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# The Iran Nuclear Accord and the Future of Nonproliferation: A Constructivist-Critical Approach

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## INTRODUCTION: FROM THE FAILURE OF THE 2015 NPT REVIEW CONFERENCE TO THE SUCCESS OF IRAN NUCLEAR NEGOTIATIONS

THE 2015 NUCLEAR NONPROLIFERATION TREATY (NPT) Review Conference turned out to be a disappointment.<sup>1</sup> Once again, nuclear and non-nuclear states were unable to bridge the differences that have prevented them from reaching a final agreement on the abolition of nuclear weapons.<sup>2</sup> The 2015 conference was unproductive in comparison to the 2010 NPT Review Conference, which adopted a comprehensive 64-point action plan. The 2010 convention was spurred in part by the April 2010 New START (Strategic Arms Reduction Treaty) signed by Russia and the United States. However, by the time of the 2015 NPT Conference, conditions had changed significantly; the Ukraine crisis had triggered a new wave of U.S.-Russia hostilities that stunted progress toward the reduction of nuclear weapons, while North Korea's successful testing of a submarine-launched ballistic missile in May 2015 heightened international

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nonproliferation concerns. Perhaps the most disappointing aspect of the 2015 NPT Review Conference was its failure to schedule a conference on a Weapons of Mass Destruction (WMD)-free zone in the Middle East, an issue raised two decades earlier at the 1995 NPT Review and Extension Conference. The Non-Aligned Movement blamed this failure on the obstructionism of the United States, Canada, and the United Kingdom, while the United States criticized the Arab League's inflexibility.<sup>3</sup> In sum, the failures of this conference have reinforced the perception that the NPT is in a state of (semi) crisis and requires reform.<sup>4</sup>

Yet the ever-present Iran nuclear talks—which had yielded an interim agreement in Geneva in November 2013 and culminated in a final agreement in July 2015—provided a rare glimmer of hope in the international community. This stood in contrast to the new mood of nuclear cynicism ushered in by the 2015 NPT Review Conference and the hard realities of what some herald as a new Cold War between the United States and Russia.<sup>5</sup> Both the United States and Russia have adopted strategic doctrines that rely on nuclear weapons as essential ingredients of national security. The two great powers still continued to cooperate with each other in the Iran negotiations marathon that resulted in the landmark Joint Comprehensive Plan of Action (JCPOA). Since then, it has become common wisdom in the nuclear-expert community that the agreement between Iran and the P5+1 nations (China, France, Russia, the United Kingdom, the United States, and Germany) is a net plus for international nuclear nonproliferation efforts. Specifically, more than 70 nuclear nonproliferation experts have issued a joint statement that concludes: “We believe the JCPOA meets key nonproliferation and security objectives.”<sup>6</sup>

The JCPOA has been approved by the UN Security Council (Resolution 2231, July 2015), survived opposition in both the U.S. Congress and Iranian Parliament, and has entered its implementation phase (as of mid-January 2016), following the verification by the International Atomic Energy Agency (IAEA)

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that Iran has complied with its commitments.<sup>7</sup>

Concerning the latter, Iran has allowed intrusive inspections, adopted the

IAEA's Additional Protocol, shipped out 11,000 kilograms of its enriched uranium to Russia, reduced the number of its active centrifuges to the permitted ceiling of 6,105 spinning centrifuges, and dismantled the core of its heavy water reactor in Arak by filling it with cement.<sup>8</sup>

Scholars and experts alike often credit the JCPOA with alleviating the

international community's proliferation concerns about Iran's nuclear program. Simply put, the JCPOA allows for the use of heightened monitoring, among other mechanisms, to ensure that the Iranian program's objectives and progress are transparent. The JCPOA also imposes several key restrictions on Iran's uranium-enrichment capacity and stockpile by blocking Iran's plutonium path to a bomb and by placing long-term prohibitions on certain activities that could contribute to the design and development of a nuclear explosive device.

There is also a growing consensus that the JCPOA, if successfully implemented, will strengthen regional nonproliferation norms by disincentivizing regional proliferation tendencies and by spurring a regional commitment to forego high-level enrichment, following Iran's example. In light of Iran's consent to ship out a bulk of its stashed uranium, the JCPOA may lead to the development of a regional nuclear fuel bank as a central repository for enriched uranium. According to the JCPOA, "Iran may choose to seek to sell excess enriched uranium to the IAEA fuel bank in Kazakhstan when the fuel bank becomes operational." Iran and Kazakhstan have begun discussions regarding this matter.<sup>9</sup> The IAEA has entered into a separate agreement with Iran that facilitates IAEA access to more information, as well as monitoring and verification tools to probe the Possible Military Dimension (PMD) issues that the IAEA raised in its November 2011 report on Iran. As a result, the PMD issues were resolved by mid-December 2015, in light of a new report by the agency that gave a final assessment of the past and present outstanding issues concerning Iran.<sup>10</sup> The JCPOA had stipulated that the IAEA must resolve the PMD problems and issue a clean bill of health for Iran's nuclear activities before international sanctions would be lifted.<sup>11</sup> The agreement also calls for a "joint commission" intended primarily as a "dispute resolution mechanism," along with "snap-back" provisions, in accordance with UN Security Council Resolution 2231, to reimpose sanctions if Iran breaches the agreement.<sup>12</sup> While these developments would seem to augur well for the broader nonproliferation regime, the windfall could be reversed if the JCPOA falls apart during its lifespan (i.e., during the next decade or so); the agreement has had a fairly smooth start, but many experts predict a tough road ahead.<sup>13</sup> If the JCPOA does implode for one reason or another, the current NPT-based regime might end up more damaged than before. Sanguine expectations of a net plus

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for nonproliferation by the JCPOA might backfire and turn to bitter cynicism toward the nonproliferation regime.

