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What is the likelihood of Iranian adherence to JCPOA 'Bar-Jaam' is the Persian name for the JCPOA- source: MEMRI, 2016

Elmas Hasanovikj

INTRODUCTION

The road to reaching Joint Comprehensive Plan of Actions(JCPOA) agreement started with the Joint Plan of Action (JPA) agreed between the parties in Geneva on November 24, 2013(Vishwanathan, 2016), followed by the April 2, 2015 political accord at Lausanne which laid down the broad parameters for the JCPOA agreement (Department of State, 2015). On July 14, 2015 the P5+1 country(China, France, Germany, Russia, the United Kingdom, the United States and the European Union) have reached a comprehensive nuclear deal with Iran "to ensure that Iran's nuclear program will be exclusively peaceful"(Joint Comprehensive Plan of Action, 2015). The JCPOA agreement is consisted of the agreement itself and five technical annexes on Nuclear-related measures (Annex I), Sanctions-related commitments (Annex 2), Civil Nuclear Cooperation (Annex III), Joint Commission (Annex IV) and Annex V is the Implementation Plan(Samore, 2015). Even though this deal was reached, I argue that it is more likely that Iran will not adhere to agreement. I have conceptualized this paper in two parts by explaining from one hand what is JCPOA and why Iran might not adhere to JCPOA agreement and, on the other hand, what should be done by IAEA to detect Iranian cheating. In the following pages, I will explain each of these points in detail.

DISCUSSION

The key elements of the JCPOA agreement are sanctioning relief, uranium enrichment, plutonium production, verification and inspection and possible military dimensions of Iran (Jones & Barker, 2015). These elements consists requirements for Iran "to address the IAEA's concerns over the country's [Iran's] prior nuclear activities"(Lebovic, 2016). More precisely, JCPOA requires from Iran to reduce its number of centrifuges and to keep the oldest and less efficient centrifuges at Natanz in a period of 10 years, as well as to oblige that it will not manufacture or assemble other centrifuges(JCPOA, 2015, p. 6); to reduce 98% of its stockpiles of low-enriched uranium by sending them to Russia and to keep the rest of stockpile(Mahapatra, 2016); to oblige in period of 15 years to forgo "enriching uranium beyond the 3.67 percent levels required to fuel a nuclear power plant"(Lebovic, 2016); in period of 15 to restrict any activity of enriching uranium in its Fordow nuclear facility(JCPOA, 2015); to forgo plutonium production by redesigning its heavy-water at Arak reactor (Mahapatra, 2016); to accept long-term presence of IAEA in Iran to monitor

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its nuclear facilities and undertake containment and surveillance of centrifuge rotors under the Additional Protocol(JCPOA, 2015), Iran must allow IAEA to monitor mining and milling activities on its territory for a period of 25 years(Davenport, 2015a) and to acknowledge the contingency of sanctions relief on Iran's compliance with the provisions of the agreement(Lebovic, 2016). However, there are several reasons which indicate that Iran might not adhere to the agreement.

Firstly, what Iranians say it is not in compliance with what they are actually doing in practice. Sanctions relief is not tied to Iran complying with the deal, which means Iran gets massive amounts of relief even before they have demonstrated strict compliance to it(McCarthy, 2015). Consequently to this deal, Britain has lifted the ban on 22 Iranian banks and their companies which had been blacklisted for involvement in nuclear-linked deals (Zuckerman, 2016); China agreed to increase bilateral trade to $600 billion for building five new nuclear power plants over the next 10 years(Savage, 2016); Russia has signed agreements with Iran to build two 1,000MW nuclear reactors(Li Jing, 2015) and to provide Iran with the advanced S-300 air defense system(Savage, 2016); German trade with Iran is up 33 percents(Zuckerman, 2016) and India have made deal with Iran to invest developing Iran's Chabahar Port worth $500 million(Savage, 2016). However, the most controversial dimension is the Iran's noncompliance with IAEA safeguards from the past. From one hand, still being under UN sanctions and party of the NPT treaty, Iran has secretly constructed "the IR-40 heavy-water nuclear research reactor without informing in advance to the IAEA," which is also "in violation with its obligations as a state party to the NPT"(Pedraza, 2015). On the other hand, even though Iran has partially limited, frizzed, roll backed and set its nuclear program as a subject to greater transparency by the IAEA, yet, it is important to "separate what Iran says from what it is actually doing" under the JCPOA agreement(IIan Berman in interview for JNS, 2016). Iran is still under sanctions for supporting international terrorism, human rights abusiveness, smuggling and purchasing conventional weapons, testing ballistic missiles and money laundering(Cullis, 2015). Despite these sanctions, Iran has purchased the Russian S-300 anti-missile rocket system(Roth, 2016), have made ballistic missile test (Basiri, 2017) and have continued to transfer arms to terrorist groups in Yemen, Somalia (Knights, 2016), Hezbollah and to Assad's regime in Syria(Ward, 2016). Hence, the Iran's ballistic missile test is the latest form of "enmity and disrespect" toward international community and its commitments towards UN and the JCPOA agreement(Basiri, 2017), which raises the likelihood that if Iranian behavior is not in compliance with the UNSC sanctions Iran might not act in compliance with the JCPOA agreement neither. Thus, the JCPOA deal is more likely a reward for Iran instead of punishment which allows Iran to emerge more powerful after sanctions(Mahapatra, 2016).

