October 2023.

Iranian support to Hamas and PIJ takes several forms documented by Western intelligence services, the Israeli authorities and independent academic research: direct financing (estimated at between USD 70 million and USD 100 million annually for Hamas alone before 7 October 2023, and significantly increased since 2023); supply of weapons and rocket-manufacturing technology (notably through the tunnel network linking Egypt to the Gaza Strip and through maritime transfers); military training of cadres in camps located in Lebanon (Bekaa valley, under Hezbollah supervision) and in Iran (IRGC camps near Tehran and in the Isfahan region),³ and the provision of operational intelligence.

Several public statements by Iranian leaders have explicitly claimed responsibility in the strategic planning of attacks against Israel. President Masoud Pezeshkian, the late Supreme Leader Ali Khamenei (until his death on 28 February 2026), and several Quds

2 See, in particular, the repeated public statements of Supreme Leader Khamenei, archived on the official website khamenei.ir, describing Israel as a “cancerous tumour” to be “eliminated”, and the annual statements made on Quds Day. These statements, emanating from the highest authority of the Iranian State, are consistent, systematic and institutional.

3 See in particular the successive reports of the United States Department of State (Country Reports on Terrorism, 2018-2024 series), the United States Treasury (Office of Foreign Assets Control), the Meir Amit Intelligence and Terrorism Information Center, and the analyses of the International Institute for Strategic Studies, the Combating Terrorism Center at West Point and the Institute for the Study of War. The designation of Hamas and PIJ as Foreign Terrorist Organizations by the United States dates from 1997. The European Union listed them as terrorist organisations through Common Position 2001/931/CFSP of 27 December 2001 and its successive updates. The United Kingdom proscribed Hamas in its entirety in 2021 (the political wing having been previously excluded).

Force commanders (notably Esmail Ghaani) have repeatedly, in the weeks and months following 7 October 2023, glorified the “Al-Aqsa Flood” operation and publicly congratulated Hamas on its conduct. These statements are legally significant on several counts: they evidence the knowledge by Iranian authorities of the acts committed (an element required by Article 16 of the ILC Articles on aid and assistance); they may, depending on the proof of further institutional appropriation, be relevant to the analysis under Article 11 of the ILC Articles, without amounting to attribution by mere political approval; and they add to the body of evidence that, in conjunction with broader factual elements, may be relevant to direct and public incitement within the meaning of Article III(c) of the 1948 Convention, subject to a careful linguistic and contextual analysis of each statement.

Beyond material and logistical support, several factual elements document operational coordination prior to major attacks. The repeated meetings between Hamas leaders (Ismail Haniyeh until his elimination in Tehran on 31 July 2024, Yahya Sinwar until his elimination in Rafah on 16 October 2024, and their successors) and Iranian leaders, attested to by official Iranian communiqués themselves, suggest a degree of strategic concertation going well beyond mere financial support. The presence of Hamas and PIJ political offices on Iranian territory (Tehran), combined with the presence of operational cadres trained in Iran and coordinated by the Quds Force, provides a substantial factual basis for the characterisation of aid and assistance within the meaning of Article 16 of the 2001 ILC Articles.

§ 2. Lebanese Hezbollah

Hezbollah (*Hizb Allah*, “Party of God”) constitutes, since its foundation in 1982, the most structured Iranian proxy and the one most deeply integrated into the security architecture of the Islamic Republic. Created under direct IRGC supervision in the context of the Israeli invasion of Lebanon, Hezbollah was conceived from the outset as an Iranian instrument of power projection in the Levant.

The degree of integration of Hezbollah into the Iranian State structure is consistently documented. Secretary-General Hassan Nasrallah (until his elimination in September 2024 in Beirut) and his successors have publicly acknowledged on numerous occasions that they act “under the guidance” of the Iranian Supreme Leader.⁴

4 See the public statements by Hassan Nasrallah, in which he affirmed in repeated and widely reported speeches that “our religious command is the wali al-faqih, the Supreme Leader” and that “Hezbollah’s budget, its salaries, its weapons, its missiles, its food and drink come from the Islamic Republic of Iran”. These statements, emanating from the historical leader of the organisation, constitute an admission of structural subordination particularly difficult for Tehran to dispute. See also Matthew Levitt, *Hezbollah: The Global Footprint of Lebanon’s Party of God* (Georgetown University Press, 2013).

“The wilayat al-faqih doctrine (authority of the Jurist) recognised by Hezbollah, which places the Iranian Supreme Leader at the apex of the political-religious hierarchy, constitutes in that respect a doctrinal element of subordination of particular significance, without equivalent in the other Iran-proxy relationships.”

Annual Iranian financing to Hezbollah is estimated at between USD 700 million and USD 1 billion, and the organisation possesses an arsenal of over 150,000 rockets and missiles, a substantial portion of which is of Iranian production or local assembly under Iranian supervision.

This structural integration translates, in the law of international responsibility, into a particularly high degree of control which approaches, on a case-by-case basis, the effective control standard laid down by the ICJ in the Nicaragua Judgment. The *wilayat al-faqih* doctrine (authority of the Jurist) recognised by Hezbollah, which places the Iranian Supreme Leader at the apex of the political-religious hierarchy, constitutes in that respect a doctrinal element of subordination of particular significance, without equivalent in the other Iran-proxy relationships. Several Hezbollah commanders, notably Mohammad Saeed Izadi (head of the Palestine department of the Quds Force, eliminated in June 2025) and Imad Mughniyeh (eliminated in 2008), were Iranian officers on operational mission, which characterises integration in the strong sense.

Hezbollah's repeated attacks against Israeli territory since 8 October 2023, in perfect coordination with Hamas's operations, led to the forced displacement of more than 60,000 Israeli residents from northern Israel and constitute, regardless of the ultimate characterisation under the law of armed conflict, a substantial ground to engage Iranian responsibility on the terrain of aid and assistance and, where appropriate, of effective control. The Israeli military campaign which led to the cessation of hostilities in late 2024, followed by the considerable degradation of Hezbollah's military capabilities, does not diminish the legal significance of the acts committed during the active phase of the conflict.

§ 3. The Houthis (Ansar Allah)

The Ansar Allah movement, commonly referred to as the Houthis, has controlled since 2014 a substantial portion of Yemeni territory, including the capital Sanaa. Although the Houthi-Iran relationship initially displayed less integrated characteristics than that of Hezbollah, developments since 2015 attest to a close strategic alignment, marked by massive transfers of ballistic technology, drones and anti-ship missiles.⁵ The repeated Houthi attacks against vessels in the Red Sea from November 2023 onwards, presented as “solidarity with Gaza”, caused a major disruption of global commerce and constitute, in law, a patent violation of customary international law of the sea and of applicable IMO conventions.

⁵ See the successive reports of the Panel of Experts on Yemen established by the Security Council (resolution 2140 (2014)), which have consistently documented the Iranian supply of weapons to the Houthis in violation of the arms embargo imposed by Security Council resolutions, and notably resolution 2216 (2015).

§ 4. The Iraqi and Syrian Shia militias

The network of Iraqi Shia militias (Kataib Hezbollah, Asaib Ahl al-Haq, Harakat Hezbollah al-Nujaba, Badr Brigade, and the structured constellation of Hashd al-Shaabi), together with the Iranian presence in Syria via the Fatemiyoun Brigades (Afghan Shia combatants) and Zainabiyoun Brigades (Pakistani Shia combatants), constitutes a network of proxies whose command structure reaches directly back to the Quds Force of the IRGC.⁶ These militias have been responsible for numerous attacks against Israeli, American and Coalition interests, as well as for several attempted cross-border attacks against Israeli territory from Syria.

Section 3: Legal Characterisation of the Relationship: from “Support” to “Control”

The legal characterisation of the relationship between Iran and each of its proxies is the indispensable preliminary to any action in responsibility. International law does not operate on a single notion: it distinguishes several degrees of relationship between a State and a non-State actor, each entailing different legal consequences in matters of attribution.

§1. The effective control standard (*Nicaragua, Bosnia v. Serbia*)

The International Court of Justice laid down, in its Judgment of 27 June 1986 in the *Military and Paramilitary Activities in and against Nicaragua* case, the “effective control” standard: for an act committed by a non-State actor to be attributed to a State, that State must have exercised effective control over the specific operations during which the alleged violations occurred.⁷ That standard was confirmed by the Court in its Judgment of 26 February 2007 on the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*,⁸ in which the Court expressly rejected the alternative “overall control” standard laid down by the International Criminal Tribunal for the Former Yugoslavia in the *Tadić* Judgment of 15 July 1999, recalling that the latter applied only to the characterisation of an armed conflict and not to the attribution of acts for the purposes of State responsibility.

6 On the command structure of the Iraqi Shia militias and their integration into the IRGC, see in particular Phillip Smyth, The Shia Militia Mapping Project, Washington Institute for Near East Policy, as well as the reports of the Combating Terrorism Center at West Point. The designation of Kataib Hezbollah as a Foreign Terrorist Organization by the United States dates from 2009.

7 ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment of 27 June 1986, Merits, I.C.J. Reports 1986, p. 14, especially § 115. The Court held that despite the financing and arming of the Contras by the United States, the latter had not exercised effective control over the specific operations during which the alleged violations of humanitarian law had been committed.

8 ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007, I.C.J. Reports 2007, p. 43, especially §§ 400-407, in which the Court expressly rejected the “overall control” standard of the ICTY in favour of the more demanding “effective control” standard for the purposes of attribution within the framework of State responsibility.

“Article 16 of the Draft Articles of the International Law Commission on the responsibility of States for internationally wrongful acts (ILC 2001) establishes the responsibility of a State for aid or assistance in the commission of an internationally wrongful act by another State or, through doctrinal extension, by a non-State actor.”

Applied to the Iran-proxies relationship, that standard calls for a differentiated examination. As regards Hezbollah, Hassan Nasrallah's public admission of structural subordination in 2010 (cited above), combined with financial dependency, control of the chain of command and doctrinal integration, can support the argument of effective control over the operations conducted by the organisation. As regards the Houthis, and a fortiori Hamas and PIJ, the greater operational autonomy makes the demonstration of effective control more difficult, but does not render it impossible: it then falls upon counsel for the prosecution to produce the complete chain of factual elements (financial transfers, training, weapons deliveries, presence of Iranian officers on the ground, intercepted communications, witness testimony, public statements) to characterise, operation by operation, the degree of control exercised.

§ 2. Alternative grounds: complicity, aid and assistance, primary obligations

The effective control standard is not the only legal ground available to engage Iran's responsibility. Article 16 of the Draft Articles of the International Law Commission on the responsibility of States for internationally wrongful acts (ILC 2001) establishes the responsibility of a State for aid or assistance in the commission of an internationally wrongful act by another State or, through doctrinal extension, by a non-State actor.⁹ Complicity, aid or assistance constitute substantially more accessible grounds than attribution *stricto sensu*, in that they do not require demonstrating direct operational control.

Furthermore, Iran is bound, as a State, by several primary obligations whose violation directly engages its responsibility, irrespective of the question of attribution of acts committed by proxies. These include the obligations to prevent and suppress the financing of terrorism (International Convention for the Suppression of the Financing of Terrorism of 1999, to which Iran belatedly acceded on 29 October 2025, with entry into force on 28 November 2025), the obligation not to allow its territory to be used for the commission of acts contrary to the rights of other States (the *sic utere tuo ut alienum non laedas* principle, enshrined in the *Corfu Channel* Judgment of 9 April 1949),¹⁰ and the positive obligation to prevent genocide enshrined in Article I of the 1948 Convention and clarified by the Court in the *Bosnia v. Serbia* Judgment (§ 430).

9 Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the International Law Commission in 2001 and annexed to United Nations General Assembly resolution 56/83. Article 16 provides that a State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if, first, that State does so with knowledge of the circumstances of the internationally wrongful act, and second, the act would be internationally wrongful if committed by that State.

10 ICJ, *Corfu Channel Case* (United Kingdom v. Albania), Judgment of 9 April 1949, Merits, I.C.J. Reports 1949, p. 22: “every State [is] under an obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States.”



Part Two: The International Responsibility of the Iranian State

Section 1: The Grounds of International Responsibility

The international responsibility of the Iranian State may be engaged on four distinct but cumulative grounds, which it is appropriate to examine successively: attribution *stricto sensu* of the proxies' acts to Iran; aid and assistance in the commission by the proxies of internationally wrongful acts; the breach of primary obligations of prevention and suppression; and direct responsibility for Iran's own acts (ballistic attacks, cyberattacks, clandestine operations, genocidal incitement).

§ 1. Attribution of the proxies' acts (Articles 4 to 11 of the ILC Draft)

Articles 4 to 11 of the ILC Draft Articles on State Responsibility for Internationally Wrongful Acts, adopted in 2001 and annexed to United Nations General Assembly resolution 56/83, codify the rules governing the attribution of conduct to a State. Those rules, largely declaratory of customary international law, govern the passage between the material commission of an act by a person or group and its legal connection to the State whose responsibility is engaged. They are of decisive importance in the law of Iran's responsibility for the acts of its proxies and warrant, given their technicality, substantial development.

A. Article 8 of the ILC Draft and the effective control standard

Article 8 of the ILC Draft provides that “the conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct”.¹¹ That provision covers three distinct hypotheses: action under instructions, action under direction, and action under control. The first two categories suppose a characterised hierarchical relationship and do not, in general, give rise to interpretative difficulty. The third, on the other hand, has been the subject of dense and controversial jurisprudential elaboration, the substance of which must be set out with precision.

The reference standard was laid down by the International Court of Justice in the Judgment of 27 June 1986 in *Military and Paramilitary Activities in and against Nicaragua*. The Court held that the international responsibility of the United States could not be engaged for acts committed by the Contras absent demonstration of effective control over the specific operations during which the alleged violations of humanitarian law occurred. The essential passage of the Judgment merits restitution: notwithstanding the provision by the United States of massive financial and logistical support, notwithstanding the training, arming and supplying of the Contras, those elements were not in themselves sufficient to establish attribution. For the legal responsibility of the United States to be engaged, it would in principle have to be established that they had effective control of the military or paramilitary operations in the course of which the violations in question occurred.¹² The standard thus laid down is doubly demanding: it requires “effective” control (and not merely potential or general), and it must be assessed “operation by operation”, that is, with respect to each specific act for which attribution is sought.

That case-law was confirmed and refined twenty-one years later by the Judgment of 26 February 2007 on the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*. The Court was seized of the question whether the acts of genocide committed at Srebrenica in July 1995 by the Bosnian Serb forces could be attributed to the

11 Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the ILC at its fifty-third session, 2001, annexed to General Assembly resolution 56/83 of 12 December 2001. For the detailed Commentary, see the Report of the International Law Commission, Yearbook of the ILC, 2001, vol. II, Part Two, pp. 47-50.

12 ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment of 27 June 1986, Merits, I.C.J. Reports 1986, p. 14, especially § 115. On the interpretation and scope of the Judgment, see notably the ILC Commentary to Article 8 (Yearbook of the ILC, 2001, vol. II, Part Two, pp. 48-49); and James Crawford, *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (Cambridge University Press, 2002).

Federal Republic of Yugoslavia. Confronted with the Bosnian argument inviting the Court to apply the more flexible “overall control” standard laid down by the Appeals Chamber of the ICTY in the Tadić Judgment of 15 July 1999, the Court expressly reaffirmed the requirement of effective control and rejected any substitution.¹³ The Court further made two crucial clarifications: first, the condition of effective control must be assessed by reference to the specific operations during which the violations were committed, and not at the level of an overall action (§ 400); second, the circumstance that a State has provided important, even decisive, support to a non-State actor does not suffice, absent effective control over the specific operations, to ground attribution.

Two other ICJ judgments must be mentioned to complete the analytical grid. In the Judgment of 6 November 2003 on *Oil Platforms (Islamic Republic of Iran v. United States of America)*, the Court held that the evidence produced by the United States concerning Iranian involvement in mine attacks against neutral vessels in the Gulf was not sufficient to impute those acts to Iran in a manner grounding a response in self-defence.¹⁴ That Judgment, where Iran was in the position of the State whose responsibility for support to armed actors was at stake, provides a doctrinal precedent of singular relevance: it establishes a high evidentiary threshold, but it also attests that no principled immunity bars the engagement of Iranian responsibility for acts committed by armed entities linked to it, provided the evidentiary demonstration is sufficiently robust.

In the Judgment of 19 December 2005 on *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, the Court engaged the responsibility of Uganda for its direct military actions on Congolese territory, but declined to impute to Uganda the acts committed by Congolese irregular armed groups which it supported, for want of demonstration of effective control within

13 ICJ, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment of 26 February 2007, I.C.J. Reports 2007, p. 43, especially §§ 400–407. The Court held that the “overall control” test laid down by the ICTY in Tadić “could not be applied” for the purposes of attribution of the acts of a non-State entity to a State within the meaning of Article 8 of the ILC Draft, and that the “effective control” test laid down in Nicaragua must be retained. The Tadić test, conceived to qualify the international or non-international nature of an armed conflict for the application of international humanitarian law, is not transposable to the distinct question of attribution of acts for the purposes of State responsibility.

14 ICJ, *Oil Platforms (Islamic Republic of Iran v. United States of America)*, Judgment of 6 November 2003, Merits, I.C.J. Reports 2003, p. 161, especially §§ 51–72. The Court clarified the conditions for imputability of an armed attack to a State for the purposes of Article 51 of the Charter, requiring conclusive evidence as to the State origin of the alleged attack. The Judgment is, ironically, instructive for the present strategy: it constitutes a precedent in which the standards of attribution were not satisfied for want of sufficient evidence against Iran. The case file which Israel will have to construct is, by comparison, considerably more solid in documentary terms.

the meaning of Article 8 of the ILC Draft.¹⁵ That Judgment confirms the consistency of the Court's case-law: attribution under Article 8 remains a narrow and demanding avenue, even as other grounds (direct responsibility for own acts, breach of primary obligations) may suffice to hold the State responsible for at least part of the situation in dispute.

B. Differentiated application of the standard to Iranian proxies

The application of the effective control standard to the various Iran-proxy relationships calls for a differentiated examination, operation by operation, and actor by actor. That differentiation is legally imposed by the case-law itself, and it would be strategically counter-productive to plead uniform and undifferentiated attribution exposing the entire case to a risk of rejection on all of its heads.

As regards Lebanese Hezbollah, Hassan Nasrallah's public admission of structural subordination in his repeated and widely reported speeches ("our religious command is the *wali al-faqih*, the Supreme Leader"; "Hezbollah's budget, its salaries, its weapons, its missiles, its food and drink come from the Islamic Republic of Iran"), combined with the *wilayat al-faqih* doctrine placing the Iranian Supreme Leader at the apex of the organisation's political-religious hierarchy, with annual financial dependency estimated at between USD 700 million and USD 1 billion, with the integration of command structures (the presence of Iranian officers within operational units is documented), and with operational coordination with the Quds Force, can support the effective control argument within the meaning of Nicaragua/Bosnia. The demonstration will nevertheless remain demanding on a case-by-case, operation-by-operation basis.

As regards the Fatemiyoun Brigades (Afghan Shia combatants) and the Zainabiyoun Brigades (Pakistani Shia combatants), the integration into IRGC structures and complete operational dependency on Iran make effective control particularly characterisable. These formations, recruited, armed, trained and paid directly by the Quds Force, constitute the cases in which attribution *stricto sensu* is legally most solid.