The JCPOA's collapse would likely renew U.S.-Iran tensions—an outcome that is not unlikely, given how complex and uncertain the road to implementation is.<sup>14</sup> The positive short-term effects of the agreement can be sustained in the long run only if the agreement is faithfully implemented. In January 2016, the United States imposed fresh sanctions on Iran over its active missile program, a move denounced by Iran, who claims that its missile programs are purely conventional and for deterrent purposes only. It has been observed that “a strenuous punitive program against missiles could place at risk Iran’s full compliance with the far more important JCPOA that blocks nuclear warheads for its missiles.”<sup>15</sup>

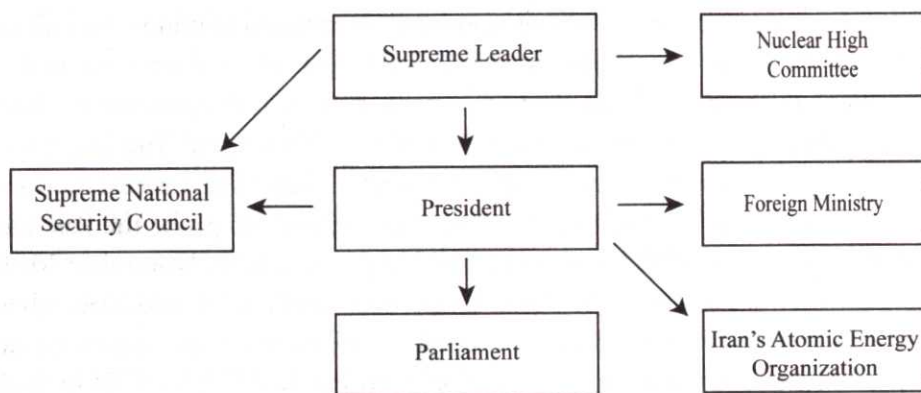


FIGURE 1: IRAN'S NUCLEAR DECISION-MAKING<sup>18</sup>

Multiple factors hang over the JCPOA like a dark cloud, including the commitment of the next U.S. president, potential disputes over access to Iran's non-nuclear and military sites, and the imposition of new Western sanctions on Iran over non-nuclear issues.<sup>16</sup> These and similar scenarios could spell trouble, if not doom, for an agreement that has already opened up partisan fissures in the domestic politics of both the United States and Iran. In Iran, the JCPOA was met with delayed approval, due to the specific nature of nuclear decision-making in Iran (see Figure 1, above) and the objections raised by the former negotiation team, as well as the uneasiness of some conservative lawmakers, who claimed the agreement crossed Iran's declared “red lines,” delineated below in Figure 2. The Supreme Leader offered his blessing, while admitting that Iran “paid a heavy price” in the nuclear bargain.<sup>17</sup>

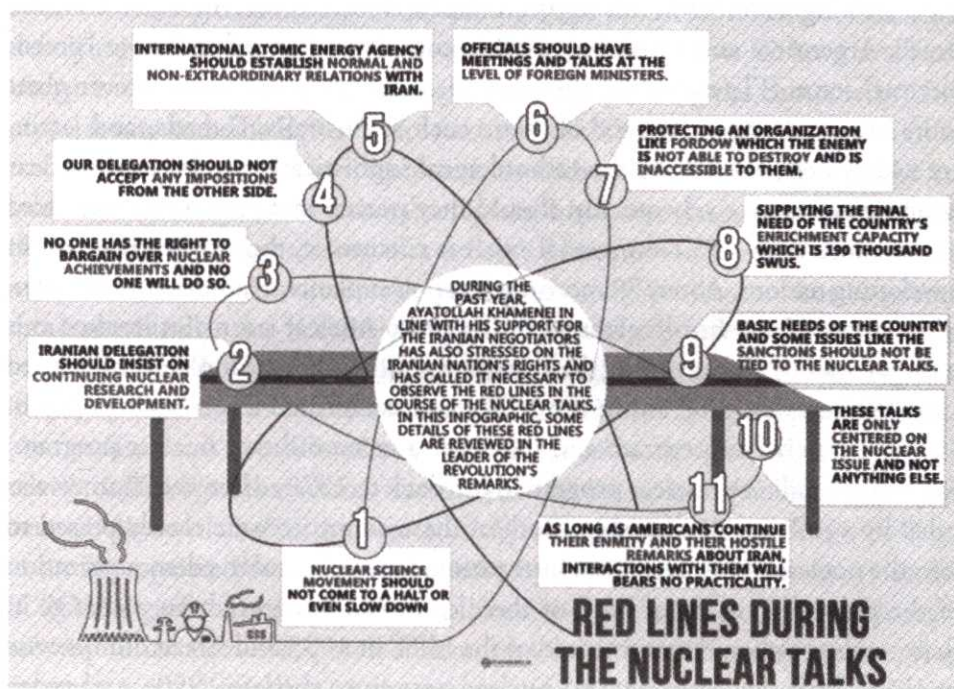


FIGURE 2: RED LINES DURING THE NUCLEAR TALKS<sup>19</sup>

The JCPOA's so-called sunset clause, a provision that allows for a post-agreement lifting of nuclear restrictions on Iran, is another potential problem area. The JCPOA stipulates that "the Iranian nuclear program will be treated in the same manner as that of any other non-nuclear weapon state party to the NPT." As Richard Nephew and a number of other pundits have observed, this provision is important because "Iran will not accept a deal in which it is a second-class NPT citizen forever."<sup>20</sup> But, to the critics of the JCPOA, the deal's sunset clause would enhance Iran's ability to turn its latent potential to a manifest one, thus raising questions about the long-term connection between the JCPOA and the nonproliferation regime.<sup>21</sup> Given the volatile and high-conflict nature of the Middle East, it is difficult to ascertain Iran's future nuclear behavior once the JCPOA's restrictions expire. Future developments in both global and regional politics are hard to predict, as are the emerging security challenges that inform Iran's behavior and preferences. Nonetheless, what is certain is that threats to Iran's national security, such as the spillover of regional conflicts, will affect the country's nuclear decision-making in the future.<sup>22</sup>

Meanwhile, it is clear that although the JCPOA severely limits Iran's access to a nuclear fuel cycle, it also legitimizes Iran's status as a latent nuclear weapon



state, making it similar in this regard to Japan, South Korea, Australia, Canada, Brazil, Argentina, and a number of other countries often referred to as "proto-nuclear" states.<sup>23</sup> To elaborate, there are 31 countries with nuclear power plant units in operation, and several of them, such as Australia, Canada, and Japan, are widely believed to have the technological sophistication to become nuclear weapons states relatively quickly, should they pursue that path. Over one-third of the more than 435 commercial nuclear reactors in the world today are in developing nations. About 70 more nuclear power plants are under construction, while over 160 are firmly planned.<sup>24</sup> The proto-nuclear countries reached this status at various points during the twentieth century. For example, Brazil started a nuclear research program in the 1930s and established a two-track policy in 1975, one a civilian program and the other a secret military nuclear program. Argentina's military nuclear program dates back to 1978, when the country was ruled by a military dictatorship. Both of these countries were clearly poised to join the nuclear haves. However, international pressure and the democratization of the political systems of both of these countries brought about a change in their nuclear policy. Argentina joined the NPT in 1995 and Brazil did likewise in 1998. Japan has been a proto-nuclear state since the late 1950s, and today has an advanced nuclear infrastructure. However, because of its past experience as a victim of a nuclear attack during World War II and its own constitutional restrictions, Japan has not crossed the nuclear threshold and most likely will not do so in the foreseeable future. In South Asia, both India and Pakistan started as proto-nuclear states but eventually decided to weaponize and join the nuclear haves.<sup>25</sup> The proto-nuclear states, also referred to as "quasi-nuclear" states in scholarly literature, occupy a middle position between the nuclear haves and the nuclear have-nots, an amorphous position that is unfortunately understudied in nonproliferation literature.<sup>26</sup>