Secondly, the nuclear deal with Iran is not a treaty; it is a some form of political understanding(Mahapatra, 2016), *and as such*

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has several loopholes. The JCPOA agreement is intended to be a form of stricter version of NPT, by bringing back Iran into the safeguards regime(Monje, 2016) to sharply reduce Iran's capacity to produce enough nuclear material for a nuclear weapon(Einhorn, 2016). But, since 1970 Iran is part of the Treaty on the Non-proliferation on Nuclear Weapons (NPT)("Iran | Countries | NTI," n.d.). The NPT's core requirements foresee that nuclear-weapons states agree not to help non-nuclear weapons states to develop or acquire nuclear weapons; non-nuclear-weapons states agree not to acquire nuclear weapons nor to divert nuclear material from civilian nuclear programs for unauthorized military purposes by allowing the IAEA safeguards to monitor and verify states compliance with NPT standards(Kimball, 2012). As mentioned above, Iran have already violated many aspects of NPT regime(Monje, 2016). From the one hand, JCPOA allows Iran to "keep pace with the trend of international technological advancement in relying on light water for its future power" and "to keep up to 3.67% enriched uranium hexafluoride (UF6) or the equivalent in other chemical forms"(JCPOA, 2015). By allowing Iran to negotiate nuclear power plant deals and cooperate with nuclear-weapons states such as China and Russia, Iran would be able to acquire tacit knowledge how to make nuclear weapons after certain period of time. On the other hand, JCPOA procurement channel has several limitations that could weaken its effectiveness(Samore, 2015, p. 05). For example, Iranian purchases of nuclear-related dual use items for its ballistic missile and conventional military programs do not have to be approved by the Procurement Working Group(Samore, 2015, p. 05). Thus, by taking advantage of the existing loopholes, Iran might engage in producing "large quantities of un-enriched uranium hexafluoride which the JCPOA does not appear to restrict"(Fikenscher, 2016). Hence, the JCPOA deal only delays Iran from acquiring nuclear weapon capability, not prevent it(Mahapatra, 2016).

Thirdly, the "peaceful nature of the nuclear cooperation" between Russia and Iran (Paulraj, 2016), raises the awareness's that both countries might have incentives to cheat. More precisely, in 1992 Russia and Iran have reached an agreement for constructing the Bushehr nuclear power plant (NPP) in Iran for peaceful uses of nuclear energy, "like construction of nuclear power plants, recycling nuclear fuel, training Iranian nuclear scientists at the Moscow Engineering Physics Institute"(Paulraj, 2016). Worth mentioning is that the whole process of constructing Bushehr NPP was under the IAEA supervision(Pedraza, 2015). From the one hand, in 2001 Russia approves a legislation which allows import of foreign spent fuel "for storage, reprocessing, or even disposal"(Bunn, 2001). After certain period of time, [in 2005] Russians have first proposed Iran to establish a "multinational enrichment center" with a "joint venture program to enrich uranium on the Russian territory", which will be able to substitute the Iranian needs with enrichment uranium(Paulraj, 2016). As previously have mentioned, both JCPOA agreement and NPT allow Iran to engage in research and

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development or nuclear experiments for "peaceful purposes"(JCPOA, 2015; Kimball, 2012), which allows Iran to gain know-how to get high enriched uranium (HEU). Even though Iran had its military nuclear research program for longer period of time, "without any external scientific and technological assistance, it would not be able to possess nuclear weapons"(Paulraj, 2016). Thus, JCPOA agreement would allow Iran to intensify the cooperation with Russia and [to some instance] China "through ongoing research, development, and accumulation of wealth" to rush for a bomb(Lebovic, 2016, p. 29). On the other hand, economies of the both countries "depend heavily on energy exports," and JCPOA's sanction relief provides them with an important ground for cooperation(Paulraj, 2016). Having in mind the abovementioned long-term "friendly" relations between Iran and Russia, question that here arises is what would happens with the Iranian uranium already shipped to Russia? Is it possible for Iran to withdraw? The answer would be "yes, it is possible. Russia is not the US or a European ally of the US" and "given the nature of US–Russian relations and Russia–Iranian relations, that uranium are in safe hands as far as Iran is concerned"(Mahapatra, 2016, p. 43).Hence, if in certain period of time Iran gets the sufficient tacit knowledge how to make high enriched uranium, or get nuclear fissile materials through illicit channels, or its core national interests are endangered, it is more likely that Iran might withdraw the JCPOA agreement and exit from NPT in order to skip IAEA safeguards and rush for a bomb, by relaying on Russian and Chinese support and its role in UNSC in case of military aggression from Western coalition.

