

Weaponizing the Dollar: How Financial Sanctions Entrench Global Inequality

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International law's promise to support peace, rights, and accountability is increasingly tested by the use of dollar-based payment and custody systems as instruments of financial sanctions. Some sanctions scholarship and policy analysis treat these systems as neutral channels and focus on formal legal prohibitions. This article argues instead that, in a dollar-centred order, sanctions operate through payment, settlement, correspondent banking, and reserve-custody infrastructures that shift decision-making power and distribute coercive pressure unevenly. It asks one overarching question: How do current U.S.-led financial sanctions entrench global inequality, and what reforms in international law could rebalance power and accountability in sanctions practice? The article advances two claims. First, the design of asset freezes, combined with the risk of secondary sanctions, related extraterritorial compliance pressures, and broader compliance expectations, turns private financial intermediaries into enforcement agents and extends the practical reach of sanctions beyond the issuing state's formal jurisdiction. Second, this hybrid enforcement structure generates asymmetric burdens, including liquidity constraints, transaction frictions, humanitarian spillovers, and third-state adjustment costs, that are borne disproportionately outside sanctioning states. Methodologically, the paper combines doctrinal analysis of U.S. and EU sanctions measures, read alongside relevant UN humanitarian and accountability frameworks, with a Third World Approaches to International Law (TWAIL)-informed political economy analysis of monetary sovereignty and financial infrastructure. Two contemporary episodes anchor the analysis: the February 2022 U.S. freeze of Afghanistan's central bank reserves, and the coordinated G7, EU, and U.S. sanctions targeting Russia after February 2022. On this basis, the paper proposes a reform agenda centred on stronger multilateral oversight, ideally through a UN-based or UN-adjacent mechanism, for measures affecting sovereign reserves, clearer legal limits and review mechanisms for central-bank asset freezes, and enforceable humanitarian and due-process safeguards.

Keywords: financial sanctions, dollar clearing, correspondent banking, reserve immobilisation, de-risking, humanitarian carve-outs, TWAIL

Introduction

Financial sanctions have become a central technique of contemporary international economic governance. Yet some sanctions scholarship and policy analysis still treat payment, settlement, and reserve-custody systems

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as neutral channels through which legal prohibitions merely pass. That framing is incomplete.

In a dollar-centred order, sanctions are implemented through infrastructures that allocate access, shape risk, and distribute coercive pressure unevenly. When those infrastructures are used to block assets, disrupt payments, or deter counterparties, decision-making power shifts toward states and private actors that control the relevant chokepoints (Goede & Westermeier, 2022).

This article asks one overarching question: How do contemporary U.S.-led financial sanctions entrench global inequality, and what reforms in international law could rebalance power and accountability in sanctions practice?

The argument is that this question cannot be answered by looking only at the formal legality of sanctions measures. It also requires attention to the dollar-based payment and custody infrastructures through which sanctions are implemented. It further requires attention to the private intermediaries that operationalise those infrastructures and to the distributive consequences that follow for sanctioned societies and third states with limited monetary autonomy.

The article advances two claims.

Claim 1: The design of asset freezes, combined with the risk of secondary sanctions, related extraterritorial compliance pressures, and broader compliance expectations, turns private financial intermediaries into enforcement agents and extends the practical reach of sanctions beyond the issuing state's formal jurisdiction.

Claim 2: This hybrid enforcement structure generates asymmetric burdens, including liquidity constraints, transaction frictions, humanitarian spillovers, and third-state adjustment costs, that are disproportionately borne outside sanctioning states.

Methodologically, the paper combines doctrinal analysis of U.S. and EU sanctions measures, read alongside relevant UN humanitarian and accountability frameworks, with financial-infrastructure analysis and a Third World Approaches to International Law (TWAIL)-informed political economy of monetary sovereignty. It distinguishes messaging from settlement, examines correspondent banking and reserve-custody chains, and situates those mechanisms within broader debates about hierarchy in international law. TWAIL scholarship has long traced how formally universal legal orders reproduce unequal material power (Anghie, 2005; Chimni, 2006).

This paper extends that critique to sanction governance by showing that formal sovereign equality often coexists with unequal practical access to functioning payment channels, reserve mobility, and monetary policy space.

Two contemporary episodes anchor the analysis. The first is the February 2022 U.S. freeze of Afghanistan's central bank reserves, following the August 2021 Taliban takeover, which exposed a sharp gap between humanitarian authorisation and payment operability. The second is the coordinated G7, EU, and U.S. sanctions imposed on Russia following its full-scale invasion of Ukraine in February 2022, where reserve immobilisation and payment restrictions operated through custody, settlement, and compliance infrastructures while generating substantial spillovers to third states.

The relevant literature can be grouped into four overlapping strands.

First, doctrinal and policy-oriented sanctions scholarship has primarily assessed the legality, design, and effectiveness of sanctions as formal measures, often treating the financial infrastructures through which sanctions operate as background conditions rather than as objects of analysis (Biersteker, Eckert, & Tourinho, 2016;

Drezner, 2021; 2024; Hufbauer, Schott, Elliott, & Oegg, 2009). Recent work on infrastructural geopolitics, by contrast, shows why those infrastructures should be treated as objects of analysis in their own rights (Goede & Westermeier, 2022). Second, critical work on infrastructural geopolitics and weaponized interdependence has shown that payment and messaging systems are politically constituted architectures rather than neutral pipelines (Farrell & Newman, 2019). Third, TWAIL and related political economy scholarship has shown how formally universal legal regimes reproduce hierarchy through unequal distribution of material and political power (Anghie, 2005; Chimni, 2006). Fourth, compliance and humanitarian-practice literatures document over-compliance, de-risking, and the gap between legal exemptions and actual payment access (Financial Action Task Force [FATF], 2012; Financial Stability Board [FSB], 2015; United Nations Security Council, 2021; United Nations Security Council, 2022; World Bank Group, 2015). This article brings these strands together to show that sanctions' deepest asymmetries arise at the infrastructural layer where public legal authority is translated into private risk decisions inside a dollar-centred system.