With the rise of proto-nuclear states, the traditional bifurcation of nuclear nonproliferation is no longer applicable as it insufficiently addresses latent nuclear states. The latter's mixed status undermines the traditional logic of interaction

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in the nonproliferation realm. At the analytical and epistemological levels, the problem presented by proto-nuclear

states highlights the need to refine our conceptual repertoire in order to tackle the theoretical challenges and opportunities of a more complex and multifaceted global nuclear reality. Such an approach would put IR theory to task and

address the analytical deficits in examining (non)proliferation issues. One such deficiency is that the current inter-paradigmatic debates in IR have not been altogether satisfactory in identifying and fully explaining the complexity of all of the forces and developments in the (non)proliferation realm.<sup>27</sup>

This article does not simply seek to address what is clearly a major lacuna in the field of international relations, but rather hopes to contribute to the theoretical understanding of a subset of international politics focused on nonproliferation. We intend to do so by examining the Iran nuclear issue and, more specifically, the JCPOA through an admittedly eclectic approach that borrows from the interplay of theoretical insights drawn from the ongoing inter-paradigmatic interaction—the academic debate between proponents of (neo)realism and (neo)liberalism—and dialogue in the field of international relations. We argue that claims that the JCPOA is a nonproliferation boon have been posited rather than proven. It is therefore imperative to redress the lack of an appropriate theoretical and methodological framework to decipher the JCPOA's significance for the nonproliferation regime, particularly since there are important side-effects and undercurrents that lend themselves to varying interpretations depending on the position of different states (and other actors) in transnational politics.

To elaborate, the JCPOA imposes severe restrictions on Iran's civilian nuclear program, and the special inspection and verification regime foreseen for Iran under the agreement is unique to the country and does not apply to other states. In turn, this is tantamount to an Iran exception that carries important implications, such as with respect to the NPT-based proliferation regime. The JCPOA is in fact a complex exchange of rights and obligations among its seven signatories, denoting (asymmetrical) bargains of imposed sanctions and nuclear rights and activities, as well as certain (temporary) limits on Iran's conventional arms, including its missile system. Taken as a whole, the JCPOA consequently represents a mix of rights-enabling and rights-restricting dualism. As a result, contrary to standard interpretations, the JCPOA does not have a straightforward impact on the NPT-based nonproliferation regime but rather a complex one whose ramifications for the NPT will only become clearer with time.

#### TOWARD AN INTER-PARADIGMATIC ANALYSIS

When it comes to applying international relations theory to the JCPOA, we lean in favor of constructivism and critical theories for two reasons. First, we do so in order to break with the familiar neorealist-neoliberal debates and examine



the JCPOA through an uncommon lens—an approach we hope will yield new insights. Secondly, we believe that the core assumptions of constructivism—that norms and identity shape state behavior along with power balancing and security—are well suited to the circumstances of Iran and the JCPOA (see the next section for more information). Needless to say, we do not intend to imply that other theoretical approaches are irrelevant to our analysis. For example, the JCPOA's complex bargaining and the negotiators' claim of a fair win-win situation are important to the literature on relative gains. This literature posits not a distinction between a "good" and a "bad" agreement but rather interrogates international affairs through the lens of who will gain more. Such an approach was shaped in light of Kenneth Waltz's insight that "when faced with the possibility for mutual gain, states that feel insecure must ask how the gain will be divided."<sup>28</sup> If the expected gain of the JCPOA turns out to be lopsided in favor of the United States and its Western partners involved in the negotiations, for instance by introducing potentially hazardous national security costs for Iran due to intrusive inspections or regional hostilities to the agreement, then the agreement would convey a different meaning from standard Western interpretations that, by and large, welcome it as a balanced, strong, or deep agreement; these conclusions are, in many ways, premature.

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As is expected, different theories suggest different outcomes for the JCPOA. From a neorealist, Waltzian perspective, which argues that Iranian proliferation would be a regional and international stabilizer, the JCPOA receives a negative report card because it restricts Iran's nuclear potential and thus does not let Iran balance out the Israeli-led regional nuclear juggernaut. Waltz boldly states, "A nuclear-armed Iran... would probably be the best possible result: the one most likely to restore stability to the Middle East."<sup>29</sup> On the other hand, "offensive realists" might draw the opposite conclusion and embrace the JCPOA, essentially by drawing from their insights on the imperatives of states' survival in the anarchic world, thus concluding that the key to their survival in the hostile sanctions-infested global environment is Iranian leaders' acceptance of the JCPOA.<sup>30</sup> John Mearsheimer's "hegemonic stability" claims may have also been exonerated by the United States' diplomatic leadership through the negotiations, which consisted almost entirely of Iran-U.S. bilateral talks in the final two years leading up to the JCPOA.<sup>31</sup>

The trouble with the hegemonic stability theory, however, is that it overlooks the occasionally destabilizing role played by hegemonic powers that, within modern Middle Eastern history, have benefited from the (neo)colonial pattern of "divide and conquer."<sup>32</sup> More specifically, this theory ignores the im-

perial intentions and interventionist policies that hegemons have pursued for the sake of domination and control—to the detriment of stability. This betrays classic Eurocentric bias and leaves the theory incapable of explaining why the United States rejected a 2010 nuclear deal brokered by Turkey and Brazil (the so-called Tehran Declaration) that it had initially backed, a vivid example of how hegemonic powers do not necessarily promote stability and diplomacy. Under the Tehran Declaration, Iran expressed its readiness to deposit 1,200 kilograms of low-enriched uranium (below 5 percent U-235) in Turkey in exchange for the delivery of 120 kilograms of fuel required for the Tehran research reactor. Within days of this agreement, however, Washington not only rejected it, but also made sure that a new UN Security Council resolution against Iran was adopted—a reflection of the United States' nefarious hegemony, often glossed over in neoliberal interpretations.<sup>33</sup> Essentially, the United States undermined an agreement fostered by international cooperation simply because it did not comport with the leadership role of the United States in global affairs.<sup>34</sup>