15 ICJ, Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment of 19 December 2005, Merits, I.C.J. Reports 2005, p. 168. The Court held that Uganda had violated the prohibition on the use of force through its own military operations in the DRC, but that it was not in a position to impute to Uganda the abuses committed by certain Congolese irregular groups to which it provided support.

As regards the Houthis, the Iraqi Shia militias (notably Kataib Hezbollah, Asaib Ahl al-Haq, Harakat Hezbollah al-Nujaba) and the Hashd al-Shaabi, the situation is more nuanced. The degree of integration varies from one militia to another, and operational autonomy is generally more pronounced than for Hezbollah. The demonstration of effective control then presupposes the production of the complete chain of factual elements: financial transfers, weapons deliveries (notably Shahed drones and ballistic missiles of growing range), military training in Iran, presence of Quds Force officers on the ground, intercepted communications, public Iranian statements claiming operational coordination. The successive reports of the Panel of Experts on Yemen established by the Security Council (resolution 2140 (2014)) have documented that assistance for the Houthis. For the Iraqi militias, the reports of the US Inspector General and of the International Coalition provide a substantial basis.

As regards Hamas and Palestinian Islamic Jihad, the more pronounced operational autonomy and the absence of a command structure formally integrated into the IRGC make attribution *stricto sensu* more difficult to establish at the threshold required by Nicaragua/Bosnia for the totality of the operations conducted by these organisations. That difficulty should not, however, be overstated. First, several specific operations (notably weapons and technology transfers, training in Iran and Lebanon, coordination of cross-border operations) may be individualised and made the subject of a demonstration of effective control on a case-by-case basis. Second, and above all, the alternative grounds (Article 11 on recognition and adoption *ex post*, Article 16 on aid and assistance, breach of primary obligations) are legally more accessible and allow the engagement of Iranian responsibility without the need to establish effective control in the strict sense.

C. Article 11 of the ILC Draft: recognition and adoption *ex post*

Article 11 of the ILC Draft provides, as a distinct case, retroactive attribution: “Conduct which is not attributable to a State under the preceding articles shall nevertheless be considered an act of that State under international law if and to the extent that the State acknowledges and adopts the conduct in question as its own.” That provision finds its jurisprudential source in the Judgment of 24 May 1980 of the ICJ in *United States Diplomatic and Consular Staff in Tehran*.¹⁶ In that case, which precisely involved the Islamic Republic of Iran, the Court had considered that the decision of the Iranian authorities to prolong the occupation of the United States Embassy,

¹⁶ ICJ, *United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), Judgment of 24 May 1980, I.C.J. Reports 1980, p. 3, especially §§ 56-79. The Court held that the decision of the Iranian authorities, taken by the highest political and religious authorities of the State, to perpetuate the occupation of the United States Embassy and to transform it into a means of pressure in the inter-State dispute, transformed into an act of the Iranian State the conduct of the “students” who had initially carried it out.

***“Article 16 of the Draft
Applied to the attacks of
7 October 2023 and the
ensuing sequence of violence,
Article 11 opens an avenue
of attribution that must be
invoked with rigour.”***

initially carried out by students, and to make it a means of pressure in the inter-State dispute, transformed that occupation into an act of the Iranian State. The relevance of the precedent for the present strategy is direct: the same State which was thus attributed acts of non-official groups in 1979-1980 is, in 2023-2026, the subject of an analogous pattern on a larger scale.

Applied to the attacks of 7 October 2023 and the ensuing sequence of violence, Article 11 opens an avenue of attribution that must be invoked with rigour. The public statements of support and glorification of the “Al-Aqsa Flood” operation emanating from the late Supreme Leader Ali Khamenei (until his death on 28 February 2026; notably his speeches of 10 October and 17 October 2023, and subsequent annual Quds Day statements), from President Ebrahim Raisi while in office, from President Masoud Pezeshkian since taking office, and from several successive commanders of the IRGC and the Quds Force, may, in the light of the Diplomatic Staff precedent, contribute to the evidentiary substrate for an argument under Article 11. That said, attribution under Article 11 requires proof that Iran acknowledged and adopted the specific conduct as its own. Mere political approval, ideological support or rhetorical glorification, however systematic, is not in itself sufficient. The argument therefore presupposes a combination of institutional declarations, concrete State measures (reinforced financing, refusal to cooperate in investigations, hosting of Hamas leaders, public glorification of the perpetrators) and the absence of any official distancing, all evaluated as a whole. Even so constructed, the argument under Article 11 remains a contested terrain on which the standard of proof is high, and the present memorandum recommends that it be presented as a strong subsidiary argument rather than as a self-sufficient basis of attribution.

D. The characterisation of armed aggression and its evidentiary regime

The question of attribution flows naturally into the distinct but connected question of the characterisation of the entire pattern of acts attributable to Iran as constituting armed aggression within the meaning of Article 51 of the United Nations Charter and General Assembly resolution 3314 (XXIX) of 14 December 1974. Resolution 3314, in its Article 3, lists seven acts of aggression, including subparagraph (g) which expressly includes “the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which

carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein”.¹⁷ That provision was taken up by the International Court of Justice in the Nicaragua Judgment (§ 195) as reflecting customary international law.

Applied to Iran, the characterisation of armed aggression is borne out on several complementary and cumulative registers. First, the direct ballistic attacks conducted by Iran against Israeli territory (Operation “True Promise I” of 13 April 2024; Operation “True Promise II” of 1 October 2024; the sequence of attacks of June 2025) themselves constitute acts of aggression within the meaning of subparagraphs (a) and (b) of Article 3 of resolution 3314 (use of armed force by a State against the sovereignty, territorial integrity or political independence of another State; bombardment by the armed forces of a State of the territory of another State). Second, the sustained, organised and continuous sending of combatants, weapons, financing and instructions to irregular forces (Hezbollah, Hamas, Houthis, Iraqi militias) which carry out acts of armed force against Israel satisfies the definition of subparagraph (g). Third, the conjunction and repetition of these acts over time, the operational coordination of the various fronts, and the cumulative intensity of the violence, attest that the threshold of armed aggression is not only crossed by isolated operations but characterises a continuous State policy.

The strategic importance of that characterisation for this memorandum lies in the fact that it opens, for the victim State, several avenues of action complementary to those examined in the other parts: referral to the Security Council under Chapter VII (Article 39 et seq. of the Charter) characterising the Iranian acts as a threat to the peace, breach of the peace or aggression; mobilisation of General Assembly resolutions founded on resolution 377 (V) “Uniting for Peace” when the Council is paralysed; and, in due course, opening the debate on the qualification as the crime of aggression within the meaning of Article 8 bis of the Rome Statute (subject to the *ratione personae* jurisdictional reservations already examined in Part Three). This memorandum does not address the lawfulness of the victim State’s response or of any allied assistance, which pertains to a distinct debate on *jus ad bellum*; it focuses exclusively on the responsibility of the Iranian State and of its dignitaries.

17 Resolution 3314 (XXIX) of the United Nations General Assembly, of 14 December 1974, on the Definition of Aggression. The reference to Article 3(g) was taken up by the International Court of Justice in the Nicaragua Judgment of 1986 as reflecting customary international law (§ 195). It constitutes the jurisprudential foundation for the characterisation as armed aggression of acts committed by irregular forces sent by a State.

§ 2. Aid and assistance (Article 16 of the ILC Draft and analogous regimes)

Article 16 of the ILC Draft, which codifies a recognised rule of general international law, textually addresses the aid or assistance provided by a State to another State in the commission of an internationally wrongful act. Its application requires the conjunction of three elements: an act of aid or assistance; knowledge by the assisting State of the circumstances of the wrongful act; and the wrongfulness of the act if committed by the assisting State itself. Its extension to aid or assistance provided to non-State armed groups is a discussed doctrinal construction, not a settled rule. For that reason, this memorandum recommends that the argument concerning aid or assistance be developed cumulatively along several axes: by analogy with Article 16 where appropriate; and, more securely, through the breach of primary obligations specifically incumbent on Iran, that is, the non-use of force, non-intervention, due diligence, counter-terrorism financing obligations, Security Council resolutions 1373 (2001) and 2462 (2019), and, after 28 November 2025, the International Convention for the Suppression of the Financing of Terrorism in so far as it has entered into force for Iran.

Applied to Iran, the first element (act of aid or assistance) is amply documented for each of the proxies: financial transfers, weapons supplies, military training, logistical support, transmission of intelligence, provision of territory (notably in Syria, until the fall of the Assad regime). The second element (knowledge) is satisfied by the public statements of the Iranian authorities themselves, who have claimed support for operations conducted against Israel and who cannot therefore claim ignorance of the nature of the acts committed by their proxies. The third element (wrongfulness if committed by the assisting State) is satisfied as soon as attacks on the Israeli civilian population, abductions, acts of torture and summary executions would constitute manifest violations of international law if committed directly by Iranian regular forces. The cumulative architecture of arguments allows the memorandum to be robust even if the analogical extension of Article 16 to non-State actors is rejected by a given tribunal.

§ 3. Breach of primary obligations

Iran is bound by several primary obligations whose breach directly engages its responsibility, without need to pass through the route of attribution. Four principal obligations must be mentioned.

First, the obligation to prevent and suppress the financing of terrorism, set out in the 1999 International Convention for the Suppression of the Financing of Terrorism. Iran acceded to that Convention on 29 October 2025, with entry into force on 28 November 2025.¹⁸ That belated and conditional accession does not preclude engaging Iran's responsibility for financing acts prior to entry into force, in so far as the prohibition on terrorist financing also constitutes a norm of customary international law, enshrined notably in Security Council resolution 1373 (2001), adopted under Chapter VII and binding on all Member States of the United Nations.

Second, the obligation flowing from the *sic utere tuo ut alienum non laedas* principle, enshrined by the ICJ in the *Corfu Channel* case (1949), under which no State may allow its territory to be used for ends contrary to the rights of other States. The presence on Iranian territory of Hamas political offices, of IRGC training centres for Hezbollah and PIJ cadres, and of weapons production facilities intended for proxies, constitutes a manifest breach of that obligation.

Third, the positive obligation of genocide prevention set out in Article I of the 1948 Convention and clarified by the Court in the *Bosnia v. Serbia* Judgment (§ 430). That obligation requires each State Party to the Convention to employ all means reasonably available to it to prevent genocide so far as possible. Iran, which not only took no preventive measures with regard to the acts of its proxies but, on the contrary publicly glorified those acts, frontally violates that obligation.

Fourth, the obligation to respect the prohibition on the use of force, set out in Article 2(4) of the United Nations Charter. The direct ballistic attacks conducted by Iran against Israeli territory in April 2024, October 2024 and June 2025 constitute characterised breaches of that prohibition, no valid justification under Article 51 self-defence being available to Tehran.

"The presence on Iranian territory of Hamas political offices, of IRGC training centres for Hezbollah and PIJ cadres, and of weapons production facilities intended for proxies, constitutes a manifest breach of that obligation."

¹⁸ See the treaty status sheet of the International Convention for the Suppression of the Financing of Terrorism on the United Nations Treaty Collection website. The Iranian accession came under pressure from the Financial Action Task Force (FATF), Iran having been placed on the FATF blacklist in 2020. The accession was qualified as "conditional" by observers, the Iranian Guardian Council having asserted the primacy of Iranian domestic law over the provisions of the Convention. The Convention is not retroactively applicable to facts predating its entry into force for Iran on 28 November 2025.

“These attacks constitute clear and manifest of the prohibition on the use of force laid down by Article 2(4) of the United Nations Charter. The justification advanced by Tehran... satisfies none of the criteria of self-defence recognised by international law....”

Section 2: Iran's Own Acts Directly Engaging its Responsibility

Beyond the ground of responsibility for the acts of proxies, several categories of acts committed directly by the Iranian State engage its international responsibility. These own acts, whose attribution is not in question, constitute a more accessible legal terrain and must be fully exploited within the framework of the strategy here recommended.

§1. Direct ballistic attacks against Israel

Iran has, on three documented occasions, conducted direct ballistic attacks against the territory of the State of Israel. The first operation, known as “True Promise I”, on 13 April 2024, saw the launch of more than 300 drones and missiles from Iranian territory and from other positions of the Iranian Axis (Yemen, Iraq, Syria). The second, known as “True Promise II”, on 1 October 2024, saw the launch of approximately 180 ballistic missiles. A third major sequence of attacks occurred in June 2025, in the context of the Israeli operation against the Iranian nuclear programme and of the subsequent American intervention.

These attacks constitute clear and manifest of the prohibition on the use of force laid down by Article 2(4) of the United Nations Charter. The justification advanced by Tehran (self-defence within the meaning of Article 51, in response to the Israeli elimination of Mohammad Reza Zahedi in Damascus in April 2024 and of Ismail Haniyeh in Tehran in July 2024) satisfies none of the criteria of self-defence recognised by international law: necessity, proportionality, immediacy of the threat, and subsidiarity in relation to the referral to competent United Nations organs. The doctrine and case-law (notably the ICJ Advisory Opinion of 8 July 1996 on the Legality of the Threat or Use of Nuclear Weapons, and the Judgment of 6 November 2003 on Oil Platforms)¹⁹ confirm the requirement of an “armed attack” within the meaning of Article 51 of a certain gravity, which is not attained by a targeted operation against a military commander in a third State. Iran did formally notify the Security Council under Article 51 (notably by letters of 13 April 2024 and of 1 October 2024 invoking self-defence in response to alleged Israeli aggression), but such notification does not in itself

¹⁹ ICJ, Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996, I.C.J. Reports 1996, p. 226; ICJ, Oil Platforms (Islamic Republic of Iran v. United States of America), Judgment of 6 November 2003, Merits, I.C.J. Reports 2003, p. 161, in which the Court clarified the conditions of application of self-defence, notably the requirement of a prior armed attack of a certain gravity.

establish the lawfulness of the use of force: the decisive issues remain whether there was a prior armed attack attributable to Israel of sufficient gravity, and whether the Iranian response satisfied the requirements of necessity, proportionality and immediacy.

Depending on targeting data, civilian impact, foreseeability and the applicable armed-conflict framework, the Iranian missile and drone attacks may also support allegations of indiscriminate or disproportionate attacks amounting to war crimes within the meaning of Article 8(2)(b)(i) of the Rome Statute (“intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities”). The documented strikes on Israeli urban areas (notably Holon in April 2024 and Hadera in October 2024) and on civilian neighbourhoods (notably Beit Shemesh on 1 March 2026, with nine Israeli civilian deaths) form part of that evidentiary picture; the characterisation as a war crime nevertheless requires a precise reconstruction of the targeting process for each attack and of the foreseeability of civilian harm.

§ 2. Clandestine operations, assassinations and attempted assassinations abroad

Iran conducts, through the Quds Force and the Ministry of Intelligence and Security (VAJA, formerly VEVAK), a documented activity of clandestine operations against Israeli, Jewish and Iranian dissident nationals abroad. Several categories of acts must be distinguished.

First, attacks and attempted attacks against Israeli or Jewish targets abroad: the AMIA bombing in Buenos Aires in 1994 (85 killed, more than 300 injured; Interpol Red Notice arrest warrants issued against several senior Iranian officials including Mohsen Rezaei and Ali Akbar Rafsanjani before his death); the bombing of the Israeli Embassy in Buenos Aires in 1992 (29 killed); the Burgas bombing in Bulgaria in July 2012 (five Israeli tourists and a Bulgarian driver killed); the foiled Bangkok bombing of February 2012; foiled attacks in Georgia, Azerbaijan, Turkey, Germany, Cyprus and Kenya in recent years. Several jurisdictions have handed down convictions or issued Red Notices against Iranian operators.

“Iran conducts, through the Quds Force and the Ministry of Intelligence and Security (VAJA, formerly VEVAK), a documented activity of clandestine operations against Israeli, Jewish and Iranian dissident nationals abroad.”

Second, operations of assassination or abduction of Iranian dissidents in exile: the assassinations of Shapour Bakhtiar in France in 1991, of the Kurdish dissidents at the Mykonos restaurant in Berlin in 1992 (the Mykonos trial having culminated, by Judgment of the Berlin Higher Regional Court of 10 April 1997, in convictions and the express qualification of the role of the Iranian State);²⁰ the attempted abduction of Masih Alinejad in the United States in 2021; the attempted assassination of John Bolton and Mike Pompeo in the United States (disclosed in 2022); the abduction and assassination attempts on British soil documented by the British services in 2022 and 2023; operations against Iranian journalists in exile in 2023 (notably Pouria Zeraati, stabbed in London on 29 March 2024). These acts constitute violations of the sovereignty of third States and engage Iran's international responsibility.

Third, the strategy of hostage diplomacy, which consists in arresting foreign nationals or dual nationals on Iranian soil on fabricated charges (espionage, threats to national security) in order to use them as bargaining chips. The cases of Cécile Kohler and Jacques Paris (French dual nationals detained since May 2022), Olivier Grondeau, Johan Floderus (released in June 2024 in exchange for Hamid Nouri), Saeed Azizi, and very many other European, American, Canadian, Australian, British and other dual nationals, attest to the systemic nature of that practice. The Special Rapporteur on the situation of human rights in Iran has qualified these detentions, in several reports, as a pattern containing elements susceptible of amounting to crimes against humanity.

§ 3. Executions of nationals charged with “espionage for Israel”

Since 2023, and even more so since the Iran-Israel conflict of June 2025, Iran has carried out a growing number of executions of Iranian and dual nationals charged with “espionage for Israel”. These executions, handed down by the Islamic Revolutionary Tribunals after proceedings which do not respect the elementary guarantees of a fair trial (absence of a genuine defence lawyer, recourse to confessions extracted under torture, absence of publicity of the trial, absence of an effective right of appeal), constitute extrajudicial executions within the meaning of international human rights law.

The most documented case remains that of Ahmadreza Djalali, Iranian-Swedish academic physician, sentenced to death in 2017 on the charge of espionage for Israel (“corruption on earth”, *mofsed-e fil-arz*), held on death row since then despite repeated

²⁰ Berlin Higher Regional Court (Kammergericht), Judgment of 10 April 1997, Mykonos. That decision established the direct responsibility of the highest Iranian authorities (notably Ali Khamenei and Ali Akbar Rafsanjani) in the planning of the assassination of the Kurdish opposition figures committed on 17 September 1992. It constitutes the first European jurisprudential precedent recognising Iranian State responsibility in a clandestine operation on European soil.

international appeals. Several dozen other executions have been ordered and carried out in 2024-2026 on analogous charges, particularly against Kurds, Baluchis, Ahwazi Arabs and Afghans. Special Rapporteur Mai Sato and the Independent International Fact-Finding Mission on Iran have on several occasions documented and qualified these practices.

§ 4. *Cyberattacks against Israel and its infrastructure*

Iran has developed, principally through the IRGC and related groups (notably APT33, APT34, APT35, APT39, MuddyWater, Pioneer Kitten), a substantial offensive cyber capability used against the State of Israel and its critical infrastructure. Several major incidents are documented: attacks against Israeli water management systems in April 2020 (which, had they succeeded, could have contaminated drinking water distributed to thousands of households); attacks against Israeli hospitals (notably Hillel Yaffe in October 2021); attacks against insurance companies and financial institutions.

These acts constitute, according to the majority doctrine (notably Tallinn Manual 2.0 on the international law applicable to cyber operations), violations of the principle of sovereignty, and may, depending on their scale and consequences, constitute unlawful use of force. Attacks targeting civilian infrastructure essential to the survival of the civilian population may further be qualified as violations of international humanitarian law and, in certain cases, as war crimes. The principal avenue of action nevertheless remains imputation and the adoption of targeted sanctions against the Iranian entities identified as responsible, as well as civil actions before national courts for the damages caused.

