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THE JOINT COMPREHENSIVE PLAN OF ACTION (JCPOA): RESULTS AND  
ACHIEVEMENTS

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**ABSTRACT**

With the victory of the Islamic Revolution and its goal of achieving the comprehensive development of nuclear energy again, it became the focus of the men of the government of the Islamic Republic of Iran. Enmity with the Islamic Revolution and opposition to the West with its development caused Iran's goal of peaceful use of nuclear energy to turn into an international crisis and lead to the formation of opposition to Iran's progress in this area contrary to international standards, especially the IAEA. This process of nuclear conflict continued for a long time until it was finally concluded in the form of the Borjam Agreement between Iran and the P5 + 1. The present study is a descriptive-analytical method with the method of libraries with taking notes of law book sources and also using Internet resources are used to examine the legal implications of JCPOA. Therefore, in this study, while examining the history of Iran's nuclear program, the historical course of the nuclear negotiations from the 2000s to the Vienna Agreement, the legal opportunities and threats of the IAEA, the legal weakness of the IAEA and the US withdrawal from the IAEA as a political agreement and consequences Its political and economic issues were addressed. Some believe that after reaching a nuclear agreement or a UN Security Council, due to the form of the document and citing the intentions of the parties and explicitly the text, only the executive document contains some voluntary action by both parties and therefore, it can not be A treaty, agreement, treaty or international agreement.

**INTRODUCTION**

The right to nuclear energy has been admitted fully in international documents emphasizing on the states' rights to peaceful development and application of this energy. Hence, Iran's right to the peaceful application of nuclear energy has been also recognized in international documents. Accordingly, it is a natural right but the other side of the coin of discrimination appeared when International Atomic Energy Agency (IAEA) displayed a discriminative approach to Iran's right to use nuclear energy binding it to the "interaction" between "law" and "politics".

Although the existential nature of nuclear energy is rooted in countries' interests and optimal application regarding development, some cases indicate that nuclear function has stayed from the main purpose moving toward national interests of some countries contrary to legal considerations. This indicates that there is a somehow "confrontation" between "law" and "politics" besides the instrumental use of international organizations and the nuclear energy deal.

Therefore, it must be noted that Iran has the natural and legal right to use nuclear energy but is not allowed to use it based on the political aspect and political performance of countries. Hence, this conflict between Iran and global powers in form of Iran's active diplomacy and insistence on its right led to the recognition of Iran as a party involved in nuclear negotiations, which reached to JCPOA agreement. Furthermore, the Joint Comprehensive Plan of Action (JCPOA) is not just limited to a threat or opportunity but must be analyzed with an unbiased approach based on national interests.

The important case in the Iranian community today included economic problems, which have been concerns of Iran's Leader and regime over the past years. Hence, many researchers analyze this agreement regarding its economic consequences. Accordingly, JCPOA cannot be viewed as a positive approach to solve economic problems because such problems, including livelihood improvement and employment, have not been predicted in this agreement. The mentioned problems and their solutions should be searched through the resistive economy and associated components. Accordingly, JCPOA can perform as a booster of the resistive economy not a solution for the economic problems of Iran.

Some studies have been conducted in this context. Ansari (2016) carried out a study entitled "JCPOA and its effect on the economy and domestic market of Iran." She believes that the study of JCPOA is highly critical not only politically, regionally, and internationally but also economically. Economic aspects of this agreement not only affect the domestic economy of Iran but also cause consequences in foreign and domestic oil and gas and non-oil markets. Kenneth Katzman (2017) states in his study entitled "Iran nuclear agreement" that JCPOA seeks to ensure that Iran's nuclear program can be used for purely peaceful purposes. He also assumes that Obama and other P5+1 asserted that JCPOA is the most effective means to ensure that Iran cannot obtain a nuclear weapon. Ben Smith (2017) studied "the Iran nuclear deal and decertification" and explained that the future of the 2015 deal between the permanent members of the UN Security Council and Iran over the Iranian nuclear program, the Joint Comprehensive Plan of Action (JCPOA), was called into question by the election of Donald Trump to the US presidency. He also examines some perspectives believing that this deal has not changed Iran's foreign policy, which continues to be the same. Accordingly, this study was conducted by using descriptive-analytical methods besides library study and note-taking from legal references and online sources to examine the legal consequences of JCPOA.

## **Literature Review**

### **History of Iran Nuclear Program**

Iran began some ambitious projects to develop nuclear programs during the regime of Mohammad Reza Pahlavi. These projects had been designed based on the guidelines proposed by the USA and European countries. According to statements of Akbar Etemad, the then head of Iran Atomic Energy Organization from 1974-1978, the University of Tehran pursued nuclear research and educations. This project had been designed based on a 5MW research reactor that had been given by America.