The same criticism applies, *mutatis mutandis*, to the scholars of neoliberal institutionalism who would like to claim the JCPOA as a testament to the power of international cooperation and its norms and institutions. By emphasizing that the JCPOA offers carrots to Iran, such as allowing it to participate in international institutions, free trade, and economic interdependence, liberal institutionalism interprets the nuclear deal optimistically. This perspective contrasts sharply with the fatalistic interpretation of some realists, who view this game of push-and-pull as an inevitable power- and survival-driven Iranian march toward nuclear weapons. Compared to the latter, neoliberal institutionalism, particularly the Kantian variants that emphasize the importance of international institutions, trade and interdependence, and shared norms, holds positive expectations for the JCPOA's outcome.

There is no denying the important role played by the UN and the IAEA in both sustaining and resolving the Iran nuclear crisis. However, the attribution of autonomous practices to these international organizations without much awareness of how they are subject to the manipulation of various world powers and the systematic intrusions of hierarchical powers (not to mention the new national security worries for Iran engendered by the agreement) is a common fault of neoliberal institutionalism, a perspective that is also riddled with the old agency-structure debate.<sup>35</sup> This debate suggests that there are two accounts of why these negotiations succeeded. One account emphasizes the role and input of Presidents Obama and Rouhani, as well as the role of chief U.S. and Iran negotiators John Kerry and Mohammad Javad Zarif, who were strongly



committed to finding a feasible resolution to the nuclear standoff.<sup>36</sup> In contrast, the structuralist argument places an emphasis not on the role of individuals but on power relations, suggesting that both the interim Geneva agreement and the JCPOA were shaped by the extant institutions and treaties among the member states. In this model, variations in the behavior of negotiating parties may be explained by larger structures, rules, and norms governing their behavior in the foreign policy realm. While this model has significant explanatory power, it underestimates the pivotal role played by domestic public opinion and engagement in Iran, which favored an exit from the taxing nuclear crisis.

Consider the outcome of the 2013 presidential elections, which saw the victory of a moderate candidate, Hassan Rouhani, who pledged to resolve the crisis and bring “good nuclear news” within the first 100 days of his presidency.<sup>37</sup> Simultaneously, too much emphasis on the role of agency and actors leaves unexplained what led the Iranian people to lean on a pragmatist politician who was openly critical of Iran’s rigid and inflexible negotiation strategy and vowed to end the state’s international isolation. The Iranian case fits well with rational choice theory, which focuses on the cost-benefit analysis shaping the conduct of rational decision-makers, suggesting that the exorbitant cost of crippling sanctions had disruptive effects on the Iranian economy and introduced hardship for the population, who then chose a president committed to “prudent diplomacy.”<sup>38</sup>

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### A CONSTRUCTIVIST AND CRITICAL THEORY APPROACH TO JCPOA

Stephen Walt has described constructivism as a third pillar of scholarship in international relations, on par with realism and liberalism.<sup>39</sup> Constructivist theory offers a sophisticated model of agency and norm-oriented state behavior, seeking to bridge the gap between nation-state identity and structural theories of international relations.<sup>40</sup> We concur with constructivists that narratives of security are constructed through actors’ (mis)perceptions, ideas, norms, and values. The works of scholars such as Maria Rost Rublee show the success of constructivist assumptions in analyzing nuclear restraint in today’s global political landscape by conceptualizing norms and ideas as intervening variables rather than as co-constitutive “forces.”<sup>41</sup> As is well known, constructivism examines state behavior in the context of state characteristics. States have identities and those identities—rooted in historical, political, and social settings—define the behavior of states in the international system.

This approach’s utility to the Iranian case can be illustrated by focusing on the subjective norms of state leaders. Thus, while President George W. Bush’s “axis

of evil” interpretation of Iran effectively precluded any meaningful diplomatic transaction with Iran, Obama’s crisis-avoidance predilection manifested itself with the “Iran engagement” approach, which eventually proved instrumental in bringing about a diplomatic resolution to the nuclear stalemate. Similarly, the Iranian Supreme Leader’s religious edict, or fatwa, which prohibits the manufacturing and stockpiling of nuclear weapons, in effect stigmatized nuclear proliferation and considered it a religio-political taboo. The Iranian negotiators offered to register the Leader’s fatwa as an official document at the UN and repeatedly made reference to it in the course of negotiations, in order to emphasize Iran’s adherence to its nonproliferation commitments. The JCPOA’s content reflects these commitments, for example, by stating in the preface that “Iran reaffirms that under no circumstances will Iran ever seek, develop or acquire any nuclear weapons.”

While it may be argued that there has been a chasm between the rhetoric and practice of Iran with respect to its nuclear intentions, there is nonetheless no denying that the counter-proliferation stance of the Iranian government was accompanied by serious efforts to prove Tehran’s benign nuclear intentions. Iran acceded to unprecedented IAEA inspections, which resulted in dozens of IAEA reports repeatedly confirming the absence of any evidence of diversion of nuclear material from peaceful purposes. Iran’s nuclear identity was intersubjectively mediated by the anti-nuclear fatwa, insistence on Iran’s inalienable nuclear rights, and the national pride stemming from technological nuclear progress. At the same time, this identity and its core assumptions paved the way for meaningful negotiations with world powers that eventually resulted in the drafting of the JCPOA. In other words, the specific theocratic-republicanist characteristics of the Iranian system and the role of *velayat-e faghih* (rule of jurists) were highly relevant to the emergence of a flexible negotiating strategy that sought to prove Iran’s purely civilian nuclear intentions by agreeing to unprecedented inspections (and other concessions reflected in the JCPOA). One advantage of the official anti-nuclear stance of Iran was, and continues to be, its enhancement of Iran’s role as a transnational actor with a self-imposed mission with respect to disarmament.<sup>42</sup> This has put Iran in good company with most other member states of the Non-Aligned Movement (NAM), in light of NAM’s active role in the NPT review conferences.<sup>43</sup>