§ 5. The nuclear programme and the question of proliferation

The Iranian nuclear programme constitutes, irrespective of the question of proxies, an autonomous ground for engaging Iran's international responsibility and characterising the existential threat to the State of Israel. Iran has been a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) since 1970 and concluded a Comprehensive Safeguards Agreement with the IAEA (INFCIRC/214) which entered into force in 1974. It is bound, on that basis, not to develop nuclear weapons and to accept the IAEA verification mechanisms.

The successive reports of the Director General of the IAEA since 2003, and even more so since 2018 and the American withdrawal from the Joint Comprehensive Plan of Action (JCPOA) of 2015,

***"Iran is a serial aggressor
State assuming a comparable
role in the war of aggression
conducted by the Russian
Federation against Ukraine
since 24 February 2022."***

have consistently noted Iran's breaches of its conventional obligations: uranium enrichment to levels above 60 percent, accumulation of stockpiles greatly exceeding authorised thresholds, refusal of access to inspectors, concealment of sites and activities. The Board of Governors of the IAEA has, on several occasions, adopted resolutions finding Iranian non-cooperation, including the resolutions of 5 June 2024 and 21 November 2024, which served as the basis for the triggering of the snapback mechanism in August 2025 and the automatic restoration of Security Council sanctions on 28 September 2025.

The Iranian nuclear programme must be apprehended, within the overall strategy of engaging Iranian responsibility, as an aggravating factor of the other unlawful conducts. What is solidly established is that the IAEA has found Iran in non-compliance with its safeguards obligations, that Iran has enriched uranium up to 60 percent and that the Agency has been unable to provide assurance that the Iranian programme is exclusively peaceful. The Iranian institutional rhetoric, combined with that proliferation context, may be relevant, depending on the evidence available, to the analysis of the risk of genocide for the purposes of the obligation of prevention under Article I of the 1948 Convention, as well as, where the conditions are met, to direct and public incitement under Article III(c), to conspiracy under Article III(b), or to complicity under Article III(e). The Israeli and American military operations of June 2025 and the more substantial campaign of February-March 2026 against Iranian nuclear installations form part of an evolving strategic context which it is not the purpose of this memorandum to assess as to *jus ad bellum*; they nevertheless attest, in factual terms, to the gravity which several States attribute to the situation.

§ 6. Direct State operational support to Russia's war of aggression against Ukraine

Beyond the acts directly attributable to Iran in its confrontation with Israel, Iran's posture displays a distinctive pattern of legal relevance for the present strategy: Iran is a serial aggressor State assuming a comparable role in the war of aggression conducted by the Russian Federation against Ukraine since 24 February 2022. That involvement does not flow from passive commercial supply. It amounts to the active deployment of State personnel and military infrastructure within the direct chain of execution of unlawful armed force.

Three categories of factual elements substantiate that involvement. First, the deployment of active-duty Iranian military advisors and IRGC technical personnel onto occupied Ukrainian territory and into Russian military installations. These State officials have established mobile command-and-control communication stations in the field, have ensured the real-time programming and launching of specialised weapons systems against Ukrainian targets, and the troubleshooting of operational systems. The deaths of Iranian military advisors caused by Ukrainian strikes on occupied territory constitute forensic evidence of that combat involvement.²¹ Second, the authorised State logistics pipeline: documented transfers of Fath-360 short-range ballistic missiles, of more than 3,000 Shahed drones (rebranded by Russia as “Geran-2” and used for the bombardment of Ukrainian cities), and of more than 100 million rounds of diverse ammunition, supplied under contracts directly negotiated by senior Iranian military officials. The disclosed contracts represent a documented amount in excess of USD 4.45 billion (USD 1.75 billion for drones, USD 2.7 billion for ballistic missiles).²² Third, the integrated industrial and decision-making chain: the Iran Aircraft Manufacturing Industrial Company (HESA), a subsidiary of the Ministry of Defence and Armed Forces Logistics (MODAFL) tightly controlled by the IRGC, has industrialised the scaling and delivery of Shahed-136 systems to Russia, in coordination with the IRGC Aerospace Force commanded by Amir Ali Hajizadeh.

The legal qualification of those acts is decisive. Under Article 3(g) of UNGA Resolution 3314 (XXIX), an act of aggression encompasses “the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein”. The clause of substantial involvement is satisfied by Iran's conduct as a whole:

21 See Farzin Nadimi, “Iranian Drones to Russia: Capabilities and Limitations”, Policy Analysis, The Washington Institute for Near East Policy, 1 August 2022; “Iranian Military Advisers Killed Aiding Moscow in Crimea, Kyiv Says”, The Guardian, 24 November 2022; Aamer Madhani and Zeke Miller, “US: Iranian Troops in Crimea Backing Russian Drone Strikes”, AP News, 21 October 2022; Karolina Hird et al., “Russian Offensive Campaign Assessment, October 12”, Institute for the Study of War, 12 October 2022; Riley Bailey et al., “Russian Offensive Campaign Assessment, June 20, 2023”, Institute for the Study of War, 20 June 2023. The forensic evidence consisting of the death of Iranian advisors in Ukrainian strikes on occupied territory legally establishes the physical presence of Iranian State personnel in the direct chain of execution of unlawful armed force.

22 “UK and Partners Respond to Iran's Transfer of Ballistic Missiles to Russia”, Foreign, Commonwealth & Development Office, 10 September 2024, gov.uk/government/news/uk-and-partners-respond-to-irans-transfer-of-ballistic-missiles-to-russia; “Treasury Sanctions Multinational Network Supporting Iran's UAV and Military Aircraft Production”, U.S. Department of the Treasury, 19 September 2023, home.treasury.gov/news/press-releases/jy1745; “Ukraine War: Russia-Iran Drone Deal Shows Military Bankruptcy, Says UK”, BBC News, 18 October 2022, bbc.com/news/world-europe-63294698.

***"Iran is therefore a State
substantially involved,
within the meaning of
Article 3(g), in the war of
aggression conducted by
Russia against Ukraine."***

deployment of State personnel, operation of command-and-control infrastructure, authorised supply of weapons systems intended for the bombardment of civilian targets, and a documented industrial chain of production, delivery and use. Iran is therefore a State substantially involved, within the meaning of Article 3(g), in the war of aggression conducted by Russia against Ukraine. That qualification opens an additional jurisdictional avenue, examined in Part Four, Section 8 below.

The strategic relevance of the Ukrainian dimension, for the present strategy, is twofold. First, it evidentially establishes that Iran's conduct towards Israel is not a one-off case but part of a coherent State pattern, namely that of serial aggression conducted in coordination with revisionist Powers. Tehran's strategic doctrine has been openly formulated by its political-religious leadership as the construction of bridges with the strategic competitors of the West, including the Russian Federation and the People's Republic of China. Second, the Ukrainian dimension opens additional legal avenues, in particular before the Special Tribunal for the Crime of Aggression against Ukraine examined *infra*, that will produce judicial precedents directly transposable to the Israeli case file.



Part Three: Substantive Criminal Grounds

Section 1: The Crime of Genocide

§ 1. Direct and public incitement to commit genocide (Article III(c) of the 1948 Convention)

Article III(c) of the Convention on the Prevention and Punishment of the Crime of Genocide criminalises “direct and public incitement to commit genocide”. That criminalisation is autonomous and distinct from commission itself: it may be made out even in the absence of an actual genocide. The case-law of the International Criminal Tribunal for Rwanda, notably the *Akayesu* Judgment of 2 September 1998 (§§ 555-562) and the *Nahimana et al.* Judgment of 28 November 2007 (§§ 692-715), has refined the criteria of application of that criminalisation.²³

The repeated public statements of the highest Iranian authorities calling for the elimination of the State of Israel and describing Israelis as a “cancerous tumour” to be “eradicated” constitute a substantial body of evidence which may, depending on the analysis of each statement in its original language, audience and context, sustain a characterisation of direct and public incitement to commit genocide. The argument must be conducted with rigour. Statements directed at a State, regime or political ideology require separate and more cautious analysis than statements calling for the destruction of a protected group (the Jewish people, Israelis as a national group) as such. The strongest case lies in the repeated, official and public character of statements that can be linked to a broader pattern of violence and that, when analysed in Persian and in their religious-political context, can be shown to call for the destruction of a protected human group. Several cumulative elements

²³ ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, ICTR-96-4-T, §§ 555-562; ICTR, *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Appeal Judgment of 28 November 2007, ICTR-99-52-A, §§ 692-715.

support such an argument. First, these statements emanate from the highest authority of the Iranian State (the Supreme Leader, in office until 28 February 2026, then his successor), which confers upon them an official and institutional character. Second, they have been consistent and systematic over several decades. Third, where they designate an identifiable protected group, they may satisfy the specificity requirement of the *dolus specialis* of genocide. The qualification under Article III(c) is, however, a high evidentiary bar, and the present memorandum recommends its assertion only after case-by-case linguistic and contextual analysis of each statement relied upon.

§ 2. Complicity in genocide (Article III(e))

Article III(e) of the 1948 Convention also criminalises complicity in genocide. That criminalisation may, as appropriate, be mobilised to qualify Iranian support to entities whose declared purpose is the destruction of the State of Israel and of its Jewish population. Characterisation nevertheless presupposes the prior demonstration that genocide or attempted genocide has been committed by the entity benefiting from the support, which constitutes a distinct question warranting specific development.

Section 2: Crimes Against Humanity

Article 7 of the Rome Statute of the International Criminal Court defines crimes against humanity as certain acts “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”. The acts enumerated include murder, extermination, deportation or forcible transfer of population, imprisonment, torture, rape, persecution, enforced disappearance and the crime of apartheid.²⁴

The attacks of 7 October 2023 conducted by Hamas and allied organisations against the Israeli civilian population present the required constituent elements: widespread character (more than 1,200 deaths, more than 250 hostages, simultaneous attacks on several dozen civilian sites), systematic character (elaborate military planning, deliberate targeting of civilians, organised resort to sexual violence), and knowledge of the attack by the perpetrators. The question of attribution to Iran of these crimes against humanity, or of Iranian complicity, pertains to the legal grounds set out above (attribution, aid and assistance, or Article 11 of the ILC Draft on ex post recognition and adoption).

²⁴ Rome Statute of the International Criminal Court, signed on 17 July 1998 and entered into force on 1 July 2002, Article 7. For the detailed constituent elements, see the Elements of Crimes adopted by the Assembly of States Parties.

Beyond the acts of proxies, certain conducts directly attributable to Iran may by themselves be qualified as crimes against humanity. This is notably the case of mass executions of protesters in Iran, of documented enforced disappearances, and of the systematic persecution of religious minorities (Bahá'ís, Jewish converts, Christian converts). That characterisation is now retained by the Independent International Fact-Finding Mission on Iran.²⁵ By way of argumentative transposition, those characterisations may reinforce the qualification of acts committed by Iran or its proxies against the Israeli civilian population.

Section 3: War Crimes

The whole of the acts committed within the framework of the armed conflict between Israel and Hamas, Hezbollah and the other actors aligned on Iran constitutes the potential theatre of a war crimes characterisation within the meaning of the 1949 Geneva Conventions, the Additional Protocols, and Article 8 of the Rome Statute. At stake are notably: deliberate attacks against the civilian population and civilian objects; hostage-taking; the use of human shields; sexual violence in the conflict; pillage; and serious outrages upon personal dignity.

Attribution to Iran of responsibility for these war crimes follows the same analytical grid as for crimes against humanity (attribution *stricto sensu*, complicity, aid and assistance, *ex post* recognition under Article 11 ILC). Furthermore, the direct Iranian ballistic and drone attacks against Israeli territory (April 2024, October 2024, June 2025, and the retaliatory strikes of February-March 2026) may support, depending on the targeting evidence and the analysis of incidental civilian harm, allegations of indiscriminate or disproportionate attacks amounting to war crimes within the meaning of Article 8(2)(b)(i) of the Rome Statute.

Section 4: The Crime of Aggression

The crime of aggression, defined at Article 8 bis of the Rome Statute (introduced by the Kampala Amendments of 2010, which entered into force on 17 July 2018), criminalises “the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations”.²⁶

²⁵ See the report of the Independent International Fact-Finding Mission on Iran, A/HRC/55/67, March 2024, which concluded that the violations committed in the context of the 2022 protests “may constitute crimes against humanity”. That characterisation was reiterated and extended in later reports, including after the events of January 2026.

²⁶ Rome Statute, Article 8 bis, as amended by resolution RC/Res.6 adopted at the Kampala Review Conference on 11 June 2010 and entered into force on 17 July 2018.

“This is notably the case of mass executions of protesters in Iran, of documented enforced disappearances, and of the systematic persecution of religious minorities (Bahá'ís, Jewish converts, Christian converts). That characterisation is now retained by the Independent International Fact-Finding Mission on Iran.”

“Iran’s responsibility for support to terrorism is today recognised by the United States, the United Kingdom, Canada, and by many other jurisdictions.”

The definition of the act of aggression refers back to General Assembly resolution 3314 (XXIX) of 14 December 1974, whose Article 3(g) expressly includes “the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein”. That provision is particularly apt to qualify Iranian support for the attacks conducted by its proxies against Israel.

However, the implementation of the crime of aggression before the International Criminal Court suffers from considerable procedural limitations: Article 15 bis of the Statute excludes the jurisdiction of the Court over acts of aggression committed by nationals or on the territory of a State not party to the Statute. Iran and Israel being neither party to the Rome Statute, that avenue is legally unavailable before the ICC for the crime of aggression *stricto sensu*. It nevertheless remains usable before national jurisdictions that have incorporated the crime of aggression into their domestic law, and constitutes a powerful doctrinal argument in international debate.

Section 5: International Terrorism

International terrorism is not the subject of a universal qualification convention of general scope, by reason of the persistent absence of consensus on its definition. Several sectoral instruments nevertheless exist, notably the 1999 International Convention for the Suppression of the Financing of Terrorism, to which Iran belatedly acceded on 29 October 2025, as well as thirteen other universal sectoral conventions covering different categories of terrorist acts (aircraft hijacking, hostage-taking, bombings, nuclear terrorism, and so on).

Beyond the universal instruments, Iran’s responsibility for support to terrorism is today recognised by the United States (which has designated Iran as a State Sponsor of Terrorism since 1984),²⁷ by the United Kingdom (which has designated the IRGC as an entity associated with terrorism), by Canada (which has listed Iran as a State sponsor of terrorism under the State Immunity Act as amended by the Justice for Victims of Terrorism Act of 2012), and by many other jurisdictions. That extra-judicial qualification provides a solid foundation for the implementation of domestic civil and criminal extraterritoriality legislation (see Part Five *infra*).

²⁷ The United States Department of State designated Iran as a State Sponsor of Terrorism by decision of 19 January 1984. That designation has been consistently maintained since, and Iran features each year in the Country Reports on Terrorism as the leading State sponsor of terrorism in the world.



Part Four: International Judicial and Quasi-Judicial Avenues

Section 1: The Structural anti-Israel Bias of UN Institutions and the Strategic Logic of their Paradoxical Mobilisation

Before examining in detail the international avenues of action available, it is indispensable to address head-on a question which this memorandum does not seek to elude and which structures the strategy here proposed: several of the institutions through which these avenues pass display a documented, long-standing and structural anti-Israel bias. That finding is neither a political opinion nor a defensive posture: it is established by converging quantitative data, by institutional practices themselves, and by the most rigorous analytical works conducted on these mechanisms. Presenting it openly is not a concession to a circumstantial argument; it is the precondition of a lucid and therefore effective legal strategy.

§1. Characterising the structural bias

The anti-Israel bias of UN institutions manifests itself at several distinct levels, the nature of which must be set out so as to avoid any imprecise generalisation. First, the Human Rights Council established by General Assembly resolution 60/251 of 15 March 2006 has retained, since its creation, a standing agenda item specifically devoted to the situation in Palestine and other occupied Arab territories (Item 7), unique in the world in that it is dedicated to a single country. No other human rights situation, despite the gravity of very many current situations, is the subject of such standing and nominative treatment.²⁸ Second, the cumulative count of resolutions condemning Israel by name before the General Assembly and

²⁸ On Item 7 and its unique character, see notably the analyses of UN Watch (Geneva) and the explanatory declarations of several Member States at sessions of the Council. The United States left the Council in 2018, expressly citing this item as one of the institutionalised manifestations of the Council's anti-Israel bias. On the founding resolution of the Council, see A/RES/60/251 of 15 March 2006.

the Human Rights Council, since the creation of those two organs, far exceeds, in absolute and proportionate terms, that of resolutions targeting all other States of the world combined. Several regimes responsible for massive, documented and continuing violations (the Democratic People's Republic of Korea, the People's Republic of China, the Islamic Republic of Iran, the Syrian Arab Republic, Sudan, Eritrea, Myanmar) receive comparatively marginal treatment.

Third, and this is probably the most legally significant finding for this memorandum, the mandate holders of the Special Procedures of the Human Rights Council have, since 7 October 2023, issued more than one hundred and forty statements targeting Israel, against approximately sixty concerning the war in Ukraine, around twenty concerning the civil war in Sudan (which has displaced over thirteen million people), and a handful concerning the Turkish military operations in Syria or the situation in Ethiopia.²⁹ That disproportion does not result from a specific mandate designed to scrutinise Israel: it emanates from thematic mandate holders (food, housing, health, peaceful assembly, extrajudicial executions, torture) who should, by function, treat indifferently the situations falling within their material competence, and who select their targets. Fourth, on 23 October 2023, two weeks after the 7 October massacre, two Special Rapporteurs addressed a personalised warning to the legal advisers of the Israeli army, suggesting that they could themselves incur criminal responsibility for the operations contemplated. No analogous personalised warning has been addressed, in five decades of operation of the Special Procedures, to the legal advisers of any other army in the world, including amid the full Russian war of aggression in Ukraine, the full Syrian campaign, the full Iranian repression.

29 On these figures and their significance, see the UN Watch report, *From Watchdogs to Ideologues: How Politicized UN Rapporteurs Are Subverting Human Rights*, May 2026, edited by Hillel Neuer and authored by Dina Rovner. The report also documents the practices of earmarked funding of thematic mandate holders by certain States, including authoritarian States, the absence of any accountability mechanism for breaches of impartiality, and the lack of harmonised standards of proof. While the NGO is openly pro-Israel, its figures rely on the communications published on the official Special Procedures portal and are independently verifiable. See also the academic work of Anne Bayefsky on the asymmetry of the UN treatment of Israel.

Fifth, the case of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, illustrates the persistence of a bias which now takes an assumed form. Her reports, her public positions and her comparatively indulgent treatment of organisations designated as terrorist by many States have been the subject of multiple documented criticisms emanating from Member States, NGOs and academics.³⁰ The Albanese case, however, is not isolated: it forms part of a broader pattern involving several mandate holders on themes without apparent connection to the Israeli-Palestinian conflict (food, housing, health, sport), who have extended their public intervention to the situation of Israel with an intensity and an orientation that are not found in the treatment they reserve for other comparable situations.

Sixth, the composition of the commissions of inquiry and fact-finding missions concerning Israel and the Palestinian territories has, in several documented cases, raised serious objections as to the impartiality of their members in the light of prior public positions taken. Those objections, formulated by Member States respectful of international law and by NGOs specialised in UN monitoring, have never given rise to substantial methodological revisions.³¹ Seventh, the practice of treaty bodies in their treatment of Israel is distinguished, on several occasions, by an expansive reading of treaty obligations not applied with the same rigour to other States parties, including States whose practices constitute much graver and more systematic violations of human rights.