Iran's nuclear program development was stopped for several years by the Islamic Revolution in 1979. The war between Iran and Iraq began in 1980 and destroyed many resources and nuclear infrastructures. Two nuclear reactors that were under construction in Bushehr were

targeted many times by Iraqi fighter jets so that Siemens stopped the company projects in Iran after these attacks. Hence, Iran was no longer able to continue its nuclear program due to the given complicated conditions.

The nuclear program of Iran was again initiated in the late 1980s during the presidency period of Akbar Hashemi Rafsanjani. In the early 1990s when the condition got improved after an 8-year war, Iran could start its nuclear program with the aid of Russia, China, and Pakistan. In 1985 and 1990, Iran signed two nuclear cooperation protocols with the People's Republic of China, and another protocol was signed between Iran and Russia. Based on the latter nuclear cooperation protocol, the nuclear reactor of Bushehr completion and construction of a uranium enrichment center were assigned to Russians.

Iran's nuclear program in mid-1990 sounded warning to the USA and some European countries. Iran has been always debating that its nuclear actions follow the Treaty on the Non-Proliferation of Nuclear Weapons. In 2002, however, one of the opposition groups of the Islamic Republic overseas disclosed some evidence that proved Iran's actions on the construction of nuclear weapons. IAEA immediately after this disclosure asked for access to these installations under Iran's collaboration for inspection upon nuclear activities in Iran. Some countries, such as France, Germany, and Britain took many diplomatic measures to settle this dispute making Iran propose persuasive responses. These attempts made Iran submit the Tehran Declaration.

In this declaration, Iran agreed on cooperation with IAEA the signed and enforced the amended protocol as a voluntary trust-building action. Iran also pledged in the statement to stop activities associated with uranium enrichment and processing during negotiations between two parties.

On December 18, 2003, Iran signed the additional protocol providing the conditions for IAEA reports and access of agency inspectors to nuclear sites of Iran. Despite these attempts, the two parties did not conclude so Iran's nuclear case was submitted to the UN Security Council.

In 2003, Mohammad Khatami, then president of Iran who faced international sanctions continued negotiations with three European countries agreed on enrichment suspension and IAEA inspection of Iran's nuclear facilities. However, Iran assumed that the three European countries had not followed their obligations entailed in the Tehran Declaration. On 4 February 2006, members of the Board of Governors of the International Atomic Energy Agency submitted the nuclear case of the Islamic Republic of Iran to UN Security Council. This decision was made under the supports given by three European countries, Britain, France, Germany, and the USA (Agha Ahmad Gul, 2012, p. 37).

Mahmoud Ahmadinejad, the then president of Iran, suspended the voluntary enforcement of additional protocol and other non-binding collaborations of Iran with IAEA in response to this action on February 6, 2006<sup>1</sup>. On 11 April 2006, Mahmoud Ahmadinejad announced the successful enrichment process of uranium in Iran. He announced in a TV interview, "I officially declare that Iran has joined to countries having nuclear technology." Iran could enrich more than uranium centrifuges up to 3.5%.

One day after the formal announcement of uranium enrichment launch by Iran's president, Condoleezza Rice, Former United States Secretary of State, asked the UN Security Council to investigate tough measures against Iran's nuclear activities forcing Iran to suspend nuclear programs.

Iran's desire to return to negotiations reached the Paris Agreement. This agreement was signed between Iran and three European countries, France, UK, and Germany on 14 November 2006. Accordingly, Iran shall voluntarily, to build trust between Iran and the West not due to a legal

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<sup>1</sup> Report by the Director-General of IAEA, "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran", 27 February 2006, <http://www.iaea.org/Publications/Documents/Board/2006-15.pdf>

biding obligation, stop all activities related to enrichment and reprocessing, such as construction, production, installation, testing, configuration, and launch of gas centrifuges besides activities pertained to plutonium extraction. In Return, the EU, including France, Britain, and Germany try to facilitate Iran's admission to the World Trade Organization (WTO). However, this agreement failed, and Iran's case was referred to the UN Security Council under the pressure of the Bush Administration and passive actions of European countries in their commitments.

The case continued until the election of President Rouhani when negotiations began seriously to sign an agreement in the case.

### **History of Nuclear Negotiations from 2000 to Vienna Agreement**

Some discussions about civil community and pluralism in national structures were introduced by Khatami (Dehshiri, 2001, p. 386). In the first four years of his presidency during the government of reforms, significant nuclear incidents played no vital role in Iran or abroad while the most considerable points are seen in the second half of the state (Salehi & Hassanvand, 2015, p. 123).