Turning to critical theory, this article argues that there is no well-defined single critical theory, so it is perhaps more apt to use the plural in referring to critical theories. This body of work includes Jürgen Habermas and the Frankfurt school, as well as Michel Foucault, Robert Cox, Andrew Linklater, and a



number of other international relations theorists whose common denominator is "social theory with emancipatory intent" and who all critique the forms of domination and distortions of power.<sup>44</sup> In his firsthand observation of the Iranian revolution, Foucault suspected that the revolution had a globalist agenda—to "lift the formidable weight we all bear."<sup>45</sup> Thus, from a Foucauldian perspective, the Supreme Leader's fatwa and Iran's related counter-proliferation/disarmament discourse resonate with the revolutionary élan that projected a Husserlian "world-disclosing subjectivity."<sup>46</sup> In that sense, the JCPOA is an affirmation of the Islamic Republic's ideological values and not a retreat. Yet other aspects of the agreement, such as a uniquely rigorous inspections regime that goes beyond even the intrusive Model Additional Protocol of the IAEA, resonate with Foucault's writings on knowledge, power, and surveillance-based modern modalities of power. This is because under the JCPOA, all of Iran's key nuclear installations—at Natanz, Fordo, and Arak—are subjected to rigorous camera surveillance by the IAEA, which has been given additional tools to access Iran's nuclear and non-nuclear security facilities.<sup>47</sup> Various U.S. officials, including Secretary of Energy Ernest Moniz and Secretary of Defense Ashton Carter, have stated that the new level of access to Iran would make future military action "more effective."<sup>48</sup> In turn, this might explain why a number of Iranian lawmakers and pundits criticized the JCPOA as tantamount to holding the trigger at Iran's national security. Post-agreement Iranian national security paranoia has been brought on in part by the language of regime change and altering the revolutionary identity of Iran that permeates Western discourse on the nuclear agreement. This cynical mistrust runs in sharp contrast to the sanguine voices that have praised the JCPOA for thawing U.S.-Iran relations and paving the way for sustained U.S.-Iran interaction during the coming decade. According to this latter interpretation, the United States has, by agreeing to enter into a complex quid pro quo agreement entailing sanctions, conceded the legitimacy of the Islamic Republic. Given these diametrically opposed interpretations, one is of course pressed to consider which (if either) is correct. In hindsight, both appear valid to some extent, even though the final verdict on the contention of the deal's equilibrium and balanced trade-offs waits until consequences of the agreement unfold.<sup>49</sup>

From a critical theory perspective, however, what is certain is that the JCPOA cannot be fully understood without properly dissecting the dynamic of global power relations—that is the traditional contestation of values between post-revolutionary Iran and the West. This view emphasizes the post-sanctions emancipatory potential of the JCPOA with respect to Iran's rights and interests

and (almost simultaneously) the reproduction of relations of domination and hierarchy under the guise of an agreement that affects Iran's sovereignty, self-determination, and nuclear rights. The latter points to the downsides of the JCPOA, such as those that have been raised in the Majlis (the Iranian Parliament) about how some of Iran's "red lines" may have been crossed with impunity.<sup>50</sup>

Some critics of the JCPOA have raised questions about the "extra-NPT" demands on Iran, such as the prohibition on "testing, developing, or acquiring multi-point explosives and neutron sources."<sup>51</sup> There is no NPT prohibition on the use of such explosives for non-nuclear purposes, thus warranting the conclusion that some of Iran's rights have been infringed. Also, the insights from critical theories assist us with dealing with institutional atrophy in both the UN and the IAEA as a result of discriminatory practices, such as singling out Iran for non-compliance while ignoring similar breaches by other countries such as South Korea and Egypt—which has been aptly described by the former IAEA Safeguard Director, Pierre Goldschmidt. According to Goldschmidt, the actions taken by the IAEA Governing Board in dispatching Iran's file to the UN Security Council while ignoring other countries' breaches of their obligations, "in each case were inconsistent and, if they go uncorrected, will create unfortunate precedents."<sup>52</sup> He goes on to compare and contrast Iran's "non-compliance," in the form of failure to report the use of a very small quantity (1.6 kg) of uranium hexafluoride for testing centrifuges at Kalaye Electric, with Egypt's failure to declare 67 kg of imported uranium tetrafluoride or the Republic of Korea's extensive nuclear experimentations "over an extended period of time."<sup>53</sup> Yet, what is conspicuously absent in Goldschmidt's analysis is a discussion of the hierarchical power relations at the IAEA that resulted in the "systematic distortion" of its normative fairness in the form of

singling out Iran and reporting it to the UN Security Council, in parallel with the "coercive diplomacy" of

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the United States toward Iran at the time, which relied extensively on "manufactured evidence" in order to implicate Iran in a finding of noncompliance.<sup>54</sup>

Seen in this light, the West's proliferation worries are cast under a cloud of suspicion that touches on hidden and ulterior motives, such as the misuse of the nuclear standoff by certain powers for non-nuclear, strategic purposes in the region; the linkage between nuclear diplomacy and the broader "Iran containment" strategy; and the noticeable absence of any "post-containment" U.S.




discourse on Iran after the JCPOA.<sup>55</sup> In other words, narrow focus on the purely nuclear implications of the deal is suspect from the lens of a constructivist-critical theory approach, which avoids the simplistic explanations of the nuclear crisis permeating Western academic discourse. This approach focuses instead on the dynamic of power relations, the paradoxical rights-enabling/rights-abridging, aspects of the nuclear agreement, and its (potentially contradictory) ramifications for the future of the NPT.<sup>56</sup> After all, the stereotypical Western argument that the nuclear deal represents a nonproliferation success has not yet carried its burden of proof that Iran in fact harbored nuclear weapons intentions and carried specific moves toward attaining this objective. In the absence of such evidence, the various attempts to curtail Iran's NPT-based nuclear activities, such as owning and operating a heavy water reactor under international inspections, cannot be justified on the basis of unfounded concerns that Iran would use the reactor for a plutonium path to bombs—especially given the absence of any move by Iran to build a plutonium separation plant, without which it is virtually impossible to pursue the path of nuclear weapons. Yet, this is only one of several rights-limiting aspects of the nuclear agreement that, from the standpoint of developing nations, is logically interpreted as fundamentally unsettling and questionable.