The article proceeds in direct response to the research question. The next section explains why sanctions implemented through dollar-based payment and reserve infrastructures are structurally capable of entrenching inequality. The following section identifies the legal and institutional channels through which public authority is converted into private enforcement, with particular attention to over-compliance, de-risking, and de facto extraterritoriality. The Afghanistan and Russia sections then test those mechanisms against the two anchor episodes by separating legal design, implementation incentives, financial operability, and distributive outcomes. The reform section answers the second part of the research question by proposing stronger multilateral oversight for sovereign reserve measures, ideally through a UN-based or UN-adjacent mechanism, clearer legal limits and review mechanisms for central-bank asset freezes, operational humanitarian safe channels, and due-process and error-correction safeguards. The conclusion argues that international economic law should subject sanctions organised through dollar infrastructures to stronger multilateral oversight, clearer legal limits, operational humanitarian channels, and due-process safeguards.

Overall, this paper argues that the decisive issue is not simply whether sanctions are formally lawful, but whether a sanctions practice organised through dollar infrastructures can be reconciled with accountability, sovereign equality, and civilian protection.

Sanctions as Infrastructural Governance in a Dollar Order

This section answers the first part of the research question by showing why dollar-based sanctions are not neutral legal measures but distributive forms of infrastructural governance.

It develops the first claim: Financial sanctions govern through infrastructure, not only through law. The argument turns on a simple but often overlooked point. Payment and reserve systems are governance sites, not neutral conduits. A first distinction is that messaging is not settlement. Financial messaging networks transmit standardised instructions and confirmations (SWIFT, 2020). They do not themselves move funds.

A prominent example is the Belgium-based cooperative Society for Worldwide Interbank Financial Telecommunication (SWIFT), which describes itself as a member-owned provider of secure financial messaging across jurisdictions (Congressional Research Service, 2021). In policy debate, excluding a bank from SWIFT is often treated as if it were the same as excluding it from settlement. But these are different layers. Messaging

concerns how banks send payment instructions, while settlement concerns where payment obligations are finally discharged on balance sheets. The distinction matters because sanctions (or humanitarian exceptions) often bite at the settlement layer, and that constraint cannot be removed simply by using a different messaging format.

A second distinction is that correspondent banking is not optional for much of the world. It is the core architecture for cross-border payments. A Payments Risk Committee report sponsored by the Federal Reserve Bank of New York defines correspondent banking as an arrangement in which a correspondent bank holds deposits owned by respondent banks and provides payment and related services (Payments Risk Committee, 2003). In plain terms, this allows banks without direct access to a foreign currency's clearing system to make payments in that currency, especially U.S. dollars. For example, if a bank in Ghana needs to pay a supplier in USD, it will often send the payment through a correspondent bank with dollar accounts and access to the relevant settlement system. If that correspondent refuses the transaction, the payment may not go through.

A third distinction concerns large-value settlement in the U.S. It is organised around central bank money (Fed accounts) and private net-settlement arrangements. The Federal Reserve Banks describe Fedwire Funds as a real-time gross settlement (RTGS) system, meaning that payments are settled one by one, in central bank money, as they are sent rather than being accumulated and netted later (Board of Governors of the Federal Reserve System, 2014). In 2024, depository institutions originated about 210 million Fedwire transfers, with average daily value around \$4.5 trillion (Board of Governors of the Federal Reserve System, 2024).

The BIS (Bank for International Settlements) "Red Book" identifies two major large-value funds transfer systems in the United States, Fedwire Funds, and Clearing House Interbank Payments (CHIPS), within the broader payment-and-settlement architecture (Committee on Payment & Settlement Systems [CPSS], 2012). The key structural point is that dollar settlement depends on both central bank and private large-value payment infrastructures.

Fourth, and central to the paper, reserve-custody chains are governance levers. Foreign official institutions, including central banks, hold deposits and securities abroad for liquidity, intervention, and transaction needs (including rapid access to USD liquidity). Reserves held abroad receive especially strong protection against execution under international law, which reflects their legal sensitivity. That heightened protection, and the disputes that follow in sanctions contexts, show that custody arrangements are legal constraint points rather than neutral back-office machinery (Brunk, 2023).

The New York Fed provides foreign central banks and international organisations with services for holding cash, securities, and gold, showing how much official reserve management depends on correspondent and custody arrangements (Federal Reserve Bank of New York, n.d.). It also provides eligible account holders with access to the Foreign and International Monetary Authorities (FIMA) Repo Facility, which allows them to obtain dollars temporarily by using their U.S. Treasury securities as collateral (Board of Governors of the Federal Reserve System, 2022).

Such mechanisms reveal a structural fact. Participation in the dollar order does not simply mean holding USD-denominated claims in the abstract. It often depends on holding or moving assets through custody, settlement, and liquidity infrastructures subject to U.S. jurisdiction or concentrated in closely aligned financial centres, so transfer and use remain vulnerable to U.S. legal authorisations and licensing rules, and recognition-

based controls (Jurisdiction of United States Courts; Disposition by Banks of Foreign Owned Property, 12 U.S.C. §632, n.d.).

This is the infrastructural basis of Claim 1. Sanctions are most constraining when they restrict access not only to formal legal entitlements, but also to the infrastructures that make cross-border payments and reserve use possible in practice, especially correspondent banking, settlement rails, and custodial services (Cipriani, Goldberg, & La Spada, 2023).

The argument is not that law is irrelevant. Rather, law's reach is amplified and reshaped by infrastructural topology.

Put differently, infrastructure is a jurisdictional technology. Once sanctions are understood as operating through infrastructural chokepoints, the issue is not merely technical design but the distribution of control: Who governs those chokepoints, and on what terms? A critical, regional, and political economy perspective clarifies why these infrastructures are not neutral. TWAAIL scholarship argues that international law's universalist language can elevate particular power structures to the status of the "universal", reproducing durable asymmetries, including in development and post-imperial governance projects (Eslava & Pahuja, 2011).