In February 2003, Mohammad Khatami declared that Iran planned to develop a full nuclear fuel cycle, from uranium mining to be used in nuclear reactors to recycling the consumed fuel and stored waste. Then, Agency initiated against this program, under the requirements set by the non-proliferation treaty (NPT) on nuclear weapons, and for the first time in August 2003, France, Germany, and the UK sent a joint letter to Iran's Minister of Foreign Affairs asking for approval and implementation of the additional protocol, so-called 93+2, to suspend Iran's enrichment activities. On 16 June, they conclude that some parts of Iran's nuclear program cause many concerns (Salehi & Hassanvand, 2015, p. 123).

At that time, Iran's enrichment activities had been suspended and ElBaradei announced it as avoiding the use of centrifuge gas. A short time after this suspension, negotiations between Iran and Europe stopped and European countries became suspected of Iran's intentions in its nuclear programs. The disagreement stems from gas pollution and leak found by Agency inspectors, which was related to the type of plutonium centrifuge.

On June 24, 2004, Iran suggested three countries of Britain, Germany, and France consider a large-scale strategy for crisis management so that Iran is obliged to follow a peaceful activity without violating the Treaty on the Non-Proliferation of Nuclear Weapons. Second, Iran should cooperate with inspectors of the IAEA regarding the additional protocol; third, Iran took full responsibility for using the cutting-edge technology. In return, Iran asked them to accept the fundamental rights of Iran based on the NPT, to foster their strategic relationships with Iran, to transfer the dual technology to Iran and to build economic relations and defensive-security cooperation with Iran (Salehi & Hassanvand, 2015, p. 124).

ElBaradei found that there was not any evidence on the connection between not-declared nuclear activities and military programs of Iran, but it took time for Agency to ensure that Iran was following a peaceful program owing to some secrecy in Iran. On 26 November, a resolution was issued against Iran asking to follow its obligations and on 18 December, Iran signed the protocol then submitted a detailed statement, under the protocol, to the Agency explaining that this detailed declaration is a voluntary trust-building measure. Since the protocol had not been entered into force for Iran, this country asked the Board of Governors of the International Atomic Energy Agency to terminate the case. Therefore, the government of Khatami adhered to NPT principles in case of nuclear issues.

The foreign policy was formed based on a justice-based fundamentalist dialogue and appellant non-commitment orientation in which, the behavioral pattern was manifested in Iran's foreign policy at an international level by using specific means and methods. On the one hand, this

model modified the relations with western countries in which a cold war was initiated between Iran and America while relations with Europe were revised. On the other hand, this model led to the advent of the east-oriented policy, particularly closeness to Russia and China. One of the important features of Iran's uncompromising policy on the nuclear case includes some principles supporting nuclear activities that ban any kind of compromise. Hence, the Islamic Parliament passed a law on 14 May 2005 in order to access peaceful nuclear technology so the government launched UCF activities in Isfahan in the same year. Then, Iran ended the Natanz and relevant enrichment suspension, within five months in presence of inspectors of the Agency, regarding research and development (R&D) and construction of centrifuge's parts. In December, the Parliament also approved the law of bidding the government to suspend the voluntary actions in case of Iran's nuclear case submission to the UN Security Council (Rasouli Sani Abadi, 2010, p. 142).

Although decisions on the nuclear program of the Islamic Republic of Iran are made beyond the authorities of governments, there have been some changes in policies, approaches, and executive mechanisms through changes in governments. It is due to a 20-year emphasis on Iran's nuclear right as one of the fundamental policies of the Islamic Republic of Iran.

The election of Hassan Rouhani as president of the Islamic Republic of Iran led to considerable changes in the foreign policy of Iran, especially on the nuclear case. Contrary to Ahmadinejad, Rouhani was more willing to start negotiations with the West to settle Iran's nuclear issue. Rouhani who was one of the officials of the nuclear-negotiating team of the Islamic Republic of Iran in 2003 agreed with the limited suspension of Iran's enrichment program. This changed received the agreement of Ayatollah Khamenei, Iran's Leader, and serious negotiations began, and after two years of constant negotiations between parties, a joint comprehensive plan of action (JCPOA) was signed by both parties. Accordingly, a negotiation marathon was held in Geneva and Vienna.

