

**THE JOINT COMPREHENSIVE PLAN OF ACTION AND  
ITS LOOMING SHADOW ON AMERICAN-IRANIAN  
RELATIONS**

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## I. INTRODUCTION\*\*

Diplomacy has proven time and time again to, arguably, be the most effective tool in dealing with some of the world's most high-stakes, international disputes.<sup>1</sup> Despite its proven track record of success, there has always been a sense, as it related to the protracted conflict between Iran and the West—particularly the United States, that diplomacy might give way to armed conflict, full-blown proxy wars, and/or covert operations.<sup>2</sup>

On July 14, 2015, those long-standing fears were largely allayed when Iran signed the Joint Comprehensive Plan of Action (“JCPOA”) with the United States, China, Russia, France, the United Kingdom and Germany (the P5+1), which “cut off every single path” Iran had to a nuclear weapon.<sup>3</sup> Adopted by the United Nations Security Council through Resolution 2231, the JCPOA addresses only Iran’s nuclear program and serves as the guiding principle for the parties to adhere to in the years to come.<sup>4</sup> Despite President Donald Trump’s May 8, 2018, cancellation of American commitments to the deal, the JCPOA not only remains an active reminder of what President Barack Obama considers to be his most significant foreign policy achievement, but also serves as a testament to the determination both sides of the deal exhibited in making sure opposing political and social ideologies do not extinguish this delicate diplomatic flame.<sup>5</sup>

\*\* Due to the tremendous timeliness regarding the subject matter of this Note, the facts, figures and findings are true and effective as of May 13, 2018.

<sup>1</sup> Stephen M. Walt, *Which Works Best: Force or Diplomacy?*, FOREIGN POL’Y (Dec. 1, 2016), <http://foreignpolicy.com/2013/08/21/which-works-best-force-or-diplomacy/>.

<sup>2</sup> *Obama: ‘All Options Are On The Table’ With Iran*, CBS D.C. (Mar. 20, 2013, 3:29 PM) <http://washington.cbslocal.com/2013/03/20/obama-all-options-are-on-the-table-with-iran/>.

<sup>3</sup> David Blair & Ruth Sherlock, *Barack Obama: US Diplomacy has ‘Cut Off’ Iran’s ‘Path to a Nuclear Bomb’*, TELEGRAPH (Sept. 15, 2016), <http://www.telegraph.co.uk/news/worldnews/barackobama/12104633/Barack-Obama-Iran-cannot-get-their-hands-on-a-nuclear-bomb.html>.

<sup>4</sup> S.C. Res. 2231 (July 20, 2015); *Joint Comprehensive Plan of Action*, U.S. DEP’T OF STATE, <http://www.state.gov/e/eb/tfs/spi/iran/jcpoa/> (last visited May 10, 2018).

<sup>5</sup> Mark Landler, *Trump Abandons Iran Nuclear Deal He Long Scorned*, N.Y. TIMES (May 8, 2018), <https://www.nytimes.com/2018/05/08/world/middleeast/trump-iran-nuclear->

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The concerted effort of all involved parties should now be the preservation and expansion of mutually-assured adherence to the agreement, as well as an avoidance of any policies or practices that inhibit the JCPOA's objectives during Donald Trump's unconventional and unpredictable presidency. Having conducted the laborious task of negotiating and reaching this landmark deal, the diplomats reached "the most critical stage" of "fostering an atmosphere of mutual respect and understanding whereby the negotiating parties can move forward in assuring the JCPOA's comprehensive implementation."<sup>6</sup>

The JCPOA was created to "produce the comprehensive lifting of all UN Security Council sanctions as well as multilateral and national sanctions related to Iran's nuclear program[.]"<sup>7</sup> That is, "the JCPOA did not resolve, nor was it intended to resolve concerns outside of the nuclear arena"—namely human rights concerns, Iran's support for resistance groups, or Iran's influence in other countries within the Middle East.<sup>8</sup> Because the JCPOA is related solely to Iran's nuclear activities, the deal has only "produce[ed] the comprehensive lifting of all United Nations Security Council sanctions as well as multilateral and national sanctions related to Iran's nuclear program[.]"<sup>9</sup> Thus, prior to May 8, 2018, while President Trump could have still imposed sanctions on Iran for what he deemed to be other "malign activities" in non-nuclear areas,<sup>10</sup> he could not have reintroduced the lifted sanctions under the guise of other justifications, such as ballistic missiles testing.<sup>11</sup>

While the JCPOA was signed by six nations, this Note will analyze the impact and the relations of the United States and Iran in the post-deal era. This Note is comprised of four main Parts: Part I outlines the history of United States-Iran relations from the time of the Pahlavi Dynasty

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deal.html; *On Borrowed Time*, *ECONOMIST* (Nov. 26, 2016), <http://www.economist.com/news/middle-east-and-africa/21710278-outgoing-american-presidents-biggest-foreign-policy-achievement-now-looks>.

<sup>6</sup> Omid Irani, *A Win for Diplomacy and the World*, *IRAN REV.* (Aug. 11, 2015), <http://www.iranreview.org/content/Documents/A-Win-for-Diplomacy-and-the-World.htm>.

<sup>7</sup> S.C. Res. 2231, *supra* note 4, at 2.

<sup>8</sup> Statement by Jack Lew, Treasury Sec'y, on The Anniversary of The Joint Comprehensive Plan of Action (July 14, 2016), <https://www.treasury.gov/press-center/press-releases/Pages/jl0516.aspx>.

<sup>9</sup> *Id.*

<sup>10</sup> Karen DeYoung, *U.S. Slaps New Sanctions on Iran, After Certifying its Compliance with Nuclear Deal*, *WASH. POST* (July 21, 2017), [https://www.washingtonpost.com/world/national-security/us-certifies-that-iran-is-meeting-terms-of-nuclear-deal/2017/07/17/58d0a362-6b4a-11e7-b9e2-2056e768a7e5\\_story.html?utm\\_term=.7004cb4b63a8](https://www.washingtonpost.com/world/national-security/us-certifies-that-iran-is-meeting-terms-of-nuclear-deal/2017/07/17/58d0a362-6b4a-11e7-b9e2-2056e768a7e5_story.html?utm_term=.7004cb4b63a8).

<sup>11</sup> *Id.*; Peter Baker, *Trump Recertifies Iran Nuclear Deal, But Only Reluctantly*, *N.Y. TIMES* (July 17, 2017), [https://www.nytimes.com/2017/07/17/us/politics/trump-iran-nuclear-deal-recertify.html?\\_r=0](https://www.nytimes.com/2017/07/17/us/politics/trump-iran-nuclear-deal-recertify.html?_r=0).

through the 1979 Islamic Revolution, while simultaneously highlighting events that helped foster, if not explicitly create, the animosity between the two nations. Part II follows the origin and evolution of the Iranian nuclear program beginning in the 1950s with American help, support, and encouragement. Part III tracks the diplomatic efforts, progress, and dealings that ultimately culminated in the signing of the JCPOA in Vienna.<sup>12</sup> This section will also examine post-JCPOA era, focusing on Iran's commitment and the impediments still faced by prospective foreign investors resulting from internationally-perceived American foot-dragging on economic sanctions relief as well as the ramifications that will befall various international parties after the United States' about-face vis-à-vis the nuclear deal. Lastly, Part IV will highlight the importance of preserving the spirit, intent, and objectives of the nuclear deal as the basis for further cooperation between Iran and the United States in areas of mutual interests—namely stabilizing the Middle East.

This Note argues that, while both sides expected that the removal of nuclear-related sanctions would serve as the baseline incentive for continuing adherence to the JCPOA, the agreement runs a real risk of collapsing due in large part to the concerns that international investors and companies face when seeking to invest in Iran in light of the reinstatement of American sanctions. Prior to America's upending of the deal, there was a sentiment that, in an effort to ensure the survival of the JCPOA, both Iran and the United States would have to pull their respective weight. Iran would have continued its documented compliance with the terms and obligations entered into at the negotiating table. In exchange, the American government should have, either through explicit guarantees or implicit assurances, fostered a sense of understanding with wary international investors who feared that any investment in Iran would lead to hefty penalties by the U.S. Treasury Department. A prominent New York City sanctions lawyer highlighted this point: "Many of the major European-based financial institutions have recently been involved in enforcement proceedings because of problems they've had with [American sanctions.]"<sup>13</sup> Ultimately, according to experts in the field, "banks want the maximum certainty" that they will not be subject to American sanctions if they conduct business with Iran.<sup>14</sup>

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<sup>12</sup> Julian Borger, *Iran Nuclear Deal Reached in Vienna*, GUARDIAN (Sept. 20, 2016), <https://www.theguardian.com/world/2015/jul/14/iran-nuclear-deal-expected-to-be-announced-in-vienna>.

<sup>13</sup> Ladene Nasser et al., *What Investors Need to Know About Entering Iran's Stock Market*, BLOOMBERG (Oct. 3, 2016), <https://www.bloomberg.com/news/articles/2016-01-17/what-investors-need-to-know-about-entering-iran-s-stock-market>.

<sup>14</sup> Fabio Benedetti Valentini & Ladene Nasser, *Europe's Banks Are Staying Out of Iran*, BLOOMBERG (Jan. 3, 2017), <https://www.bloomberg.com/news/articles/2016-05-03/europe-s>

In the absence of certainty, it becomes easier to see why Iran would still feel choked off by sanctions, resulting in the greater potentiality that Iran will walk away from the JCPOA.

## II. THE HISTORICAL TIES AND TENSIONS BETWEEN THE UNITED STATES AND IRAN

Once great allies, the United States and Iran have recently experienced decades of non-bilateral communications. Such a reality is due in some degree to America's once long-standing influence and control over Iran's government and rulers prior to 1979. Nevertheless, both sides have committed sizeable transgressions, which have undoubtedly contributed to the war of words and ideas that have come to define American-Iranian relations since 1979.

### *A. The Pahlavi Dynasty: An Instrument for the American Agenda*

Long before toxic vitriol divided the Middle East and much of the Anglophonic West, Iran was "one of America's closest allies."<sup>15</sup> The Pahlavi Dynasty, coming to power in 1925, served as a satisfactory, secular partner for America's ideological and foreign policy-oriented agendas.<sup>16</sup> This partnership explains why Iranian history, at the turn of the twentieth century, was rife with American fingerprints: "The Pahlavi state under the [S]hah came into existence with the influence and assistance of external powers, and continued to be supported by the United States in a bid to ensure the strategic interests of the capitalist world."<sup>17</sup>

Shah Mohammad Reza Pahlavi ("the Shah"), Iran's secular king who kept dissenting pockets of Iran in check—even exiling a prominent cleric, Ruhollah Khomeini, who would later overthrow the Shah in 1979—was the perfect partner for America.<sup>18</sup> With Iran's dissidents silenced, the United States proceeded with its de facto policy of "intervention in the social and political development of Iran."<sup>19</sup> The Shah's reliance on the United States grew on a yearly basis.<sup>20</sup> The

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banks-haunted-by-u-s-fines-forgo-iran-deals-amid-boom.

<sup>15</sup> DOUGLAS LITTLE, *AMERICAN ORIENTALISM: THE UNITED STATES AND THE MIDDLE EAST SINCE 1945* 145 (2008).

<sup>16</sup> *The Pahlavi Dynasty*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/Pahlavi-dynasty> (last visited May 10, 2018).

<sup>17</sup> MARYAM PANAH, *THE ISLAMIC REPUBLIC AND THE WORLD: GLOBAL DIMENSIONS OF THE IRANIAN REVOLUTION* 21 (2007).

<sup>18</sup> JOANNA DE GROOT, *RELIGION, CULTURE AND POLITICS IN IRAN: FROM THE QAJARS TO KHOMEINI* 198 (2007).

<sup>19</sup> PANAH, *supra* note 17, at 17.

<sup>20</sup> *See* PANAH, *supra* note 17, at 20 ("Between 1953 and 1960 the United States granted

reliance was beyond just financial handouts. The United States even “became involved in the establishment and training” of Iran’s royal “security apparatus”—particularly the SAVAK which “engaged in espionage and counter-espionage and domestic repression.”<sup>21</sup> Such generous offerings were presumably tied to the Shah’s reciprocated gestures of serving “the geopolitical interests of the West . . . including the consistent support of the state of Israel, defen[se] of the U.S. engagement in Vietnam and adoption of a security role in the Persian Gulf.”<sup>22</sup>

Domestically, the Shah was perceived as selling out Iranians who “believed the central direction for the shah’s policies originated in Washington.”<sup>23</sup> He was “unable to handle the mounting economic and social problems.”<sup>24</sup> There was “considerable debate” in Iran “on the extent of capitalist development” and the impact it was having on the working class.<sup>25</sup> Not only did the living standards of less-skilled workers fail to mirror the improvements in the standard of living of their working class countrymen, “increasing inflation” and a “rise in housing prices put considerable material pressure” on the backbone of Iran’s population.<sup>26</sup> Such sentiment was certainly not eased by the rampant “perception that the Pahlavi state and its chief supporter[,] the United States[,] were the root cause of Iran’s problems.”<sup>27</sup> The Shah was widely chided as having become “America’s Shah.”<sup>28</sup>

The Shah eventually lost touch with reality, his people in Iran, and “Iranian students [who] were studying abroad during the 1970s.”<sup>29</sup> There is no shortage of examples demonstrating the Shah’s “offensive and insulting” attitude toward his people.<sup>30</sup> He repeatedly exhibited grandiose notions of eclipsing Western standards of living.<sup>31</sup> In his haste to “catch up” and reach his goals, he tacitly blamed the people of Iran as

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\$567 million in economic and \$450 million in military aid to Iran.”).

<sup>21</sup> PANAH, *supra* note 17, at 20.

<sup>22</sup> PANAH, *supra* note 17.