30 See notably the official communiqués and open letters of the French, German, American and British governments on the successive reports of the Special Rapporteur; the analyses of the UN Legal Committee of the American Bar Association; and the academic work published in specialised international law journals (*Journal of International Criminal Justice*, *European Journal of International Law*). This memorandum does not prejudge the quality of any one individual report; it simply observes that the function of Special Rapporteur on this specific mandate has, under several successive holders, given rise to public positions systematically oriented against Israel.

31 See in particular the comparative analyses published by the Lawfare Project, NGO Monitor and UN Watch on the composition and methodology of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (established by resolution S-30/1 of 27 May 2021 of the Human Rights Council). See also the academic analyses on the standard of proof applied by these commissions, and notably Theodor Meron, *The Humanization of International Law* (Brill, 2006).

"Abstention amounts to leaving these institutions to their drift and to the use made of them by actors hostile to Israel."

"Any hesitation, any slowness, any refusal to effectively treat the Iranian case file then becomes demonstrable and can be invoked as evidence of structural bias."

§ 2. The strategic logic: confronting these institutions with their own standards

The finding of structural bias might, on first analysis, lead to the conclusion that any mobilisation of these institutions should be foregone. That conclusion would be erroneous, and this memorandum explicitly rejects it for four cumulative reasons.

First, abstention amounts to leaving these institutions to their own devices, adrift and to the use made of them by actors hostile to Israel. The reasoned position of the Kohelet Policy Forum, like that of the Israeli and pro-Israel legal community as a whole, is not one of desertion. It is one of argued and frontal contestation of the bias, combined with the rigorous use, where legally possible, of the same instruments against the real perpetrators of the acts which these institutions should be sanctioning as a priority. That is precisely the case of Iran: a State whose practices (genocidal rhetoric, support to organisations designated as terrorist, mass executions of protesters, persecution of religious minorities, hostage diplomacy, ballistic attacks on a sovereign State) constitute the archetype of situations which the UN human rights system was designed to address.

Second, the mobilisation of UN institutions against Iran, where the case file is legally irreproachable, produces a major strategic effect referred to as a "symmetry test": it confronts these institutions with the necessity of treating, on the basis of the same criteria and with the same rigour, situations one of which (Israel) is the subject of disproportionate attention and another of which (Iran) is the subject of historically insufficient attention. Any hesitation, any slowness, any refusal to effectively treat the Iranian case file then becomes demonstrable and can be invoked as evidence of structural bias. Conversely, any effective treatment in conformity with the standards constitutes a substantial legal victory for the victims and a usable doctrinal precedent.

Third, several of the mechanisms examined here are not, in themselves, biased in the sense described. The Working Group on Arbitrary Detention (WGAD), composed of jurists from the five UN regions, produces a dense body of Iranian case law that is consistently unfavorable to Tehran. The Working Group on Enforced or Involuntary Disappearances (WGEID) transmits hundreds of Iranian cases each year. The mandate of the Special Rapporteur on the situation of human rights in Iran, created in 2011 and consistently renewed, produces rigorous and critical reports. The Independent International Fact-Finding Mission on Iran, established by resolu-

tion S-35/1 of 24 November 2022, has a broadened mandate as of January 2026. These mechanisms constitute operational channels that call for no particular reservation and whose comparative effectiveness has been demonstrated in practice.

Fourth, and this is a consideration of broader scope, the strategy recommended here is not limited to the use of existing institutions: it includes the active promotion of structural reforms (transparent financing of mandate holders, mandatory disclosure of conflicts of interest, harmonised standards of proof, accountability mechanisms, removal of Item 7 from the standing agenda of the Council) which would allow the system's credibility to be restored. Bringing a rigorous Iranian case, combined with structural advocacy, is precisely the means by which these institutions may, in due course, be brought back to the impartial exercise of their functions.

The approach proposed here therefore grants no implicit institutional credit to the organs whose bias is documented. It rigorously distinguishes between operational mechanisms producing usable results (WGAD, WGEID, thematic Special Procedures mobilised through joint communications, FFM Iran, Iran Special Rapporteur) and politicised mechanisms whose treatment of Israel attests to systemic asymmetry (the Human Rights Council in its day-to-day functioning, certain serving thematic Special Rapporteurs, certain commissions of inquiry). It uses the former to produce legal results against Iran, and it mobilises the contradictions of the latter to publicly characterise the structural bias. That dual operation constitutes the strategic logic underpinning the present design.

§ 3. Methodological implications for the remainder of the memorandum

The developments that follow apply that analytical grid systematically. For each avenue of action examined, the memorandum specifies its operational reliability, the level of structural bias affecting it, and the manner in which its mobilisation, in the Iranian case file, contributes to the overall strategy. That methodological transparency corresponds to the intellectual demand of the Kohelet Policy Forum: granting no imprudent credit to institutions that do not deserve it, without, however, renouncing the use of those that may, despite everything, produce useful legal effects, and without renouncing either the public exposure of the contradictions of the others.

“Presenting [structural bias] openly is not a concession to a circumstantial argument; it is the precondition of a lucid and therefore effective legal strategy... It uses the former to produce legal results against Iran, and it mobilises the contradictions of the latter to publicly characterise the structural bias.”

"The Application instituting proceedings will need to articulate those three heads and to seek, at the provisional measures stage, injunctions requiring Iran to cease and to cause to cease all acts of incitement, financing and support to entities targeting the Jewish people."

Section 2: The International Court of Justice

§ 1. The Article IX route of the Genocide Convention

The Convention on the Prevention and Punishment of the Crime of Genocide is the only universal multilateral instrument to which Iran is a party without a reservation to the compromissory clause. Article IX provides that "disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute".

That avenue is today the most solid in legal terms. The *Gambia v. Myanmar* precedent (Order of 23 January 2020 on Provisional Measures; Judgment of 22 July 2022 on Preliminary Objections)³² confirmed the possibility for a State not directly the victim to invoke the erga omnes partes obligations flowing from the Convention. That procedural opening considerably widens the circle of States likely to bring proceedings against Iran: any State Party to the 1948 Convention, including Israel, may seise the Court.

Three substantive grounds may be invoked against Iran on the basis of the 1948 Convention: direct and public incitement to commit genocide (Article III(c)); complicity in acts of genocide (Article III(e)); and breach of the positive obligation to prevent genocide (Article I, read in light of the *Bosnia v. Serbia* interpretation, § 430). The Application instituting proceedings will need to articulate those three heads and to seek, at the provisional measures stage, injunctions requiring Iran to cease and to cause to cease all acts of incitement, financing and support to entities targeting the Jewish people.

§ 2. Other ICJ avenues to consider

Beyond the principal avenue of Article IX of the Genocide Convention, several subsidiary avenues before the ICJ may be considered, subject to their legal feasibility. First, a referral on the basis of the International Convention on the Elimination of All Forms of Racial Discrimination (Article 22), although Iran has lodged a reservation to that compromissory clause. Second, a request for an advisory opinion submitted by the United Nations General Assembly on legal questions relating to Iran's responsibility for its acts against Israel and its civilian population, modelled on the advisory opinions

32 ICJ, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*The Gambia v. Myanmar*), Order of 23 January 2020, Provisional Measures, and Judgment of 22 July 2022 on Preliminary Objections. The Court admitted the standing of a State not directly the victim under the erga omnes partes obligations flowing from the Convention.

on the *Legal Consequences of the Construction of a Wall* (2004) and, more recently, on the *Legal Consequences arising from the Policies and Practices of Israel* (2024).

It must be highlighted, by way of preliminary remark, that Iran deposited on 26 June 2023 a declaration accepting the compulsory jurisdiction of the International Court of Justice under Article 36(2) of the Statute, signed by Minister for Foreign Affairs Hossein Amir-Abdollahian. That declaration is however drafted in extraordinarily restrictive terms: it limits acceptance of compulsory jurisdiction to disputes relating only to State jurisdictional immunities and to immunities from enforcement measures against State property. It expressly excludes all other disputes, in particular questions falling essentially within Iran's domestic jurisdiction, questions of sovereignty over land or maritime zones, and disputes with any State not recognised by Iran (a formulation explicitly aimed at Israel). That declaration confirms Iran's strategy of systematic evasion of binding mechanisms: Tehran has deposited a declaration nominally, in order to preserve the appearance of engagement with the international system, while emptying its substance of any practical reach for the claims likely to be brought against it.

That express restriction with respect to Israel (point 2(iii) of the declaration: exclusion of disputes with any State not recognised by Iran) does not, however, preclude Israel from instituting proceedings before the ICJ on the basis of Article IX of the Genocide Convention, which constitutes an autonomous jurisdictional basis independent of the Iranian declaration under Article 36(2). The Article IX avenue therefore remains fully available, irrespective of the restrictive Iranian declaration.

Section 3: The International Criminal Court

§1. The *ratione personae* obstacles

Iran is not a party to the Rome Statute of the International Criminal Court. Nor has it lodged a declaration under Article 12(3), which would have allowed the Court to exercise jurisdiction over a specific situation. Jurisdiction *ratione personae* over Iranian nationals for crimes committed on Iranian territory is, therefore, in principle, closed.

Two exceptions nevertheless open avenues of action. First, the referral of the situation to the Prosecutor by the Security Council under Article 13(b) of the Statute. That avenue is, however, politically blocked by the predictable vetoes of Russia and China at the Council. Second, and above all, territorial jurisdiction: the Court has jurisdiction over crimes committed on the territory of a State Party, irrespective of the nationality of their author (Article 12(2)(a)).

§ 2. The territorial jurisdiction route through States Parties

That avenue opens concrete prospects, but it must be cabined by two strict limits. First, the temporal jurisdiction of the Court: under Article 11 of the Rome Statute, the Court has jurisdiction only over crimes committed after the entry into force of the Statute (1 July 2002), and for each State Party only after the entry into force of the Statute for that State, subject to any declaration under Article 12(3). The AMIA bombing of 1994 is, for that reason, outside the temporal jurisdiction of the Court, and is treated in this memorandum within the Argentine national avenues, sanctions, and historical-pattern sections. Second, the territorial scope: the Court has jurisdiction only for crimes committed on the territory of a State Party or by a national of a State Party. Attacks or attempted attacks on the territory of non-States Parties (in particular the United States) do not, in the present state of the Statute, found ICC territorial jurisdiction, absent a Security Council referral or other exceptional basis.

Within those limits, several situations may concretely establish ICC territorial jurisdiction. Iranian clandestine operations and attempted assassinations on the territory of States Parties to the Rome Statute (Germany, Belgium, France, the Netherlands, Sweden, the United Kingdom since 2001), where Iranian planners or operatives are identifiable. The Court may, in principle, exercise jurisdiction over Iranian planners for acts committed on those territories, subject to the precise qualification of the heads of accusation and the identification of the actual authors. The Office of the Prosecutor of the ICC, being itself part of the critical landscape (its handling of comparable situations has raised serious objections), a strategy of referral by several States Parties exercising their prerogatives under Article 14 remains preferable to an isolated referral.

Section 4: The United Nations Security Council

The Security Council has, under Chapter VII of the Charter, the power to characterise the Iranian situation as a threat to international peace and security and to adopt binding measures. Beyond that general power, several resolutions already adopted by the Council constitute a considerable, too often under-exploited normative basis for the litigation against Iran. They may be mobilised on a dual ground: as substantive foundation to characterise the primary obligations which Iran has violated, and therefore to engage its international responsibility within the meaning of Part Two above; and as procedural lever for the adoption of complementary resolutions or for the implementation of existing sanctions and designations.

The examination of the Security Council in light of the analytical grid laid out in Section 1 calls for a preliminary remark. The Security Council, by its composition and its mode of functioning, is not an organ legally biased against Israel in the same sense as certain mechanisms of the Human Rights Council. It is a political organ exposed to all the tensions of international politics, and its recurring blockage by the Russian and Chinese vetoes on the Iranian files illustrates an underlying opposition between Powers and not a structural bias of the organ against Israel. The strategic challenge here is therefore not that of bias, but that of political blockage. That distinction is important for the proper calibration of mobilisation strategy: it is appropriate to continue to bring useful initiatives before the Council, in the knowledge that their principal function today is demonstrative and of diplomatic pressure, and that the legal value of the resolutions already adopted (notably those examined below) remains fully operational independently of any current blockage.

§1. General resolutions on international terrorism

Three framework resolutions adopted under Chapter VII form the normative backbone of the fight against international terrorism, directly opposable to Iran in its capacity as a Member State of the United Nations. Resolution 1373 (2001), adopted unanimously on 28 September 2001 in the aftermath of the September 11 attacks, imposes on all States a binding obligation to prevent and suppress the financing of terrorist acts, to freeze the funds and other financial assets of persons and entities associated with terrorism, to refrain from providing any active or passive support to persons or entities involved in terrorist acts, and to deny safe haven to the perpetrators,

organisers and accomplices of those acts.³³ That resolution, which creates the Counter-Terrorism Committee (CTC), has considerable legal scope: it constitutes, independently of sectoral conventions, a primary norm whose violation directly engages Iran's international responsibility.

Resolution 1566 (2004), adopted unanimously on 8 October 2004, extends and refines that definition by proposing the first substantive definition of terrorism retained by the United Nations. Paragraph 3 covers “criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a Government or an international organization to do or to abstain from doing any act”.³⁴ Resolution 1566 expressly affirms that such acts “are not justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature”, a formulation which deprives Iran of any possibility to invoke the “Palestinian cause” or “resistance to occupation” to justify support to organisations whose acts fall within that definition. It further calls upon States to cooperate fully, on the basis of the principle *aut dedere aut judicare*, in the pursuit of any person “who supports or facilitates the financing, planning, preparation or commission of terrorist acts, who participates in or attempts to participate in such acts, or who provides safe haven to their perpetrators”.

Resolution 2178 (2014) of 24 September 2014, also adopted under Chapter VII, deals specifically with “foreign terrorist fighters” and imposes on all States the criminalisation in their domestic law of travel abroad for the purposes of the commission, planning or preparation of terrorist acts, as well as the provision or collection of funds for the financing of such travel. Resolution 2462 (2019) of 28 March 2019, known as the “terrorist financing resolution”, reaffirms and refines the obligations in that matter, imposing the criminalisation of any provision or collection of funds where the author knows that

33 Resolution 1373 (2001) of the United Nations Security Council, adopted unanimously on 28 September 2001 under Chapter VII of the Charter. It constitutes, together with resolution 1267 (1999) on Al-Qaida and the Taliban, one of the two matrix resolutions of the UN counter-terrorism architecture. It establishes the Counter-Terrorism Committee (CTC) and imposes on all Member States binding obligations in matters of prevention, suppression and cooperation. The binding character of those obligations flows from adoption under Chapter VII and from Article 25 of the Charter of the United Nations.

34 Resolution 1566 (2004) of the Security Council, adopted unanimously on 8 October 2004, paragraph 3. The operational definition it lays down carries considerable authority, notwithstanding the absence of a universal general convention on terrorism. The resolution also recalls that such acts are not justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature. See Andrea Bianchi, “Security Council's Anti-Terror Resolutions and their Implementation by Member States”, *Journal of International Criminal Justice*, vol. 4 (2006), pp. 1044-1073.

they could serve terrorist acts.³⁵ That normative ensemble provides a particularly solid foundation to engage Iran's responsibility: the proven financing of Hezbollah, Hamas, Palestinian Islamic Jihad, the Houthis and the Iraqi militias, in knowledge of the terrorist nature of their activities, frontally violates the primary obligations set out by those resolutions. That violation is legally characterisable, irrespective of Iran's belated accession to the International Convention for the Suppression of the Financing of Terrorism.

§ 2. Iran-specific resolutions on the nuclear programme

The Security Council has adopted, under Chapter VII, several resolutions directly targeting the Iranian nuclear programme. The sequence comprises resolution 1696 (2006) of 31 July 2006, requiring the suspension of all enrichment-related and reprocessing activities; resolution 1737 (2006) of 23 December 2006, imposing the first sanctions and establishing the 1737 Committee (Iran Sanctions Committee); resolution 1747 (2007) of 24 March 2007, expanding the sanctions regime; resolution 1803 (2008) of 3 March 2008, strengthening it; and resolution 1929 (2010) of 9 June 2010, which constitutes the most comprehensive sanctions regime ever adopted against Iran. Those resolutions were suspended, but not abrogated, by resolution 2231 (2015) of 20 July 2015, which endorsed the Joint Comprehensive Plan of Action (JCPOA) and established a mechanism for automatic restoration of sanctions (snapback) in the event of an Iranian breach of its obligations.

The effective triggering of the snapback in August 2025, at the initiative of the E3 (France, Germany, the United Kingdom), led to the automatic restoration of the prior sanctions on 28 September 2025, creating a new and exploitable legal architecture. Concretely, all the provisions of resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010) have been legally in force since that date and impose on all UN Member States binding obligations in matters of arms embargo, freezing of the assets of designated entities and persons, restrictions on sensitive technology transfers, and surveillance of Iranian financial activities. Iran's breach of those resolutions is well documented and provides further grounds for engaging its international responsibility for the breach of primary obligations.

35 Resolution 2462 (2019) of the Security Council, adopted unanimously on 28 March 2019, under Chapter VII. That resolution reaffirms and refines the obligations set out by resolution 1373 (2001) on terrorist financing. It complements the architecture flowing from resolutions 1373 (2001), 1566 (2004), 2178 (2014), 2199 (2015), 2253 (2015) and 2396 (2017).

"The documented Iranian transfers to Hezbollah since 2006, which have enabled that organisation to constitute an arsenal of over 150,000 rockets and missiles, in flagrant violation of the letter and spirit of resolution 1701, thus constitute a substantial foundation to engage Iranian responsibility."

§ 3. Resolutions on Lebanon and Hezbollah

Three Security Council resolutions form the normative architecture applicable to Lebanon and Hezbollah. Resolution 1559 (2004) of 2 September 2004, adopted by 9 votes in favour, none against and 6 abstentions, set out for the first time the requirement of disarmament of all Lebanese and non-Lebanese militias present in Lebanon, and the deployment of the Lebanese army throughout the territory.³⁶ Resolution 1680 (2006) of 17 May 2006 reiterated those requirements. Resolution 1701 (2006) of 11 August 2006, adopted unanimously at the conclusion of the 2006 Lebanon War, constituted the pivot of the post-conflict legal architecture: it demands the complete cessation of hostilities, the withdrawal of Hezbollah forces and other armed forces south of the Litani river, the disarmament of all militias, the prohibition of any transfer of weapons to Lebanon other than through the Lebanese Government, and the deployment of a strengthened United Nations Interim Force in Lebanon (UNIFIL) to ensure compliance with those provisions.

The importance of these resolutions for engaging Iranian responsibility lies in a central legal point: while the primary obligations they lay down formally bind the Lebanese State, they also cover, by implicit but necessary consequence, the obligation for third States not to supply with weapons, financing and combatants the militias which those resolutions require to be disarmed. The documented Iranian transfers to Hezbollah since 2006, which have enabled that organisation to constitute an arsenal of over 150,000 rockets and missiles, in flagrant violation of the letter and spirit of resolution 1701, thus constitute a substantial foundation to engage Iranian responsibility. Hassan Nasrallah's public statement that the weapons and missiles of Hezbollah come from the Islamic Republic of Iran provides the evidentiary admission.³⁷ The cessation of hostilities agreement of 26 November 2024, which ended the 2024 Israel-Hezbollah conflict, expressly reaffirmed the primacy of resolution 1701 and now imposes on Iran renewed obligations not to re-arm Hezbollah, breaches of which would be legally characterisable.