The Security Council approved Resolution 2231 to actualize the JCPOA finalization then suspended all resolutions issued on Iran's nuclear program, based on Article 41, by Security Council. According to this Resolution, JCPOA is approved and binding for parties. Accordingly, all Resolutions issued by Security Council are canceled at the first stage under Article 41 of the UN Charter and all financial and economic sanctions will be terminated. Accordingly, the Security Council will change its approach to Iran's nuclear deal and the past perception of this case as a "threat against international peace and security" will be disappeared. Sanction on weapons and missiles have been divided into two categories under this resolution: A five-year limit is considered for weapon sanctions on Iran before which Iran was able to purchase what existed in the list of "UN conventional arms" under the satisfaction of Security Council's members (Salehi & Hassanvand, 2015, p. 141).

Constraints on missile programs of Iran were considered prolonged for 8 years then it was supposed to terminate the limits related to missile program development. Before the termination of eight-year limits, Iran can receive items required for its missile program provided that the list is preannounced to and preapproved by the UN Security Council.

Some scholars believe that violation of JCPOA causes international liability since the enforcement system, which means retaliation, is reversible. In fact, there is a self-sufficient system in JCPOA indicating that termination or suspension indicates the breach of the whole treaty under Article 60 of the Vienna Convention (Delkhosh, 2017, p. 56).

Some others argue that JCPOA performs as a treaty regarding independence case because this category differs from the content of obligation and is generally about the foreign relations between treaty-agreement parties. Independence or self-sufficiency consists of the area in which the agreed obligation remains independent from other legal communications. Some obligations continue their life independently from a legal and treaty system. Some others may

appear when states design treaties and the last ones require future legal obligations in national or international systems. It is obvious that the more close the agreement structure to legal obligations, the less independent the agreement will be (Hollis, 2009, p. 534-538). Various Articles of JCPOA, including Articles 13, 14, and 17 indicate that this agreement depends on some other legal procedures and documents.

On the other hand, in the case of the legal aspect of JCPOA, disputes settlement entailed in JCPOA differs from regular political and legal procedures. Therefore, it is a treaty since dispute settlement mechanisms have been predicted in this agreement. Ultimately, it is argued that JCPOA is based on the rights of parties and the intention is not referred since the script is clear. According to principles 77 and 125, a treaty in general meaning refers to anything that obliges a state to act or omission of an act for other subsidiaries to international law or organizations. Therefore, JCPOA is a binding document approved between Iran and other states.

Some experts believe that JCPOA has the legal nature of a treaty considering its context that is designed based on a legal treaty. In the case of nature, it is argued that A) the form and context of JCPOA in the international system indicate the international (legal) agreement; B) the nature of measures or interactions contained in JCPOA as well as real conditions governing the JCPOA agreement determine the nature of this treaty; C) regarding the executive mechanism, the sanction is a predominant characteristic of legal obligations versus political obligations. Non-reciprocal legal obligations are considered a breach of an obligation (Nazif & Taheri, 2018, p. 180). Ultimately, it can be analyzed that JCPOA has a higher execution capacity rather than other international legal treaties because of its specific adherence, enforcement, and monitoring mechanisms.

### **Legal Opportunities for JCPOA**

Although Iran did not intend to construct nuclear weapons and use peaceful use of nuclear energy before negotiations that led to JCPOA, a negative image of Iran and its nuclear program created in the international arena before the eleventh government caused many concerns and insecurities. In this case, Americans were against Iran's nuclear program and supported arm measures against it. However, nuclear negotiations that initiated during the eleventh government of Iran led to a global acceptance of Iran's right to a peaceful nuclear program regarding the negotiations. Moreover, it was an agreement that the nuclear program of Iran shall not follow military nuclear objectives (Khalili, p. 147-149).

One of the substantial features of JCPOA is parties' emphasis on the element of "obligation" under this international document. According to paragraph 18 of the preamble and general provisions of JCPOA, the state parties, in the framework of the JCPOA, will cooperate in the field of peaceful uses of nuclear energy<sup>2</sup>.

Moreover, the most critical international impact of JCPOA on Iran was the exit from Chapter seven of the UN Charter. Several resolutions issued by the UN Security Council during the previous government of Iran recognized Iran's nuclear program as a threat to world peace and security. According to Articles 39, 40, and 41 of chapter seven of the Charter, cruel sanctions were imposed on Iran, which caused billion dollars damages to Iran's nation. This approval was the most significant success of international arrogance and Zionism that ruined the international confidence of the Islamic Revolution and Regime of Iran after the 1978 Revolution. This is called the biggest harm since the highest political-security authority of the world, the UN Security Council, treated Iran as a threat to international peace and security. At first step, JCPOA suspended chapter seven of the Charter, in the case of Iran, to pave the way for the

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<sup>2</sup> JCPOA, PREAMBLE AND GENERAL PROVISIONS: Xii) The EU and E3+3 countries and IRAN, in the framework of the JCPOA, will cooperate, as appropriate, in the field of ...

complete exit of Iran from this chapter by enforcing JCPOA (Mousavian and Hosseini, 2016, pp. 359-360).