<sup>23</sup> Richard Cottam, *Goodbye America’s Shah*, FOREIGN POL’Y (Feb. 1, 2017), <http://foreignpolicy.com/1979/03/16/goodbye-to-americas-shah/>.

<sup>24</sup> TAREQ Y. ISMAEL ET AL., GOVERNMENT AND POLITICS OF THE CONTEMPORARY MIDDLE EAST: CONTINUITY AND CHANGE 171 (2nd ed. 2016).

<sup>25</sup> PANAH, *supra* note 17, at 21-22.

<sup>26</sup> PANAH, *supra* note 17, at 29-30.

<sup>27</sup> PANAH, *supra* note 17, at 40.

<sup>28</sup> Cottam, *supra* note 23.

<sup>29</sup> PANAH, *supra* note 17, at 34.

<sup>30</sup> Marvin Zonis, *IRAN: A Theory of Revolution From Accounts of the Revolution*, 35 WORLD POL. 586, 600 (1983).

<sup>31</sup> *Id.*

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being the biggest hindrance to achieving such a way of life.<sup>32</sup> He claimed, “[i]f our nation wished to remain in the circle of dynamic, progressive and free nations of the world, it had no alternative but to completely alter the archaic order of society . . . .”<sup>33</sup> He made no attempt to assess or understand his people’s visions and needs, and made little effort to explain why his trumped theirs.<sup>34</sup> A prevailing criticism was that “he showed Iranians no compassion and no empathy.”<sup>35</sup> The culmination of a departure from traditional Iranian norms and the “feelings of betrayal and frustration, were significant sources of the revolutionary energy that culminated in the overthrow of the Shah.”<sup>36</sup> A new man would soon answer the people’s calls and take his place.

*B. Iran’s Islamic Revolution: Governance and Departure from American Influence*

Conservative clerical forces led by Ayatollah Ruhollah Khomeini, who later became Iran’s first Supreme Leader, helped establish the system of governance, which Iran retains today, after they successfully overthrew the American-backed monarchy and sent the Shah into permanent exile.<sup>37</sup> The Shah’s push toward modernization had soured Iranians’ perception of the West to the point where “defense against ‘Westernization’ became a major political issue.”<sup>38</sup> In a blatant departure from his predecessor’s position, Khomeini publicly chastised America’s once-expansive role in Iran and instead pushed for Iranian “self-sufficiency,” declaring: “If we succeed in finding our true selves . . . we shall be able to . . . do and make anything.”<sup>39</sup> In order to accomplish this, however, the structure of the new government had to embody Khomeini’s vision for his new country.

The current manifestations of Iranian governance can be traced to a pair of 1979 referenda, which helped cement the creation of the Islamic Republic. The first and most decisive vote, approved by ninety-eight percent of all voters, asked simply, “Islamic Republic: yes or no.”<sup>40</sup> Shortly thereafter, ninety-nine percent of voters approved the draft

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<sup>32</sup> PANAHA, *supra* note 17, at 24.

<sup>33</sup> Zonis, *supra* note 30.

<sup>34</sup> Zonis, *supra* note 30.

<sup>35</sup> Zonis, *supra* note 30.

<sup>36</sup> Zonis, *supra* note 30, at 599.

<sup>37</sup> *The World Factbook*, CIA, <https://www.cia.gov/library/publications/the-world-factbook/geos/printir.html> (last visited May 10, 2018).

<sup>38</sup> PANAHA, *supra* note 17, at 36.

<sup>39</sup> EVALEILA PESARAN, *IRAN’S STRUGGLE FOR ECONOMIC INDEPENDENCE: REFORM AND COUNTER-REFORM IN THE POST-REVOLUTIONARY ERA* 70 (2011).

<sup>40</sup> YASMIN ALEM, *DUALITY BY DESIGN: THE IRANIAN ELECTORAL SYSTEM* 65 (2011).

constitution, formally ushering in the Islamic Republic of Iran with its government embodying a dual system of democratic and theocratic facets—an “inherent contradiction” that Iran has been grappling with since the Revolution.<sup>41</sup> Such gargantuan support, though, is typical with referenda held in the wake of popular revolutions, especially in Iran’s case, where many Iranians treated the Ayatollah and his revolutionaries as “saviors of the oppressed.”<sup>42</sup>

The complexity and innate incongruity of Iran’s governing political structure cannot be understated or overlooked. At its core, Iran is a theocratic system of government that is intertwined with democratic elements.<sup>43</sup> This intermeshing of two seemingly incoherent governing styles is overseen by an “ultimate political authority vested in a learned religious scholar referred to commonly as the Supreme Leader who, according Iran’s constitution, is accountable only to the Assembly of Experts—a popularly elected 86-member body of clerics.”<sup>44</sup> Notwithstanding its perception as a religious dictatorship, democratic traditions are present in Iran: Iran’s legislators and President are both voted in by the citizenry on four-year terms, lawmakers robustly argue issues of significance against various political and ideological parties, and presidential candidates are even put through the gauntlet of publicly televised debates that become so passionate they sometimes turn “personal.”<sup>45</sup> Summarily, there is no shortage of “jockey[ing] for power” between those atop Iran’s governmental power structure.<sup>46</sup>

Iran’s Supreme Leader, Ali Khamenei, has overseen the country’s most pressing issues since he assumed the position in 1989.<sup>47</sup> “Khamenei’s central position as Supreme Leader affords him the capacity to broadly shape the overall direction of the Islamic Republic.”<sup>48</sup> In fact,

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<sup>41</sup> S. WAHAR HASIB, *THE IRANIAN CONSTITUTION: AN EXERCISE IN CONTRADICTIONS* 4 (2004).

<sup>42</sup> Scott Peterson, *Iran: 20 Years After Ayatollah Khomeini*, CHRISTIAN SCI. MONITOR (Dec. 12, 2016), <http://www.csmonitor.com/World/Middle-East/2009/0605/p06s04-wome.html>.

<sup>43</sup> CIA, *supra* note 37; Max Fisher, *How Do Iran’s Supreme Leader and President Split Power? Here’s a Chart Explaining It*, WASH. POST (Nov. 13, 2016), <https://www.washingtonpost.com/news/worldviews/wp/2013/06/14/how-do-irans-supreme-leader-and-president-split-power-heres-a-chart-explaining-it/>.

<sup>44</sup> CIA, *supra* note 37; Fisher, *supra* note 43.

<sup>45</sup> Jason Rezaian, *Iran’s Presidential Debate Gets Personal*, WASH. POST (Nov. 19, 2016), [https://www.washingtonpost.com/world/middle\\_east/irans-presidential-debate-gets-personal/2013/06/07/e0584e32-cf9c-11e2-8573-3baeea6a2647\\_story.html](https://www.washingtonpost.com/world/middle_east/irans-presidential-debate-gets-personal/2013/06/07/e0584e32-cf9c-11e2-8573-3baeea6a2647_story.html).

<sup>46</sup> Fisher, *supra* note 43.

<sup>47</sup> Akbar Ganji, *Who Is Ali Khamenei?*, 92 FOREIGN AFF. 24, 32 (2013).

<sup>48</sup> ALIREZA NADER, DAVID E. THALER, & S. R. BOHANDY, RAND, *THE NEXT SUPREME LEADER 2* (2011).



“much of his strength rests on his presumed moral authority and his skillful orchestration of informal networks, as well as recent shifts in the international and domestic context.”<sup>49</sup> The evolving level of “increased international pressure on Iran has enabled Khamenei to bolster the revolution’s sagging legitimacy and discredit any moves toward reform as externally inspired.”<sup>50</sup>

With the political dynamics outlined, this Note will now discuss how the Iranian nuclear program came about, and how it became a pressing international concern.

### III. IRAN’S NUCLEAR PROGRAM: FROM INFANCY TO MATURATION

The genesis of the Iranian nuclear program occurred when the United States and Iran were close allies.<sup>51</sup> Around the mid-twentieth century, America’s official governmental policies and scientific capability introduced Iran to the path of nuclear energy and enrichment.<sup>52</sup> Along that journey the United States and Iran had a major divergence, and Iran’s American-made nuclear program became a contentious symbol of the alliance that was.

#### A. “Atoms for Peace” Program

Iran’s nuclear program “is a creation of the United States.”<sup>53</sup> Under America’s Atoms for Peace program, the “United States . . . provided research reactors and enriched uranium to countries such as Iran,” laying the foundation for Iran’s nuclear program beginning in 1957.<sup>54</sup> The United States assisted Iran in gaining an understanding of nuclear power through the former’s exportation of heavily enriched uranium to the latter “in the 1960s for use in a research reactor,<sup>55</sup> located in Tehran,”<sup>56</sup> which

<sup>49</sup> JERROLD D. GREEN, FREDERIC WEHREY, & CHARLES WOLF, JR., RAND, UNDERSTANDING Iran 7 (2009).

<sup>50</sup> *Id.*

<sup>51</sup> Greg Bruno, *Iran’s Nuclear Program*, COUNCIL ON FOREIGN REL. (Nov. 15, 2017), <https://www.cfr.org/backgrounders/irans-nuclear-program>.

<sup>52</sup> *Id.*

<sup>53</sup> Steve Inskeep, *Born In The USA: How America Created Iran’s Nuclear Program*, NPR (Sept. 18, 2015), <https://www.npr.org/sections/parallels/2015/09/18/440567960/born-in-the-u-s-a-how-america-created-irans-nuclear-program>.

<sup>54</sup> MATHEW FURHMANN, ATOMIC ASSISTANCE 2 (2012); Ariana Rowberry, *Sixty Years of “Atoms for Peace” and Iran’s Nuclear Program*, BROOKINGS (Nov. 11, 2016), <https://www.brookings.edu/blog/up-front/2013/12/18/sixty-years-of-atoms-for-peace-and-irans-nuclear-program/>.

<sup>55</sup> “Research reactors are used for training purposes or to produce isotopes that have medical applications.” FURHMANN, *supra* note 54, at 16.

<sup>56</sup> FURHMANN, *supra* note 54, at 15.

is still functional and in operation.<sup>57</sup> For a period of over twenty years, American administrations from President Eisenhower's to Carter's forged nuclear cooperation agreements with Iran with the intent of developing its nuclear energy industry.<sup>58</sup> A declassified study shows that the United States had an interest in becoming "a major source of the equipment as well as the technology used" in Iran's then-fledgling nuclear program.<sup>59</sup> Ironically, the atomic aid the United States so openly provided ended up "contributing to Iran's nuclear weapons program" when all cooperation between the two countries ceased after Iran's 1979 Revolution.<sup>60</sup>

### *B. The Origin and Evolution of the Iranian Sanctions Regime*

Economic sanctions have long been a favorite tool of U.S. foreign policy.<sup>61</sup> From the end of World War II to 1990, the United States imposed two-thirds of all global sanctions.<sup>62</sup> As an additional perspective, "[b]etween its formation in 1945 and [August 6, 1990], the United Nations had imposed sanctions only twice in its history[, whereas] the United States used sanctions about twice a year for a total of about one hundred times. But since 2000, the implementation rate has risen fifty percent to about three per year."<sup>63</sup> American policymakers have been enticed by sanctions because they seem more substantial than "mere diplomacy" and do not present the risks or costs of military intervention.<sup>64</sup> However, if used wantonly, sanctions can inflict enormous harm to a country with a small or vulnerable economy. A perfect example which is Iran. Despite the fact that it has repeatedly been shown that "sanctions . . . have failed to achieve any of their major goals," the United States led a significantly sweeping sanctions regime.<sup>65</sup> Such outcomes are typical and largely hurt ordinary citizens.<sup>66</sup> In short, economic

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<sup>57</sup> Research purposes were, and in many respects still are, the reasoning Iran uses for continuing its legal nuclear program. Inskip, *supra* note 53.

<sup>58</sup> FURHMANN, *supra* note 54, at 82-88.

<sup>59</sup> FURHMANN, *supra* note 54, at 82 (internal quotation marks omitted).

<sup>60</sup> FURHMANN, *supra* note 54, at 84.

<sup>61</sup> Joy Gordon, 'Smart Sanctions' on Iran are Dumb, FOREIGN POL'Y IN FOCUS (Sept. 20, 2016), [http://fpif.org/smart\\_sanctions\\_on\\_iran\\_are\\_dumb/](http://fpif.org/smart_sanctions_on_iran_are_dumb/).

<sup>62</sup> *Id.*

<sup>63</sup> P.R. KUMARASWAMY, CAUGHT IN CROSSFIRE: CIVILIANS IN CONFLICTS IN THE MIDDLE EAST 178-79 (2008).

<sup>64</sup> Gordon, *supra* note 61.

<sup>65</sup> HOSSEIN ALIKHANI, SANCTIONING IRAN: ANATOMY OF A FAILED POLICY 408 (2000).

<sup>66</sup> Much like in Iraq during the 1990s, Iran today is largely dependent on oil exports for revenue creation. Thus, any action preventing such transactions helped create a devastating collateral effect on the ordinary Iranian population. Matt W. Dawson, *How Economic Sanctions Affect Poor People*, FEDERALIST (Feb. 13, 2017), <http://thefederalist.com/2015/>

sanctions have tangible consequences for average Iranians.<sup>67</sup>

“The U.S. has a long history of sanctioning Iran . . . starting with Iran’s Islamic Revolution in 1979, and continuing through the ‘80s and into today.<sup>68</sup> American sanctions against Iran derive their prologue from the International Emergency Powers Act of 1977 (“IEEPA”)<sup>69</sup>—a power invoked for the first time by President Carter through Executive Order 12170<sup>70</sup> in response to, and ten days after, the takeover of the American embassy in Tehran.<sup>71</sup> President Carter declared a national emergency on November 14, 1979, and prevented the transfer or removal of “all property and interests in property of the Government of Iran, its instrumentalities and controlled entities and the Central Bank of Iran which are or become subject to the jurisdiction of the United States . . . .”<sup>72</sup>

These economic sanctions, later expanded by President Reagan, accompanied by retaliatory Iranian measures against American interests, set the stage for decades of animus, generations of mistrust, and a bevy of missed opportunities.<sup>73</sup> Consequently, the diplomatic needle began to shift away from an allegiance and toward an inevitable clash of two powerful, prideful, and prominent countries.