In monetary and financial governance, hierarchy is partly infrastructural because access to liquid reserve currencies and the ability to settle cross-border payments without external gatekeepers is unevenly distributed. IMF (International Monetary Fund) analysis shows that the dollar's role in global trade invoicing, international debt, and cross-border non-bank borrowing exceeds the United States' shares in trade and international borrowing and lending (Arslanalp, Eichengreen, & Simpson-Bell, 2022). This gap reflects a form of monetary dominance that is not proportional to the issuer's economic footprint. Accordingly, sanctions routed through USD infrastructures impose systematically higher vulnerability on states and firms outside core dollar networks.

Channels of Legal Authority and Private Enforcement

Sanctions do not operate only through legal texts. They bite through the institutions that decide which payments, assets, and services remain operable. This section develops Claim 2 by showing how asset-freeze design, the risk of secondary sanctions and related extraterritorial compliance pressures, and compliance expectations translate public sanctions authority into private enforcement. It maps the legal and institutional channels through which public sanctions authority is converted into private risk decisions, externalising compliance costs and humanitarian harms to targeted societies and third states. It treats sanctions as a hybrid regime of public authority and private risk management.

A key doctrinal point is that sanctions regimes are implemented through administrative law structures that delegate enormous practical control to regulated intermediaries. In the United States, the Treasury Department's Office of Foreign Assets Control (OFAC) administers and enforces economic sanctions programs that may be comprehensive or selective, and that operate through asset-blocking measures and trade restrictions (Office of Foreign Assets Control, n.d.). Large penalties and strict compliance expectations reshape bank behaviour well beyond the letter of regulations, especially when global banks process USD transactions that touch sanctioned jurisdictions or parties.

Three enforcement episodes make the mechanism concrete. In the BNP Paribas matter, OFAC records that non-U.S. branches routed thousands of USD payments to or through U.S. financial institutions, including via

USD SWIFT messages (U.S. Department of the Treasury, Office of Foreign Assets Control, 2014). The key point is jurisdictional rather than geographic. The underlying business was often conducted outside the United States, but once the payments were denominated in USD and routed through U.S. correspondent and clearing channels, they entered an infrastructure subject to U.S. sanctions controls. In that sense, the enforcement hook did not depend only on where the parties were located. It depended on the payment path needed to complete the transaction (U.S. Department of Justice, 2014).

The Commerzbank case shows how this logic can extend from settlement to messaging. OFAC's 2015 settlement addressed payment practices that interfered with sanctions controls (Office of Foreign Assets Control, 2015). In its March 2015 deferred prosecution agreement, Commerzbank committed to applying OFAC screening not only to USD transactions but also to incoming and outgoing cross-border USD SWIFT payment messages (U.S. Department of Justice, 2015). This matters because banks are expected to stop problematic transactions earlier in the process. The bank is not only expected to monitor payments at the point where funds clear. It is also expected to examine the payment instructions themselves and stop problematic transactions before settlement occurs. In practical terms, sanctions control thus reaches beyond the final movement of funds and into the communicative and operational processes through which global banks decide which transactions may proceed at all.

OFAC's 2019 settlement with UK-headquartered Standard Chartered points in the same direction: U.S. sanctions compliance expectations can travel through global banking operations (U.S. Department of the Treasury, Office of Foreign Assets Control, 2019). The significance is again institutional rather than territorial. A bank headquartered outside the United States may still have to organise group-wide compliance around U.S. sanctions risk when parts of its payment flows, client relationships, or dollar operations depend on U.S.-linked financial channels. This further blurs the line between domestic regulation and extraterritorial practical effect, because internal compliance choices across the bank's network are shaped by anticipated exposure to U.S. enforcement.

These cases matter in this paper not as moral exhibits but as institutional evidence of incentives. They help explain why private compliance officers and correspondent banking departments often choose to avoid a transaction category rather than price and manage risk, particularly when risk is uncertain, penalties can be large, and reputational costs are high. This is the classic dynamic of "over-compliance" and "de-risking".

The international policy community has recognised de-risking as a structural challenge. The FSB defines de-risking as terminating or restricting relationships to avoid, rather than managing money laundering or terrorist financing risks and warns of negative impacts on correspondent banking (FSB, 2016). The FATF similarly defines de-risking as terminating or restricting relationships with entire countries or customer classes to avoid, rather than manage, risks (FATF, 2016). IMF staff report that, based on survey and other available evidence, the withdrawal of correspondent banking relationships has been felt most acutely in some smaller emerging and developing economies and may be particularly acute for countries under sanctions (Erbenová et al., 2016). These are not peripheral observations: Because correspondent banking is the infrastructure of cross-border payments for many jurisdictions, de-risking becomes a mechanism by which sanctions' costs are exported along the payment chain.

Humanitarian operations are particularly exposed to the design-delivery gap. The Special Rapporteur on unilateral coercive measures has documented how sanctions overcompliance can obstruct humanitarian operations: Excessive de-risking by banks can impede the financial and transactional channels needed for the flow of humanitarian goods and services (Douhan, 2024). Eckert's analysis in the International Review of the Red Cross notes that, in highly sanctioned contexts, financial institutions' risk aversion and fear of regulatory scrutiny can lead banks to withhold services from non-profit (including humanitarian) organisations, creating acute obstacles to moving funds for aid delivery (Eckert, 2022). This is crucial for Claim 2: Formal humanitarian exemptions can exist while payment operability collapses because private intermediaries cannot or will not process transactions.

At the multilateral level, the UN Security Council has increasingly recognised the need to protect humanitarian action from sanctions' unintended effects. Resolution 2615 (2021), on Afghanistan, decided that humanitarian assistance and associated payments needed to support delivery do not constitute a violation of specified Taliban-related sanctions measures, and provided for review after one year (United Nations Security Council, 2021). Resolution 2664 (2022) introduced a standing humanitarian exemption to UN Security Council asset-freeze measures, providing that the provision, processing, or payment of funds (and the provision of goods and services) necessary for humanitarian assistance or other basic-needs activities by specified humanitarian providers is permitted and does not breach those asset freezes (United Nations Security Council, 2022). These developments show that even within the Security Council, humanitarian and operational concerns have moved from ad hoc mitigation to generalised carve-outs. But, as this paper argues, carve-outs do not automatically resolve the operability problem. They must be paired with protected channels and compliance safe harbours to change bank behaviour.