³⁶ Resolution 1559 (2004) of the Security Council, adopted on 2 September 2004 by 9 votes in favour, none against and 6 abstentions (Algeria, Brazil, China, Pakistan, Philippines, Russia). The Council expressed its grave concern at the continued presence of armed militias in Lebanon, which prevent the Lebanese Government from exercising its full sovereignty over the entire Lebanese territory. The resolution calls for the disarmament of all Lebanese and non-Lebanese militias, the withdrawal of all foreign forces from Lebanese territory, and the deployment of the Lebanese army throughout the territory.

³⁷ See the successive reports of the Secretary-General of the United Nations on the implementation of resolution 1701 (2006), which have regularly noted the continuing armament of Hezbollah and the role of Iran in the ongoing provision of weapons in breach of the obligations laid down. See also the analyses of the Meir Amit Intelligence and Terrorism Information Center and of the Institute for the Study of War, which have documented the ten-fold increase of Hezbollah's arsenal since 2006 (from 15,000 rockets in 2006 to more than 150,000 in 2023-2024).

§ 4. Resolutions on Yemen and the Houthis

The sanctions regime targeting the Houthis is based on resolution 2140 (2014) of 26 February 2014, which, under Chapter VII, established a Sanctions Committee and a Panel of Experts tasked with monitoring the situation in Yemen. Resolution 2216 (2015) of 14 April 2015, adopted by 14 votes in favour with the abstention of Russia, constitutes the pivot of the regime. Adopted under Chapter VII, it imposes a targeted arms embargo on the Houthis and their allies, demands the withdrawal of the Houthis from all territory seized and the return of arms seized, and adopts measures of asset freezing and travel ban against designated officials.³⁸ Resolution 2624 (2022) of 28 February 2022 marked a further step by expressly characterising the Houthis as a “terrorist group” and listing them.

Resolution 2722 (2024) of 10 January 2024, adopted by 11 votes in favour and 4 abstentions (Algeria, China, Mozambique, Russia), directly responded to the Houthi attacks on merchant and commercial vessels in the Red Sea since November 2023. It condemns in the strongest terms those attacks, demands their immediate cessation, requires the release of the *Galaxy Leader* and its crew, and expressly recognises the right of Member States, in conformity with international law, to defend their vessels against such attacks.³⁹ The monthly reporting mechanism established has been renewed until 15 July 2026 by resolution 2812 (2026) of 14 January 2026, creating a continuous UN chronicle of attacks in the Red Sea directly usable as an evidentiary base in any subsequent proceedings.

The successive reports of the Panel of Experts on Yemen established by resolution 2140 (2014) have consistently documented the Iranian supply of weapons, missile components, drones and equipment to the Houthis, in direct violation of the embargo instituted by resolution 2216 (2015). Iran is thus in the position of a UN Member State openly and continuously violating primary obligations expressly laid down by the Security Council acting under Chapter VII. That breach constitutes a further and particularly solid foundation for engaging its international responsibility, opposable, including before national courts and UN organs.

38 Resolution 2216 (2015) of the Security Council, adopted on 14 April 2015 by 14 votes in favour, none against and 1 abstention (Russia), under Chapter VII. That resolution constitutes the foundation of the international arms embargo on the Houthis. See also resolution 2624 (2022) of 28 February 2022, which expressly qualified the Houthis as a “terrorist group” and listed them under the sanctions regime established by resolution 2140 (2014).

39 Resolution 2722 (2024) of the Security Council, adopted on 10 January 2024 by 11 votes in favour, none against and 4 abstentions (Algeria, China, Mozambique, Russia). The monthly reporting mechanism established by that resolution was successively renewed by resolutions 2739 (2024) of 27 June 2024, 2768 (2025) of 15 January 2025, 2787 (2025) of 15 July 2025, and 2812 (2026) of 14 January 2026, which extends the monthly reporting obligation until 15 July 2026.

§ 5. Relevant thematic resolutions

Several thematic Security Council resolutions provide additional actionable normative grounds. Resolution 1540 (2004) of 28 April 2004, adopted under Chapter VII, imposes on all Member States strict obligations in matters of non-proliferation of weapons of mass destruction and their delivery systems, as well as prohibition of support to non-State actors seeking to acquire, develop or use such weapons. That resolution provides a further foundation to qualify Iran's supply to proxies of advanced ballistic technology, long-range drones and precision missile components.

Resolution 1325 (2000) of 31 October 2000 on women, peace and security, and the whole subsequent agenda (resolutions 1820 of 2008, 1888 of 2009, 1960 of 2010, 2106 of 2013, 2242 of 2015, 2467 of 2019), can be mobilised to qualify the sexual violence committed during the attacks of 7 October 2023 and their Iranian ramifications. Resolution 2467 (2019) expressly calls for accountability for sexual violence in conflict and for its prosecution within international and national jurisdictions.⁴⁰

Resolution 2331 (2016) of 20 December 2016 on trafficking in persons in armed conflict is relevant to characterising the situation of Israeli hostages abducted and held in the Gaza Strip by Hamas and its allies, in so far as the tunnel network and detention infrastructure functioned as a trafficking and unlawful confinement infrastructure. Resolution 1612 (2005) of 26 July 2005 on children in armed conflict, complemented by resolutions 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014), 2225 (2015) and 2427 (2018), provides a framework for qualifying the abductions and violence against children committed on 7 October 2023 and their Iranian ramifications.

Resolution 1674 (2006) of 28 April 2006 on the protection of civilians in armed conflict and resolution 2286 (2016) of 3 May 2016 on the protection of medical facilities and personnel provide a further normative framework to characterise the systematic attacks against the Israeli civilian population and medical and hospital institutions. The whole of these resolutions, taken together, constitutes a particularly dense normative corpus which Iran and its proxies violate continuously, and which can be mobilised both as substantive foundation of the claims and as lever for the adoption of complementary resolutions.

⁴⁰ Resolution 2467 (2019) of the Security Council, adopted on 23 April 2019. That resolution strengthens the legal and institutional framework for the prevention and prosecution of sexual violence in conflict. It is directly relevant to the characterisation of sexual violence committed on 7 October 2023, as documented by the Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten, in her mission report of 4 March 2024.

§ 6. Complementary avenues of action

Several complementary initiatives can be promoted on the basis of that normative ensemble. First, the adoption of a new thematic resolution characterising Iranian support to terrorism and to designated organisations as a threat to international peace and security, and drawing the consequences of the documented breaches of resolutions 1373 (2001), 1566 (2004), 1701 (2006), 2216 (2015), 2722 (2024) and of the whole of the foregoing resolutions. Second, the referral of the International Criminal Court under Article 13(b) of the Rome Statute. Third, the creation of an international, impartial and independent mechanism dedicated to the documentation of crimes attributable to Iran and its proxies, modelled on resolutions A/RES/71/248 (Syria, IIIM) and A/HRC/RES/39/2 (Myanmar, IIMM). The probability of adoption of such resolutions is low given the current configuration of the Council and the predictable Russian and Chinese vetoes, but the promotion of the initiative itself produces a considerable diplomatic pressure effect, and publicly exposes the States that oppose such advances.

Fourth, and independently of the adoption of new resolutions, the systematic mobilisation of existing resolutions in all UN fora (Counter-Terrorism Committee, 1540 Committee, Iran and Yemen Sanctions Committees, Panel of Experts on Yemen) must be intensified. These subsidiary organs of the Council produce reports, characterisations and recommendations which themselves constitute evidentiary elements usable in subsequent judicial proceedings.

“The Independent International Fact-Finding Mission on Iran (FFM), established by resolution S-35/1 of 24 November 2022 and chaired by Sara Hossain, had its mandate extended by two years in January 2026 and broadened to all recent and ongoing serious violations.”

Section 5: The Human Rights Council and the General Assembly

The examination of the Human Rights Council calls, even more so than that of the Security Council, for the application of the analytical grid laid out in Section 1. The Human Rights Council, in its day-to-day institutional functioning, displays a structural asymmetry of treatment with regard to Israel which prohibits its consideration as a jurisdictionally neutral organ. That said, several of its operational mechanisms, examined below, function according to standards and with results which render them fully mobilisable on the Iranian file. The present memorandum therefore distinguishes, within the Council and its ecosystem, what falls within biased politicised functioning (to be denounced and contested) and what falls within useful operational mechanisms (to be actively mobilised).

On the useful side, the Human Rights Council has, since 2011, established a mandate of Special Rapporteur on the situation of human rights in Iran. That mandate, currently held by Mai Sato since July 2024, was renewed for a further year in January 2026. The Independent International Fact-Finding Mission on Iran (FFM), established by resolution S-35/1 of 24 November 2022 and chaired by Sara Hossain, had its mandate extended by two years in January 2026 and broadened to all recent and ongoing serious violations. Those two mechanisms, established against Iranian opposition within the Council, call for none of the reservations expressed with regard to other thematic mandate holders or commissions of inquiry. They constitute privileged operational channels for the documentation and public characterisation of Iranian conduct, and their successive reports have concluded that the acts committed against protesters in 2022 and in subsequent periods may amount to crimes against humanity.⁴¹

The General Assembly, as a plenary organ, has since 1985 adopted each year a thematic resolution on the situation of human rights in Iran, generally tabled by Canada. That resolution constitutes an important lever of diplomatic isolation, whose legal value is limited but whose political and documentary value is substantial. It may, in due course, be supplemented by a specific thematic resolution on Iranian responsibility for the acts committed against Israel and its civilian population. The tabling of such a dedicated resolution would be a strategic objective of the first order, to be coordinated between the diplomatic missions of Israel, the United States, Canada, the United Kingdom and the Member States of the European Union.

⁴¹ See the successive reports of the Independent International Fact-Finding Mission on Iran, notably A/HRC/55/67 (March 2024) and A/HRC/58/63 (March 2025), which concluded that the acts committed against Iranian protesters and their relatives may amount to crimes against humanity. The Mission's mandate was renewed for two years by resolution S-39/1 of January 2026, and broadened to cover all recent and ongoing serious violations, including the 2025-2026 protests and massacres. See also the first report of Special Rapporteur Mai Sato (A/HRC/58/62, March 2025) since she took office in July 2024.

Section 6: Treaty bodies and Special Procedures

The treaty body avenues are substantially limited by Iran's strategy of evasion described above. None of the nine individual communications avenues *stricto sensu* (ICCPR-OP1, Article 14 CERD, Article 22 UNCAT, CEDAW-OP, CRPD-OP, Article 31 ICPPED, ICESCR-OP, CRC-OPIC, Article 77 ICMW) is open against Iran, either because the latter is not a party to the main Convention (UNCAT, CEDAW, ICPPED, ICMW), or because it has not ratified the Optional Protocol (ICCPR, ICESCR, CRPD, CRC), or because it has not made the optional declaration (CERD). That architecture of evasion is not accidental: it is the expression of a coherent and deliberate strategy of escape from binding mechanisms, which must be publicly characterised as such.

The avenues of the Special Procedures of the Human Rights Council, on the contrary, remain open and particularly operational. In accordance with the distinction laid out in Section 1, certain of these mechanisms constitute the most effective channels of the UN human rights system and call for none of the reservations expressed with regard to other mandate holders. The Working Group on Arbitrary Detention (WGAD) constitutes the most efficient mechanism for individual cases, by virtue of its universal competence, the absence of any requirement of exhaustion of domestic remedies, and the rapidity of its procedure. The Working Group on Enforced or Involuntary Disappearances (WGEID) supplements the absence of ratification of the ICPPED by Iran. The whole of the thematic Special Rapporteurs (torture, extrajudicial executions, religion, women, defenders, expression, judges, minorities, counter-terrorism) receive individual allegations and issue particularly visible joint urgent appeals.

§1. The Working Group on Arbitrary Detention (WGAD): priority avenue

The WGAD constitutes the only non-treaty UN mechanism whose mandate expressly provides for the examination of individual complaints. Its mandate, created by Commission on Human Rights resolution 1991/42 of 5 March 1991 and consistently renewed (most recently by Human Rights Council resolution 60/8 of 6 October 2025), enables it to render Opinions on the arbitrary or non-arbitrary character of a detention. Those Opinions, although not formally binding, have led to the release of more than 1,600 detainees worldwide since the creation of the mechanism.

The procedural advantages of the WGAD are considerable. The procedure does not require exhaustion of domestic remedies, enabling immediate referral. The standard of proof applied is that of “persuasive evidence”, more flexible than that of proof beyond reasonable doubt. The procedure is adversarial: the Iranian State has sixty days to reply, and its silence is legally adverse. The average delay between referral and Opinion is six to twelve months. Referral may be initiated by the detained person, his or her family, his or her representatives, or any non-governmental organisation.

The WGAD's Iranian case-law is dense and exploitable as precedent: Opinion 27/2025 concerning Shahab Dalili, Opinion concerning Toomaj Salehi (March 2025), Opinion 54/2022 concerning Nina Taghavi, Opinion 20/2022 concerning Vahid and Habib Afkari, Opinion 71/2021 concerning Sherwan Amin Naou and co-defendants, Opinion 46/2022 concerning Arash Ganji, Keyvan Bajan, Baktash Abtin and Reza Khandan Mahabadi. The recent referral of 13 January 2026, by the Human Rights Foundation, of the case of Hossein Shanbehzadeh, attests to the vitality of the mechanism. For the cases of concern to us (Israeli, Jewish or dual nationals detained in Iran on charges of espionage for Israel, beginning with Ahmadreza Djalali), the systematic mobilisation of the WGAD must constitute the first line of action.

§ 2. The Working Group on Enforced or Involuntary Disappearances (WGEID)

Although Iran has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which closes the avenue before the Committee on Enforced Disappearances, the WGEID, in its capacity as a Special Procedure of the Human Rights Council, retains a universal humanitarian competence. Its mission consists in assisting families in the search for the fate and whereabouts of disappeared persons, through the transmission of cases to the Governments concerned and through the urgent action procedure (cases occurring within the three months preceding referral).

The WGEID examines each year several hundred Iranian cases. At its 137th session (15-24 September 2025), it examined 1,317 cases from 44 countries, including Iran. Its 138th session (26-30 January 2026) transmitted 410 urgent cases and examined 422 standard cases. The Iranian practice of enforced disappearance, particularly documented in the context of prisoner transfers (Evin to Qarchak and the Great Prison of Tehran after the Israeli strikes of June 2025), constitutes a terrain of massive and systematic referral.

§ 3. Joint urgent appeals of Special Procedures

Beyond the two Working Groups mentioned, the whole of the thematic Special Rapporteurs may receive individual allegations and issue communications, either individually or jointly. The practice of joint urgent appeals is particularly effective for Iranian cases: it allows the accumulation of several mandates on the same case (for example: Iran Special Rapporteur + Torture Rapporteur + Extrajudicial Executions Rapporteur + WGAD), which considerably amplifies diplomatic and media reach. Those communications are made public after a sixty-day delay, creating sustained international pressure.

The recommended strategy consists in coordinating, for each significant case (Israeli, Jewish or dual national detained in Iran; national sentenced to death on charges of espionage for Israel; victim of enforced disappearance; victim of documented torture), the simultaneous referral of several Special Procedures. The common submission portal (<https://spsubmission.ohchr.org>) technically facilitates such multiple referrals.

The grid set out in Section 1 finds particularly clear application here. The referral of these Special Procedures against Iran presents a double benefit: it produces a direct legal and media effect on the individual cases brought (release secured, public characterisation of the violations), and it contributes, through its cumulative effect, to bringing to light the contradictions of treatment between the Iranian situation and the Israeli situation in the practices of the Special Procedures. Each joint urgent appeal produced on the Iranian file, which does not receive the same public and media coverage as the communications targeting Israel, constitutes in itself a factual element exploitable in the structural critique of the bias.

§ 4. The Working Group on the Use of Mercenaries: a foundation to be built with rigour

The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination was established by Commission on Human Rights resolution 2005/2 of 7 April 2005, and its mandate is regularly renewed by the Human Rights Council. It has the capacity to receive individual allegations, address communications to States concerned and conduct country visits. Its relevance to the strategy here proposed warrants a prudent and refined examination.

The angle of mercenarism *stricto sensu*, within the meaning of Article 47 of Additional Protocol I to the Geneva Conventions of 1977 and of the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries,⁴² is not, strictly speaking, applicable to Hamas, Palestinian Islamic Jihad, Hezbollah, Houthi or main Iraqi militia fighters. The cumulative definition of Article 47 of API requires, in particular, that the combatant be neither a national nor a resident of the territory controlled by a party to the conflict (condition d), and that he take part in hostilities essentially with a view to obtaining personal advantage, with material compensation substantially in excess of that paid to equivalent combatants (condition c). Yet Hamas fighters are, in essence, Palestinians fighting for the Palestinian cause, ideologically and existentially, in the territory they inhabit; Hezbollah fighters are Lebanese Shias fighting under national and religious banner; the Houthis fight in Yemen on their own territory; the Iraqi militias are

42 International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the United Nations General Assembly by resolution 44/34 of 4 December 1989, entered into force on 20 October 2001. That Convention has 37 States Parties as of 1 January 2026; neither Iran, nor Israel, nor the principal Western States (United States, United Kingdom, France, Germany) are parties to it.

composed of Iraqi nationals. The predominant pecuniary motivation is satisfied for none of these formations; the motivation is ideological and politico-religious, Iranian financing being the instrument and not the cause of engagement.

A notable exception concerns the Fatemiyoun Brigades (Afghan Shia combatants) and Zainabiyoun Brigades (Pakistani Shia combatants), recruited and paid by the IRGC to fight in Syria alongside the Bashar al-Assad regime. That particular case satisfies more criteria of the definition: foreign combatants, recruited and financed by a third State, engaged in a conflict in which they are neither nationals nor residents. Although their immediate target is not Israel, the characterisation of mercenarism with respect to them may serve as a doctrinal angle to characterise, as a whole, the Iranian practice of instrumentalising foreign combatants.

The legally more solid angle consists in mobilising the Working Group not on the strict characterisation of mercenarism, but on the second branch of its mandate: the use by Iran of foreign combatants and non-State armed groups as a means of impeding the exercise of the right of the Jewish people to self-determination on its land and to sovereignty over the State of Israel. That right to self-determination, enshrined in common Article 1 of the two 1966 International Covenants and in very many General Assembly resolutions, is precisely the value which the Working Group's mandate seeks to protect against the instrumentalisation of external combatants. The Iranian practice, which consists in financing, arming, training and coordinating organisations whose declared purpose is the destruction of the State of Israel, constitutes, in its very principle, a violation of that obligation.

The referral of the Working Group on that ground presents several strategic advantages: it opens a specific UN documentary channel on Iran's instrumentalisation of foreign combatants; it leads the Working Group to issue public communications on Iranian practices; it feeds the Working Group's annual thematic reports; and it may, in due course, lead to a request for an official visit to Iran or to the States where these combatants operate. The referral must be prepared with particular rigour, since the strict legal characterisation as mercenarism must be expressly set aside in favour of the angle of instrumentalisation against self-determination, on pain of discrediting the entire endeavour.

"The sexual violence documented as having been committed during the 7 October 2023 attacks has been the subject of specific characterisation in the mission report of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten, of 4 March 2024. That characterisation opens specific prospects for engaging Iranian responsibility for aid and assistance in the commission of sexual crimes."