Many analysts assume that JCPOA, in practice, does not prevent countries from access to fissile materials for peaceful uses. This has raised many criticisms about the Non-Proliferation of Nuclear Weapons. However, JCPOA can ensure the international community of its peaceful nuclear activities under the framework and specified conditions by creating regulatory mechanisms and approval of Iran's nuclear actions (Mousavian and Hosseini, 2016, pp. 359-360).

From the perspective of analysts, the most important achievement of JCPOA is the removal of international sanctions against Iran. They argue that the Iranian negotiating team's emphasis on the removal of these sanctions is the most important reason for such achievement. Economic sanctions are a planned measure done by one or several governments through limiting economic relations to impose pressure on countries regarding political objectives. The economic sanction is usually considered as an alternative to war and exercise of force. Various countries use finite economic sanctions against considered countries to achieve their political goals; however, these sanctions are commonly less effective. This kind of sanction is imposed regarding regime change or change in the political and economic behavior of the target country (Rouhani, 2007). Economic dimensions of sanctions have been expanded in recent years then sanctions were gradually made other sectors involved from the oil and car industry to insurance, banks, and education. Finally, sanctions of 2010-2011 imposed by the European Union on the central bank and other public entities or banks and foreign branches affected the economic foundations of Iran. Nuclear negotiations over consecutive years did not reach conclusion due to disagreement between parties but after holding more than 72 meetings the Joint Comprehensive Plan of Action was signed between the Islamic Republic of Iran and the P5+1 on 14 July 2015 and enforced on 16 January 2016 (Rouhani, 2007). JCPOA is a substantial step to remove international sanctions and reduce the damages of such sanctions on the economy of Iran. Hence, JCPOA implementation and removal of sanctions are long- and short-term political-security opportunities.

### **Legal Threats of JCPOA**

One of the legal conflicts of JCPOA is the non-formation of new sanctions provided, which are consistent with rules existing in western countries. For instance, if they cannot impose sanctions against a person who is accused of being involved in nuclear issues then they use other rules related to terrorism support. Furthermore, the non-cancellation of multilateral sanctions can be mentioned in which both nuclear and non-nuclear factors causing sanctions. According to JCPOA, Iran is not allowed to keep more than 300kg enriched uranium over 25 years but at the end of this limit, Iran can increase this amount by presenting its program to IAEA. Many analysts, particularly opponents of JCPOA in the West, assume that this case (end of 25-year limit) is one of the threats raised by JCPOA. In other words, Iran can launch its nuclear activities, including uranium enrichment, enriched uranium amount, research and development, and other issues under the regulation of IAEA at the end of this duration (Analysis of JCPOA, 2015, pp. 11-14).

There is a lack of attention to the difference between some terms such as suspension, cessation, and waive in the legal text of JCPOA. For instance, Article 19 of JCPOA explains that sanctions of the EU will be terminated after fulfilling Iran's obligations and IAEA's verification. As can be seen, this term seems to mean cessation. Moreover, it should be mentioned that suspension of the sanction imposed by the USA and cancelation of them in this stage that suspension keeps the structure of sanctions. It has been stated in JCPOA that barrier, caused by current

regulations and mechanisms, to Iran's taking benefit of sanctions suspension should be removed under authorities of USA; however, there is not any definite commitment in this lieu. According to parliament's approval of the government, binding to keep nuclear achievements and approval of preventing the government from voluntary enforcement of additional protocol, one of the significant legal considerations in ignorance of such approvals and allowing Agency to monitor the procedures based on the optional execution of the protocol. It is because, before these approvals, governments had the authority to execute the protocol voluntarily without needing permission or approval of Parliament. Hence, this approval was issued by the Islamic Parliament to allow the optional implementation of protocol under the regulation of Parliament based on the legal literature of protocol like other international obligations and legal rules and regulations.

One reason argued by opponents of JCPOA who consider it as a threat is associated with non-approval of the final version of the agreement in parliaments of other member states, except for the USA. They believe that the non-approval of the final script of agreement in legislation parliaments of treaty's member states indicates that it is an enforceable agreement that does not require to be passed through Islamic Parliament. It should be mentioned that they consider approval of JCPOA in USA congress as a necessity since the sanctions have been imposed by this institute.