The voluminous increase of American sanctions against Iran has come into existence courtesy of numerous justifications.<sup>74</sup> Rationalizations for such sweeping sanctions originated with the American hostage crisis, later to be superseded by the desire to rebuke Iran over its ties to resistance groups across the Middle East that the United States deemed to be terrorists, then to human rights concerns

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12/14/how-economic-sanctions-affect-poor-people/. See KUMARASWAMY, *supra* note 63, at 179; Saeed Kamali Dehghan, *Sanctions on Iran: ‘Ordinary People Are the Target’*, GUARDIAN (Aug. 10, 2012), <https://www.theguardian.com/world/2012/aug/10/sanctions-iran-ordinary-people-target>.

<sup>67</sup> PBS News Hour, *Economic Sanctions Have Tangible Consequences for Average Iranians*, PBS (Sept. 19, 2014), <http://www.pbs.org/newshour/bb/economic-sanctions-have-tangible-consequences-average-iranians/>.

<sup>68</sup> Matt Pearce, *Where Are Iran’s Billions in Frozen Assets, and How Soon Will It Get Them Back?*, L.A. TIMES (Jan. 13, 2017), <http://www.latimes.com/world/middleeast/la-gf-iran-frozen-assets-20160120-story.html>.

<sup>69</sup> See International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1708 (2016).

<sup>70</sup> Exec. Order No. 12170, 44 Fed. Reg. 65729 (Nov. 14, 1979).

<sup>71</sup> *Iran Hostage Crisis Fast Facts*, CNN (Sept. 15, 2013), <http://www.cnn.com/2-13/09/15/world/meast/iran-hostage-crisis-fast-facts/index.html>.

<sup>72</sup> *Id.*; Exec. Order No. 12170, 44 Fed. Reg. 65729 (Nov. 14, 1979).

<sup>73</sup> Exec. Order No. 12613, 52 Fed. Reg. 41940 (Oct. 29, 1987).

<sup>74</sup> Patrick Clawson, *U.S. Sanctions*, U.S. INST. OF PEACE, <http://iranprimer.usip.org/resource/us-sanctions> (last visited May 10, 2018) (“The United States has had sanctions on Iran for most of the period since the 1979 Islamic revolution . . .”).

before culminating with the punishment of Iran's legal nuclear program.<sup>75</sup> To date, a majority of the American-imposed sanctions against Iran are statutorily authorized under the IEEPA.<sup>76</sup> True to form and keeping in line with American precedent, President Trump has continued the IEEPA national emergency designation against Iran.<sup>77</sup> This authorizes the President to utilize coercive economic power as a means to counter "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat."<sup>78</sup>

As per the IEEPA, the President can assign sanctions enforcement to the Office of Foreign Asset Controls ("OFAC"), a subdivision of U.S. Department of the Treasury.<sup>79</sup> The OFAC is tasked with overseeing and enforcing America's sanctions policy.<sup>80</sup> One of OFAC's duties is to monitor the Specially Designated Nationals and Blocked Persons list ("SDN list"),<sup>81</sup> by ensuring that private entities do not violate American sanctions by conducting business with those on the SDN list.<sup>82</sup>

Two post-9/11 developments greatly enhanced the President's already powerful IEEPA powers. First, Executive Order 13224 essentially allowed any actor who "commit[s]" or "support[s] terrorism" under the umbrella of IEEPA sanctions,<sup>83</sup> thus bringing them under the purview of the SDN list.<sup>84</sup> Such a classification is important in that it

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<sup>75</sup> Zachary Laub, *International Sanctions on Iran*, COUNCIL ON FOREIGN REL. (Feb. 22, 2017), <https://www.cfr.org/backgrounder/international-sanctions-iran>; William O. Beeman, *Does Iran Have the Right to Enrich Uranium? The Answer Is Yes*, HUFFINGTON POST, [http://www.huffingtonpost.com/william-o-beeman/does-iran-have-the-right-\\_b\\_4181347.html](http://www.huffingtonpost.com/william-o-beeman/does-iran-have-the-right-_b_4181347.html) (last visited May 10, 2017).

<sup>76</sup> See International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1708 (2016).

<sup>77</sup> Memoranda from Donald J. Trump, President of the United States, on Continuation of the National Emergency with Respect to Iran (Nov. 6, 2017), <https://www.whitehouse.gov/presidential-actions/notice-regarding-continuation-national-emergency-respect-iran/>.

<sup>78</sup> 50 U.S.C. § 1701(a) (Westlaw through Pub. L. No. 115-61).

<sup>79</sup> *OFAC FAQs: General Questions*, U.S. DEP'T OF TREASURY, [https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_general.aspx](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_general.aspx) (last visited Oct. 20, 2017).

<sup>80</sup> Kian Arash Meshkat, *The Burden of Economic Sanctions on Iranian-Americans*, 44 GEO. J. INT'L L. 915, 927 (2013) (summarizing the history of American sanctions authorization).

<sup>81</sup> Barry E. Carter & Ryan Farha, *Overview and Operation of U.S. Financial Sanctions, Including the Example of Iran*, 44 GEO. J. INT'L L. 903, 904-05 (2013) (outlining the importance of OFAC's role vis-à-vis the SDN list).

<sup>82</sup> Meshkat, *supra* note 80, at 939.

<sup>83</sup> See Exec. Order No. 13224, 66 Fed. Reg. 49079 (2001).

<sup>84</sup> See *id.*; *Specially Designated Nationals and Blocked Persons List (SDN)*, U.S. DEP'T OF TREASURY (Oct. 13, 2017), <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

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allows for the immediate blocking or freezing of any US-based assets involved in business with such entities, and also lodge civil or criminal charges for any business dealings that are in violation of such proscriptions.<sup>85</sup>

The second development was the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (“PATRIOT Act”), a law passed in the shadow of September 11, 2001.<sup>86</sup> Among other things, the PATRIOT Act allows entities who have been designated as “primary money laundering concerns”<sup>87</sup> to be penalized through “prohibiting the opening or maintenance of any correspondent or payable-through accounts” among U.S. financial institutions.<sup>88</sup> The PATRIOT Act also permits the United States to confiscate assets in the United States belonging to the aforementioned entities if they are deemed to have violated any aspect of the American sanctions regime.<sup>89</sup> With these powers in its arsenal, the United States was well-equipped with a bevy of economic armaments it could use against Iran.

OFAC’s aim at the international banking system “deepen[ed] Iran’s financial isolation” by restricting its access to the global financial system.<sup>90</sup> Using the threat of sanctions, the United States gave a ultimatum to other nations: conduct business with Iran or the United States.<sup>91</sup> Given that the United States is the “largest national economy on Earth . . . most countries chose the United States.”<sup>92</sup> Further “tightening the economic noose,”<sup>93</sup> the United States employed secondary sanctions<sup>94</sup>

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<sup>85</sup> SUZANNE MALONEY, *IRAN’S POLITICAL ECONOMY SINCE THE REVOLUTION* 459 (2015) (evaluating the significance of SDN labelling).

<sup>86</sup> See Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. No. 107-56, § 311, 115 Stat. 272 (2001).

<sup>87</sup> See § 311.

<sup>88</sup> See *id.*; *Fact Sheet: Overview of Section 311 of the USA PATRIOT Act*, U.S. DEP’T OF TREASURY (Feb. 10, 2011), <https://www.treasury.gov/press-center/press-releases/Pages/tg1056.aspx>.

<sup>89</sup> See § 319(a).

<sup>90</sup> *Treasury Designates Major Iranian State-Owned Bank*, U.S. DEP’T OF TREASURY (Jan. 23, 2012), <https://www.treasury.gov/press-center/press-releases/Pages/tg1397.aspx>.

<sup>91</sup> S.J.R. BILGRAMI, *DYNAMICS OF SANCTIONS IN WORLD AFFAIRS* 149 (2004).

<sup>92</sup> MATHEW KROENIG, *A TIME TO ATTACK: THE LOOMING IRANIAN NUCLEAR THREAT* 75 (2014).

<sup>93</sup> Steve Hargreaves, *Iran Sanctions Will Hit Its Economy, But Not Kill It*, CNN MONEY (Jan. 20, 2017, 12:33 PM), <http://money.cnn.com/2012/01/24/news/international/Iransanctions/>.

<sup>94</sup> Secondary sanctions are generally imposed on non-U.S. persons for conduct involving Iran that occurs exclusively beyond U.S. jurisdiction and which does not involve U.S. persons, thus secondary sanctions are seen as more stringent because of their extraterritorial reach.

against Iran.<sup>95</sup> This tactic was first utilized in the Iran and Libya Sanctions Act.<sup>96</sup> These measures, combined with other sanctions, made it nearly impossible for Iran to conduct business internationally.<sup>97</sup>

Europe, following the lead of the United States, also applied financial pressure on Iran. As a response to American action, the Society for Worldwide Interbank Financial Telecommunication (“SWIFT”), which connects more than 10,000 financial institutions and corporations in 210 countries, announced in 2012 that it would terminate access to over two dozen Iranian banks.<sup>98</sup> SWIFT’s announcement came just one day after President Obama met with British Prime Minister David Cameron in a show of unity.<sup>99</sup> Just like that, almost instantly, two of the world’s largest markets, the United States and Europe, were shut off to Iran.

The conglomeration of American-imposed and lobbied sanctions financially isolated Iran from the rest of the world. One by one, international monetary institutions were forced to sever business ties with Iran, torpedoing its economy and the way of life for its eighty million citizens.<sup>100</sup> This set the stage for the showdown that endures, in many ways, to this day.

### C. *The Cost of Sanctions*

Proponents<sup>101</sup> of sanctions often advocate for “smart” or “targeted” sanctions—that is, sanctions that are “focused on specific individuals,

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<sup>95</sup> Reuters, *Trump Administration Imposes New Sanctions, Warns More May Follow*, FOX BUS. (Feb. 3, 2017), <http://www.foxbusiness.com/politics/2017/02/03/u-s-announces-new-iran-related-sanctions.html>.

<sup>96</sup> The “Iran and Libya Sanctions Act” was renamed the “Iran Sanctions Act” in 2006. Sahand Moafery, *Partially Unwinding Sanctions: The Problematic Construct of Sanctions Relief in the JCPOA*, HARV. L. SCH. NAT’L. SEC. J. (July 15, 2016, 11:09 PM), <http://harvardnsj.org/2016/07/partially-unwinding-sanctions-the-problematic-construct-of-sanctions-relief-in-the-jcpoa/>; Iran and Libya Sanctions Act of 1996, Pub. L. No. 104–172, 110 Stat. 1541 (1996).

<sup>97</sup> See Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. No. 111–195, 124 Stat. 1312 (2010); Iran Freedom and Counter-Proliferation Act of 2012, Pub. L. No. 112–239, 126 Stat. 2018 (2012); Toni Johnson, *How Sanctions Affect Iran’s Economy*, COUNCIL ON FOREIGN REL. (May 22, 2012), <http://www.cfr.org/iran/sanctions-affect-irans-economy/p28329>.

<sup>98</sup> Rick Gladstone & Stephen Castle, *Global Network Expels as Many as 30 of Iran’s Banks in Move to Isolate Its Economy*, N.Y. TIMES (Feb. 11, 2017), [http://www.nytimes.com/2012/03/16/world/middleeast/crucial-communication-network-expelling-iranian-banks.html?\\_r=0](http://www.nytimes.com/2012/03/16/world/middleeast/crucial-communication-network-expelling-iranian-banks.html?_r=0).

<sup>99</sup> *Id.*

<sup>100</sup> KENNETH KATZMAN, CONGRESSIONAL RESEARCH SERVICE, IRAN SANCTIONS 26 (2017).

<sup>101</sup> *McCain Paints Obama as Naive About Middle East*, CNN (Mar. 20, 2017) <http://www.cnn.com/2008/POLITICS/06/02/mccain.aipac/index.html?ref=nextin> (reprinting a Feb. 11, 2010, statement made by Senator John McCain on the U.S. Senate floor regarding the Iran Human Rights Sanctions Act).

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entities, sectors, and/or regions of a country” as a means to evade the perception of collective punishment.<sup>102</sup> Yet, even these variations create humanitarian consequences that affect ordinary citizens.<sup>103</sup> Almost invariably, sanctions impact “the poorest and most vulnerable” segments of a population.<sup>104</sup> In fact, studies have shown that “nearly all unilateral sanctions fail nearly all the time.”<sup>105</sup> Moreover, the Center for Strategic and International Studies (“CSIS”) released a report which detailed that “engagement with countries whose behaviors is offensive has a better record of accomplishment, with less damage to U.S. interests, than does cutting off most economic and political contact through comprehensive unilateral sanctions.”<sup>106</sup> It has famously been said that the implementation of Draconian economic sanctions is “like applying a meat-cleaver where laser surgery would be more appropriate.”<sup>107</sup> “Comprehensive unilateral economic sanctions are almost always ineffective,” and largely fail to meaningfully deliver on their lofty promises.<sup>108</sup>

Both the United States and Iran pay the price for the international economic sanctions that have come to hamper their respective economies. While the economic toll on the Iranian side is well documented, the effects on the United States, as it relates to lost opportunities, are understated, but equally stark. One could argue, as the National Iranian American Council (“NIAC”) did, that “the United States is by far the biggest loser of all sanctions enforcing nations.”<sup>109</sup> “From 1995 to 2012, the United States sacrificed between \$134.7 and \$175.3 billion in potential export revenue to Iran” and an average of between roughly 51,000 and 66,500 “lost job opportunities each year” due to its dogged enforcement of Iranian sanctions.<sup>110</sup> These estimates reflect only the loss

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<sup>102</sup> *Id.*; TARGETED SANCTIONS: THE IMPACTS AND EFFECTIVENESS OF UNITED NATIONS ACTION 13 (Thomas J. Biersteker et al. eds., 2016).