Finally, due process and accountability deficits are persistent in both UN and unilateral sanctions. In the Security Council's ISIL (Da'esh) and Al-Qaida sanctions regime, delisting petitions may be submitted to an Ombudsperson whom the Council describes as "independent and impartial" and tasked with reviewing requests to be removed from the sanctions list (United Nations Security Council, n.d.). The significance of this mechanism is that it recognises the need for some institutional review within a sanctions framework otherwise dominated by security determinations. At the same time, it also shows the narrowness of existing safeguards: The issue is not whether review exists in some form, but whether affected parties receive timely reasons, access to the basis for the measure, and a meaningful opportunity to contest it before severe restrictions take effect. The EU courts' Kadi case-law makes the same point from another angle. It shows that sanctions listings cannot rest only on executive or diplomatic assertion: If the listed person is not told the reasons for the measure, is not given sufficient access to the case against them, and has no real opportunity to respond, the listing may be annulled for violating defence rights and the right to effective judicial protection. Procedural weakness therefore becomes a legal weakness in the sanctions regime itself (*Kadi and Al Barakaat v. Council and Commission*, 2008). These procedural debates become acute when sanctions measures target or immobilise sovereign assets. Affected populations often have weak channels to contest decisions, while core listing and enforcement choices are made in fora where targeted states have limited procedural parity and remedies.¹

¹ The remaining sections apply this framework by distinguishing (i) legal design, (ii) implementation incentives, (iii) financial operability, and (iv) distributive outcome, and applying it to the two anchor episodes.

Afghanistan Reserve Freeze and the Design-Delivery Gap

This case shows how freezing reserves through the U.S. custody system can deepen inequality by shifting liquidity pressures and humanitarian costs onto a population with very limited control over its own monetary system. The design-delivery gap refers to the difference between the intended legal and policy goals, namely protecting assets for the Afghan people while blocking Taliban access, and the real-world outcomes. In practice, those outcomes resulted in economic harm to civilians, humanitarian crisis, and deeper inequality. The freeze deepened poverty and shifted costs onto vulnerable populations because formal rules did not translate into effective implementation. Instead, private banks and financial systems de-risked—avoided risks—in ways that amplified the sanctions' effects.

The analytical question is how the 2022 U.S. freeze of Afghan central bank reserves translated formal legal measures into operational payment stress and asymmetric distributive effects. The section proceeds through legal design, implementation incentives, financial operability, distributive outcomes, and accountability.

Legal Design

After the Taliban takeover in August 2021, the U.S. placed a hold on Da Afghanistan Bank (DAB) assets, including reserves at the Federal Reserve Bank of New York (FRBNY), to prevent Taliban access. On 11 February 2022, Executive Order 14064 blocked DAB property held in the United States, and established a framework for using part of those assets for the benefits of the Afghan people (Executive Order No. 14064, 2022; Weiss, Thomas, & Elsea, 2023). The order declared a national emergency and blocked all DAB property and interests in property in the United States, in the possession or control of U.S. persons, or later transferred into U.S. jurisdiction (Executive Order No. 14064, 2022). It also directed U.S. financial institutions to transfer blocked DAB property into a consolidated account at the FRBNY. This means that DAB assets held by U.S. financial institutions were centralised within Federal Reserve custody infrastructure and remained subject to the order's blocking, transfer, and licensing framework² (Executive Order No. 14064, 2022).

According to the Congressional Research Service, drawing on DAB's June 2021 financial statement, DAB held approximately US\$9.5 billion in total international reserve before the Taliban takeover, of which approximately US\$7 billion was held at the Federal Reserve Bank of New York (Weiss et al., 2023).

Litigation materials before the Second Circuit refer to approximately US\$7 billion in DAB assets originally held at the FRBNY, while the claims before the court concerned the remaining approximately US\$3.5 billion after the other half had been transferred to the Fund for the Afghan People (*Havlish v. Taliban; Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025). These figures identify the principal pool of assets that became the focus of the legal and political dispute.

At the same time, the blocked reserves became the object of domestic U.S. litigation by private plaintiffs seeking either pre-judgment attachment or turnover of the funds to satisfy Taliban-related judgments (*Havlish v. Taliban; Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025).

² FRBNY custody provides operational control over dollar-denominated assets. This consolidation at the FRBNY is foundational to the claim that sanctions rely on U.S. financial infrastructure (infrastructural governance). The U.S. exercises control not through direct commands to Afghanistan, but by controlling the custody and settlement systems through which assets flow.

On 26 August 2025, the U.S. Court of Appeals for the Second Circuit rejected both routes. It held that the remaining DAB funds at the FRBNY were protected by execution immunity under the FSIA (Foreign Sovereign Immunities Act) because DAB remained the central bank of a foreign state still recognised by the U.S. Executive.³ The court further held that the Terrorism Risk Insurance Act of 2002 (TRIA) did not permit attachment. Although TRIA can override sovereign immunity in some terrorism cases, it applies only to assets of the terrorist party or its agency or instrumentality. Assessing DAB's status as of the date the funds were blocked, the court concluded that DAB was not an agency or instrumentality of the Taliban for TRIA purposes at the relevant time (*Havlish v. Taliban; Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025).