Accordingly, it should be explained that the final version of JCPOA shows that there is not any specific obligation for countries except for the Islamic Republic of Iran, the USA, and the EU to review and approve JCPOA in their domestic law system. More simply, only China, Russia, France, and the UK, as permanent members of the UN Security Council are obliged to approve resolutions issued by the UN Security Council. On the other hand, as EU members, Germany, France, and the UK shall pass the approvals of waiving sanctions imposed by this institute. Accordingly, the mentioned countries are not obliged to take any specific measure regarding their domestic law (Fattahi Zafarghandi, 2015, pp. 33-37).

According to one of the clauses of JCPOA, there is a right to inspect Iran's nuclear installations and this may cause many problems in the nuclear program of Iran so that the USA can use such agreement to impose more pressure on Iran to change its behavior. Besides, they wonder if this agreement tends to empower moderate Iranian rivals (Mirnezami, 2015, p. 84).

It was a challenge in the political context of Iran whether the Islamic parliament had to pass the JCPOA or not after reaching a nuclear agreement (JCPOA). Many lawyers and government officials assumed that JCPOA is the only executive document containing some voluntary measures taken by parties subject to measures taken by both parties regarding the enactment form and intentions of parties mentioned in its script. Therefore, JCPOA cannot be treated as an international treaty, convention, contract, or agreement. In their opinion, JCPOA is not a legal treaty requiring approval procedure to be formed as domestic law. In fact, JCPOA is a political agreement rather than a political one. Meanwhile, the Islamic Parliament subjected this case to the authority of the Supreme National Security Council. Because the government is required to keep achievements and nuclear rights, all items requiring the Islamic Republic of Iran must be subject to the authority and competency of the Supreme National Security Council. Approval of this council has been mentioned as a prerequisite regarding limitations on peaceful nuclear technology and knowledge and inspections in paragraphs two and three of this Act (Poursaeed, 2015, pp- 5-6).

It was agreed in JCPOA to remove all sanctions on Iran's nuclear activities that have been imposed by the Security Council, EU, and the USA. The EU was committed to waiving micro limitations and sanctions against Iran regarding financial, banking, and insurance affairs, oil, and gas and petrochemical sectors, shipping, shipbuilding, and transportation, gold, and other valuable metals, currency and check, measures related to nuclear proliferation, metals,



software, natural and legal persons or Iranian entities that their properties have been seized or banned (Rezaee Pishrabad, 2016, pp. 96-97). The USA was also committed to terminate sanctions on banking and financial affairs, insurance, oil and gas and petrochemical sectors, shipping, and shipbuilding of ports, gold and other valuable metals, software and metals, car industry, a measure related to non-proliferation of nuclear weapons, and other trade activities of Iran. Finally, it was agreed in JCPOA to cancel the UN Security Council's sanctions through a new resolution (Rezaee Pishrabad, 2016, pp. 97).

In the post-JCPOA period when international financial and banking sanctions were annulled, it was possible for Iran to have access to many blocked resources, to exit from closed and non-evolutionary space, to have a multilateral presence in the international arena, and to become an active player with high regional and international influence. The above mentioned points caused an orientation in regional and international power to control the power of the Islamic Republic of Iran. Regardless of the elected parties in the USA, the policy of imposing a sanction against Iran may remain to control Iran. Accordingly, the continuation of sanctions against Iran, particularly imposed by the USA can be named as one of the serious threats of JCPOA while it was supposed to annul all sanctions (Islami & Naghdi, 2016, pp. 59-62).

### **Legal Weakness of JCPOA and U.S. Exit**

The US state first admitted Iran's adherence to principles of international nuclear agreement within 90-day intervals and extended suspension of anti-Iranian sanctions but Trump avoided the admission of Iran's adherence to the nuclear agreement since 15 October 2017 noting that the extent of lifting sanctions against Iran does not comply with limitations on the nuclear program of this country. Some measures were then taken including a 10-year extension of the Iran Sanctions Act (ISA) by the United States House of Representatives and approval of this house on 8 December 2015 banning citizens of third countries, who were commuting between Iran and their countries, from entering to America. These measures were done by the US after signing JCPOA, which were not matched with the good intent existing in this international agreement. Hence, the Islamic Republic of Iran complained about them. Responding to Iran's objections to this inaccurate and conflicting method used by the American party and following predicted procedures in JCPOA for dispute settlement raised in agreement, the White House (firstly at the late presidency of Obama) emphasized the adherence of the USA to this international agreement.

This allowed the US. Congress re-imposing nuclear sanctions against Iran but congress did not do this. Trump extended the suspension of all sanctions until May 2018 under the regulations of JCPOA (Katzman, 2018, P. 16).