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Concerning the WMD-free zone in the Middle East, it remains to be seen if the JCPOA's adoption could serve as a new impetus for the much-delayed summit on this issue. Israel's objections to this summit have been repeatedly echoed by the United States, overpowering the collective effort at the 2015 Review Conference to schedule the summit. From Iran's point of view, however, adhering to the JCPOA automatically puts new pressure on Israel to change course and consent to participate in such a regional disarmament conference.<sup>57</sup> The JCPOA has also spurred debates on the need for new nonproliferation policies to address the Middle East. Yet, at this point it is far from clear if the West will exert any real pressure on Israel to comply, given the formidable influence of the pro-Israel lobby in Washington and other Western capitals. The real test will come at the next NPT Review Conference in 2020 where, emboldened by the JCPOA's success story, the proponents of an international conference on a Middle East Nuclear Weapons-Free Zone will likely double their efforts to achieve a tangible success on that front. The preliminary rounds for the next Review Conference will also give us a good barometer of this subject.

CONCLUSION

In this paper we have incorporated insights from constructivism and critical theories to offer a theoretically informed explanation of the Iran nuclear crisis, focusing on the final nuclear agreement that, if fully adopted, will effectively resolve this crisis. Although we have faith that the agreement is a net plus for the nonproliferation regime, our analysis urges examining the ramifications of the extra-NPT aspects and dimensions of the JCPOA that suggest a more complex reality warranting cautionary signs. The Iran nuclear crisis and the unique intervention of the UN in the form of various resolutions and coercive sanctions, followed by Resolution 2231 endorsing the JCPOA, represent a complicating factor for the nonproliferation regime traditionally identified with the NPT as its cornerstone. Yet, a partial decentering of the NPT is discernible in the Iran nuclear crisis, including the final stages unfolding before our eyes. By decoupling the nonproliferation regime from the NPT, this may plant the seeds of a more complex future. Whether this is a positive or negative development for the entire nonproliferation regime cannot at this time be stated with much certainty because of (a) the absence of any credible evidence of an Iranian proliferation intention, (b) the misuses of the nuclear crisis as a crisis of opportunity for hegemonic purposes, and (c) the interplay of upsides and downsides of the agreement for the national security interests of Iran that can only be determined in full once the agreement passes the litmus test of its implementation. Although it is fairly certain that the JCPOA is a nonproliferation plus in the short run, its future prospects depend on a myriad of political and geostrategic factors that are difficult to surmise given the deal's duration. Consequently, we cannot preclude a nonproliferation minus as a distinct possibility in the long run within the more cynical scenarios. Thus, most, if not all, of the present predictions about the remaking of the Middle East must wait. Our theoretical approach highlights the need to consider the short-term versus long-term implications that may or may not correspond with each other and to place central emphasis on Iran's national security interests and concerns impacted, both positively and negatively, by the JCPOA. Which side will gain the upper hand cannot, at this point, be determined, given our proximity to the (pre-implementation) agreement. We are certain, however, that the preliminary theoretical arguments fleshed out in this paper illustrate the role of international relations theory in examining the complexities of the nuclear crisis and its offspring agreement. Most importantly, they are a step in the right direction. 



NOTES

1. For full documents on the 2015 Review Conference, see: "Reaching Critical Will," Reaching Critical Will, <http://www.reachingcriticalwill.org>.
2. "Disappointing NPT Conference," *Japan Times*, May 26, 2015, <http://www.japantimes.co.jp/opinion/2015/05/26/editorials/disappointing-npt-conference/#.VouxjpOLQdU>.
3. Wilfred Wan, "Why the 2015 NPT Review Conference Fell Apart," *United Nations University Centre for Policy Research*, May 28, 2015.
4. For a representative work, see: Mohamed Shaker, *The Nuclear Non-Proliferation Treaty: Origin and Implementation 1950–1979* (New York: Oceana, 1980); Independent Task Force, *Report of the Task Force on Nuclear Non-Proliferation: Confronting the New Challenges* (Council on Foreign Relations, 1995); Advisory Council on International Affairs, *The Nuclear Non-Proliferation Regime: The Importance of an Integrated and Multilateral Approach* (The Hague: Advisory Council on International Affairs, 2006).
5. "Iran Nuclear Deal: Full Text," *CNN*, November 24, 2013; For detailed discussion of the Iran nuclear negotiations, see: Nader Entessar and Kaveh L. Afrasiabi, *Iran Nuclear Negotiations: Accord and Détente Since the Geneva Agreement of 2013* (London: Rowman and Littlefield, 2015). In this book, the authors have opted in favor of a "spectral" view of law and legality to back their interpretation of the Iran nuclear deal as a "soft law" international agreement. The concept of soft law in international law has been familiar for some years, although its precise meaning is still debated; See also: Joseph Gold, "Strengthening the Soft Law of Exchange Agreements," *American Journal of International Law* 77 (1983): 443.
6. "70-Plus Nuclear Nonproliferation Experts Announce Support for Iran Nuclear Deal," *Arms Control Association*, August 18, 2015. According to another report by the Arms Control Association, the nuclear agreement is "a win-win solution. It serves the national security of the United States, the global community, and the Middle East. It strengthens nuclear nonproliferation by preserving the integrity of the nuclear Nonproliferation Treaty." Arms Control Association, *Solving the Iranian Nuclear Puzzle* (Arms Control Association, 2015), 3. This report conflates the strengthening of nonproliferation with the strengthening of NPT, whereas we contend in this paper that the NPT is somewhat weakened as a result of the norm-avoiding impositions of JCPOA on Iran, which might serve the overall regime but at the sunk cost of decentering the NPT. This serves as a reminder that regime building should not be ipso facto identified with norm and institution building.
7. "Iran Sanctions Lifted as Nuclear Deal Reaches 'Implementation Day,'" *Voice of America*, January 17, 2016; UN Security Council Resolution 2231, S/RES/2231, July 20, 2015; "IAEA Director General Yukiya Amano's Statement on Iran," *IAEA News Center*, January 16, 2016.
8. Dave Clark, "Iran Ships Uranium to Russia Under Nuclear Deal," *Yahoo News*, December 28, 2015; "Iran Dismantling Its Centrifuges, IAEA Says," *Arms Control Association*, December 29, 2015; Parisa Hafezi, "Iran Says It Has Removed Core of Reactor, Key to Nuclear Deal," *Reuters*, January 14, 2016.
9. "Iran, Kazakhstan Discuss IAEA Fuel Bank Cited in JCPOA," *Iran Front Page*, September 14, 2015, <http://iranfrontpage.com/news/politics/nuclear/2015/09/iran-kazakhstan-discuss-iaea-fuel-bank-cited-in-jcpoa/>.
10. International Atomic Energy Agency, *Final Assessment on Past and Present Outstanding Issues Regarding Iran* (International Atomic Energy Agency, December 2, 2015).
11. Rodolfo Quevenco, "IAEA Board Adopts Landmark Resolution on Iran PMD Case," *IAEA Office of Public Information and Communication*, December 15, 2015.
12. Under the new Security Council resolution, if one of the parties to the nuclear deal determines that Iran is not fulfilling its commitments, it can ask for a Security Council vote on a new resolution to continue the lifting of all UN sanctions resolutions on Iran. When a vote takes place, the United States or the four other permanent members of the Security Council—Russia, China, the United Kingdom, and France—could then veto the resolution, and the sanctions would automatically "snap back" in 30 days. See: UN Security Council Resolution 2231, S/RES/2231, July 20, 2015.
13. Robert Einhorn, "A Major Milestone in the Iran Nuclear Deal, But A Bumpy Road Ahead," *Brookings Institution*, January 22, 2016.
14. Since the JCPOA, there have been vague references to a "paradigmatic shift" in U.S.-Iran relations,