The resulting structural tension reveals the paradox at the heart of the freeze: Courts affirmed that DAB's assets were legally protected (immunised from seizure by private creditors seeking Taliban-related judgments) yet those same assets remained operationally immobilised under executive emergency powers. The freeze thus combined two contradictory legal statements: DAB's assets are legally immune (protected), yet they remain frozen and unusable (immobilised). This was publicly framed as protecting the assets for the Afghan people, but the operational effect was permanent unavailability. The reason is that humanitarian relief was structured through exceptions to the blocking regime, not through restoration of DAB's ordinary access to its reserves. Licences could authorise particular third-party transactions, but they did not return the reserves to the central bank, restore its balance-sheet capacity, or allow it to perform core monetary functions such as supplying system-wide liquidity to commercial banks. Meanwhile, any broader release was conditioned on keeping the funds outside Taliban control, and part of the reserves was moved into a separate third-party fund rather than restored to DAB. Humanitarian permission therefore existed at the level of limited flows, while immobilisation persisted at the level of the reserves themselves (Executive Order No. 14064, 2022; OFAC, 2022; Swiss Federal Council, 2022; U.S. Department of the Treasury, OFAC, n.d.).

Alongside the blocking framework, a second governance mechanism was created for part of the reserves. In September 2022, the Fund for the Afghan People was established in Geneva under Swiss law, with U.S. and Swiss support, to receive and manage around US\$3.5 billion of Afghan central bank assets⁴ (Swiss Federal Council, 2022; U.S. Department of State, 2022). The Second Circuit narrative likewise records the transfer of US\$3.5 billion to an account at the BIS, subject to conditions governing any possible return to DAB (*Havlish v. Taliban; Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025). The resulting structure combined public executive action, a private-law institutional vehicle, and central-bank custody infrastructure.

The blocking framework was accompanied by a parallel licensing mechanism: exceptions authorising humanitarian transactions. This system worked on two tracks. On one track, the U.S. blocked Afghan central bank assets and restricted financial activity, which gave it operational control. On the other track, OFAC issued licenses allowing certain transactions, especially humanitarian ones. Starting on 24 September 2021, OFAC began issuing these Afghanistan-related General Licenses and later expanded them through additional licenses

³ The Foreign Sovereign Immunities Act (FSIA) is a U.S. federal law that generally immunises foreign sovereigns and their property from lawsuits and enforcement actions in U.S. courts, with limited exceptions. Execution immunity specifically prevents seizure of sovereign property to satisfy judgments.

⁴ The Fund for the Afghan People was designed as a potential pathway for eventual return of assets to DAB, subject to conditions (such as verification of legitimate governance). Publicly available materials do not indicate that the Fund's assets have been returned to DAB as of 2026; instead, the assets remain subject to the Fund's governance and disbursement framework.

(U.S. Department of the Treasury, OFAC, n.d.). OFAC Frequently Asked Questions (FAQ) 962 stated that banks could process transactions ordinarily incident and necessary to authorised activities, including clearing, settlement, and transfers involving Afghan depository institutions (OFAC, 2022). On paper, therefore, the legal design combined the blocking of central bank assets with express permission for certain humanitarian financial flows.

Implementation Incentives

In practice, formal authorisation did not remove private-sector risk aversion. Humanitarian reporting describes non-governmental organisations (NGOs) struggling to access banking services even where licences existed (World Bank, 2022). This pattern is consistent with IMF evidence on correspondent banking withdrawals, where banks terminate or restrict relationships in response to sanctions exposure, anti-money laundering and countering the financing of terrorism (AML/CFT) concerns, and perceived supervisory or reputational risk (Erbenová et al., 2016). In Afghanistan, banks faced a layered risk environment: Taliban-related sanctions, counterterrorism-finance controls, weak counterparty confidence, uncertain enforcement boundaries, and fears of indirectly funding the Taliban. The predictable result was de facto private enforcement through the refusal of transactions.

Financial Operability

The reserve freeze mattered because it constrained core central-bank functions. World Bank analysis reports that DAB lost access to foreign reserves and, amid limited foreign currency and banknote supply constraints, could not provide adequate liquidity to commercial banks (World Bank, 2022). IMF analysis also shows that after August 2021 the amount of money circulating in Afghanistan's economy fell sharply. This reflected lower aid inflows, shortages in cash supply, weak bank lending, and reduced access to foreign correspondent-banking channels (Badr, 2025).

This mechanism should be stated precisely. The episode was not simply about “printing money”, that is, the central bank over-issuing currency to cause inflation. Instead, it involved three simultaneous collapses: the halt of external aid inflows, the central bank's inability to perform its core functions due to frozen reserves, and banks adopting restrictive lending and transaction policies. Together, these factors reduced the flow of money in the economy and made basic payments difficult. Humanitarian organizations' reliance on cash-based transfers and special exchange facilities is therefore evidence of a design-delivery failure: Although legal permissions for banking existed, the practical banking system remained unreliable (World Bank, 2022).

Distributive Outcomes

United Nations Development Programme (UNDP) reports that the liquidity and financial-services crisis coincided with a near-collapse of microfinance, with disproportionate burdens on poor and female borrowers (UNDP, 2022b). UNDP also projected a large GDP contraction and linked the freeze and sanctions environment to a severe liquidity shock and broader economic decline (UNDP, 2022b). United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reporting tracks sustained humanitarian financing pressures over the same period (United Nations OCHA, 2022).

The claim is not due to a single cause. The Taliban takeover, aid withdrawal, and domestic political constraints were all major drivers. But reserve immobilisation and infrastructure-based de-risking acted as

transmission mechanisms that deepened liquidity collapse and shifted adjustment costs onto civilians, including through disrupted trade finance and ordinary payment intermediation.

Accountability Deficit

The governance gap appears at three levels. First, there was no multilateral authorisation for the reserve freeze itself, so oversight depended mainly on U.S. executive process and domestic litigation. Secondly, affected populations had no direct procedural standing in decisions over sovereign reserves, despite rhetoric that the policy served their interests⁵ (Executive Order No. 14064, 2022). Thirdly, humanitarian licences did not guarantee operational access, because banks' risk policies ultimately determined whether transactions would actually clear and settle.