Although European parties on the agreement made many attempts, for example, French President Emmanuel Macron, German Chancellor Angela Merkel, and British Foreign Secretary Boris Johnson traveled to Washington to encourage Trump to remain in agreement but he ignored their requests and exited from the nuclear deal unilaterally. Then, trump reimposed sanctions against Iran warning European companies about their relations with Iran. The USA and somehow European countries have tried to consider the issue of regional and missile activities of Iran as preconditions for any negotiation on a new agreement or reforming the current nuclear deal. Such attempts have faced a severe reaction from Tehran (Katzman, 2018, p. 16).

The U.S argued that this withdrawal from the Vienna Agreement has been caused by the dissatisfying dimension of this agreement, which does not include Iran's withdrawal from the ballistic missiles program. Another reason was attributed to the agreement duration that would be longer than 18 October 2025.

According to the Vienna Agreement, the USA has no legal justification under the regulations of this agreement to terminate its commitments on cessation of national and international sanctions against Iran. As mentioned in Article 36 of JCPOA, the USA could refer the case to the joint commission if found that one of the members (Iran) did not meet its commitments under this JCPOA. Nevertheless, the USA did not follow such a case. Undoubtedly, since IAEA has affirmed Iran's compliance with non-proliferation obligations under the JCPOA, the USA made an excuse to exit from JCPOA by noting that this agreement was dissatisfying. Particularly, JCPOA does not include Iran's withdrawal of the ballistic program or its duration must be extended. Accordingly, dispute settlement procedures must be activated in JCPOA to analyze or prevent any unilateral withdrawal. Such unilateral exit has no legal foundation, not in this agreement nor other documents of UN (Lawyers Association, 2018).

### **JCPOA: A Political Agreement**

Rather than a legal treaty, the P5+1 agreement in form of JCPOA is considered as a political agreement among many experts and lawyers arguing that there are many international agreements between subsidiaries to international law (countries or international organizations) and non-subsiaries, such as agreements between states and non-state institutes, states and foreign private individuals and so forth, which all are so-called international agreements (Ziaei Bigdeli, 2011). However, a part of international agreements is just signed between subsidiaries to international law (states and international organizations), which can be divided into two categories of ethical or moral and legal agreements. Ethical agreements are signed between subsidiaries to international law and parties seek political and ethical obligation rather than international. The political aspect of such treaties does not mean ignoring the political, economic, and diplomatic consequences of the breach of such agreements.

In some cases, there might be many positive or negative results for a nation or government under such ethical agreements while these effects and results do not bring legal or binding obligation for that states regarding international law. Although, some titles, such as a treaty, agreement, contract, convention, charter, covenant, statute, protocol, declaration, etc. are used for legal agreements, and some terms, such as a memorandum of understanding, joint declaration, memorandum, minutes of negotiations, joint statement, agenda, letter of recommendation, etc. are referred as ethical agreements, what determines legal or ethical agreement is its international legal requirements and consequences for subsidiaries to the international law. Accordingly, the title does not create any change in the nature of agreements. Therefore, agreement principles, regulatory institutes, and legal results and regulations for enforcement on which parties agreed or mentioned in the agreement are the most important criteria used to detect whether an agreement is legal or ethical (Taheri Kalan, 2016, pp. 2-3).

It was a challenge in the political context of Iran whether the Islamic parliament had to pass the JCPOA or not after reaching a nuclear agreement (JCPOA). Many lawyers and government officials assumed that JCPOA is the only executive document containing some voluntary measures taken by parties subject to measures taken by both parties regarding the enactment form and intentions of parties mentioned in its script. Therefore, JCPOA cannot be treated as an international treaty, convention, contract, or agreement. In their opinion, JCPOA is not a legal treaty requiring approval procedure to be formed as domestic law. In fact, JCPOA is a political agreement rather than a political one (Poursaeed, 2015, pp- 5-6).

In fact, it can be stated that the terms used in JCPOA have ethical and moral nature. In this case, we can refer to the 2015 ruling of the Philippines' jurisdiction over China in an arbitral tribunal of October 2015. According to this ruling, required international criteria of agreement binding are indicated by parties' intention to establish the right and commitment.

### **Political and Economic Consequences of JCPOA**

The destructive effects of sanctions against Iran weakened the economic foundations of this country. The inflation rate reached over 40% causing an increase in the price of basic items and an unemployment rate over 10%. Between 2009 and 2013, about 300,000 young educated people emigrated from Iran so the brain drain rate increased by 25%, which has been the highest rate of brain drain in Iran. Lifting sanctions and increasing investments in Iran provided many job opportunities for Iranian youth and returned many immigrant professionals to Iran (Sannia, 2015, p. 484).