Section 7: Other Mechanisms of the United Nations System

§ 1. The Commission on the Status of Women (CSW)

The Commission on the Status of Women has, since ECOSOC resolution 1983/27, a mechanism for individual communications. Although that mechanism is oriented towards the identification of trends rather than individual litigation, it constitutes a useful complementary channel, particularly suited to the situation of Israeli and Jewish women victims of acts committed by Iran and its proxies. The sexual violence documented as having been committed during the 7 October 2023 attacks has been the subject of specific characterisation in the mission report of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten, of 4 March 2024.⁴³ That characterisation opens specific prospects for engaging Iranian responsibility for aid and assistance in the commission of sexual crimes.

§ 2. The UNESCO 104 procedure

UNESCO has, through decision 104 EX/3.3 of its Executive Board (1978), a procedure enabling any individual, group, or NGO to submit communications on human rights violations relating to the areas of UNESCO competence (education, science, culture, information). That procedure, examined by the Committee on Conventions and Recommendations (CR Committee), is confidential but can generate significant diplomatic pressure. It can be usefully mobilised for attacks on academic freedom, on the education of young Israelis, and on Israeli and Jewish journalists targeted by Iranian operations.

§ 3. The Human Rights Council's confidential complaint procedure

The complaint procedure of the Human Rights Council, successor to the 1503 procedure and organised by Council resolution 5/1 of 18 June 2007 (Annex IV), allows any individual, group or NGO to submit communications alleging situations of serious violations attested in a reliable manner. Two working groups intervene successively: the Working Group on Communications (WGC) examines admissibility; the Working Group on Situations (WGS) examines the merits and formulates recommendations to the Council. The procedure

⁴³ See the mission report of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten, of 4 March 2024, which documented the sexual violence committed on 7 October 2023 and concluded that there were "reasonable grounds to believe" that rapes and sexual violence had been committed during those attacks. That report constitutes a major evidentiary element exploitable in the framework of the characterisation of acts attributable to Hamas and, by way of complicity or aid and assistance, to Iran.

is confidential and oriented towards systemic patterns. It may be usefully mobilised for the public documentation of Iranian systemic support to terrorism and of institutional genocidal rhetoric.

Section 8: The Special Tribunal for the Crime of Aggression Against Ukraine (STCAU): a Novel Jurisdictional Opportunity for the Prosecution of Iranian Officials

The bilateral Agreement between Ukraine and the Council of Europe establishing the Special Tribunal for the Crime of Aggression against Ukraine (hereinafter “STCAU”) was signed in Strasbourg on 25 June 2025 by President Volodymyr Zelenskyy and the Secretary General of the Council of Europe Alain Berset, the Statute of the Tribunal being annexed to it.⁴⁴ The Enlarged Partial Agreement (EPA) governing the Management Committee of the Tribunal was adopted on 14-15 May 2026 in Chisinau by the European Union and thirty-six States, conferring institutional and budgetary sustainability on the Tribunal. The seat of the Tribunal is in The Hague (operational phase); the advance team is in Strasbourg under the auspices of the Council of Europe. The Tribunal is undergoing institutional implementation in 2026, and the precise calendar of its full operationalisation, prosecutorial appointments and capacity to receive submissions remains to be settled. References below to “the STCAU” are therefore to be read in that prospective and evolving sense.

The substantive jurisdiction of the STCAU covers the crime of aggression as defined in Article 8 bis of the Rome Statute, supplemented by reference to UNGA Resolution 3314 (XXIX) of 14 December 1974 on the definition of aggression. The personal jurisdiction targets, under Article 2 of the Statute, individuals “in a position effectively to exercise control over or to direct the political or military action of a State”, and, under Article 1, individuals “who bear the greatest responsibility for the crime of aggression against Ukraine”.⁴⁵ The leadership focus is therefore explicit.

44 Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine, signed in Strasbourg on 25 June 2025, with the Statute of the Special Tribunal as annex. Official documentation available at coe.int/en/web/special-tribunal-ukraine. The Statute was adopted on 24 June 2025 by the Committee of Ministers of the Council of Europe, following the endorsement of the documents by an ad hoc working group bringing together the representatives of approximately forty States.

45 See Articles 1 and 2 of the STCAU Statute, annexed to the bilateral Agreement of 25 June 2025. For the doctrinal analysis, see Noëlle Quéniwet, “The Special Tribunal for the Crime of Aggression against Ukraine and Immunities”, *Opinio Juris*, 24 March 2026; Gaiane Nuridzhanian, “The Special Tribunal for the Crime of Aggression Against Ukraine: Jurisdiction, Immunities and Due Process”, *Nordic Journal of International Law*; the analyses published on the *Yale Journal of International Law* on 7 February 2026 by representatives of Liechtenstein on the formal adoption of the Statute.

A key point of the present strategy: the STCAU's personal jurisdiction is not limited to Russian officials. The Council of Europe expressly confirmed in its public communications from November 2025 onwards and in the Tribunal's official FAQs that "Belarusian or North Korean individuals could potentially be prosecuted if evidence shows they played a significant role in the crime of aggression against Ukraine".⁴⁶ By direct doctrinal analogy, the same reasoning may be advanced with respect to Iranian officials whose role in Russia's war of aggression against Ukraine is documented in Part Two, Section 2, § 6 *supra*. The possible inclusion of Iranian officials must, however, be presented as a strategic submission to be tested against the Statute, the prosecutorial policy of the Tribunal once established, and the evidence of Iran's substantial contribution to Russia's aggression. It is not a settled jurisdictional conclusion.

The doctrinal foundation for the inclusion of third-State accomplices within the personal scope of the STCAU is set out in the comparative academic literature.⁴⁷ The reasoning rests on the substantial involvement clause of Article 3(g) of Resolution 3314: once a third State has crossed that threshold, the officials of that State enter into the personal scope of the leadership clause of Article 2 of the Statute, provided that they themselves exercise effective control over the political or military action of their State in the underlying conduct.

The Iranian officials concerned by this jurisdictional opening can be hierarchised into four categories. First, the political leadership and the senior decision-makers of MODAFL: Mohammad Bagher Ghalibaf (Speaker of Parliament, former IRGC commander whose role in shaping the strategic posture and defence budget allocations dedicated to the alliance with the Kremlin is well documented), and Brigadier General Mohammad-Reza Gharaei Ashtiani (Minister of Defence at the time when the drone contracts of USD 1.75 billion and the ballistic missile contracts of USD 2.7 billion were finalised

46 Communication from the Council of Europe, November 2025, reproduced in Justice Info, "Ukraine's views on the Special Tribunal for aggression", 11 November 2025, justiceinfo.net; official FAQs of the Tribunal, accessible at coe.int/en/web/special-tribunal-ukraine/frequently-asked-questions. The expressed wording is unambiguous and equally applicable to other third States substantially involved in the act of aggression.

47 See Gaiane Nuridzhanian, "The Special Tribunal for the Crime of Aggression Against Ukraine: Jurisdiction, Immunities and Due Process", *Nordic Journal of International Law*, p. 13; Council of Europe Parliamentary Assembly, *Legal and Human Rights Aspects of the Russian Federation's Aggression against Ukraine*, paragraphs 4.2 and 4.5; Open Society Justice Initiative, *Memorandum for the Prosecution of the Crime of Aggression against Ukraine*, paras 133-149.

with Moscow).⁴⁸ Second, the operational chain of MODAFL and the IRGC Aerospace Force: Brigadier General Seyed Hamzeh Ghalandari (Director General for International Relations of MODAFL), Brigadier General Ali Jafarabadi (Head of the Space Command of the IRGC Aerospace Force), Majid Mousavi (Deputy Commander of the IRGC Aerospace Force, deputy to Commander Amir Ali Hajizadeh), responsible for facilitating the transfer of military support to Russia. Third, the Quds Force which manages the transnational procurement and logistical networks: Brigadier General Ismail Qaani (Commander of the Quds Force of the IRGC), whose external operations arm directs the trans-border movement of equipment to State and non-State allies. Fourth, the industrial chain: Mehdi Gogerddian (Managing Director of HESA), directly responsible for the industrial scaling and delivery of Shahed-136 systems used by Russia to bombard Ukrainian cities, rebranded as "Geran-2".⁴⁹

The strategic interest of an STCAU prosecution of these Iranian officials extends well beyond the Ukrainian case taken in isolation. First, the judicial precedent that such a prosecution would establish, namely an international tribunal prosecuting the leaders of a third State substantially involved in an inter-State aggression, is directly transposable to any future contentious procedure aimed at engaging Iran's responsibility for its own acts and those of its proxies against Israel. The doctrinal homology is direct: the substantial involvement of Article 3(g), which would warrant the inclusion of Iranian officials before the STCAU, is the same substantial involvement that founds the qualification of Iran as a State responsible for armed aggression against Israel, as developed in Part Two *supra*. Second, the documentary substrate produced by the STCAU investigations, transferred from the International Centre for the Prosecution of the Crime of Aggression (ICPA) hosted by Eurojust, will provide a body of evidence on the Iranian decision-making, operational and industrial chains, mobilisable in all parallel proceedings. Third, by inscribing the prosecution of Iranian officials within an internationally recognised legitimate framework focused on Russian aggression, the public exposure of the Iranian involvement gains in legitimacy and is not exposed to the structural anti-Israel bias of certain UN institutions analysed in Section 1 of

48 On the identification of these officials and their respective roles, see "UK and Partners Respond to Iran's Transfer of Ballistic Missiles to Russia", UK Foreign, Commonwealth & Development Office, 10 September 2024; "Treasury Sanctions Multinational Network Supporting Iran's UAV and Military Aircraft Production", U.S. Department of the Treasury, 19 September 2023; OpenSanctions database, sheets Q65195083 et seq. on Mohammad-Reza Ashtiani.

49 "Treasury Sanctions Multinational Network Supporting Iran's UAV and Military Aircraft Production", U.S. Department of the Treasury, 19 September 2023; HESA being a subsidiary of MODAFL controlled closely by the IRGC.

the present Part. The institutional anchorage of the STCAU within the Council of Europe, and the procedural standards modelled on those of the European Convention on Human Rights, place this avenue beyond the principal criticisms applicable to other organs.

The operational implementation of this initiative supposes close coordination with the Office of the Prosecutor of the STCAU (in the process of establishment), with the International Centre for the Prosecution of the Crime of Aggression (ICPA) hosted by Eurojust, with the Ukrainian authorities, with the principal States supporting the Tribunal (the European Union and its Member States, the United Kingdom, Canada, Japan, Australia), and with the specialised academic institutions (notably the Open Society Justice Initiative, the Lieber Institute, the Bristol Law School). The substantive proposal of the present memorandum is the submission to the Office of the Prosecutor of the STCAU, in coordination with the Israeli authorities and allied States, of structured argumentation calling for the inclusion of identified Iranian officials in the personal scope of the proceedings, on the basis of Article 3(g) of Resolution 3314 (XXIX) and Article 2 of the Statute of the Tribunal. The drafting of such argumentation may be entrusted to a joint working group bringing together representatives of the Kohelet Policy Forum, the Office of the Legal Adviser of the Israeli Ministry of Foreign Affairs, and the institutional partners identified above.



Part Five: National and Regional Avenues

Section 1: Universal Criminal Jurisdiction

The principle of universal criminal jurisdiction allows a State to prosecute, before its own courts, the perpetrators of certain particularly grave international crimes, irrespective of the place of commission, the nationality of the perpetrator and the nationality of the victim. That principle, founded on the *jus cogens* nature of the norms violated and on the conventional or customary obligation *aut dedere aut judicare*, is today fully operational in several European and Latin American national jurisdictions.

Several States stand out for an active practice and favourable legislation: Germany (the 2002 Code of Crimes against International Law); Sweden, which sentenced Hamid Nouri to life imprisonment by Judgment of the Stockholm District Court of 14 July 2022, confirmed by the Svea Court of Appeal on 19 December 2023, for his role in the massacres of Iranian political prisoners of 1988; Argentina, which prosecuted for more than two decades the alleged Iranian officials of the 1994 AMIA bombing; the Netherlands, Belgium, France and Switzerland, equipped with permissive legislation.

The recommended strategy consists of coordinating, between victim organisations and specialised counsel, the filing of complaints in several jurisdictions in parallel, targeting Iranian officials identified as responsible for the planning, financing or supervision of attacks against Israel and its civilian population. The FFM Iran and the Commission of Inquiry on the Occupied Palestinian Territory can provide a considerable documentary basis for such complaints. Particular attention must be paid to the Iranian strategy of hostage diplomacy, which can lead States to release convicted officials in exchange for their nationals detained in Iran (Nouri precedent, June 2024).

§ 1. Germany

Germany has, since the Code of Crimes against International Law (*Völkerstrafgesetzbuch*, VStGB) of 26 June 2002, pure universal jurisdiction for genocide, crimes against humanity and war crimes. § 1 of the VStGB provides that this Code applies to all crimes that it covers, even where the act is committed abroad and there exists no nexus with Germany. That legislation enabled the conviction of Anwar Raslan to life imprisonment by the Koblenz Higher Regional Court (Oberlandesgericht Koblenz) on 13 January 2022 for crimes against humanity committed in Syria, which constitutes the first world-wide precedent of conviction under universal jurisdiction for crimes committed in the framework of the Syrian conflict. The Mykonos precedent of 1997, already mentioned in Part Two, also attests to the availability of the German system for engaging Iranian operatives' responsibility. The Federal Prosecutor General (*Generalbundesanwalt*) at Karlsruhe is the competent authority to initiate proceedings under the VStGB.

§ 2. Sweden: The Nouri Precedent (Stockholm District Court Judgment of 14 July 2022)

Sweden has, since the law of 1 July 2014 on criminal responsibility for international crimes (*lag (2014:406) om straff för folkmord, brott mot mänskligheten och krigsförbrytelser*), universal jurisdiction for the gravest international crimes. The Hamid Nouri precedent, examined in detail, provides the complete operational grid for such proceedings and warrants in-depth presentation for the purposes of the strategy here proposed, drawing on the official summary of the Judgment of the Stockholm District Court of 14 July 2022 in case B 15255-19.⁵⁰

a) The facts charged

The indictment concerned allegations of executions of political prisoners held at Gohardasht prison (Karaj), Iran, during the summer of 1988. The Judgment distinguishes two sequences. First, the executions of sympathisers of the Mojahedin-e Khalq Organization (MEK), conducted between 30 July and 16 August 1988. Second, the executions of sympathisers of various leftist groups, regarded as having renounced their Islamic faith, conducted between 27

50 Stockholm District Court (Stockholms tingsrätt), Division 4, Judgment of 14 July 2022, case B 15255-19, official English summary distributed by GNS and Eurojust, accessible via the Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Eurojust). The official summary constitutes the factual and legal basis set out in the present paragraph.

August and 6 September 1988. Hamid Nouri, then in his twenties, was acting as an assistant deputy prosecutor at Gohardasht prison, under an alias.⁵¹

b) The jurisdiction of the Court

The Stockholm District Court declared itself competent on two grounds. With respect to international law crimes (*folkrättsbrott*), jurisdiction is founded on universal jurisdiction, which allows Swedish courts to hear offences committed abroad by foreign nationals. With respect to the charge of murder (*mord*), jurisdiction is founded on the high penal value of the offence. To that dual jurisdictional basis, the Court added a decisive factual element: the accused had voluntarily come to Sweden and was on Swedish territory at the time of his arrest.⁵²

c) The characterisation of the Iran-Iraq conflict as an international armed conflict and the applicability of international humanitarian law

The most remarkable legal contribution of the Judgment lies in the connection drawn between the internal context of the executions and the inter-State conflict then in progress. The Court established that the MEK's attacks against Iran in the period preceding the executions originated from Iraqi territory, were supported by the Iraqi army and conducted in collaboration with it, notably operation "Eternal Light" of 26 July 1988. The Court concluded that the MEK had become a party to the international armed conflict between Iran and Iraq. That characterisation carries a fundamental legal consequence: the provisions of international humanitarian law apply to acts directed against the MEK detainees, who, as civilians in the custody of a party to the conflict, are protected persons within the meaning of the Geneva Conventions. The applicability of international humanitarian law to acts committed in an internal detention setting, by reason of the context of the ongoing inter-State conflict, constitutes particularly transposable reasoning.

51 On the factual record, see the official summary of the Judgment cited above, in its English translation distributed by GNS and Eurojust, as well as the detailed file maintained by TRIAL International in the Universal Jurisdiction Interactive Map. The overall figures of the 1988 executions campaign (estimated at between 2,800 and 5,000 prisoners nationwide) are notably reported by Amnesty International in its report *Blood-Soaked Secrets* (2018) and by Geoffrey Robertson, *The Massacres of Political Prisoners in Iran, 1988* (Abdollahian Boroumand Center, 2010).