A note on uncertainty remains necessary. Public sources differ on the exact composition and location of Afghan reserves outside the U.S. But CRS and the litigation materials converge on roughly US\$7 billion at the FRBNY as the principal component at the relevant time (Congressional Research Service, 2023; *Havlish v. Taliban; Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025; Weiss et al., 2023). A complete custody-chain reconstruction would require triangulating DAB audited statements, publicly confirmable FRBNY records, and disclosures from other custodians, some of which may remain confidential.

In sum, the Afghanistan reserve freeze exemplifies the paper's core claim: U.S. control over dollar-denominated assets and global financial infrastructure enables "infrastructural governance", where sanctions weaponize finance to achieve geopolitical objectives without direct military action. The freeze's design-delivery gap (formal legal permissions undermined by private-sector risk aversion and operational failures) shifted economic burdens onto vulnerable populations, deepened inequality, and highlighted accountability deficits. This case underscores the urgent need for reformed sanctions frameworks that incorporate multilateral oversight, humanitarian safeguards, and mechanisms to mitigate unintended distributive effects.

Russia Sanctions and Reserve Immobilisation Through Custody and Settlement

This section examines how coordinated G7, EU, and U.S. sanctions against Russia after February 2022 operated through custody, settlement, and compliance infrastructures. It focuses on reserve immobilisation, restrictions on payments and financial messaging, and the spillovers these measures created for third states. The central question is how formal legal measures became operational constraints through custodians, settlement systems, and private-sector risk management, while pushing adjustment costs beyond the sanctioning coalition. As in the Afghanistan case, the analysis proceeds through legal design, implementation incentives, financial operability, and distributive outcomes.

Legal Design

Coalition policy was explicit from the outset. In a joint statement dated 26 February 2022, coalition governments committed to removing selected Russian banks from SWIFT and preventing the Russian Central Bank from deploying its international reserves to mitigate sanctions pressure (Prime Minister's Office, 10 Downing Street, 2022). In the U.S., OFAC Directive 4 under Executive Order 14024 prohibited U.S. persons

⁵ The title refers to "Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan".

from transactions involving the Central Bank of the Russian Federation, the National Wealth Fund, and the Ministry of Finance, including asset transfers and foreign-exchange transactions on their behalf (OFAC, 2023).

In the European Union, design also targeted both messaging and reserve management. The Council announced a ban on providing specialised financial messaging services, including SWIFT, to specified Russian banks, and imposed further restrictions including limits connected to the Russian Direct Investment Fund and euro banknote export restrictions (Council of the European Union, 2022). SWIFT's own notice confirms that, in compliance with EU Regulation (EU) 2022/345, specified Russian entities were disconnected on 12 March 2022 (SWIFT, 2022). The legal structure therefore combined messaging exclusion with restrictions on reserve deployability.

Public estimates of immobilised reserves differ at the margin, but converge on the same order of magnitude. According to the Council of the European Union, around EUR 260 billion in Central Bank of Russia assets have been immobilised in the form of securities and cash in the jurisdictions of G7 partners, the EU, and Australia, with more than two-thirds immobilised in the EU (Council of the European Union, 2024a).

A European Parliament study and European Parliamentary Research Service (EPRS) briefing similarly report around EUR 210 billion under EU jurisdiction, with most EU-held assets managed by Euroclear (Caprile & Peters, 2025; Veber, 2025). Brookings Institution analysis places global estimates in a similar range and highlights Euroclear's central role in custody of EU-based immobilised assets (Conner & Wessel, 2025)

From 2024 onward, the EU's approach shifted from simply immobilising Russian central-bank assets to regulating the revenues produced while those assets remained frozen. Council Regulation (EU) 2024/576 required central securities depositories holding more than EUR 1 million in covered Russian central-bank assets to account separately for frozen cash balances and related revenues. In May 2024, the Council approved the use of net windfall profits generated by immobilised Russian central-bank assets to support Ukraine, and this was implemented through Council Regulation (EU) 2024/1469. In December 2025, the Council decided temporarily to prohibit transfers of immobilised Central Bank of Russia assets back to Russia, implemented through Council Regulation (EU) 2025/2600.

U.S. legislative design evolved in parallel. Division F of H.R. 815, enacted on 24 April 2024 as Public Law 118-50 (the REPO for Ukrainians Act), created authority to repurpose defined Russian sovereign assets under specified conditions and reporting requirements. It also prohibited the release of blocked Russian sovereign assets unless the President certifies that hostilities have ended and Ukraine has been compensated, while requiring financial institutions to notify the Treasury of covered assets. The statute therefore moved U.S. policy beyond immobilisation alone by creating a legal pathway from blocking to potential seizure, transfer, and use through a Ukraine Support Fund tied to compensation and reconstruction objectives (REPO for Ukrainians Act, Pub. L. No. 118-50, div. F, 2024).

Implementation Incentives

As in the Afghanistan episode, private-sector behaviour became the practical enforcement engine. Even where sanctions formally preserve exemptions, banks, insurers, shippers, and commodity traders still operate under high compliance and reputational risk. CRS notes that U.S. and EU sanctions generally do not prohibit Russian agricultural exports and include exemptions meant to limit humanitarian harm, while also documenting

serious concerns about grain and fertiliser disruption (Nelson, 2022). The design-delivery gap remains: Legal permission does not ensure operational clearance.

Financial Operability

Reserve immobilisation is operational, not merely declaratory. It works through custody and settlement chokepoints: central securities depositories' (CSDs') control over securities positions, prohibited dealings with central bank counterparties, and settlement finality inside sanctioning jurisdictions. EU reporting frames reserve immobilisation as reducing Russia's war-financing capacity (Council of the European Union, 2023). EPRS analysis indicates that most EU-immobilised Russian central bank assets are managed through Euroclear in Belgium and were predominantly debt securities when immobilised (Caprile & Peters, 2025).