Economic sanctions imposed by the US, EU and other countries against Iran caused many restrictions on international business opportunities leading to negative impacts on Iran's economy. Improved economic relations between Iran and other countries will strengthen the global economy. Despite the sanctions, Iran is the second great economy of the region after Saudi Arabia. Iran also owns the second large gas reservoir in the world and is ranked as the fourth country in the context of crude oil reservoirs. If sanctions are lifted, the USA's economy will also directly benefit from the conditions. According to a study conducted recently, the USA has lost about 175 billion dollars of potential income of exports to Iran during 1995-2012. On average, about 60,000 job opportunities have been lost in the USA due to such sanctions (Sannia, 2015, p. 484). Although JCPOA could provide Iran's economy with many opportunities, the U.S. exit from this agreement in the past year changed many plans of the Islamic Republic of Iran and European countries that expected not only improve their business and economic relations with Iran but also tended to change Iran to a normal and non-revolutionary country by removing sanctions. They expected Iran to be a country without any risk at regional and international levels. However, the increasing regional influence of Iran after signing the agreement, especially Iran's role in Syria caused the U.S. exit from the Iran nuclear deal, which prevent Iran from benefiting from the economic advantages of this agreement.

Due to severe limitations on the peaceful nuclear program of the Islamic Republic of Iran, countries in the region such as Saudi Arabia and Turkey did not move toward the development of an independent nuclear program. None of the countries in the Middle East that criticized the nuclear agreement changed their nuclear programs and only developed their peaceful nuclear power plants.

The Islamic Republic of Iran has not shown any change in its regional goals and policies. Iran is still supporting Bashar al-Assad and Hezbollah as the main proxy force in the Region and still is against policies made by Saudi Arabia in Yemen, Bahrain, and Syria. Moreover, Iran still uses the same literature against Israel.

The governments of Israel and Saudi Arabia that were against the nuclear agreement with Iran tried to prevent it from reaching a conclusion. Saudi Arabia was highly worried about the geopolitical purposes of Iran in the Persian Gulf while Israel's concerns were caused by Iran's access to a nuclear weapon. From the perspective of Israel and Saudi Arabia, expanded relationships between Iran and the USA might lead to increased Iran's power and reduced tensions between these two countries that could affect their influence in Washington. Therefore, they made many attempts, even after signing the nuclear agreement, to weaken this agreement and to persuade the USA to withdraw from the nuclear deal (Negahban, 2017).

### **CONCLUSION**

The nuclear program of the Islamic Republic of Iran has been a debatable conflict between Iran and western countries, particularly the USA. The nuclear program of Iran over the two past decades has experienced many ups and downs causing crises and disputes between Iran and the West. On the other hand, sometimes there have been fewer tensions and nuclear crises

between Iran and western countries, especially the USA considering their conditions. For example, successful negotiations under JCPOA between Iran and six global powers reached an agreement to solve this crisis.

JCPOA is introduced as the critical point of years of tensions and diplomatic activities around the nuclear program of the Islamic Republic of Iran. In summer 2002, Iran's nuclear program received international attention after disclosure of nuclear activities by one of the opposition groups of Iran abroad. After one year, all countries came to the conclusion that Iran mobilized all amenities for uranium enrichment, which is used to construct a nuclear weapon and power plant. This issue raised international concerns.

The Islamic Republic of Iran has been always emphasizing the legality of its nuclear program since this country is a member of the treaty on the non-proliferation of nuclear weapons, which recognizes members' rights to development and use of peaceful nuclear technology. Hence, Iran ensures that its nuclear program is based on international rules and regulations. However, the USA claims that Iran does not need nuclear energy warning that the peaceful nuclear program of this country masks its attempts to achieve nuclear weapons. The USA withdrew from this claim during negotiations under JCPOA and allowed Iran after ten years to enrich uranium at commercial scale but after the election of Trump, who had an anti-Iranian position, the USA exited from JCPOA, and disputes began between Iran and the USA on Iran's nuclear program particularly in the Persian Gulf so that direct military confrontation took place as an option. Changes and transformations in the nuclear program of Iran were reviewed in detail in this study.

It became a debatable issue in the political context of Iran whether the Islamic parliament had to pass the JCPOA or not after reaching a nuclear agreement (JCPOA). Many lawyers and government officials assumed that JCPOA is the only executive document containing some voluntary measures taken by parties subject to measures taken by both parties regarding the enactment form and intentions of parties mentioned in its script. Therefore, JCPOA cannot be treated as an international treaty, convention, contract, or agreement. In their opinion, JCPOA is not a legal treaty requiring approval procedure to be formed as domestic law. In fact, JCPOA is a political agreement rather than a political one.

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