<sup>103</sup> *Id.*

<sup>104</sup> Gordon, *supra* note 61.

<sup>105</sup> ALIKHANI, *supra* note 65, at 412 (citing JOSEPH J. COLLINS & GABRIELLE D. BOWDOIN, BEYOND UNILATERAL ECONOMIC SANCTIONS: BETTER ALTERNATIVES FOR U.S. FOREIGN POLICY 6 (1999)).

<sup>106</sup> DOUGLAS JOHNSTON & SIDNEY WEINTRAUB, ALTERING U.S. SANCTIONS POLICY: FINAL REPORT OF THE CSIS PROJECT ON UNILATERAL ECONOMIC SANCTIONS 7 (1999).

<sup>107</sup> DAVID S. WEISSBRODT ET AL., INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS 177-78 (4th ed. 2009).

<sup>108</sup> JOHNSTON & WEINTRAUB, *supra* note 106, at 11.

<sup>109</sup> JONATHAN LESLIE, REZA MARASHI, & TRITA PARSI, NAT’L IRANIAN AM. COUNCIL, LOSING BILLIONS: THE COST OF IRAN SANCTIONS TO THE U.S. ECONOMY 12 (2014), <http://www.niacouncil.org/wp-content/uploads/2014/07/Losing-Billions-The-Cost-of-Iran-Sanctions.pdf>.

<sup>110</sup> *Id.* at 3.

from export-based industries, and do not include the detrimental economic effects of other Iran-targeted sanctions, such as, higher global oil prices.<sup>111</sup> Thus, as NIAC calculated it, the total cost to the U.S. economy is likely “even higher” than that which is estimated.<sup>112</sup>

#### *D. America’s Missed Opportunity*

Iran’s religious leaders have consistently denied allegations they ever wished to acquire a nuclear weapon, going so far as to issue a religious edict (a fatwa) that such a weapon is forbidden by Islam.<sup>113</sup> In 2003, in an effort to allay American and European fears, Iran even offered to discuss the state of its nuclear program.<sup>114</sup> Dubbed the “Grand Bargain,” Iran’s proposal included full transparency on the matter and withdrawal of support for Hamas and Hezbollah, in exchange for security guarantees from the United States and a return to normalized diplomatic relations.<sup>115</sup>

As an affirmation of their seriousness, Iran entered into a negotiated arrangement with European parties, which yielded a “detailed suspension agreement.”<sup>116</sup> In an even more blatant signal of sincerity and a “confidence building measure,” Iran voluntarily “continue[d] and extend[ed] its suspension to include all enrichment related and reprocessing activities.”<sup>117</sup> However, all this was for naught when President Bush decided to “rebuff this overture without any attempt at verification or follow-up” because of perceived American insecurity surrounding the authenticity of Iran’s proposal and concern over “ambiguities surrounding the Iranian leadership’s endorsement of the

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<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> Gareth Porter, *When the Ayatollah Said No to Nukes*, FOREIGN POL’Y (Oct. 16, 2014, 11:55 PM), <http://foreignpolicy.com/2014/10/16/when-the-ayatollah-said-no-to-nukes/>.

<sup>114</sup> Suzanne Maloney, *U.S. Policy Toward Iran: Missed Opportunities and Paths Forward*, 32:2 BROOKINGS 25, 30 (2008), [https://www.brookings.edu/wp-content/uploads/2016/06/summer\\_iran\\_maloney.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/summer_iran_maloney.pdf).

<sup>115</sup> Nicholas Kristof, Opinion, *Diplomacy at Its Worst*, N.Y. TIMES (Apr. 29, 2007), <http://www.nytimes.com/2007/04/29/opinion/29kristof.html>; *Excerpt of Iran Secret Proposal Draft Document with Ambassador Zarif’s Edits*, N.Y. TIMES (Apr. 28, 2007), [http://www.nytimes.com/packages/pdf/opinion/20070429\\_iran-memo-red.pdf](http://www.nytimes.com/packages/pdf/opinion/20070429_iran-memo-red.pdf) (originally discussed and posted with Nicholas Kristof, Opinion, *Iran’s Proposal for a ‘Grand Bargain’*, N.Y. TIMES (Apr. 28, 2007), <http://www.nytimes.com/2007/04/29/opinion/29kristof.html>).

<sup>116</sup> Abbas Maleki, *Iran’s Nuclear File: Recommendations for the Future*, 139:1 DAEDALUS 105, 110 (2010), <http://www.jstor.org/stable/pdf/40544048.pdf>.

<sup>117</sup> Int’l Atomic Energy Agency [IAEA], *Comm’n Received from the Permanent Reps. of Fr., Ger., Islamic Republic of Iran and the U.K. Concerning Agreement Signed in Paris on 15 Nov. 2004*, at 1, IEAE Doc. INFCIRC/637 (Nov. 26, 2004). <https://www.iaea.org/sites/default/files/publications/documents/infcircs/2004/infcirc637.pdf>.



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proposal.”<sup>118</sup> Thus, efforts to reach a deal on Iran’s nuclear program collapsed when they were ripest.

Indeed, the nuclear issue plaguing Iran and the West has “been a symptom, not a cause, of mistrust and conflict.”<sup>119</sup>

### III. LET’S MAKE A DEAL

Recognizing the unsuitability of their intractable ways, the United States and Iran both seized on the elections of their respective pragmatic presidents, Barack Obama and Hassan Rouhani, in order to bring decades of hostility to a close. Opting for a diplomatic engagement, the United States and Iran demonstrated to the world and naysayers that diplomacy was not an arcane vestige of the past, but an essential ingredient in resolving the two sides’ most festering issues—American sanctions in response to Iran’s nuclear program. Yet, despite all the fanfare surrounding this historic achievement, the JCPOA’s most recent results and implementation left, and continue to leave, a lot to be desired.

#### A. *The History and Negotiations of the JCPOA*

The re-election of President Obama in the United States and the election of President Rouhani in Iran, in 2012 and 2013 respectively, proved to be a harbinger of diplomacy that had often evaded American-Iranian dialogue. President Obama won his 2008 campaign and his 2012 re-election bid running on a platform that was skeptical toward military intervention and buttressed by his dream of a “world without nuclear weapons.”<sup>120</sup> Over 6,000 miles away in Tehran, the landslide election of President Rouhani reinforced the notion that Iranians wanted to re-engage diplomatically and reintegrate with the world and its economy.<sup>121</sup> Such a convergence of seemingly irreconcilable positions helped prime the atmosphere for the historic negotiations leading to the JCPOA.

Less than five months after President Rouhani’s inauguration, Iran agreed to the Joint Plan of Action (“JPOA”)—a preliminary, non-binding

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<sup>118</sup> Maloney, *supra* note 114, at 30-31.

<sup>119</sup> Mohammad Javad Zarif, Opinion, *A Message from Iran*, N.Y. TIMES (Apr. 20, 2015), <http://www.nytimes.com/2015/04/20/opinion/mohammad-javad-zarif-a-message-from-iran.html>.

<sup>120</sup> Barack Obama, President of the United States, Remarks at Hradcany Square in Prague (Apr. 5, 2009), <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-barack-obama-prague-delivered>.

<sup>121</sup> Hamidreza Gholamzadeh, *The Rouhani Metre: A Mix of Broken Promises and Hope*, AL JAZEERA (Nov. 11, 2013), <http://www.aljazeera.com/indepth/opinion/2013/11/rouhani-metre-mix-broken-promises-hope-201311412256389452.html>.

agreement,<sup>122</sup> which served as the precursor for the JCPOA.<sup>123</sup> The JPOA was an interim agreement, which called for a six-month freeze of elements of Iran's nuclear program, in exchange for narrow sanctions relief.<sup>124</sup> The logic behind such a negotiated arrangement was that, with the modest success of the JPOA, both sides could work "in good faith" toward reaching an enduring pact.<sup>125</sup> After much hysteria and fanfare, Iran and the P5+1 finalized the JCPOA on July 14, 2015.<sup>126</sup> The United Nations Security Council then unanimously approved the agreement in Security Council Resolution 2231, affording the JCPOA the credence of international law.<sup>127</sup>

In the aftermath of the deal, a pair of dissenting nations, Saudi Arabia and Israel, insecure in their own regional standing and dealing with unstable constituencies, decried the JCPOA as a "bad mistake of epic proportions."<sup>128</sup> Yet, bloviating statements from such pockets were ignored as the rest of the world ushered in this "important success," which would "make our world a safer place."<sup>129</sup> As for the two major parties involved, the United States and Iran were very pleased at their diplomatic triumph. President Obama and his Secretary of State John Kerry called the JCPOA a good deal.<sup>130</sup> Their Iranian counterparts, President Rouhani<sup>131</sup> and Foreign Minister Mohammad Javad Zarif, both called the outcome a "win-win".<sup>132</sup>

This historic deal verifiably bound Iran to its word that it will not build uranium-enrichment facilities for a period of fifteen years.<sup>133</sup>

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<sup>122</sup> KENNETH KATZMAN & PAUL K. KERR, CONG. RES. SERV., IRAN NUCLEAR AGREEMENT 1 (2017).

<sup>123</sup> See S.C. Res. 2231, *supra* note 4.

<sup>124</sup> S.C. Res. 2231, *supra* note 4.

<sup>125</sup> S.C. Res. 2231, *supra* note 4.

<sup>126</sup> See S.C. Res. 2231, *supra* note 4.

<sup>127</sup> See S.C. Res. 2231, *supra* note 4.

<sup>128</sup> *Netanyahu Calls Iran Nuclear Agreement a 'Bad Mistake of Historic Proportions'*, FOX NEWS (July 14, 2015), <http://www.foxnews.com/world/2015/07/14/israeli-cabinet-minister-says-nuclear-deal-gives-iran-license-to-kill.html>.

<sup>129</sup> Robin Millard, *World Leaders Voice Relief at Iran Nuclear Deal*, YAHOO (July 14, 2015), <https://www.yahoo.com/news/world-leaders-voice-relief-iran-nuclear-deal-141113251.html?ref=gs>.

<sup>130</sup> James Conca, *Iranian Nuclear Deal a Win-Win-Win*, FORBES (Apr. 3, 2015), <http://www.forbes.com/sites/jamesconca/2015/04/03/iranian-nuclear-deal-a-win-win-win/#1e3eaad68ac8>.

<sup>131</sup> *JCPOA Implementation Two-Way Street: Iran's President*, PRESS TV, (Aug. 17, 2016), <http://www.presstv.com/Detail/2016/08/17/480496/Iran-Norway-Rouhani-Borge-Brende-JCPOA>.

<sup>132</sup> Conca, *supra* note 130.

<sup>133</sup> Eric Bradner, *What's in the Iran Nuclear Deal? 7 Key Points*, CNN (Apr. 2, 2015), <http://www.cnn.com/2015/04/02/politics/iran-nuclear-deal-main-points-of-agreement/>.

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Additionally, a comprehensive inspection regime was established to monitor and confirm that Iran was complying with its JCPOA commitments.<sup>134</sup> Under the terms of the JCPOA, Iran agreed to, among other terms, reduce its stockpile of uranium by ninety-eight percent, drastically dismantle its inventory of centrifuges from 20,000 to roughly 6,000, and redesign a heavy-water facility to make production of weapons-grade plutonium impossible.<sup>135</sup> Iran even agreed to have the number of International Atomic Energy Agency (“IAEA”)<sup>136</sup> inspectors assigned to its nuclear program increase nearly three-fold from 50 to between 130 and 150.<sup>137</sup> In exchange for accepting these intrusive measures, Iran enjoyed having its assets in foreign banks, estimated to be about \$100 billion, unfrozen, and also received a reprieve from American enforcement of its nuclear-related secondary sanctions.<sup>138</sup>

Despite the varied international sentiments directed toward the JCPOA, it is worthwhile to note that the policy of seeking normalized engagement in an atmosphere of mistrust is littered with uncertainty and the fear of inevitable failure. As Suzanne Maloney, an expert on Iran, wrote, “the failure of talks can always be depicted as a predictable outcome to an uncertain engagement with a long-time adversary.”<sup>139</sup> It is no wonder that the term “engagement” has become “one of the trickiest terms in the policy lexicon.”<sup>140</sup> Accordingly, it would be wise for each remaining party to the deal to practice prudence and diligence in their conduct toward each other in order to incentivize the continued adherence to and preservation of the fragile JCPOA.

### *B. Iran’s Commitment to the JCPOA*

Having been on the receiving end of years of antagonism, exclusion, and derision, Iran’s economy found itself “newly connected to most of

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<sup>134</sup> Eyder Peralta, *6 Things You Should Know About the Iran Nuclear Deal*, NPR (July 14, 2015), <http://www.npr.org/sections/thetwo-way/2015/07/14/422920192/6-things-you-should-know-about-the-iran-nuclear-deal>.

<sup>135</sup> *Id.*

<sup>136</sup> The International Atomic Energy Agency (IAEA) is the global nuclear watchdog of the United Nations.

<sup>137</sup> See S.C. Res. 2231, *supra* note 4, at Annex I ¶ 67.3.

<sup>138</sup> Brian Murphy, *Iran Claims \$100 Billion Now Freed in Major Step as Sanctions Roll Back*, WASH. POST (Feb. 1, 2016), [https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02c9\\_story.html](https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02c9_story.html); See S.C. Res. 2231, *supra* note 4, at Annex II.

<sup>139</sup> Suzanne Maloney, *The GOP Plan to Sabotage an Iran Nuclear Deal May Just Work*, NEWSWEEK (Mar. 10, 2015, 12:12 PM), <http://www.newsweek.com/gop-plan-sabotage-iran-nuclear-deal-may-just-work-312674>.