These constraints then spread beyond the states that formally imposed the sanctions. Reuters reporting on India-Russia oil trade shows that the issue became not only the price of oil, but also whether banks would process the payment and in which currency (Verma, 2023). Reuters also reports movement toward UAE-dirham settlement through Dubai intermediaries, alongside failed settlement attempts and continuing bank caution around Russia-linked payments (Browning & Verma, 2023; Verma, 2023). The broader point is that even where a state does not formally adopt the sanctions regime, firms and banks within that state may still face the practical effects of sanctions because they rely on interconnected financial networks. This is *de facto* extraterritoriality in practice: Private institutions extend risk controls across dollar-linked and coalition-linked channels well beyond the formal sanctioning coalition.

Russia's own adjustment supports the same point. The Bank of Russia reports increased use of currencies of "friendly countries" and a rise in yuan-denominated export settlements from 13% in January 2023 to 35% in September 2023, while acknowledging liquidity-management challenges during transition (Bank of Russia, 2023). The implication is not full de-dollarisation, but costly payment-route reconfiguration.

Distributive Outcomes and Third-State Spillovers

This episode foregrounds Claim 2's externalisation dynamic. The war and sanctions shock generated global effects through commodity prices, trade costs, and financial volatility, with especially heavy burdens on import-dependent developing economies. IMF projections in April 2022 warned of global growth slowdown and broad spillovers through commodity, trade, and financial channels (IMF, 2022). United Nations Conference on Trade & Development (UNCTAD), March 2022 rapid assessment similarly warned of worsening conditions, especially for African and least developed countries exposed to food, fuel, and fertiliser shocks (UNCTAD, 2022).

Here the design-delivery gap appears in a specific form. Coalition actors often emphasise that food and fertiliser are exempt or not targeted, yet trade still faces payment, insurance, shipping, and trade-finance friction (Nelson, 2022). The practical bottleneck is infrastructural: Whether money can clear, risks can be insured, and delivery chains can settle.

Blocking-Transfer Boundary

The most contested legal frontier is the shift from immobilisation toward revenue use and potential transfer. EU rules on "extraordinary revenues" require separate accounting and constrain disposal of profits generated from cash balances that exist only because assets are immobilised (Council Regulation (EU) 2024/576). Euroclear reports large accumulated cash balances from blocked payments and substantial related interest income in 2024,

while noting regulatory restrictions on treatment of these amounts (Euroclear Bank, 2025). In the United States, Public Law 118-50 authorises seizure, confiscation, transfer, or vesting of defined Russian sovereign assets under specified conditions, with proceeds directed to a Ukraine Support Fund (REPO for Ukrainians Act, Pub. L. No. 118-50, div. F, 2024).

Legal opinion remains divided on the permissibility of these steps under sovereign-immunity and countermeasure frameworks. Taken together, however, the Russia episode reinforces the paper's core claim that contemporary financial sanctions operate as forms of infrastructural governance rather than as self-executing legal commands. What gave these measures force was not only formal law, but coalition control over custody chains, settlement venues, messaging access, and the private intermediaries that decide whether assets can move and payments can clear. The result was both coercive and distributive: Russia faced reserve immobilisation and costly payment rerouting, while third states and other external actors absorbed trade, liquidity, and transaction frictions generated by a sanctions regime they did not design. The case therefore shows how sanctions power in a dollar-centred order is exercised through operational chokepoints whose consequences extend well beyond the formal target.

Reform Agenda for Accountable Sanctions Governance

Having shown how U.S.-led and coalition sanctions entrench inequality through infrastructure, this section answers the second part of the research question: What reforms in international law could rebalance power and accountability in sanctions practice? The core premise is that sanctions governance must be redesigned for the way sanctions now work in practice: through infrastructure, private compliance behaviour, and unequal distribution of risk. The reforms below are cumulative, not alternatives. Together they aim to improve accountability, proportionality, sovereign equality, and civilian protection.

Multilateral Oversight for Sovereign Asset Freezes

The Afghanistan and Russia episodes show that large sovereign asset freezes can be imposed through domestic or regional legal acts without oversight proportional to their macroeconomic and humanitarian impact. In Afghanistan, Executive Order 14064 blocked Da Afghanistan Bank assets in U.S. jurisdiction, including assets held through U.S. financial institutions (Executive Order 14064, 2022). In the Russia context, EU institutions report large-scale immobilisation of Russian central bank assets and legal measures governing treatment of related revenues and transfers (European External Action Service (EEAS), 2025).

A workable reform is a dedicated multilateral review mechanism for sovereign asset freezes, distinct from ordinary targeted listings. Whether housed in a UN-adjacent body or treaty framework, it should at minimum require: public notification (legal basis, asset class, custody location, humanitarian risk assessment), periodic independent review (proportionality, duration, civilian impact), and an operability assessment (whether exemptions function in real payment channels). The Ombudsperson model in UN targeted sanctions shows that independent review can be institutionally embedded even in high-security settings (United Nations Security Council, n.d.).

For this oversight to be credible, it must be infrastructure-literate. Review should distinguish messaging restrictions from settlement restrictions, map custody chains precisely, and incorporate technical and humanitarian expertise when assessing real-world operability (Committee on Payment and Settlement Systems,

& Technical Committee of the International Organization of Securities Commissions, 2012; United Nations OCHA, 2022).

Time Limits and Renewal Duties in Domestic Sanctions Law

A recurring structural problem is that formally temporary measures become functionally indefinite (Portela, 2017; Miadzvetskaya & Challet, 2022). Late-2025 EU developments on immobilised Russian assets illustrate how emergency designs can harden into open-ended governance (Conner & Wessel, 2025; EEAS, 2025). Afghanistan likewise shows prolonged immobilisation amid litigation and governance uncertainty, with only partial institutional workarounds (*Havlish v. Taliban*; *Estate of Jesse Nathanael Aliganga, et al. v. Taliban*, 2025; Swiss Federal Council, 2022).

Domestic frameworks should therefore require sunset clauses for sovereign asset freezes, reasoned public justifications for renewal, and statutory duties to assess humanitarian operability and third-state spillovers at each review point. Termination or adjustment should also be triggerable by independent evidence, including proof that formal exemptions are non-operable or harms are disproportionate. This is consistent with existing review logic in UN practice, including built-in review clauses in humanitarian carve-outs (United Nations Security Council, 2021).