Last but not least, *the current socio-political clime in U.S and Iran increases the likelihood that both sides might not adhere to the agreement.* From the one hand, in United State vast majority of population have doubts and concerns with that the key restrictions on Iran's nuclear capacity that will expire after 15 years(Einhorn, 2016). More precisely, they blame JCPOA signatory parties for allowing "Iran to maintain its heavy-water reactor; secret side deals with Iran which the Administration supported without informing the U.S. Congress; the lack of an IAEA oversight of access to Iran's ballistic and cruise missiles programs and the access that Iran has received to the U.S. financial system as a benefit of the deal, despite being a known sponsor of terrorism"(Brennan, 2016) and "its role in regional conflicts, missile activities, incarceration of Iranian-Americans, and harassment of U.S. naval vessels"(Einhorn, 2016). In United States no serious expert believes that "Iran's missile program is defensive and not intended to carry nuclear weapons"(Fleitz, 2015). They call to snap back the sanctions in the event of Iranian noncompliance(Fleitz, 2015) and to cover with the deal Iran's missile program(Einhorn, 2016). The recent executive order of President Donald Trump to bas travel for citizens from six Muslim countries in US including Iran(Thrush, 2017) and the statement of the Secretary of Defense Jim Mattis where he called Iran the "biggest sponsor of state terrorism"(Erdbrink, 2017), have raised the

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misunderstandings between Iran and the U.S. On the other side, there is "strong anti-Western feeling" among Iranians(Paulraj, 2016, p. 106). In response to President Trump's executive order, recently Iranian Minister of Foreign Affairs Mohammed Javad Zarif said that "is expecting *difficult times ahead* for Iran, now that Mr. Trump is in charge"(Erdbrink, 2017). Also, the Iranian Supreme leader Ayatollah Ali Khamenei stated that the "agreement was made on the nuclear issue," but to fulfill its task enemies use "talks, economic deals, economic sanctions, threats of war and weapons" to force Iran to do something against the agreement, which in practice they are doing the opposite by deploying missiles 1000s of miles outside their borders (MEMRI, 2016). Khamenei has accused U.S for not fulfilling its pledges (MEMRI, 2016), because "on paper the United States allows foreign banks to deal with Iran, but in practice they create Iranophobia so no one does business with Iran"(Reuters, 2016); neither banks nor investors dare to approach and invest in Iran(Hayward, 2016). Hence, in both countries high governmental officials are worsening the situation between Iran and U.S, which raises doubts and concerns whether successful implementation of JCPOA agreement is possible, or not.

The question that here arise is what should be done by IAEA in order to detect possible cheating by Iran? Firstly, in the Introductory Statement to the Board of Governors the IAEA's director-general Yukiya Amano has stated that the "implementation of the JCPOA will involve expenditure by the Agency totaling 9.2 million euro's per year," where 3.0 million euro's will be allocated for the "provisional implementation of the additional protocol" and 6.2 million euro's will be allocated for the "verification and monitoring of Iran's nuclear-related commitments under the JCPOA" including the costs related for IAEA inspectors(IAEA, 2015). Therefore, IAEA should as soonest as possible implement *"the state-of-threat verification technology,"* as well as the *approval for additional funding related with hiring additional high-skill personnel*(Findlay, 2016). Secondly, Iran had not adopted the Additional Protocol yet, it is scheduled for adopting in 2023(Vishwanathan, 2016). The Additional Protocol requires "complementary access to all nuclear and suspected nuclear facilities, streamlined credential process (within one month) to ensure inspectors receive "multiple entry/exit" visas for at least one year and environmental sampling at declared and undeclared sites, not confined to specific facilities"("Fact Sheet," 2015). Although International Atomic Energy Agency (IAEA) is allowed to inspect Iran's "declared nuclear facilities on a 24/7 basis", IAEA must "request access to other suspected facilities" where Iran reserve the right "to delay permission for about 24 days"(Mahapatra, 2016, p. 39). Also, there is a "50-day period before a joint committee of eight powers, including Iran, must decide whether there is a violation," as well as in order to resolve dispute "is needed a majority of the group of eight"(Rubin, 2015). However, "this time frame could be sufficient to disguise certain weaponization-related