<sup>140</sup> Chester A. Crocker, *Terms of Engagement*, N.Y. TIMES (Sept. 14, 2009), [http://nytimes.com/2009/09/14/opinion/14crocker.html?\\_r=0](http://nytimes.com/2009/09/14/opinion/14crocker.html?_r=0).

the world's economy" in a manner it was not privy to before.<sup>141</sup> Entry into globalism and inclusion was "ineluctably associated with both economic and democratic liberalism."<sup>142</sup> While this Note does not make such an argument, it nevertheless bears noting that case studies such as in post-WWII Germany and Japan have exhibited such tendencies.<sup>143</sup> Perhaps this trend might even continue in the form of Iran becoming a full-fledged member of the community of nations and exhibiting a more positive role in the post-JCPOA era.

In March 2018, the IAEA Director General confirmed Iran's continued commitment to the JCPOA when he declared that, "Iran is implementing its nuclear-related commitments" under the JCPOA and stressed that his organization had "had access to all locations that [it] needed to visit."<sup>144</sup> The IAEA concluded Iran kept its pledges and found no indications of any violations in its fidelity to the deal.<sup>145</sup> America's European allies also agreed with these assessments.<sup>146</sup> So has President Trump's own defense secretary, James Mattis.<sup>147</sup> In April 2018, mere weeks before America's retreat from the deal, President Trump's State Department issued a report declaring that "Iran continued to fulfill its nuclear-related commitments under the Joint Comprehensive Plan of Action (JCPOA)."<sup>148</sup> Such declarations by key players validate Iran's seriousness about meeting its responsibilities and raise questions about why the United States would upend an effective mechanism overseeing Iran's enrichment capabilities.

The prevailing opinion of the Iranian people since the implementation of the JCPOA has been positive and has been marked by comradery, compliance, and cooperation.<sup>149</sup> At no point was this more

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<sup>141</sup> Elizabeth MacBride, *Seven Reasons Iran Could Become an Entrepreneurial Powerhouse*, FORBES (Oct. 7, 2016), <http://www.forbes.com/sites/elizabethmacbride/2016/04/30/seven-reasons-iran-is-likely-to-be-an-entrepreneurial-powerhouse/#60010eda6391>.

<sup>142</sup> DAVID HELD, *THE GLOBAL TRANSFORMATION READER* 274 (2d ed. 2003).

<sup>143</sup> THE ECONOMIST INTELLIGENCE UNIT, *ECONOMIST, DEMOCRACY INDEX 2015: DEMOCRACY IN THE AGE OF ANXIETY* 4 (2016), <http://www.yabiladi.com/img/content/EIU-Democracy-Index-2015.pdf>.

<sup>144</sup> IAEA, *Iran is Implementing Nuclear-related JCPOA Commitments, Director Amano Tells IAEA Board*, IAEA (Mar. 5, 2018), <https://www.iaea.org/newscenter/news/iran-is-implementing-nuclear-related-jcpoa-commitments-director-general-amano-tells-iaea-board>; Francois Murphy, *Collapse of Iran Nuclear Deal Would Be 'Great Loss', IAEA Tells Trump*, REUTERS (Mar. 5, 2018), <https://www.reuters.com/article/us-iran-nuclear/collapse-of-iran-nuclear-deal-would-be-great-loss-iaea-tells-trump-idUSKBN1GH119>.

<sup>145</sup> IAEA, *supra* note 144.

<sup>146</sup> Peter Beinart, *Trump May Already Be Violating the Iran Deal*, THE ATLANTIC (Apr. 29, 2018), <https://www.theatlantic.com/international/archive/2018/04/iran-deal/559235/>.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> IAEA, *supra* note 144.

evident than at the ballot box, where tens of millions of Iranians voted to re-elect President Rouhani with an overwhelming margin and mandate. President Rouhani's re-election was "especially refreshing given the recent rising populist trends in Europe and the U.S.," because it "sent a resounding message to the Trump administration."<sup>150</sup> Iran's outlook was clear: its citizens demonstrated their will and their want to be "committed to the path of diplomacy and moderation."<sup>151</sup> Iran's President entered his second term embodying "a sign that the Iranian people clearly desire[d] peaceful relations with the outside world . . ."<sup>152</sup> Encapsulating the sentiment of both scholars and government officials who deal extensively with Iran-related, Gary Sick, a long-time Iran expert at Columbia University, said analysts are "beginning to talk about Iran as a normal player in the Middle East," which represents a departure from the global pariah it was once viewed as.<sup>153</sup> Such accounts certainly fit the narrative coming out of Iran touting their well-documented sincerity to this international agreement. In return for Iran's verified initial compliance, President Rouhani believed that "some parties [to the deal fell] short of honoring some of their obligations."<sup>154</sup>

### *C. Roadblocks to Continued Cooperation*

The United States Congress, Republican members in particular, adopted "largely unprecedented tactics of obstructionism and sabotage" as it pertained to both the proposal and survival of the JCPOA.<sup>155</sup> In the months leading up to the deal, forty-seven Republican senators "issued an 'open letter' addressed to the Iranian leadership that intended to sabotage prospects for a comprehensive nuclear deal with Iran by cultivating doubt about the credibility and reliability of the American president."<sup>156</sup> Moreover, prior to the JCPOA's finalization, Congress

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<sup>150</sup> Erin Cunningham, *Iranian President Rouhani Wins Reelection by a Landslide*, WASH. POST (May 21, 2017), [https://www.washingtonpost.com/world/moderate-incumbent-rouhani-leads-in-vote-count-for-iranian-presidency-preliminary-results-show/2017/05/20/e4c156bc-39b0-11e7-a59b-26e0451a96fd\\_story.html?utm\\_term=.2618091d5be9](https://www.washingtonpost.com/world/moderate-incumbent-rouhani-leads-in-vote-count-for-iranian-presidency-preliminary-results-show/2017/05/20/e4c156bc-39b0-11e7-a59b-26e0451a96fd_story.html?utm_term=.2618091d5be9).

<sup>151</sup> *Id.*

<sup>152</sup> Edith M. Lederer, *AP Interview: Kofi Annan Says Trump Should Talk to Iran*, ASSOCIATED PRESS (May 24, 2017), <https://apnews.com/65651beba1c24f0ea7d2c041ef3b0ec3/AP-Interview:-Kofi-Annan-says-Trump-should-talk-to-Iran>.

<sup>153</sup> Barbara Slavin, *Iran President to Avoid Obama in Brief Visit to U.N.*, VOICE OF AMERICA (Sept. 25, 2016), <http://blogs.voanews.com/us-opinion/2016/09/19/iran-president-to-avoid-obama-in-brief-visit-to-u-n/>.

<sup>154</sup> *JCPOA Implementation Two-Way Street: Iran's President*, *supra* note 131.

<sup>155</sup> Max Fisher, *Republicans Are Crossing a Dangerous New Line: Sabotaging US Foreign Policy*, VOX (Sept. 10, 2016), <http://www.vox.com/2015/3/9/8177815/republicans-foreign-policy-sabotage>.

<sup>156</sup> Maloney, *supra* note 139.

passed legislation aimed at strengthening its obstructionist agenda by reviewing any finalized deal.<sup>157</sup> The Iran Nuclear Agreement Review Act of 2015 required President Obama to report to Congress any final deal in the negotiations.<sup>158</sup> Additionally, various procedural hurdles were created for the President, making clear Congress's purpose of not wanting to be circumvented in this international deal.<sup>159</sup> The Act also explicitly stated that, irrespective of any potential nuclear deal, "United States sanctions on Iran for terrorism, human rights abuses, and ballistic missiles will remain in place . . . ."<sup>160</sup> Ultimately the Act failed in its goal to derail the deal, but that did not deter lawmakers from overtly engaging in rhetoric aimed at "sabotaging" its implementation by vowing to "do everything [they could] to stop it."<sup>161</sup> However, lawmakers were successful in passing legislation requiring the President to notify Congress every ninety days whether Iran remained in compliance with the deal via a certification.<sup>162</sup> Under American law, the President's failure to issue a certification paves the way for Congress to re-impose sanctions on Iran, should they elect to do so.<sup>163</sup> Such hostile sentiments revealed the lack of good will and sincerity vis-à-vis executing and implementing the JCPOA in earnest. It is these hostilities toward the deal that have allowed unease and apprehension to permeate the initial sense of achievement among the JCPOA's negotiators and diplomats.

During the 2016 Presidential campaign, one of then-candidate Donald Trump's most choral mantras was "rip it up"—a reference to the Iranian deal that President Trump vowed to renounce and renegotiate.<sup>164</sup>

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<sup>157</sup> See Iran Nuclear Agreement Review Act of 2015, Pub. L. No. 114-17, 129 Stat. 201 (2015).

<sup>158</sup> See *id.*

<sup>159</sup> The Iran Nuclear Agreement Review Act states: "because the sanctions regime was imposed by Congress and only Congress can permanently modify or eliminate that regime, it is critically important that Congress have the opportunity, in an orderly and deliberative manner, to consider and, as appropriate, take action affecting the statutory sanctions regime imposed by Congress." Atomic Energy Act of 1954, Pub. L. No. 83-703, § 135(c)(1)(E) (1954) (as amended).

<sup>160</sup> 42 U.S.C.A. § 2160e (Westlaw through Pub.L. No. 115-61).

<sup>161</sup> Fisher, *supra* note 155; Interview with John B. Bellinger III, Adjunct Senior Fellow for International and National Security Law (July 23, 2015), <http://www.cfr.org/iran/binding-iran-deal/p36828>; Press Release, Speaker Ryan's Press Office, "We'll Do Everything We Can to Stop" a Bad Deal (July 14, 2015), <http://www.speaker.gov/press-release/boehner-iran-we-ll-do-everything-we-can-stop-bad-deal>.

<sup>162</sup> Baker, *supra* note 11.

<sup>163</sup> N.Y. Times Editorial Board, Editorial, *A Devious Threat to a Nuclear Threat*, N.Y. TIMES (Sept. 9, 2017), <https://www.nytimes.com/2017/09/07/opinion/trump-iran-nuclear-deal.html>.

<sup>164</sup> David A. Andelman, *Why Trump Won't Tear Up the Nuclear Deal*, CNN (Apr. 3, 2017), <http://www.cnn.com/2017/03/03/opinions/trump-iran-deal-andelman/>.

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However, despite President Trump's hyperbolic condemnations and his October 2017 decertification of the deal, it took him another several more months to abandon the accord in full.<sup>165</sup> Prior to decertifying the JCPOA, President Trump affirmatively signed off on critical sanction waivers, which allowed the arrangement to remain in place and even twice certified Iran's cooperation with the terms of the deal.<sup>166</sup> In January 2018, President Trump issued a waiver of key sanctions for a period of four months while declaring that this extension represented "the last chance" for those European countries that are parties to the deal and key backers of it to "fix the deal's disastrous flaws" or face an American withdrawal therefrom.<sup>167</sup> In response, England, France, and Germany proposed adopting new European Union sanctions against Iran in hopes of saving the deal, but the Europeans failed to agree on any such sanctions amid fears that punishing Tehran for its missile program and regional role would not stop U.S. President Donald Trump from abandoning the JCPOA.<sup>168</sup> Such concerns, coupled with President Trump's failure to issue further required waivers on sanctions against Iran before the May 12, 2018, deadline threatened the very existence of this multilateral agreement.<sup>169</sup>

Secretary Mattis, publicly stated: "When America gives [its] word, we have to live up to it."<sup>170</sup> The top Republican and Democrat on the Foreign Affairs Committee both expressed their bipartisan support for remaining in the deal, maintaining that America's adherence to its word

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<sup>165</sup> Mark Landler & David E. Sanger, *Trump Disavows Nuclear Deal, But Doesn't Scrap It*, N.Y. TIMES (Oct. 15, 2017), <https://www.nytimes.com/2017/10/13/us/politics/trump-iran-nuclear-deal.html>; Landler, *supra* note 5.

<sup>166</sup> Thomas Erdbrink, *As Iran and U.S. Leaders Trade Barbs, Big Deals Proceed*, N.Y. TIMES (May 28, 2017), <https://www.nytimes.com/2017/05/28/world/middleeast/iran-nuclear-deal-hassan-rouhani-donald-trump.html>; Baker, *supra* note 11.

<sup>167</sup> Steve Holland, *Trump Issues Ultimatum To 'Fix' Iran Nuclear Deal*, REUTERS (Jan. 11, 2018), <https://www.reuters.com/article/us-iran-nuclear-decision/trump-issues-ultimatum-to-fix-iran-nuclear-deal-idUSKBN1F108F?feedType=RSS&feedName=newsOne>.

<sup>168</sup> Reuters Staff, *EU Fails to Agree New Iran Sanctions as Trump Deadline Nears*, REUTERS (Apr. 16, 2018), <https://www.reuters.com/article/us-eu-iran-sanctions/eu-fails-to-agree-new-iran-sanctions-as-trump-deadline-nears-idUSKBN1HN26O>.

<sup>169</sup> Shashank Bengali & Ramin Mostaghim, *Iran Reacts to Pompeo as Trump's Secretary of State Pic: 'Cowboyish' and 'Eager to Start a War'*, L.A. TIMES (Mar. 14, 2018), <http://www.latimes.com/world/middleeast/la-fg-iran-pompeo-20180314-story.html>.