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although without much empirical substance to corroborate it. See for instance: Robert Mason, "The Iran Nuclear Deal: A Paradigm Shift, Not Yet Détente," *The Hill*, July 22, 2015; for an Iranian view on the implications of the deal for Iran, see: Hossain Mousavian, "Implications of the Nuclear Deal with Iran," *Tehran Times*, June 18, 2015, [http://www.tehrantimes.com/index\\_View.asp?code=247482](http://www.tehrantimes.com/index_View.asp?code=247482).

15. William Luers, Thomas Pickering, and Greg Thielmann, "Dealing With Iran's Ballistic Missile Program," *National Interest*, February 8, 2016; There also remains strong congressional opposition to the deal. Please see: "Groundhog Day for the Iran Deal," *U.S. World News*, February 3, 2016.

16. Ted Cruz, a Republican Presidential candidate, has pledged to "repudiate" the JCPOA as a first priority if elected as president. "Ted Cruz Calls on Next President to 'Repudiate' Iran Deal," *CNN*, March 16, 2015.

17. "Iran's top Leader Expresses 'Pessimism' After Nuclear Deal," *Associated Press*, January 19, 2016.

18. Nader Entessar and Kaveh L. Afrasiabi, *Iran Nuclear Negotiations: Accord and Détente since the Geneva Agreement of 2013* (Lanham, MD: Rowman & Littlefield, 2015), 46.

19. *Ibid.*, 78.

20. Richard Nephew, "False Flag: The Bogus Uproar Over Iran's Nuclear Sunset," *National Interest*, March 6, 2015.

21. Ray Takeyh, "On Iran, Congress Should Say No," *Washington Post*, July 17, 2015.

22. In January 2016, Pakistan's chief of army staff, General Raheel Sharif, played host to the visiting Saudi Deputy Crown Prince and Defense Minister Mohammed bin Salman at a military base in Rawalpindi and vowed "to wipe Iran off the face of the earth if any harm came to Saudi Arabia." This was the first time that nuclear Pakistan had made such a veiled nuclear threat against Iran, raising Iran's concerns about Pakistan's nuclear arsenal. Kaveh Afrasiabi, "Pakistan's Misguided Stance in the Iran-Saudi Dispute," *IRDiplomacy*, January 13, 2016, <http://www.irdiplomacy.com/en/page/1955555/Pakistanrsquo%3Bs+M+misguided+Stance+in+the+IranSaudi+Dispute.html>.

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24. "Nuclear Power in the World Today," World Nuclear Association.

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26. Carolyn C. James, "Nuclear Arsenal Games: Coping with Proliferation in a World of Changing Rivalries," *Canadian Journal of Political Science* 33, no. 4 (2000): 723–46.

27. Relevant work is: Jacques E. Hymans, "Theories of Nuclear Proliferation," *Nonproliferation Review* 13, no. 3 (2006): 455–65.

28. Kenneth Waltz, *Theory of International Politics* (New York: McGraw Hill, 1979), 105.

29. Kenneth Waltz, "Why Iran Should Get the Bomb," *Foreign Affairs* 91 (July/August 2012): 4; For a critique of Waltz, see: Hossain Mousavian and Kaveh Afrasiabi, "Eight Reasons Why Waltz Theory on Iran is Wrong," *Al-Monitor*, July 16, 2012, <http://www.al-monitor.com/pulse/originals/2012/al-monitor/eight-reasons-why-the-waltz-theo.html>.

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31. See: John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, no. 3 (1994): 13–14; Also, see: Mearsheimer, *The Tragedy of Great Power Politics* (New York: Norton, 2001).

32. David Fromkin, *The Peace To End All Peace* (New York: Henry Holt & Company, 1989).

33. A relevant work is: Dieter Plehwe and Bernhard Walpen, *Neoliberal Hegemony: A Global Critique* (London: Routledge, 2006); Joseph Nye has drawn attention to "unilateralism, arrogance, and parochialism" in congressional policies, which have resulted in sanctions against Iran and Cuba and rejection of more than a dozen treaties and conventions in recent history. Joseph S. Nye, *Paradox of American Power*:



*Why the World's Only Superpower Can't Go it Alone* (Oxford: Oxford University Press, 2011).

34. In fact, the same U.S. concern for exercising leadership turned the prior Iran-EU negotiations into an exercise in futility. A paper on "Options for addressing Iran's Nuclear Program at the UN Security Council" was circulated by the U.S. Mission to the UN in October 2004 urging immediate UN Security Council action on Iran's nuclear program, coinciding with tangible progress in Iran-EU rounds. The U.S. envoy to the UN, John Bolton, was at the time constantly weary of any breakthrough in Iran-EU negotiations that fell short of the United States' maximum demands (for zero enrichment). Bolton and other U.S. officials constantly hammered the point about "keeping all options open" and emphasizing that we "are not relying on the Security Council as the only tool in our toolbox to address this problem." Arnaud de Borchgrave, "Target Iran," *Washington Times*, January 9, 2006.

35. Alexander Wendt, "The Agent-Structure Problem in International Relations Theory," *International Organizations* 41, no. 3 (1987): 335-50.

36. In an interview with the Iranian press, Zarif maintained that "without Obama and Kerry the negotiations would have been much more difficult." See: "Interview with the Diplomat," *Diplomat Monthly* (in Farsi), August 2015.

37. "Rouhani: All Our Goals Materialized Under Nuclear Agreement," *IRDiplomacy*, July 14, 2015, <http://www.irdiplomacy.ir/en/page/1950003/Rouhani+All+Our+Goals+Materialized+under+Final+Agreement.html>.