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activities"(Fikenscher, 2016). Therefore, the IAEA in coordination with JCPOA signatory parties, *must put more diplomatic pressure on Iran to adopt and implement the Additional Protocol and remove the timetable mechanism for getting access at any facility*(Samore, 2015) and *to negotiate "anytime, anywhere" access without permission*(ACA, n.d.) *in order its inspectors to carry out more comprehensive inspections in all Iran's declared and undeclared nuclear facilities*(Kibaroglu, 2002). Thirdly, IAEA is permitted for "monitoring of uranium mines and mills for 25 years" in Iran(ACA, n.d., p. 3), which is extremely important because "nuclear weapons typically use metal forms of separated plutonium, highly enriched uranium, or natural uranium in its production"(Pedraza & Rezapour, 2015). But, this monitoring should be extended by including the monitoring of all possible indicators[i] for nuclear program(Arenas-Carrasco, 2010). Fourth, as mentioned above the procurement channel "has several limitations that could weaken its effectiveness and lead to disputes," because it allows Iran to buy "nuclear-related dual use items for its ballistic missile and conventional military programs" without being approved by Procurement Working Group (PWG) (Samore, 2015, p. 5). In this regard, *IAEA should request from the PWG to ban import of all dual-use items, in order to reduce the chances of Iran to get components for continuing secret nuclear program.* Fifth, IAEA implements sophisticated technologies in verifying and monitoring Iran's nuclear program such as online enrichment monitoring and electronic seals that sends data directly to IAEA inspectors(Fournier & Gaspar, 2016). But, in order to successfully "facilitate the implementation of the verification activities included in the JCPOA", the *IAEA should consider the option of "establishing a field office in Iran, similar to the ones located in Canada and Japan"*(Pedraza, 2015). These field offices are more likely to improve IAEA's efficacy and efficiency. Sixth, higher coordination and cooperation with the national intelligence organizations is needed, related in order to in gathering data related with the Iranian nuclear program. The IAEA lacks of capabilities "to detect undeclared nuclear activities"(Samore, 2015); thus, *it is needed intensive coordination and cooperation with all national intelligence organizations in getting accurate information's for undeclared facilities from "satellite coverage of an area"*(ACA, n.d.), as well as for evidencing illicit nuclear activities on relation from-other-countries-to-Iran.Seventh, in order to fulfill its role as an independent, non-partisan and professional *organization IAEA must be equipped with the latest most sophisticated equipment for detecting any activities related with Iran's nuclear program, such as sensitive seismometers*(CTBTO Preparatory Commission, n.d.-b), *electromagnetic pulse radiation devices* (EMP, 2003), *sensitive long-range radiation detectors*("NRC: Detecting Radiation," n.d.) *and extensive network of infra-sound stations with sophisticated infra-sound detectors for low-frequency measurements* (CTBTO Preparatory Commission, n.d.-a). Eighth, *IAEA must implement strict enforcement of Modified Code 3.1* which requires to "submit design

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information for new nuclear facilities to the IAEA as soon as the decision is made to construct, or authorize construction, of the facility"(Davenport, 2015b). This is extremely important, especially for the abovementioned NPP deals between Iran, China and Russia. The Modified Code 3.1 allows IAEA to monitor the whole process of constructing new nuclear facilities and to verify from very beginning whether or not its operation is in compliance with the JCPOA agreement. Finally, *IAEA safeguards measurements and inspections of Iranian nuclear facilities should be implemented and after JCPOA agreement expires or has been terminated*. The reason for this is because Iran's obligations for comprehensive monitoring and inspections by the IAEA are not linked in any way with the JCPOA, rather with NPT treaty(Vishwanathan, 2016).

In sum, action–reaction event in the Middle East, domestic political situation in U.S and Iran, as well as US–Iran bilateral equations "carry a cartload of unpredictable events that would cause difficulties on the road to implementation of the nuclear deal"(Mahapatra, 2016, p. 44). Furthermore, previous sanctions "did not stop Iran's nuclear program from growing steadily to the point it had accumulated enough low enriched uranium" that it has in possession now (Secretary Kerry, 2015). Finally, if any sanction is re-imposed, the agreement includes a statement that "Iran considers a re-imposition of sanctions as freeing it from all commitments and restrictions under the deal"(Rubin, 2015), which is very likely to happen according the current political situation on relation US - Iran.

ENDNOTES:

[1] This includes measuring basic material properties at the gram level; Research and development of metallurgy of Pu, U or Np; High explosives (HE) technology development, especially diagnostics, would go on in parallel; Physics design efforts would proceed iteratively with results from experiments; Nuclear trade of sensitive components; Prototype-scale programmes would follow, with nuclear material in kilogram quantities. At this stage, hydrodynamic testing of metal systems might begin; Diversion of nuclear material at declared facilities; Production-scale efforts would follow to enable handling of larger quantities of kilograms of nuclear material.

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