<sup>170</sup> Paul McLeary, *Splitting From Trump, Defense Pick Mattis Slams Russia, Supports Iran Deal*, FOREIGN POL'Y (Jan. 26, 2017), <http://foreignpolicy.com/2017/01/12/splitting-from-trump-defense-pick-mattis-slams-russia-supports-iran-deal/>; Jana Winter et al., *Trump Assigns White House Team to Target Iran Nuclear Deal, Sidelining State Department*, FOREIGN POL'Y (July 21, 2017), <http://foreignpolicy.com/2017/07/21/trump-assigns-white-house-team-to-target-iran-nuclear-deal-sidelining-state-department/>.

serves to advance its national security interests.<sup>171</sup> Others argue that an American withdrawal therefrom amounts to a “self-inflicted wound” and “would be the height of stupidity.”<sup>172</sup>

Prior to his termination, Secretary of State, Rex Tillerson, had admitted that Iran was in “technical compliance” with the 2015 nuclear agreement.<sup>173</sup> Such a statement came less than two weeks before General Mattis, while answering questions in a Senate hearing, said that “[if] we can confirm that Iran is living by the agreement . . . then clearly we should stay with it.”<sup>174</sup> These echoes grew louder in March 2018 when a bipartisan group of more than 100 national security veterans, including fifty retired military officers and at least four former American ambassadors to Israel, endorsed the JCPOA and proclaimed that “President Trump should maintain the U.S. commitment to the Iran nuclear deal” because America gains nothing by scrapping it.<sup>175</sup> Removed from domestic political allegiances, even the IAEA unequivocally warned President Trump that the collapse of the nuclear deal would be a “great loss for nuclear verification and for multilateralism” because the international nuclear watchdog organization “now has the world’s most robust verification regime in place in Iran.”<sup>176</sup> Israeli analysts were even publicly quoted as saying that “[t]here is no definitive smoking gun that Iran lied since [signing the JCPOA].”<sup>177</sup> Such a collection of high-ranking voices overtly advocating against America’s withdrawal from the JCPOA underscores the gravity of the situation now at hand.

In spite of this insistence, President Trump still rejected American involvement in the deal because of a long-harbored and significant

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<sup>171</sup> Zachary Cohen, *Top Republican to Trump: Stay in Iran Deal*, CNN (Oct. 15, 2017), <http://www.cnn.com/2017/10/11/politics/trump-iran-deal-royce-engel/index.html>

<sup>172</sup> Eli Watkins, *Sen. Chris Murphy: Pulling Out of Iran Deal a ‘Self-Inflicted Wound’*, CNN (Oct. 16, 2017), <http://www.cnn.com/2017/10/08/politics/chris-murphy-iran-nuclear-cnntv/index.html>; Zane Maxwell, *Susan Rice: Leaving Iran Deal ‘Would Be the Height of Stupidity’*, CNN (Nov. 10, 2017), <http://www.cnn.com/2017/11/07/politics/susan-rice-axe-fil es-iran-deal/index.html>.

<sup>173</sup> Tom DiChristopher, *Trump Will Refuse to Certify Iran Nuclear Deal as Part of Broad New Strategy Against Tehran*, CNBC (Oct. 16, 2017), <https://www.cnbc.com/2017/10/13/trump-will-refuse-to-certify-iran-nuclear-deal-in-strategic-shift.html>.

<sup>174</sup> BBC, *US Defense Chief Mattis Suggests Backing Iran Nuclear Deal*, BBC NEWS (Oct. 5, 2017), <http://www.bbc.com/news/world-us-canada-41489550>.

<sup>175</sup> Rick Gladstone, *U.S. Experts Say Why Trump Should Support Iran Deal*, N.Y. TIMES (Mar. 26, 2018), <https://www.nytimes.com/2018/03/26/world/middleeast/iran-nuclear-letter.html>

<sup>176</sup> Murphy, *supra* note 144.

<sup>177</sup> Bernard Avishai, *Why Netanyahu Really Wanted Trump to Scuttle the Iran Deal*, NEW YORKER (May 10, 2018), <https://www.newyorker.com/news/daily-comment/why-netanyahu-really-wanted-trump-to-scuttle-the-iran-deal>.



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interest in decertifying and weakening the JCPOA.<sup>178</sup> The President even tasked a group of White House staffers with the assignment of actively undermining the deal and finding a way out of it.<sup>179</sup> With such revelations coming to light, it is hard to imagine how this landmark agreement survived for as long as it did under his watch. This attitude was supported by RBC Capital Markets, a global investment bank providing expertise in banking, finance, and capital markets to corporations, institutional investors, asset managers, and governments around the world.<sup>180</sup> Its managing director and global head of commodity strategy expressed their skepticism and pessimism in the JCPOA's survival when she estimated that, "[t]he prognosis for the Iranian nuclear deal in 2018 also looks fairly bleak, and the persistent threat of a U.S. sanctions snapback could curtail foreign investment in the Iranian energy sector . . . ."<sup>181</sup> The Eurasia Group, an international political risk research and consulting firm, only gave the JCPOA only a meager fifty-five percent chance of surviving President Trump's first term in office.<sup>182</sup> Such realities merely reinforce the tenuous nature that surrounded this landmark negotiation after President Trump took office. Mutual mistrust and frustration have now further intensified the landscape leading resulted in both the United States and Iran to accusing each other of violating the "spirit" of the deal before the United States finally violated it officially by leaving it.<sup>183</sup>

With patriotic rhetoric and international scrutiny at a fever pitch, the stage was set for a heavyweight, diplomatic sales pitch by both the United States and Iran at the 72nd Session of the United Nations General Assembly. As expected, President Trump came out swinging hard at his predecessor's approach to foreign policy, the JCPOA and Iran. By labelling Iran a "corrupt dictatorship" and a "rogue state whose chief exports are violence, bloodshed, and chaos," President Trump once again reiterated his contempt for the JCPOA calling it "one of the worst and

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<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *About Us*, RBC CAPITAL MARKETS, <https://www.rbccm.com/en/about-us.page> (last visited May 10, 2018).

<sup>181</sup> Tom DiChristopher, *Trump Is Staring Down a Deadline to Keep the Iran Nuclear Deal Alive*, CNBC (Jan. 10, 2018), <https://www.cnbc.com/2018/01/10/trump-is-staring-down-a-deadline-to-keep-the-iran-nuclear-deal-alive.html>.

<sup>182</sup> *Id.*

<sup>183</sup> Adam Taylor, *Iran's Top Diplomat Says You Should Ignore Trump's Comments on the Nuke Deal*, WASHPOST. (Apr. 26, 2017), [https://www.washingtonpost.com/news/worldviews/wp/2017/04/26/irans-top-diplomat-says-you-should-ignore-trumps-comments-on-the-nuke-deal/?utm\\_term=.0bd2a26a807d](https://www.washingtonpost.com/news/worldviews/wp/2017/04/26/irans-top-diplomat-says-you-should-ignore-trumps-comments-on-the-nuke-deal/?utm_term=.0bd2a26a807d); Shephard Smith: *Trump Didn't Pull Out of Iran Nuclear Agreement, He Violated It*, HAARETZ (May 9, 2017), <https://www.haaretz.com/us-news/shepard-smith-trump-didn-t-exit-iran-nuclear-deal-he-violated-it-1.6073502>.

most one-sided transactions the United States has ever entered into.”<sup>184</sup> Iran is by no means an exemplary international state actor, yet “while Iran indeed is engaging in some very worrisome pursuits, the [JCPOA] is confined to the nuclear program. And so the terms of the deal dictated that “[a]s long as Tehran is staying within those limits, Mr. Trump has no reason not to certify compliance.”<sup>185</sup>

President Trump, guided by his inability to recognize the delicate nature of diplomacy and the significance of the United Nations audience, was harshly criticized for his speech by the Swedish Foreign Minister who remarked that, “It was the wrong speech, at the wrong time, to the wrong audience.”<sup>186</sup> The following day, on the same stage, President Rouhani made a diligent case for Iran’s commitment to the JCPOA and counterpunched against his counterpart’s amateurish international display. President Rouhani proclaimed to the collection of world leaders that “Iran will not be the first country to violate the agreement” despite the arrival of “rouge newcomers to the world of politics.”<sup>187</sup> France’s President, Emmanuel Macron, in a pointed rejection of President Trump’s approach to the JCPOA made it clear that “to denounce [the JCPOA] would be a grave error, because it is a good deal”<sup>188</sup> and warned that it would be a “big mistake” for the United States to withdraw from its commitments.<sup>189</sup> Interestingly, even Israel’s army chief of staff, Lt. Gen. Gadi Eisenkot has hailed the JCPOA for its success in delaying the “Iranian nuclear vision by 10 to 15 years.”<sup>190</sup>

By decertifying the JCPOA in October 2017, President Trump essentially was attempting to absolve himself of any responsibility as to the deal’s future, because he merely “punt[ed] the question of whether it

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<sup>184</sup> Donald J. Trump, President of the United States, Remarks to the 72nd Session of the United Nations General Assembly (Sept. 19, 2017).

<sup>185</sup> N.Y. Times Editorial Board, Editorial, *supra* note 163.

<sup>186</sup> *Trump’s First UN Speech Met With Criticism From Some Leaders*, BBC NEWS (Sept. 20, 2017), <http://www.bbc.com/news/world-us-canada-41327130>.

<sup>187</sup> Nicole Gaouette, *Iran Rouhani Pushes Back on Trump*, CNN (Sept. 20, 2017), <http://www.cnn.com/2017/09/20/politics/iran-rouhani-trump-nuclear/index.html>.

<sup>188</sup> Alexandra Zavis, *France’s Macron Defends Iran Nuclear Deal and Says Climate Pact Is Not Up for Renegotiation*, L.A. TIMES (Sept. 19, 2017), <http://www.latimes.com/world/la-un-general-assembly-live-updates-france-s-macron-defends-iran-nuclear-1505846706-htmlstory.html>.

<sup>189</sup> Christiane Amanpour & Hilary Clarke, *Citing North Korea, Macron Calls on Trump to Honor Iran Nuclear Deal*, CNN (Sept. 19, 2017), <http://www.cnn.com/2017/09/19/world/macron-north-korea-iran-amanpour-interview/index.html>.

<sup>190</sup> N.Y. Times Editorial Board, Editorial, *Trump’s Iran Threat May Wreck Talks with North Korea*, N.Y. TIMES (Apr. 2, 2018), <https://www.nytimes.com/2018/04/01/opinion/trump-iran-north-korea-talks.html>.

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should be torn up to Congress.”<sup>191</sup> Under the Iran Nuclear Agreement Review Act, a President’s decision to “decertify” the Iran deal opens a sixty-day window for Congress decide whether or not to reimpose previously removed sanctions on Iran.<sup>192</sup> Congress, naturally dysfunctional and stagnant, did not act in the allotted sixty-days, creating a situation where President Trump was “back to square one, with the deal he promised to scrap still in place.”<sup>193</sup>

The prospect of President Trump leading the United States away from the JCPOA skyrocketed when he dismissed Secretary of State Tillerson and National Security Adviser McMaster, replacing them with CIA Director Mike Pompeo and former U.S. ambassador to the United Nations, John R. Bolton.<sup>194</sup> Both men are Trump loyalists who have not only denounced America’s involvement in the landmark nuclear agreement,<sup>195</sup> but have also publicly professed their antipathy toward Iran by pushing for military strikes<sup>196</sup> and calling for the American-led overthrow of its government.<sup>197</sup> JCPOA onlookers warily and correctly noted that the hiring and promotion of these “Iran Hawks”<sup>198</sup> “spell[ed] trouble for the nuclear deal”<sup>199</sup> because it further called into question America’s sincerity vis-à-vis its commitments to the deal and underscored the creation of “one of the most hawkish national security teams of any White House in recent history.”<sup>200</sup>

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<sup>191</sup> Zeeshan Aleem, *Trump Punted the Iran Deal to Congress, Congress Just Punted It Back*, VOX (Dec. 15, 2017), <https://www.vox.com/policy-and-politics/2017/12/12/16767908/trump-sanctions-iran-deal-congress>.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> Gladstone, *supra* note 175.

<sup>195</sup> Gladstone, *supra* note 175.

<sup>196</sup> Tracy Wilkinson & Brian Bennet, *Pompeo May be Even More Hawkish on Iran than Trump, a Bad Sign for the Iran Nuclear Deal*, L.A. TIMES (Mar. 16, 2018), <http://www.latimes.com/nation/la-fg-pompeo-iran-deal-20180316-story.html>; John R. Bolton, Opinion, *To Stop Iran’s Bomb, Bomb Iran*, N.Y. TIMES (Mar. 27, 2018), <https://www.nytimes.com/2015/03/26/opinion/to-stop-irans-bomb-bomb-iran.html>.

<sup>197</sup> Brendan Cole, *What Does Mike Pompeo Think About Russia, Iran and North Korea?*, NEWSWEEK (Mar. 13, 2018), <http://www.newsweek.com/mike-pompeo-new-secretary-state-what-will-us-foreign-policy-look-842647>; *John Bolton Wants Regime Change in Iran, and So Does the Cult that Paid Him*, WASH. POST (Mar. 24, 2018), [https://www.washingtonpost.com/news/global-opinions/wp/2018/03/24/john-bolton-wants-regime-change-in-iran-and-so-does-the-cult-that-paid-him/?utm\\_term=.67e07a94537f](https://www.washingtonpost.com/news/global-opinions/wp/2018/03/24/john-bolton-wants-regime-change-in-iran-and-so-does-the-cult-that-paid-him/?utm_term=.67e07a94537f).

<sup>198</sup> Colum Lynch & Elias Groll, *Trump Taps Uber-Hawk Bolton as National Security Advisor*, FOREIGN POL’Y (Mar. 22, 2018), <http://foreignpolicy.com/2018/03/22/trump-taps-uber-hawk-bolton-as-national-security-adviser/>.

<sup>199</sup> Dan De Luce & Keith Johnson, *Tillerson’s Exit Could Doom the Iran Nuclear Deal*, FOREIGN POL’Y (Mar. 13, 2018), <http://foreignpolicy.com/2018/03/13/tillersons-exit-could-doom-the-iran-nuclear-deal/>.