Reviews should be metrics-based, not rhetorical. Minimum reporting should include the number and value of licensed humanitarian transactions processed, aggregated data on bank refusals and grounds, and macro indicators of payment disruption. Afghanistan demonstrates why: formal authorisation existed, but humanitarian actors still reported persistent bank-access failures and reliance on cash-based workarounds (OFAC, 2022; World Bank, 2022).

Operational Humanitarian Safe Channels

General licenses and FAQs are not enough when intermediaries remain unwilling to clear and settle transactions. In Afghanistan, OFAC authorisations coexisted with severe banking-access constraints, reported by humanitarian actors (Eckert, 2022; OFAC, 2022; World Bank, 2022). The reform is to institutionalise protected payment channels with pre-cleared correspondents, regulator-accepted due diligence protocols, and safe-harbour protection for good-faith processing.

This approach has precedent. The Swiss Humanitarian Trade Arrangement illustrates that regulators can jointly design payment pathways that reduce diversion risk while giving private institutions operational confidence. Treasury described it as a voluntary channel for facilitating payment for exports of agricultural commodities, food, medicine, and medical devices to Iran, coupled with enhanced due diligence and transparency requirements intended to prevent diversion or misuse (U.S. Department of the Treasury, 2020). In other words, the mechanism did not rely only on a general legal authorisation. It also created a supervised operational route through which participating institutions could process defined categories of humanitarian trade with clearer expectations and lower uncertainty. The point is not institutional copying across contexts, but use of the same design principle: reduce uncertainty by creating defined and supervised channels.

Channel design should be context-specific. In Afghanistan-like settings, this means vetted intermediary banks and explicit comfort mechanisms for humanitarian and basic-needs transactions. In Russia-like settings, channels can be sectoral (for example agrifood, fertiliser, medicines) to reduce third-state spillovers where legal

exemptions exist but payment and insurance frictions persist. A non-negotiable feature is messaging-settlement precision: Each channel must specify messaging rails, settlement location, correspondent chain, and audit method for transaction completion (World Bank, 2022).

Due Process and Error Correction for Hybrid Sanctions Governance

Because sanctions now operate through both law and infrastructure, procedural safeguards must cover not only listed persons but also transaction categories and institutions central to civilian welfare. EU case law on annulment of restrictive measures and UN Ombudsperson practice both show that evidentiary and procedural deficits are recurring, not exceptional (United Nations Security Council, n.d.; *Kadi and Al Barakaat v. Council and Commission*, 2008).

A minimum package should include transparent designation criteria, reasoned decisions with sufficient factual basis, accessible contestation channels with deadlines, and rapid correction tools for mistaken listings or unintended blocking of authorised humanitarian transactions. In practice, this includes mechanisms to correct compliance misunderstandings in real time, including regulator escalation channels and safe-harbour clarifications for banks and humanitarian operators (Eckert, 2022; World Bank, 2022).

At multilateral and regional levels, legal practice is already moving in this direction. UN Security Council Resolution 2664 establishes a standing humanitarian exemption to UN asset-freeze regimes for specified humanitarian and basic-needs activity (United Nations Security Council, 2022). The EU also introduced a time-limited humanitarian exception in its counterterrorism restrictive-measures framework in 2024 (Council of the European Union, 2024c).

Collectively, these reforms operationalise the paper's central diagnosis: When sanctions governance is infrastructural and hybrid, accountability must also be infrastructural and hybrid. Oversight must be multilevel, temporality must be enforceable, humanitarian pathways must be operationally protected, and procedural correction must function in real time.

A final verification point follows from this design. Safe channels should be assessed with transaction-completion and processing-time data held by banks, regulators, and humanitarian operators, with independent publication of aggregated indicators where confidentiality applies. Proportionality review of sovereign asset freezes likewise requires structured disclosure of custody location and asset composition (cash versus securities), building on but going beyond current public reporting. In that sense, the reform agenda restates the paper's core claim in institutional terms: Because sanctions derive much of their force from control over payment, custody, and compliance infrastructures, accountability must be built into those same infrastructures rather than left at the level of formal legal doctrine alone.

Conclusion

This paper asked how contemporary U.S.-led financial sanctions entrench global inequality, and what reforms in international law could rebalance power and accountability in sanctions practice. The answer developed here is twofold. First, sanctions entrench inequality because dollar-based payment and custody infrastructures allow legal measures to be amplified by private intermediaries that control whether assets can move and payments can settle. Second, the resulting burdens are asymmetrical: Liquidity stress, transaction frictions, humanitarian disruption, and third-state spillovers fall most heavily on actors outside sanctioning states.

The Afghanistan and Russia episodes show this mechanism in different forms. In Afghanistan, legal authorisation for humanitarian activity coexisted with severe payment dysfunction, revealing a design-delivery gap between formal exemptions and operational access. In Russia, reserve immobilisation operated through custody and settlement infrastructures and generated wider spillovers across trade, payments, and third-state financial adjustment. In both settings, private intermediaries translated public legal measures into real economic outcomes.

A critical and TWAIL-informed perspective helps explain why these outcomes are structural rather than exceptional. International law's universalist language can obscure infrastructural hierarchy: Some states and firms can reroute and absorb sanctions pressure, while others face acute dependence on external gatekeepers. For that reason, legal evaluation cannot stop at doctrine alone. It must include operability, market structure, and private enforcement incentives.

The reform agenda follows directly from this diagnosis. Multilateral oversight for sovereign asset freezes, domestic time limits with mandatory review duties, operational humanitarian safe channels, and robust due-process/error-correction mechanisms are legally actionable steps that can reduce arbitrariness and humanitarian harm without eliminating sanctions as a policy instrument.

The central implication is straightforward. If sanctions are infrastructural governance, then accountability must also be infrastructural: It must govern not only what the law permits, but how financial systems implement, amplify, or frustrate those legal choices in practice.

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