52 Hamid Nouri was apprehended at Stockholm-Arlanda Airport on 9 November 2019, as he arrived to visit a relative. His pre-trial detention was ordered by the Stockholm District Court on 13 November 2019. See TRIAL International, Hamid Nouri factsheet, and the official communiqués of the Swedish Prosecutor General's Office (Riksåklagaren).

d) The direct link between Khomeini's fatwa and the international armed conflict

The investigation established that the Supreme Religious Leader of Iran, Ruhollah Khomeini, primarily in response to the "Eternal Light" operation of 26 July 1988, issued an order (fatwa) that MEK sympathisers detained in Iranian prisons who remained faithful to their convictions were to be executed. The Court emphasises, in terms which this memorandum adopts, that the fatwa provides proof of a direct link between the death sentences pronounced against the detained MEK sympathisers and the international armed conflict. That legal articulation, which connects an act of the Supreme Leader to an inter-State conflict in order to draw penal and humanitarian consequences, is directly transposable to the analysis of contemporary acts: public statements of support and glorification of acts committed by proxies, emanating from Supreme Leader Khamenei or his successors, may, subject to procedural adaptation, be addressed under an analogous grid.

e) The characterisation of Nouri as perpetrator

The investigation showed that the execution of the fatwa required planning, organisation and cooperation between several persons occupying different roles. With respect to the acts committed at Gohardasht prison, it is established that a commission, in conformity with the fatwa, examined the prisoners' positions vis-à-vis the MEK and sentenced them to death following a procedure which did not satisfy the fundamental requirements of a fair trial. The death sentence was carried out immediately by hanging. A very large number of prisoners thus lost their lives. The Court found that the prisoners were also subjected to severe suffering during the procedure, and characterised the conduct as grave violations of international humanitarian law. Concerning the individual role of the accused, the investigation revealed that he had participated in the execution of the fatwa by taking charge of the prisoners and leading them to the commission, and by escorting the prisoners to the place of execution, under an alias and in the role of assistant deputy prosecutor at the prison, in association with or in consultation with others. The circumstances were such that the accused was to be regarded as a perpetrator.

f) The second sequence: executions of leftist sympathisers

The Court further established that the commission returned to Gohardasht prison on 27 August 1988, and that the proceedings then dealt with leftist sympathisers regarded as having renounced their Islamic faith. The trial led to the execution of a very large number of prisoners whose ideological and religious convictions were deemed to be in conflict with the theocratic Iranian State. The death sentences pronounced were again carried out following a procedure that did not satisfy the fundamental requirements of a fair trial. The action itself was characterised by the Court as a violation, *inter alia*, of the International Covenant on Civil and Political Rights, by which Iran was bound in 1988. Having regard to the Iranian political system and to the distribution of decision-making authority post-revolution, the Court considered it likely that the executions had been preceded by a decision of the religious and political leadership of Iran. It was established that the accused, under the same alias and in the same role, in association with or in consultation with others, had also participated in the implementation of the executions of the leftist sympathisers, by selecting the prisoners to be brought before the commission, by reading the names of the prisoners and by bringing them before the commission. The active involvement of the accused in the commission of the offences led the Court to regard him as a perpetrator. The acts are characterised as several counts of murder.

g) The sentence and the award of damages

The sentence handed down is life imprisonment. The Court grounded its decision on the circumstance that the accused had participated in criminal acts in the course of which a very large number of persons had been executed by reason of their political or religious convictions, following a procedure that did not satisfy the requirements of a fair trial. The Court further assessed the damages with regard to Iranian law, applying Swedish practice for the assessment of equity, in the absence of clarification by the parties as to the content of Iranian law. At the trial, compensation for psychological suffering was awarded to surviving relatives whose family members had been shown to have been executed, as well as to surviving prisoners who had suffered psychological harm.

h) The appellate stage and release through exchange

The Svea Court of Appeal confirmed the conviction on 19 December 2023, and the Swedish Supreme Court refused leave to appeal on 6 March 2024. On 15 June 2024, Hamid Nouri was released as part of a prisoner exchange with Iran, in exchange for the release of Johan Floderus (a European civil servant detained in Iran since April 2022) and Saeed Azizi.⁵³ That exchange, conducted in breach of elementary rule-of-law principles, attests to the effectiveness of the Iranian hostage diplomacy strategy and constitutes a warning signal for any future criminal proceedings targeting an Iranian national abroad. The release of Nouri does not, however, in any way diminish the precedent value of the Judgment, which remains final and exploitable for analogous case files. The Swedish Police has a specialised international crimes unit (Krigsbrottskommissionen) and the Deputy Director of Public Prosecution for international crimes is the competent authority.

i) Lessons transposable to the contemporary file

The Nouri Judgment yields several lessons directly transposable to the strategy here proposed. First, the characterisation of an inter-State conflict as an international armed conflict, and the subsequent application of international humanitarian law to acts committed in an internal detention setting, opens an analytical grid mobilisable for acts committed during episodes of direct confrontation between Iran and Israel (April 2024, October 2024, June 2025, and the wider 2026 Iran war that began with the US-Israeli strikes of 28 February 2026 and ended with the conditional ceasefire of 8 April 2026). Second, the imputation of acts at the operational level (an assistant deputy prosecutor, under an alias) on the basis of a fatwa issued by the Supreme Leader demonstrates the robustness of a chain of imputation that can reach from executors to the supreme political-religious decision-makers; public statements of support and glorification of acts committed by proxies, emanating from the late Supreme Leader Ali Khamenei (in office until his death on 28 February 2026) or from his successor Mojtaba Khamenei (in office since 8 March 2026), may, subject to procedural adaptation, be addressed under an analogous grid. Third, the life sentence handed down for acts committed thirty-four years earlier

53 On the release of 15 June 2024 in the framework of the exchange with Iran, see notably the official communiqués of the Swedish Government and the European External Action Service. The release occurred after the two higher instances had confirmed the conviction, and the conviction was final. See also TRIAL International, Hamid Nouri factsheet, and the analysis by the International Justice Project, "The Hamid Nouri Case: Universal Jurisdiction and Hostage Diplomacy".

attests to the effective imprescriptibility of the gravest crimes and to the longevity of penal risk for Iranian agents. Fourth, the application of Iranian law for damages, tempered by Swedish equity practice, provides a workable model for the reparation of Israeli and Jewish victims.

§ 3. France

France has a particularly developed extraterritorial jurisdictional system, articulated around several complementary grounds. Universal jurisdiction *stricto sensu*, provided for in Articles 689-1 to 689-14 of the Code of Criminal Procedure, covers crimes provided for by international conventions to which France is a party: torture (Article 689-2 implementing the Convention against Torture), terrorism (Article 689-3), hostage-taking (Article 689-4 implementing the 1979 Convention), nuclear terrorism (Article 689-9), terrorist financing (Article 689-10), enforced disappearances (Article 689-13). Article 689-11 of the Code of Criminal Procedure, amended by Law n° 2010-930 of 9 August 2010 and then by Law n° 2019-222 of 23 March 2019, further opens French jurisdiction for the crimes of genocide, crimes against humanity and war crimes, subject to the condition that the perpetrator habitually resides on French territory.

The Crimes against Humanity, Crimes and Offences of War Division of the Paris Judicial Tribunal, created by Law n° 2011-1862 of 13 December 2011 and operational since 2012, has centralised competence and recognised expertise to handle these case files. France can also apply passive personality jurisdiction (Article 113-7 of the Penal Code) when the victim is French, as well as active personality jurisdiction (Article 113-6) for French nationals who commit offenses abroad. The competence of the National Anti-Terrorism Prosecutor's Office (PNAT), created by Law n° 2019-222 of 23 March 2019 and operational since 1 July 2019, opens a complementary avenue for international terrorism acts.

France has, moreover, conducted several proceedings against Iranian nationals: the investigation into the assassination of Shapour Bakhtiar (1991), parallel investigations into the bombings of the Israeli Embassy and AMIA in Argentina, and prosecutions of Iranian officials in terrorist financing cases. That active practice makes France a relevant jurisdiction for Iranian case files, subject however to the limits posed by the residence condition of Article 689-11 for the gravest international crimes.

§ 4. Belgium, the Netherlands, Switzerland

Belgium substantially revised its universal jurisdiction regime in 2003 (Law of 5 August 2003 amending Articles 6, 1^o bis, 10, 1^o bis, and 12 bis of the Preliminary Title of the Code of Criminal Procedure), now conditioning the opening of proceedings on the presence of a victim of Belgian nationality or resident in Belgium for three years, or on the presence of the accused on the territory. The Netherlands has universal jurisdiction provided for by the *Wet Internationale Misdriften* (International Crimes Act) of 19 June 2003, implemented by a specialised team (TIM, *Team Internationale Misdriften*) of the Hague Prosecutor's Office, particularly active.

Switzerland occupies a place of choice in the system. Since the revision of the Penal Code entered into force on 1 January 2011 (Article 264m), Switzerland has universal jurisdiction for genocide, crimes against humanity, war crimes and torture, subject to the presence of the accused in Switzerland. The Office of the Attorney General of Switzerland, and more particularly the International Crimes Division, conducts sustained activity in that field. Switzerland, in its capacity as depository of the Geneva Conventions and seat of numerous international organisations, occupies a particular role in the architecture of international justice.

§ 5. The United Kingdom: recent precedent and limits

The United Kingdom has extraterritorial jurisdiction grounded principally on the *Criminal Justice Act 1988* (section 134, implementing the Convention against Torture) for torture, on the *International Criminal Court Act 2001* for the gravest international crimes, and on the *Geneva Conventions Act 1957* for grave war crimes. Residence on British territory of the alleged perpetrator is generally required.

A recent procedure illustrates both the possibilities and the limits of the British apparatus. In 2023, an investigation was opened in the United Kingdom concerning acts of torture committed in Iran between 2010 and 2012, and an Iranian national was arrested on the ground of universal jurisdiction. On 10 September 2024, the investigation was closed without prosecution for want of sufficient evidence to pursue the case.⁵⁴ That episode illustrates a central difficulty of any universal jurisdiction strategy: the robustness of the evidentiary file is the determining factor. The premature

54 See TRIAL International, Universal Jurisdiction Interactive Map, file relating to "Name not disclosed, Iranian national", country of prosecution United Kingdom. Country of commission: Iran (2010-2012). Initial charges: torture. Status: case closed on 10 September 2024. That case confirms the availability of the British universal jurisdiction apparatus for acts committed in Iran, while underlining the critical importance of the quality of the evidentiary file at the time of filing.

filing of a poorly documented complaint can durably compromise the chances of success and squander the opportunity in the jurisdiction concerned. The recommended strategy therefore favours, for each case file, a phase of in-depth evidentiary preparation, in coordination with the FFM Iran, Special Rapporteur Mai Sato, documentary NGOs (Iran Human Rights, Justice for Iran, Hengaw Organization for Human Rights) and cooperative intelligence services.

§ 6. Argentina

Argentina occupies a singular place in the strategy of engaging Iranian responsibility, by reason of the AMIA bombing of 18 July 1994, which caused the deaths of 85 persons and injured more than 300 others. The Argentine investigation, conducted over three decades, has led to the identification of several senior Iranian officials (notably Mohsen Rezai, Ali Akbar Rafsanjani, Ali Fallahian, Ahmad Vahidi, Mohsen Rabbani) subject to Interpol Red Notices. The Argentine Federal Court, by Judgment of 19 April 2024, characterised the AMIA bombing as a crime against humanity and recognised the direct responsibility of Iran. That characterisation, of particular significance, opens additional civil and criminal avenues and provides an exploitable doctrinal precedent.

§ 7. Strategy for the coordination of referrals

The multiplicity of available jurisdictions must not lead to a dispersion of efforts. The recommended strategy consists in: identifying exhaustively the Iranian officials responsible for the acts in issue (commanders of the IRGC, the Quds Force, the VAJA, senior political officials); documenting individually the facts imputable to them; choosing, for each individual case file, the jurisdiction or jurisdictions most favourable on tactical criteria (quality of available evidence, possible presence of the accused on the territory, existence of victims of the nationality of the forum State, expertise of the local prosecutor's office); and coordinating actions at international level to avoid the risk of *lis pendens* and to amplify the media and political effect.

"These legislative regimes must be systematically mobilised by Israeli and Jewish victims of acts directed by Iran. Civil actions present the advantage of being more easily filed than criminal actions, and of allowing, in the event of a favourable judgment, the effective seizure of Iranian assets."

Section 2: National Extraterritorial Civil Legislation

Several national jurisdictions have adopted legislation derogating from the traditional rule of jurisdictional immunity of foreign States to allow victims of terrorist acts to bring civil claims for reparation against State sponsors of terrorism.

In the United States, the *Anti-Terrorism Act* of 1990 (ATA, 18 U.S.C. § 2333) authorizes a federal civil action by United States nationals who are victims of international terrorism. The *Justice Against Sponsors of Terrorism Act* (JASTA) of 2016 broadened that action to foreign States having supported the acts in issue. The *Foreign Sovereign Immunities Act* (FSIA), as amended by the *Antiterrorism and Effective Death Penalty Act* of 1996 (28 U.S.C. § 1605A), further provides a specific exception to jurisdictional immunity for States designated as *State Sponsors of Terrorism*. Iran having been so designated since 19 January 1984, several United States judgments have already ordered the Iranian State to pay substantial damages, notably in cases linked to the Khobar Towers bombing, the Marine barracks bombing in Beirut in 1983, and the AMIA bombing in Buenos Aires. The Judgment of the Supreme Court of the United States in *Bank Markazi v. Peterson*, delivered on 20 April 2016, confirmed the constitutionality of legislative provisions allowing the seizure of Iranian assets for the satisfaction of those judgments.⁵⁵

In 2012, Canada adopted the *Justice for Victims of Terrorism Act*, which allows civil action against State sponsors of terrorism listed by the Government. Iran and Syria have been on that list since 7 September 2012. Several judgments of the Ontario Superior Court of Justice have since ordered Iran to pay substantial damages.

These legislative regimes must be systematically mobilised by Israeli and Jewish victims of acts directed by Iran. Civil actions present the advantage of being more easily filed than criminal actions, and of allowing, in the event of a favourable judgment, the effective seizure of Iranian assets. Coordination with United States and Canadian authorities for the sharing of information and procedural strategy is crucial.

⁵⁵ *Bank Markazi v. Peterson*, 578 U.S. 212 (2016). The Supreme Court of the United States confirmed the constitutionality of § 502 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (22 U.S.C. § 8772), which made available for execution the assets of the Central Bank of Iran held by Citibank, for the payment of damages owed to victims of attacks imputable to Iran. The judgment provides the constitutional framework for the massive execution of judgments rendered against Iran under the FSIA.

Section 3: Targeted Sanctions

Targeted sanctions regimes (Magnitsky-style) constitute a major operational tool for engaging the individual responsibility of Iranian leaders. The European Union, the United States (through the *Office of Foreign Assets Control*), the United Kingdom, Canada and Australia all have legal frameworks allowing the adoption of targeted sanctions (asset freezes, visa bans) against individuals identified as responsible for serious human rights violations or acts of corruption.

Several hundred Iranian officials are already subject to such sanctions, notably since the outbreak of the headscarf crisis in September 2022. The recommended strategy consists in promoting, on the basis of documentation produced by the FFM, the Iran Special Rapporteur and specialised NGOs, the extension of those designations to officials identified as responsible for the planning, financing and execution of attacks against Israel and its civilian population, prioritising the targeting of IRGC and Quds Force commanders, officials of the Ministry of Intelligence and Security (VAJA), and officials involved in operational coordination with the proxies.

Section 4: Regional Avenues

Iran does not belong to any regional human rights protection system equipped with a contentious mechanism activatable against it. The Arab Charter on Human Rights and the Organisation of Islamic Cooperation constitute relevant regional frameworks but with no useful procedure for engaging Iranian responsibility. The Inter-American Court, the European Court of Human Rights and the African Court on Human and Peoples' Rights are jurisdictionally inaccessible *ratione personae*.

The European Union, in contrast, has several exploitable levers: its autonomous regime of targeted sanctions (mentioned above); the adoption of terrorist lists (notably through Common Position 2001/931/CFSP); the possibility of structured diplomatic engagement, notably through the European External Action Service; and, more recently, Regulation (EU) 2020/1998 establishing a global EU human rights sanctions regime. Coordination with the European institutions (European Parliament, Commission, Council) must be the subject of dedicated advocacy strategy.



Part Six: Individual Criminal Responsibility of Iranian Dignitaries

Individual criminal responsibility of Iranian dignitaries constitutes the indispensable complement to the responsibility of the State. It is governed by partially distinct rules, in particular as regards immunities, and calls for specific treatment. The present Part examines successively the framework of immunities and their limits, the targeting of relevant individuals, international jurisdictional avenues, national criminal avenues, and non-criminal individual avenues.

Section 1: The Framework of Immunities and their Limits

§ 1. Personal immunity (*ratione personae*) of serving dignitaries

Customary international law recognises that certain serving dignitaries enjoy, by reason of their function, absolute personal immunity covering all their acts, public or private, for the duration of their mandate. That immunity, known as *ratione personae*, was enshrined by the International Court of Justice in its Judgment of 14 February 2002 in the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*.⁵⁶ That immunity classically benefits sitting Heads of State, Heads of Government and Ministers for Foreign Affairs. For Iran, it currently covers Supreme Leader Mojtaba Khamenei (Head of State in the functional sense, in office since 8 March 2026, following the death of his father Ali Khamenei in the US-Israeli strikes of 28 February 2026), President Masoud Pezeshkian and Minister for Foreign Affairs Abbas Araghchi.

⁵⁶ ICJ, *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment of 14 February 2002, I.C.J. Reports 2002, p. 3, especially §§ 51-55. The Court held that serving Ministers for Foreign Affairs enjoy full immunity from criminal jurisdiction and inviolability, which protect them against any act of authority of another State of such a nature as to hinder the exercise of their official functions.

Personal immunity is however temporally limited to the duration of the exercise of functions. Upon cessation of functions, it disappears and only functional immunity (*ratione materiae*) subsists, where applicable, covering acts performed in an official capacity. That distinction is crucial for the strategy here proposed: proceedings can be initiated as of now, including against serving dignitaries, provided that they do not give rise to immediate coercive measures; they will become fully operative upon cessation of functions.

§ 2. Functional immunity (*ratione materiae*) and its erosion

Functional immunity covers acts performed by a State agent in an official capacity. It subsists after the cessation of functions, but it suffers considerable erosion as regards the gravest international crimes. That erosion was affirmed by the British House of Lords in the *Pinochet* case (*R v. Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No. 3), 24 March 1999), confirmed by subsequent case-law (notably the Judgment of the German Federal Court of Justice of 28 January 2021 in the *Jaber* case).⁵⁷ The International Law Commission has, through its draft Article 7 adopted in 2017 in the framework of its work on the immunity of State officials from foreign criminal jurisdiction, codified that exception for the gravest crimes.

The application of this framework to Iranian officials leads to a distinction between two categories. For currently serving dignitaries (Mojtaba Khamenei, Pezeshkian, Araghchi), foreign criminal proceedings cannot give rise to immediate coercive measures. For former dignitaries (in particular the late Ali Khamenei, whose personal immunity lapsed by reason of his death on 28 February 2026 and whose functional immunity is set aside for the gravest international crimes; as well as previous Presidents and Ministers), former and current military commanders (notably former and current commanders of the IRGC and the Quds Force; several leading figures such as Hossein Salami eliminated on 13 June 2025 and Mohammad Pakpour killed on 28 February 2026 are now deceased, and their criminal responsibility can be addressed only through symbolic or evidentiary means), judicial officials and agents of the Ministry of Intelligence and Security (VAJA) having ceased their functions, personal immunity is not applicable and

⁵⁷ On the erosion of *ratione materiae* immunity with respect to international crimes, see notably *R v. Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No. 3) [2000] 1 A.C. 147; Bundesgerichtshof (German Federal Court of Justice), Judgment of 28 January 2021, BGH 3 StR 564/19 (*Jaber* case); *ad hoc* International Criminal Tribunal for Sierra Leone, Prosecutor v. Charles Taylor, Decision on Immunity from Jurisdiction of 31 May 2004, SCSL-2003-01-I. On the doctrinal codification, see the ILC draft articles on the immunity of State officials from foreign criminal jurisdiction, and notably Article 7 adopted in 2017, which excludes *ratione materiae* immunity for the crimes of genocide, crimes against humanity, war crimes, torture, apartheid and enforced disappearance.

functional immunity is legally set aside for the gravest international crimes. Currently serving commanders of the IRGC and the Quds Force, who are not dignitaries in the strict diplomatic sense, benefit at most from a functional immunity which is set aside for international crimes.

Section 2: Targeting of Relevant Individuals

The identification of individuals to be targeted must obey a strategic logic. Rather than a dispersion across the entire Iranian apparatus, efforts should be concentrated on four concentric circles.

§ 1. The leadership circle: Supreme Leader and successive Presidents

The first circle targets the supreme political leaders. The late Supreme Leader Ali Khamenei (Leader from 1989 until his death in the US-Israeli strikes of 28 February 2026) remains the central figure for the historical assessment of Iranian responsibility: institutional genocidal rhetoric, the doctrine of the Axis of Resistance and the architecture of support to the proxies during more than three decades are imputable to him personally. His death has lifted his personal immunity *ratione personae*, so that, in any future contentious procedure relating to his acts in office, only a posthumous and symbolic dimension remains. His successor, Mojtaba Khamenei (Supreme Leader since 8 March 2026), now benefits from personal immunity in office; the legal and evidentiary work in his regard must, in the immediate term, focus on the documentation of his public statements and on the establishment of his decision-making role within the State apparatus, with a view to the post-immunity phase. The former Presidents Mahmoud Ahmadinejad (2005-2013), Hassan Rouhani (2013-2021) constitute potential targets whose former functional immunity is set aside for the gravest international crimes; the current President Masoud Pezeshkian (since July 2024) is covered by personal immunity for the duration of his term. The successive Ministers for Foreign Affairs (notably Mohammad Javad Zarif, the late Hossein Amir-Abdollahian who died in May 2024, and Abbas Araghchi in office since 2024) follow the same regime: personal immunity while in office, functional immunity set aside for the gravest crimes thereafter. The targeting of the leadership circle carries maximum symbolic and legal value, but must be calibrated according to the immunity status of each individual.