<sup>200</sup> Mark Landler & Maggie Haberman, *Trump Chooses Bolton for 3rd Security Adviser*

The JCPOA now stands at a crucial crossroads where the international community is able to uniquely gauge and dictate its success or failure. Iran has repeatedly protested the fact that the United States, when still a party to the deal, had not fully lifted its banking sanctions, which spooked international investors.<sup>201</sup> Clyde and Co., a leading commerce and trade law firm, estimated that “more than half of global companies interested in doing business with Iran are holding back for fear of running afoul of sanctions . . . .”<sup>202</sup> Speeches from Mr. Khamenei, such as the one marking the 2016 Persian New Year, stating that “[the Americans] removed the sanctions in paper only,” further underscore this existing frustration and dilemma.<sup>203</sup>

Frustration has been mounting over the looming threats still posed by penalties from the U.S. Treasury Department that have made European banks very anxious about providing credit for large-scale projects in Iran.<sup>204</sup> Such angst is not ill-founded; it enjoys factual backing. “Several big banks, including HSBC and BNP Paribas were fined billions of dollars for dealing with Iran . . . .”<sup>205</sup> *Harvard Business Review* echoed such a reality when they wrote that “financial institutions remain anxious because of the \$15 billion in fines banks have paid for sanctions violations over the last five years and the difficulty of avoiding the U.S. financial system for bank transactions related to Iran.”<sup>206</sup> Because American regulations and sanctions are still in place, it remains virtually impossible for businesses to transfer money to and from Iran—a

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as *Shake-Up Continues*, N.Y. TIMES (Mar. 22, 2018), <https://www.nytimes.com/2018/03/22/us/politics/hr-mcmaster-trump-bolton.html>.

<sup>201</sup> Tom Arnold & Jonathan Saul, *Iranians Exasperated as U.S. Sanctions Frustrate Deal Making*, REUTERS (Feb. 2, 2017), <http://www.reuters.com/article/us-iran-trade-finance-idUSKCN0WO1Y3>; Mathew Lee, *US and Iranian Ministers Meet over Iran Sanctions Complaints*, FOX NEWS (Feb. 7, 2017), <http://www.foxnews.com/us/2016/04/19/us-and-iranian-ministers-meet-over-iran-sanctions-complaints.html>.

<sup>202</sup> Birgit Jennen & Ian Wishart, *U.S. Said to Rebuff EU Bid to Shield Banks on Iran Sanctions* (June 7, 2016), <https://www.bloomberg.com/news/articles/2016-06-07/u-s-said-to-rebuff-eu-bid-to-shield-banks-from-iran-sanctions-ip59qkxe>.

<sup>203</sup> Aresu Egbali & Margherita Stancati, *Iran's Supreme Leader Says Sanctions Still Affecting Country's Economy*, WALL ST. J. (Nov. 19, 2016), <http://www.wsj.com/articles/irans-supreme-leader-says-sanctions-still-affecting-countrys-economy-1458502695>.

<sup>204</sup> Rick Gladstone & Thomas Erdbrink, *Iran's President Accuses U.S. of 'Lack of Compliance' on Nuclear Deal*, N.Y. TIMES (Jan. 23, 2016), [http://www.nytimes.com/2016/09/23/world/middleeast/hassan-rouhani-iran-unga-2016-united-nations.html?ref=world&\\_r=1](http://www.nytimes.com/2016/09/23/world/middleeast/hassan-rouhani-iran-unga-2016-united-nations.html?ref=world&_r=1).

<sup>205</sup> Alanna Petroff & Jackie Wattles, *Boeing and Airbus Get US Green Light to Sell Planes to Iran*, CNN MONEY (Sept. 28, 2016), <http://money.cnn.com/2016/09/21/news/airbus-iran-planes-us/>.

<sup>206</sup> Matthew Spivack, *What to Know About Doing Business in Iran*, HARV. BUS. REV. (Oct. 22, 2016), <https://hbr.org/2016/05/what-to-know-about-doing-business-in-iran>.

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quandary that has been enormously exasperating for many Iranians.<sup>207</sup> Perhaps the most important aspect which must be addressed in order to properly appreciate the gravity and sensitivity of the JCPOA's unfulfilled expectation is the lingering ambiguity surrounding the fate of European companies who have already started or wish to start conducting business with Iran.

Secretary Kerry underscored this fact during his tenure when he acknowledged that “[u]nfortunately there seems to be some confusion among some foreign banks and we want to try and clarify that.”<sup>208</sup> Even European lawmakers decry the fact that the “lack of clarity from the U.S. is causing a lack of certainty for companies . . . .”<sup>209</sup> Their incertitude stems from the fact that OFAC “has made it very clear that no payments linked to Iran may be processed through the U.S. financial system.”<sup>210</sup> This web of dos and don'ts for potential investors is further compounded by the reality that American sanctions against Iran concerning non-nuclear-related matters remain in place. An executive director for The International Monetary Fund (“IMF”) echoed such a point when he stated, “[r]egrettably, remaining U.S. sanctions and related uncertainty have hindered the return of global banks to the Iranian market and continue to hamper large-scale investment and trade.”<sup>211</sup> Such measures “effectively block any transactions with Iran . . . based on the U.S. dollar, because they would ultimately have to be cleared in the US.”<sup>212</sup>

Caught in the middle of this economic strong-arming are innocent Iranians who recently lost access to one of the most ubiquitous elements in today's globalized society, Apple's App Store.<sup>213</sup> “Under the

<sup>207</sup> Gladstone & Erdbrink, *supra* note 204.

<sup>208</sup> Bozorgmehr Sharafedin & Andrew Heavens, *Iran's Supreme Leader Says U.S. Lifted Sanctions Only on Paper*, REUTERS (Feb. 9, 2017), <http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0XOORK>.

<sup>209</sup> Jennen & Wishart, *supra* note 202.

<sup>210</sup> Jim Zarroli, *As Sanctions on Iran Are Lifted, Many U.S. Business Restrictions Remain*, NPR (Oct. 17, 2017), <https://www.npr.org/sections/parallels/2016/01/26/464435805/as-sanctions-on-iran-are-lifted-many-u-s-business-restrictions-remain>.

<sup>211</sup> The International Monetary Fund, created in 1945, is an organization of 189 countries, working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world. Jon Gambrell, *IMF Says Iran Rebounds After Nuclear Deal, But Danger Looms*, ASSOCIATED PRESS (Feb. 28, 2017), <https://apnews.com/dad5dd22bf8b4079b8000f89c9dcafec/IMF-says-Iran-rebounds-after-nuclear-deal,-but-danger-looms>.

<sup>212</sup> *Iran Decries US Failure to Fulfill JCPOA Obligations*, PRESS TV (Sept. 2, 2016), <http://www.presstv.com/Detail/2016/07/17/475612/Iran-US-Ali-Akbar-Velayati-JCPOA-sanctions>.

<sup>213</sup> Thomas Erdbrink & Vindu Goel, *Apple, Citing U.S. Sanctions, Removes Popular Apps in Iran*, N.Y. TIMES (Aug. 26, 2017), [https://www.nytimes.com/2017/08/24/technology/apple-iran.html?\\_r=0](https://www.nytimes.com/2017/08/24/technology/apple-iran.html?_r=0).

regulations governing U.S. sanctions, the App Store cannot host, distribute, or do business with apps or developers connected to certain U.S. embargoed countries,” namely Iran. Such measures unfairly target the Iranian public and stifle their personal economic prosperity and livelihood. An Iranian entrepreneur expressed his frustration that, “[n]o one with an iPhone can download any of the popular apps any more. Imagine if in the U.S. you wouldn’t be able to get Uber on your phone.”<sup>214</sup>

Because Congress maintains a plethora of robust sanctions against Iran to use as both a barking and biting force against companies that wish to do business with and in Iran, the JCPOA’s potential has been largely neutered. For this principal reason, economic relief hasn’t flowed into Iran as robustly as expected and likely will not now that the United States has abdicated its involvement therewith.

On the JCPOA’s one-year anniversary, the U.S. Treasury Secretary stated:

We are meeting our commitments under the deal, by lifting nuclear-related sanctions as specified in the JCPOA and by providing clear and timely guidance to government and private sector partners about engagement with Iran that is now permitted. And Iran has benefited economically under the deal, significantly increasing its oil sales, opening more than 300 new bank accounts with foreign banks, negotiating billions of dollars of new lines of credit, and seeing new planned foreign direct investment increase by more than \$3 billion.<sup>215</sup>

This statement, while technically true, was misleading and contributed to the lingering dichotomy between American and Iranian viewpoints regarding post-JCPOA developments. Moreover, the statement set the tone for the misleading talking points vis-à-vis Iranian sanctions relief that were later touted and exaggerated by the United States in an effort to muzzle Iranian protests regarding the dearth of foreign monetary influx.

It should not go unsaid that Iran has enjoyed significant economic gains since the JCPOA’s implementation. Per the IMF, Iran’s real gross domestic product has grown by 7.4 percent.<sup>216</sup> “Iran’s oil exports have tripled since late 2015,” which has “helped offset large and unexpected production outages” elsewhere, lowering international gas prices at the pump.<sup>217</sup> In the ever-lucrative tourism sector, “more than 6 million travelers visited Iran in the year ending March 2017, up fifty percent on

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<sup>214</sup> *Id.*

<sup>215</sup> Statement by Jack Lew, *supra* note 8.

<sup>216</sup> Gambrell, *supra* note 211.

<sup>217</sup> Matt Egan, *Iran’s Oil Exports Have Tripled Since Late 2015*, CNN MONEY (Oct. 16, 2016), <http://money.cnn.com/2016/06/16/investing/iran-pumping-lots-more-oil-sanctions/>.

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the previous year and three times the number in 2009.”<sup>218</sup> According to the Foundation for the Defense of Democracies, a hawkish think tank, which relentlessly advocates for anti-Iran policies, Iran’s inflation rate plummeted to eight percent in 2016, down from eighty percent in 2013, because of its ability to sell oil on the international market.<sup>219</sup> It is forecasted that Iran’s economic growth “will stabilize around 4 to 4.5 percent annually or higher over the next five years’ with an overall growth pace of about four to five percent in the 2017–18 fiscal year.”<sup>220</sup> These statistics reflect the incremental nature of investments by foreign firms in Iran such as those by French automobile manufacturer Renault, which has agreed to increase its production in Iran, setting a goal of producing 300,000 cars annually by 2022.<sup>221</sup>

Such analysis is not to suggest that Iran has not benefited at all since the JCPOA’s implementation, quite the contrary. Rather, the argument rests on the view that despite the many remaining barriers, these are the fragments of relief from the JCPOA, which have found their way into Iran. With that, the potential for the originally expected windfall of gains would be even more substantial if the United States were to give clear assurances to Iran-looking international business investors. Yet, “while Iran has been successful in selling its oil, United States banking restrictions that predate the nuclear dispute have obstructed increased trade between Iran and its European business partners.”<sup>222</sup> Assessing the Iranian energy sector, SVB Energy International found that “dozens of deals” aimed at developing and reintegrating “Iran’s energy and other industrial sectors [have] stalled because of [the] remaining U.S. sanctions . . . [because] banks and businesses that use the U.S. financial system are afraid of violating sanctions on Iran for its support of terror groups and human rights violations.”<sup>223</sup> Evidently, these institutions “view the risk of violating U.S. sanctions as too great.”<sup>224</sup>

Statements coming out of Iran regarding Iranian irritation with these hindrances demonstrate how fragile the JCPOA’s survival truly is. Iran

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<sup>218</sup> Zahraa Alkhalisi, *Iran’s Tourism Industry Is Booming*, CNN MONEY (Sept. 5, 2017), <http://money.cnn.com/2017/09/05/news/economy/iran-tourism-boom/index.html>.

<sup>219</sup> Oren Dorell, *Year After Nuclear Deal, 6 Ways Iran Is More Assertive*, USA TODAY (Nov. 5, 2016), <http://www.usatoday.com/story/news/world/2016/07/13/iran-nuclear-deal-year-later/86978502/>.

<sup>220</sup> MARK DUBOWITZ ET AL., FOUND. FOR DEFENSE OF DEMOCRACIES, DON’T BUY THE SPIN: IRAN IS GETTING ECONOMIC RELIEF 4 (June 2016).

<sup>221</sup> *Renault Agrees to Step up Car Production in Iran*, BBC NEWS (Aug. 7, 2017), <http://www.bbc.com/news/business-40850181>.

<sup>222</sup> Gladstone & Erdbrink, *supra* note 204.

<sup>223</sup> Dorell, *supra* note 219.

<sup>224</sup> Jennen & Wishart, *supra* note 202.

argued that President Trump violated the nuclear agreement by pressuring companies not to engage in business with Iran.<sup>225</sup> According to Foreign Minister Zarif, this was a “violation of not the spirit but of the letter of the J.C.P.O.A. of the nuclear deal.”<sup>226</sup> The head of Iran’s atomic energy agency warned that the landmark nuclear deal could collapse because of America’s foot-dragging on the pledge of sanctions relief.<sup>227</sup> Thus, the question is: Why should Iran forgo its nuclear capabilities in exchange for being put in virtually the same situation it was in before signing the JCPOA? Iran’s former President Mahmoud Ahmadinejad repeatedly touted Iran’s resilience in the face of sanctions when he was in office proclaiming, “[s]anctions cannot stop the Iranian nation. The Iranian nation is able to withstand the pressure of the United States and its allies.”<sup>228</sup> There is some truth to that argument. Despite the fact that Iran has lived, and continues to live, under American and international sanctions for nearly four decades, Iran has still found ways to successfully launch its first indigenous satellite into orbit, send animals into space for testing, and develop drones to protect and advance its geopolitical interests.<sup>229</sup> Iran is not desperate.

In one of the post-JCPOA’s most telling episodes, the U.S. Treasury Department, under the Obama administration, delayed granting key licenses to the world’s two aviation goliaths, Boeing and Airbus, for nearly a year; these key licenses were required to greenlight Iran’s purchase of 180 passenger aircraft from the duopoly.<sup>230</sup> Such

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<sup>225</sup> Baker, *supra* note 11.

<sup>226</sup> Baker, *supra* note 11.