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39. Stephen Walt, "International Relations: One World, Many Theories," *Foreign Policy*, no. 110 (Spring 1998): 29-35.

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41. Maria Rost Rublee, *Nonproliferation Norms: Why States Choose Nuclear Restraint* (Athens: University of Georgia Press, 2009); Another relevant work is: T.V. Paul, *Power versus Prudence: Why Nations Forgo Nuclear Weapons* (Montreal: McGill-Queen's Press, 2000).

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42. At an international conference on disarmament in Tehran in June 2011, attended by representatives from 40 countries and international organizations, Iran's Foreign Minister Ali Akbar Salehi stated: "What we want to convey is a message to the entire world that Iran is trying its best for this argument for non-proliferation." Kaveh L. Afrasiabi, "Iran Takes up the Nuclear Cudgel," *Asia Times Online*, June 17, 2011, [http://www.atimes.com/atimes/Middle\\_East/MF17Ak02.html](http://www.atimes.com/atimes/Middle_East/MF17Ak02.html).

43. Kaveh Afrasiabi, "Non-Aligned Movement Poised to Take Action," *World Policy* (blog), September, 2012.

44. Richard Wyn Jones, *Critical Theory and World Politics* (Boulder, CO: Lynne Rienner, 2001); David Hoy and Thomas McCarthy, *Critical Theory* (Oxford: Blackwell, 1994); Ken Booth, *Critical Security Studies and World Politics* (Boulder, CO and London: Lynne Rienner, 2005).

45. For more on Foucault's analysis of Iran, see: Kaveh Afrasiabi, "Islamic Populism," *Telos*, no. 104 (1995): 97-127; Kaveh Afrasiabi and Mustafa Kibaroglu, "Negotiating Iran's Nuclear Populism," *Brown Journal of World Affairs* 22, no. 12 (2005): 255-68.

46. Edmund Husserl, *Phenomenology and the Foundation of the Sciences* (The Hague: Martinus Nijhoff Publishers, 1980).

47. Thomas Shea, "IAEA's Verification of Iran Nuclear Deal: Ten Hot Issues," *Arms Control Association*, July 23, 2015.

48. Ashton Carter, "Ashton Carter: Iran Deal Features Defense Backstop," *USA Today*, September 4, 2015; "Iran Nuclear Deal Does not Prevent 'Military Option,' US Says," *BBC World News*, July 20, 2015, <http://www.bbc.com/news/world-middle-east-33590342>; This was reiterated by Secretary of State Kerry: "Now, if Iran fails to comply, we will know it, and we will know it quickly, and we will be able to respond accordingly by reinstating sanctions all the way up to the most draconian options that we have today. None of them are off the table at any point in time." See: "Iran Nuclear Agreement Review," U.S. Department of State, July 23, 2015, <http://www.state.gov/secretary/remarks/2015/07/245221.htm>.

49. For an overview of the "battleground issues," see: Robert Einhorn, "Debating the Iran Nuclear Deal" *Brookings Institution*, August 2015; One of the key contending issues is the temporary prohibition

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on Iran's ballistic missile test, which has raised eyebrows within Iran's military establishment. According to Foreign Minister Zarif at a parliamentary hearing, "Using the ballistic missiles doesn't violate the Joint Comprehensive Plan of Action (JCPOA) and it is a violation of a paragraph in the annex of the (UN Security Council) Resolution (2231) which is non-binding." See: "Using Ballistic Missiles No Violation of Nuclear Agreement," *IRDiplomacy*, July 21, 2015, <http://irdiplomacy.ir/en/page/1950311/Using+Ballistic+Missiles+No+Violation+of+Nuclear+Agreement.html>; For an in-depth discussion of this issue, see: "Addressing Iran's Ballistic Missiles in the JCPOA and UNSC Resolution," *Arms Control Association* 7, no. 8 (July 27, 2015).

50. Led by the Supreme Leader, who warned that the 'enemy' was seeking to subvert Iran's "revolutionary identity" through the agreement, some hard-line pundits and lawmakers in Iran have argued against the JCPOA, branding it as a "farce." Ali Khorram, "Claims of Iran Nuclear Deal Critics: A Mirage," *IRDiplomacy*, September 18, 2015, <http://www.irdiplomacy.ir/en/page/1952091/Claims+of+Nuclear+Deal%E2%80%99s+Critics+A+Mirage.html>.

51. Kelsy Davenport, "Restrictions on Iran's nuclear program beyond 15 years," *Arms Control Association* 7, no.9 (August 25, 2015).

52. Pierre Goldschmidt, *Outlook Paper* (Carnegie Endowment For International Peace, January 2004).

53. *Ibid.*

54. For more on the role of disinformation and propaganda in Iran nuclear crisis, see: Gareth Porter, *Manufactured Crisis* (Charlottesville, VA: Just World Books, 2014).

55. In his various public statements since the JCPOA, President Obama has repeatedly stated: "We're not normalizing relations with Iran." See: "Obama gives a speech on the Iran nuclear deal," *Washington Post*, August 5, 2015; The view of JCPOA as part of a "broader Iran containment strategy" by the United States has been adopted by Nicholas Burns, a former U.S. diplomat, who has evinced no clue about the deal's potential to telescope to a "post-containment" new chapter in U.S.-Iran relations denoting selected cooperation. See: Gerald Seib, "An Expert View: Accept the Deal But Move to Contain Iran," *Wall Street Journal*, July 21, 2015; For an opposite view, see: Nader Entessar and Kaveh L. Afrasiabi, "Nuclear Deal Could Reset US-Iran Relations," *Boston Globe*, November 19, 2014.

56. According to U.S. negotiator Wendy Sherman, "It has always been the U.S. position that that article IV of the Nuclear Nonproliferation Treaty does not speak about the right of enrichment at all [and] doesn't speak to enrichment, period. It simply says that you have the right to research and development... So we do not believe there is an inherent right by anyone to enrichment." See: "Reversing Iran's Nuclear Program," U.S. Senate Committee on Foreign Relations, October 3, 2013, <http://www.foreign.senate.gov/hearings/reversing-irans-nuclear-program>.

57. Javad Zarif, "Iran Has Signed a Historic Deal: It is Now Israel's Turn," *Guardian*, July 31, 2015, <http://www.theguardian.com/commentisfree/2015/jul/31/iran-nuclear-deal-israel-vienna-treaty-middle-east-wmd>.