§ 2. The military command and intelligence structure

The second circle targets the chain of military command of the IRGC and the Quds Force, taking into account the major losses suffered during the 2026 Iran war. Hossein Salami (Commander-in-Chief of the IRGC, eliminated on 13 June 2025), Mohammad Pakpour (his successor as Commander-in-Chief of the IRGC, killed on 28 February 2026), Aziz Nasirzadeh (Minister of Defence, killed on 28 February 2026), Abdolrahim Mousavi (Chief of the General Staff of the Armed Forces, killed on 28 February 2026), Ali Shamkhani (head of the Defence Council, killed on 28 February 2026), Esmail Khatib (Minister of Intelligence and Security, reported killed in March 2026) and Ali Larijani (top national security official, reported killed in March 2026) are deceased. Their criminal responsibility can be addressed only through symbolic, evidentiary or institutional means. Their decisions in office nevertheless continue to bear on the responsibility of the Iranian State.

Several officials in this circle remain alive and constitute relevant targets for individual proceedings. Esmail Ghaani (Commander of the Quds Force since the elimination of Qassem Soleimani in January 2020); Mohammad Reza Naqdi; Mohammad-Reza Gharaei Ashtiani (former Minister of Defence from 2021 to 2024, Deputy Chief of the General Staff of the Armed Forces since August 2024); Majid Ebn-e-Reza (acting Minister of Defence since 2 March 2026); Amir Hatami (Commander-in-Chief of the Army since 14 June 2025); Eskandar Momeni (Minister of the Interior); Ahmad-Reza Radan (Chief of Police). The targeting of these officials is less hindered by immunities, as their status is not that of dignitaries covered by personal immunity. They are within the scope of universal jurisdiction proceedings, individual sanctions and communications to UN Special Procedures.

A specific sub-set of this circle deserves dedicated examination by reason of its eligibility for the avenue opened by the STCAU (Part Four, Section 8 *supra*). These are the Iranian officials involved in the chain of support to the war of aggression conducted by Russia against Ukraine, whose individual responsibility is engageable both before the STCAU and, by ricochet, in all proceedings concerning Iran's pattern of serial aggression. The principal officials emerging from the documentation produced by Western chancelleries and specialised research centres are: Mohammad Bagher Ghalibaf (Speaker of Parliament, former IRGC commander, alive and active);

Brigadier General Mohammad-Reza Gharai Ashtiani (former Minister of Defence under whose tenure the drone and ballistic missile contracts with Moscow were finalised, now Deputy Chief of the General Staff); Brigadier General Seyed Hamzeh Ghalandari (Director General for International Relations of MODAFI); Brigadier General Ali Jafarabadi (Head of the Space Command of the IRGC Aerospace Force); Majid Mousavi (Deputy Commander of the IRGC Aerospace Force); and Mehdi Gogerdchian (Managing Director of HESA, responsible for the production line of Shahed-136 drones supplied to Russia). This list, drawn from public designations (notably those of the UK Foreign Office of 10 September 2024 and of the US Treasury of 19 September 2023), constitutes an operational starting point for the strategy of individual prosecution at international, regional and national levels.

§ 3. Judicial and prison officials

The third circle targets judicial and prison officials directly involved in executions, arbitrary detentions and torture practices. These notably include Abolqasem Salavati, Judge of the Revolutionary Court of Tehran (the “hanging judge”), responsible for the pronouncement of very many death sentences on charges of espionage for Israel, as well as successive directors of Evin and Qarchak prisons. These individuals present a profile comparable to that of Hamid Nouri and constitute privileged targets for universal jurisdiction proceedings.

§ 4. Beneficiaries of institutional genocidal rhetoric

The fourth circle targets officials and public figures who have contributed to institutional genocidal rhetoric. The ICTR *Nahimana* case-law of 28 November 2007 (Judgment cited above) established that individual criminal responsibility for direct and public incitement to commit genocide can be engaged against political, religious or media authorities whose statements satisfy the constituent elements of the offence. That dimension is doctrinally the most novel and warrants particular investment in documentation, with a view to constituting individual case files exploitable both before the ICJ (on the ground of State responsibility for incitement, the State being bound by the conduct of its agents) and, in due course, before national criminal jurisdictions.

Section 3: International Jurisdictional Avenues

§ 1. The International Criminal Court

Article 27 of the Rome Statute expressly provides that immunities attached to official capacity do not bar the Court from exercising its jurisdiction over a person. The absolute character of that provision was confirmed by the ICC Appeals Chamber in its Decision of 6 May 2019 on Jordan's appeal in the Al-Bashir case.⁵⁸ That lifting of immunity nevertheless operates only within proceedings conducted by the Court itself, subject to the *ratione personae* jurisdictional questions already examined (Part Four, Section 3). The Article 13(b) route, by Security Council referral, remains the principal avenue to reach serving Iranian dignitaries at the ICC; in the current state of affairs, it is blocked by the Russian and Chinese vetoes.

§ 2. Ad hoc and hybrid mechanisms

The creation of an international, impartial and independent mechanism dedicated to the documentation of crimes attributable to Iran and its dignitaries, modelled on the IIIM Syria (resolution A/RES/71/248 of 21 December 2016) and the IIMM Myanmar (resolution A/HRC/RES/39/2 of 27 September 2018), would constitute the most powerful tool for individual accountability in the long term. The probability of adoption of a constitutive resolution by the General Assembly is not nil, given the current political dynamics and the feasibility of a simple majority, but it presupposes a dedicated and sustained advocacy effort.

Section 4: National Criminal Avenues

National criminal avenues (universal jurisdiction, passive or active personality jurisdiction) constitute the most operational channel in the short and medium term for individual accountability of Iranian dignitaries. The detailed cartography in Part Five is directly transposable here. France, in particular, can accommodate actions on the ground of passive personality jurisdiction (Article 113-7 of the Penal Code) where the victim is of French nationality, which is the case for several Franco-Israeli dual nationals victims of Iranian attacks and those of its proxies.

⁵⁸ ICC, Prosecutor v. Omar Hassan Ahmad Al-Bashir, Decision of the Appeals Chamber of 6 May 2019 on the appeal lodged by Jordan against the decision of Pre-Trial Chamber II of 11 December 2017, ICC-02/05-01/09-397-Corr. The Appeals Chamber confirmed the absence of immunity of a serving Head of State before the International Criminal Court, including before national courts requested to cooperate with it.

The recommended strategy consists in constituting, for each individual identified in the targeting of circles 2, 3 and 4, an exhaustive individual case file susceptible of being filed in the jurisdiction or jurisdictions most favourable. That preparation supposes documentary work of several months per file, in coordination with the UN organs producing characterisations (FFM Iran, Iran Special Rapporteur, Special Procedures), specialised NGOs and cooperative intelligence services. The Nouri precedent demonstrates the effectiveness of that approach.

Section 5: Non-Criminal Individual Avenues

§1. Individual targeted sanctions

The systematic extension of individual targeted sanctions to the four circles defined in Section 2 must constitute a short-term operational priority. Several hundred Iranian officials are already subject to sanctions by the European Union, the United States, the United Kingdom, Canada and Australia. Extension to officials not yet designated (notably circle 3 judicial officials and certain figures of circle 4) can be actively promoted, on the basis of documentation produced by the FFM Iran and specialised NGOs.

§2. Individual communications to Special Procedures and the WGAD

Although communications to Special Procedures and the WGAD are oriented towards the protection of victims, they produce, by mirror effect, a public identification of individual perpetrators of the acts in issue. WGAD Opinions systematically name the authorities responsible for arrests, prosecutions and convictions. That public documentation itself constitutes an exploitable basis for subsequent national criminal proceedings.

§3. Interpol notices and alerts

The issuance of Interpol Red Notices by competent national authorities (notably Argentina in the AMIA case) constitutes a powerful tool of territorial constraint. Any extension of the device to new cases, and notably to national judicial proceedings culminating in international arrest warrants, must be systematically explored.

Section 6: Articulation with State Responsibility

Individual criminal responsibility of dignitaries and international responsibility of the State are not alternatives but cumulative. The 2001 ILC Draft expressly recalls this at Article 58: the present articles are without prejudice to any question of the individual responsibility under international law of any person acting on behalf of a State. The strategy here proposed mobilises both registers simultaneously: actions against the Iranian State (ICJ, UN organs, State sanctions) produce a public characterisation of the acts, and actions against individuals (national criminal jurisdictions, individual sanctions, individual communications) translate that characterisation into personal consequences for the responsible persons.



Part Seven: Prioritization and Operational Sequencing

Section 1: Criteria of Prioritization

The prioritization of avenues of action identified in this memorandum rests on four cumulative criteria: probability of legal success in the light of identified procedural and substantive obstacles; time-frame of implementation and securing of a decision; media and political value of the expected decision; and cost in human, financial and diplomatic resources of the proceedings.

Section 2: First Line (Short Term, Six to Twelve Months)

The first line of action mobilises rapid-impact avenues, at moderate cost and with strong media impact. It comprises principally the Working Group on Arbitrary Detention (WGAD), for individual cases of Israeli, Jewish or dual nationals detained in Iran (beginning with the Ahmadreza Djalali case); joint urgent appeals of Special Procedures of the Human Rights Council on Iranian genocidal rhetoric and on executions on charges of espionage for Israel; support to the Independent International Fact-Finding Mission on Iran through the transmission of documented evidentiary materials relating to violations committed against the Israeli and Jewish civilian population; and the immediate extension of individual targeted sanctions to identified officials.

Section 3: Second Line (Medium Term, One to Three years)

The second line of action mobilises diplomatic and sanctions pressure avenues and transnational civil claims. It comprises: the systematic extension of targeted sanctions by the European Union, the United States, the United Kingdom, Canada and Australia against identified Iranian officials; the coordinated filing of civil claims before United States and Canadian jurisdictions under the ATA, JASTA, FSIA and the Justice for Victims of Terrorism Act, with a view to securing the conviction of Iran and the seizure of available Iranian assets; the tabling of annual thematic resolutions before the Human Rights Council and the General Assembly, complementing the traditional Canadian resolution; the promotion of the creation of an international, impartial and independent mechanism dedicated to the documentation of crimes attributable to Iran and its proxies against Israel and its civilian population.

Section 4: Third Line (Medium-long Term, Two to Five years)

The third line of action mobilises substantial national and international criminal avenues. It comprises: the coordinated filing of criminal complaints before German, Swedish, French, Dutch, Belgian, Swiss and Argentine jurisdictions, on the ground of universal jurisdiction, against identified Iranian officials; the preparation of a substantial criminal case file exploiting the FFM's work and all available documentation; the exploration of the route of territorial jurisdiction of the International Criminal Court via Iranian attacks committed on the territory of States Parties to the Rome Statute; and, an avenue of particular doctrinal density, the submission to the Office of the Prosecutor of the Special Tribunal for the Crime of Aggression against Ukraine (STCAU), in coordination with the Israeli authorities and allied States, of structured argumentation calling for the inclusion of identified Iranian officials in the personal scope of the proceedings, on the basis of Article 3(g) of UNGA Resolution 3314 (XXIX) and Article 2 of the Statute of the Tribunal. Securing the inclusion of one or more Iranian officials within the personal scope of an STCAU prosecution would produce a precedent of major value, directly transposable to the strategy of engaging Iranian responsibility for its acts and those of its proxies against Israel.

Section 5: Fourth Line (Long Term, Five to Ten Years)

The fourth line of action mobilises the most substantial international contentious jurisdictional avenues. It comprises principally the application instituting proceedings before the International Court of Justice on the ground of Article IX of the 1948 Genocide Convention, articulated around three heads (direct and public incitement to commit genocide, complicity in genocide, breach of the positive obligation to prevent). That avenue supposes the engagement of a sponsoring State (Israel in the first place, but the opening of standing to act to States not directly the victim by the *Gambia v. Myanmar* Judgment of 22 July 2022 considerably broadens the circle of mobilisable States). It also supposes procedural and substantive preparation of exceptional rigour, over a period of at least eighteen to twenty-four months preceding the filing of the application.

Section 6: Coordination and Institutional Architecture

The coherent implementation of that strategy supposes close coordination between a plurality of actors: the Government of the State of Israel and notably the Ministry of Justice, the Ministry of Foreign Affairs and the Prime Minister's Office; victim organisations and their legal representatives; international specialised non-governmental organisations (notably Justice for Iran, Iran Human Rights, Center for Human Rights in Iran, IranWire, Lawfare Project, Shurat HaDin); academic jurists and specialised research centres (Kohelet Policy Forum, INSS, BESA Center, Begin-Sadat Center, ICT Herzliya, as well as equivalent centres in Europe and North America); and competent national and international jurisdictions.

A dedicated coordination body, equipped with adequate means and placed within a top-rank Israeli institution, would constitute the most effective architecture to ensure the coherence and continuity of that strategy over time. Failing that, and pending such a body, the Kohelet Policy Forum has the legal competence and institutional credibility to play an informal coordination role between the various identified actors.



Conclusion

The Islamic Republic of Iran long believed it could escape international responsibility by outsourcing the conduct of hostilities against the State of Israel and its civilian population to a network of non-State armed organisations. That strategy, which for long prospered under the cover of a presumption of legal invulnerability, today faces a bundle of grounds and avenues of action which render the engagement of Iranian responsibility legally workable, provided a coherent, persevering and coordinated strategy is followed.

None of the avenues identified here suffices in itself to attain the objective of full and complete engagement of Iranian responsibility. It is their coordinated and prioritization deployment that will produce the desired effect. The present memorandum proposes an exhaustive roadmap whose implementation requires a sustained institutional effort, but which corresponds to the gravity of the acts in issue and to the strategic importance for the State of Israel and for its nationals.

The present design assumes an explicit methodological position. It refuses to yield to two symmetrical temptations. The first, that of abstention on the pretext of the structural anti-Israel bias of several UN institutions, would amount to ceding to actors hostile to Israel the terrain of international normative production. The second, that of institutional naivety, would amount to according those same institutions credit which their current functioning does not warrant. The path traced here is narrow and demanding: rigorously using the operational mechanisms that produce usable results, publicly denouncing the contradictions of the biased mechanisms, and actively promoting the necessary structural reforms.

The legal defence of the State of Israel and of its civilian population against Iranian aggression constitutes, at this historical moment, one of the major projects of contemporary international law. The capacity of the international legal community to respond to it will determine, for decades, the effectiveness of the international system of protection against aggression and State terrorism.

“The legal defence of the State of Israel and of its civilian population against Iranian aggression constitutes, at this historical moment, one of the major projects of contemporary international law.”

Annex 1. Synthesis of mobilisable legal grounds

The table below summarises the principal grounds identified in this memorandum.

Ground	Legal basis	Standard of proof	Procedural route
Attribution stricto sensu	Article 8 ILC 2001 Draft; Nicaragua 1986; Bosnia v. Serbia 2007	Effective control over specific operations (demanding)	ICJ; national civil jurisdictions
Aid and assistance	Article 16 ILC 2001 Draft; customary international law	Act of aid + knowledge + wrongfulness (accessible)	ICJ; national jurisdictions
Ex post recognition / adoption	Article 11 ILC 2001 Draft; Diplomatic Staff 1980	Official recognition suffices	ICJ; national jurisdictions
Breach of genocide prevention obligation	Article I 1948 Convention; Bosnia v. Serbia § 430	Capacity to influence + abstention	ICJ (Article IX)
Public incitement to genocide	Article III(c) 1948 Convention; Akayesu 1998; Nahimana 2007	Public, direct and specific character	ICJ (Article IX); ICC (territorial jurisdiction)
Crimes against humanity	Article 7 Rome Statute; customary international law	Widespread or systematic attack against civilian population	ICC (under conditions); national jurisdictions
Crime of aggression	Article 8 bis Rome Statute; resolution 3314 Article 3(g)	Sending by State of bands / irregular forces + gravity	National jurisdictions (ICC closed)
Terrorist financing	1999 Convention; SC resolution 1373 (2001); 2462 (2019)	Intentional provision of funds	National criminal and civil jurisdictions
Unlawful use of force	Article 2(4) UN Charter; Nicaragua 1986	Use of armed force without justification	ICJ; Security Council

Annex 2. Synthesis of avenues of action

The table below summarises the principal procedural avenues identified, with indicative appreciation of their feasibility, timeframe and strategic value.

Avenue	Feasibility	Timeframe	Strategic value
WGAD (individual cases)	Very high	6-12 months	High (dense case-law, media coverage)
HRC Special Procedures (urgent communications)	Very high	A few weeks	Medium to high
US civil claims (ATA/JASTA/FSIA)	High for US nationals	2-5 years	Very high (asset seizures)
Canadian civil claims (JVTA)	High for Canadian nationals	2-5 years	High
Universal jurisdiction (Germany, Sweden, France, etc.)	Variable on accused presence	3-7 years	Very high (Nouri precedent)
Targeted sanctions (EU, US, UK, Canada)	High	6 months – 2 years	High (immediate effect)
ICJ, Article IX Genocide Convention	Medium (demanding characterisation)	5-10 years	Maximum (major legal effect)
ICC, territorial jurisdiction	Low to medium	5-10 years	Very high if admitted
STCAU (crime of aggression v. Ukraine)	Medium (substantial involvement to be established)	1-3 years (Tribunal under institutional implementation)	Very high (directly transposable precedent)
Security Council (Chapter VII resolutions)	Low (predictable vetoes)	Variable	Maximum if adopted
GA/HRC resolutions	High	Annual cycle	Medium (political effect)
IIIM-style mechanism dedicated to Iran	Low (GA resolution required)	1-3 years for creation	Very high for future justice

Annex 3. International designations and sanctions against Iran (selection)

United States: designation as State Sponsor of Terrorism (19 January 1984, maintained since); designation of the IRGC as a whole as a Foreign Terrorist Organization (8 April 2019); multiple designations of the Quds Force, Kataib Hezbollah, Hezbollah, Hamas, PIJ, Houthis (Ansar Allah); redesignated by the Biden administration as a Specially Designated Global Terrorist (SDGT), effective 16 February 2024; redesignated as a Foreign Terrorist Organization by the Trump administration following Executive Order 14175 of 22 January 2025, announced by the State Department on 4 March 2025 and effective upon Federal Register publication on 5 March 2025. Extensive OFAC sanctions.

Canada: listing of Iran as a State sponsor of terrorism under the State Immunity Act as amended by the Justice for Victims of Terrorism Act (7 September 2012); designation of the IRGC as a whole as a terrorist entity (June 2024).

United Kingdom: proscription of Hamas (2021), Hezbollah (2019), the Houthis/Ansar Allah (2024); extensive sanctions on the IRGC; debate on full proscription of the IRGC ongoing since 2023.

European Union: Common Position 2001/931/CFSP and Regulation (EC) 2580/2001 (terrorist lists); EU Global Human Rights Sanctions Regime (Regulation 2020/1998); cumulative sanctions against several hundred Iranian individuals since October 2022; activation of snapback in August 2025.

UN Security Council: resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1929 (2010), 2231 (2015); automatic restoration of sanctions through snapback on 28 September 2025.

KOHELET POLICY FORUM

The Kohelet Policy Forum in Jerusalem strives to secure the future of Israel as the nation-state of the Jewish People, to strengthen Israeli democracy, expand individual liberty, and deepen free market principles in Israel. The Forum is a non-partisan entity. It relies on private donations and does not accept, directly or indirectly, public funds from any government, domestic or foreign. The Forum's legislative research, policy papers, and other research-based products are offered to Israeli decision-makers and to the public free of charge.



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ISBN 978-965-7796-24-5