<sup>227</sup> *Iran Warns Enduring Sanctions Threatening Nuclear Deal*, AL JAZEERA (Sept. 26, 2016), <http://www.aljazeera.com/news/2016/09/iran-warns-enduring-sanctions-threatening-nuclear-deal-160926173350502.html>.

<sup>228</sup> Louis Charbonneau, *Ahmadinejad Says Sanctions Won’t Stop Iran*, REUTERS (May 4, 2010), <http://www.reuters.com/article/nuclear-treaty-ahmadinejad-idAFN0412889620100504>.

<sup>229</sup> Fredrik Dahl & Parisa Hafezi, *Iran Launches Satellite; U.S. Expresses Concern*, REUTERS (Feb. 2, 2009), <http://www.reuters.com/article/us-iran-satellite-idUSTRE5120NN20090203>; Michael Sheridan, *Iran Brags It Launched Rocket Into Space . . . With Mouse, Turtles & Worms*, NY DAILY NEWS (Feb. 3, 2010), <http://www.nydailynews.com/news/world/iran-brags-launched-rocket-space-mouse-turtles-worms-article-1.193971>; Paul McLeary, *Iranian Drones Now Hitting Rebel Targets in Syria*, FOREIGN POL’Y (Jan. 18, 2017), <http://foreignpolicy.com/2016/02/29/iranian-drones-now-hitting-rebel-targets-in-syria/>.

<sup>230</sup> Jon Gambrell, *US Grants Airbus, Boeing a Chance to Sell Airplanes to Iran*, ASSOCIATED PRESS (Oct. 9, 2016), <http://bigstory.ap.org/article/3824bea5c2e342eea5fa6a76280595f0/airbus-says-us-grants-license-planes-iran-deal>; David Lawder, *U.S. Treasury’s Mnuchin: Revoking Boeing, Airbus Licenses to Sell Jets to Iran*, REUTERS (May 8, 2018), <http://www.reuters.com/article/us-iran-nuclear-boeing/u-s-treasurys-mnuchin-revoking-boeing-airbus-licenses-to-sell-jets-to-iran-idUSKBN1192Q6>.



intervention by the U.S. Treasury Department was vital for Boeing<sup>231</sup> and Airbus<sup>232</sup> to lawfully sell Iran aircrafts as “Washington still demands that even non-American manufacturers wishing to sell to Iran to obtain an export license if their products include material made in the United States.”<sup>233</sup> All such deals are dependent on U.S. licenses because of the heavy use of American parts in commercial airplanes.<sup>234</sup> These obstructive requirements forced Iran to wait until 2017 before it could accept the first delivery of aircrafts, and even then Iran only received a mere fraction of the aircrafts it purchased.<sup>235</sup> Airbus, alone, has ninety-five undelivered planes bound for Iran in its backlog.<sup>236</sup> Iran’s desperation to obtain modern aircrafts and aviation parts represents a microcosm of underlying vexation surrounding American policies. A history professor at the University of Illinois, Behrooz Ghamari, stated, “Airplanes have real political and symbolic significance for the Iranian government.”<sup>237</sup> Whenever “ordinary people and politicians referred to how immoral and cruel these sanctions are, they brought up the example of the Iranian airlines and their aging commercial fleet.”<sup>238</sup>

Iran’s aviation sector has been decimated at the hands of American sanctions. Due to the damaging effects of long-standing sanctions, Iran was forced, and continues in large part to be forced, to rely on obsolete aircraft dubbed “flying coffins,” which make air travel less safe for civilians.<sup>239</sup> It is no surprise that “Iran has one of the world’s worst air safety records;” the Flight Safety Foundation found that since 1979, “1,672 people have died in 92 aircraft-related accidents.”<sup>240</sup> Addressing this issue in the post-JCPOA era should not take place at such a delayed

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<sup>231</sup> An American company headquartered in Chicago.

<sup>232</sup> A French aircraft producer that purchases over of forty percent of its aircraft parts from the United States.

<sup>233</sup> Thomas Erdbrink & Nicola Clark, *U.S. Allows Boeing and Airbus to Sell Planes to Iran*, N.Y. TIMES (Sept. 25, 2016), [https://www.nytimes.com/2016/09/22/world/middleeast/iran-airbus-boeing-aircraft.html?\\_r=0](https://www.nytimes.com/2016/09/22/world/middleeast/iran-airbus-boeing-aircraft.html?_r=0).

<sup>234</sup> Lawder, *supra* note 230.

<sup>235</sup> *Iran Air Takes Delivery of Its First of 100 Airbus Aircraft*, AIRBUS (Apr. 2, 2017), <http://www.airbus.com/newsroom/press-releases/en/2017/01/iran-air-takes-delivery-of-its-first-of-100-airbus-aircraft.html>.

<sup>236</sup> Julie Johnson & Ben Katz, *Trump Exit From Iran Pact Halts \$40 Billion Boeing, Airbus Deals*, BLOOMBERG (May 8, 2018), <https://www.bloomberg.com/news/articles/2018-05-08/trump-exit-from-iran-pact-halts-40-billion-boeing-airbus-deals>.

<sup>237</sup> Shashank Bengali, *Why Iran is Desperate for U.S. Passenger Planes, But Can't Have Them*, L.A. TIMES (Sept. 18, 2016), <http://www.latimes.com/world/la-fg-iran-airlines-snap-story.html>.

<sup>238</sup> *Id.*

<sup>239</sup> Ali Delforouh, *Iran's "Flying Coffins"*, HUFFINGTON POST (Jan. 11, 2018), [https://www.huffingtonpost.com/ali-delforouh/irans-flying-coffins\\_b\\_252090.html](https://www.huffingtonpost.com/ali-delforouh/irans-flying-coffins_b_252090.html).

<sup>240</sup> *Id.*

rate. OFAC has the authority to grant companies specific licenses, which authorize particular transactions that might otherwise be banned by the remaining sanctions regime.<sup>241</sup> It must do so at a more practical and prudent pace instead of revoking them. It is for this reason that Iranian dissatisfaction is reaching a boiling point, leading to a meeting between Foreign Minister Zarif and his international counterparts on the sidelines of the 2016 United Nations General Assembly to discuss “some differences” over the application of the nuclear deal, “the first ministerial-level meeting between [the parties] since the deal went into effect.”<sup>242</sup>

A persuasive argument can be made, buttressed by uncontroverted facts, that since President Trump’s took office he repeatedly violated the explicit terms of the JCPOA.<sup>243</sup> Contrary to popular belief, the deal does not only require the United States to lift nuclear sanctions in exchange for a cap on Iranian nuclear enrichment.<sup>244</sup> Rather it is more complex and reciprocal. The JCPOA required the United States not to inhibit Iran’s reintegration into the global economy. Section 26 committed the U.S. (and its allies) “to prevent interference with the realisation [sic] of the full benefit by Iran of the sanctions lifting specified” in the deal.<sup>245</sup> Section 29 committed the U.S. and commits Europe to “refrain from any policy specifically intended to directly and adversely affect the normalisation [sic] of trade and economic relations with Iran.”<sup>246</sup> Section 33 committed them to “agree on steps to ensure Iran’s access in areas of trade, technology, finance and energy.”<sup>247</sup>

The Trump administration likely violated these clauses numerous times since assuming power. It has been reported that at a May 2017 NATO summit, “Trump tried to persuade European partners to stop making trade and business deals with Iran.”<sup>248</sup> Then, in July, Trump’s director of legislative affairs boasted that at a G20 summit in Germany that Trump had “underscored the need for nations . . . to stop doing business with nations that sponsor terrorism, especially Iran.”<sup>249</sup> Both of

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<sup>241</sup> See 31 C.F.R. § 501.801 (2013) (listing rules applicable to different kinds of Licenses issued by OFAC).

<sup>242</sup> *Iran to Meet World Powers Over Nuclear Deal ‘Differences’*, ASSOCIATED PRESS (Sept. 18, 2016), <http://bigstory.ap.org/article/c09c33c32f2748d89761489a00d53591/iran-meet-world-powers-over-nuclear-deal-differences>.

<sup>243</sup> Beinart, *supra* note 146.

<sup>244</sup> See S.C. Res. 2231, *supra* note 4.

<sup>245</sup> See S.C. Res. 2231, *supra* note 4.

<sup>246</sup> See S.C. Res. 2231, *supra* note 4.

<sup>247</sup> See S.C. Res. 2231, *supra* note 4.

<sup>248</sup> Ishann Tharoor, *The U.S. and Iran Are Heading Toward Crisis*, WASH. POST (Jul. 19, 2017), [https://www.washingtonpost.com/news/worldviews/wp/2017/07/19/the-u-s-and-iran-are-heading-toward-crisis/?utm\\_term=.4545964c4f53](https://www.washingtonpost.com/news/worldviews/wp/2017/07/19/the-u-s-and-iran-are-heading-toward-crisis/?utm_term=.4545964c4f53).

<sup>249</sup> Callum Borchers, *‘There Was Simply No Collusion’: Sarah Huckabee Sanders’s Off-*

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these lobbying efforts appear to violate America's pledge to "refrain from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations with Iran."<sup>250</sup>

The Trump administration may have committed other violations as well. Section 22 of the deal specifically obliged the United States, subject to some restrictions, to "allow for the sale of commercial passenger aircraft and related parts and services to Iran."<sup>251</sup> To do business with Iran, any U.S. company—or even any foreign company that gets more than ten percent of its components from U.S. companies—must get a permit from OFAC.<sup>252</sup> Under the Obama administration, OFAC began issuing these permits, albeit slowly.<sup>253</sup> In November 2016, for instance, OFAC allowed the sale of 106 planes by Airbus to Iran Air.<sup>254</sup> But since the Trump administration took over, requests concerning permits to export planes to Iran had been piling up as OFAC had not responded to aircraft sales licensing requests since the first of such licenses were issued during the Obama administration.<sup>255</sup> Erich Ferrari, a lawyer in Washington who works on sanctions issues, said there has "definitely been a shift. Certain transactions that we've seen licensed in the past under the Obama administration are now being denied."<sup>256</sup>

It is thus quite clear why Iran's most senior figures and politicians, despite their patience and adherence to the deal, were dropping not-so-subtle clues to the United States that sanctions relief was lacking and jeopardizing the future of cooperation vis-à-vis the nuclear issue. Abbas Araqchi, Iran's Deputy Foreign Minister, made it known that: "If our interests are not met under the nuclear deal, there will be no reason for us to continue."<sup>257</sup> Such statements should have served and should continue to serve as a warning to all remaining parties that the JCPOA is not

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*Camera Press Briefing, annotated*, WASH. POST (Jul. 11, 2017), [https://www.washingtonpost.com/news/the-fix/wp/2017/07/11/there-was-simply-no-collusion-sarah-huckabee-sanders-off-camera-press-briefing-annotated/?noredirect=on&utm\\_term=.6b2cad12fd95](https://www.washingtonpost.com/news/the-fix/wp/2017/07/11/there-was-simply-no-collusion-sarah-huckabee-sanders-off-camera-press-briefing-annotated/?noredirect=on&utm_term=.6b2cad12fd95).

<sup>250</sup> See S.C. Res. 2231, *supra* note 4.

<sup>251</sup> See S.C. Res. 2231, *supra* note 4.

<sup>252</sup> Beinart, *supra* note 146.

<sup>253</sup> Beinart, *supra* note 146.

<sup>254</sup> Yaganeh Torbati, *Exclusive: U.S. Grants Second Airbus License to Sell Planes to Iran*, REUTERS (Nov. 22, 2016), <https://www.reuters.com/article/us-iran-aviation-usa/exclusive-u-s-grants-second-airbus-license-to-sell-planes-to-iran-idUSKBN13H1W0>.

<sup>255</sup> Saeed Jalili, *Questions Abound as Iranians Claim US Treasury Licensing Plane Sales to Iran*, AL-MONITOR (Mar. 9, 2018), <https://www.al-monitor.com/pulse/originals/2018/02/iran-bombardier-ofac-licens-trump-aircraft-deals-qeshm.html>.

<sup>256</sup> Beinart, *supra* note 146.

<sup>257</sup> Adam Kredo, *Iran Threatens to Walk Away From Nuke Deal After Missile Test*, FOX NEWS (Mar. 8, 2016), <http://www.foxnews.com/politics/2016/03/08/iran-threatens-to-walk-away-from-nuke-deal-after-missile-test.html>.

impervious to inaction.

After such a tumultuous history between the United States and Iran, the slightest perception of a lack of goodwill by either party runs the risk of fatally endangering what remains of the JCPOA. Not only has President Trump failed spectacularly in reassuring the negotiating parties, including Iran, that the JCPOA is here to stay, he has actively turned up the rhetoric and implemented additional sanctions while at the same time deserting the deal.<sup>258</sup> President Trump, emboldened by a highly partisan Congress, runs the risk of needlessly entering “confrontation without conversation.”<sup>259</sup> Unfortunately, the clock is ticking toward the collapse of the international community’s last best hope to remedy an enduring and vexing international problem, a problem that has far reaching consequences. Each party would be wise to practice prudence and commit themselves more seriously to quell any concerns or misconceptions in order to save the framework of cooperation that currently exists between Iran and the international community.

#### i. Trump Nukes the Iran Nuke Deal

On May 8, 2018, the world’s worst kept secret was finally made official: The United States, under the direction of President Trump, would unilaterally abandon and violate a successful multilateral international nuclear agreement, endorsed by the UN Security Council, by defaulting on its commitments to JCPOA.<sup>260</sup> This announcement was accompanied by the reality that the wide array of Iran-related sanctions, particularly those aimed at Iran’s oil sector, that were lifted under the terms of the deal would now snap back over the course of the next 180 days.<sup>261</sup> America’s European allies, long-anticipating such a rash move, expressed “regret and concern” over the decision, while President Trump’s predecessor and the chief architect of this historic agreement, President Obama, slammed the announcement as “misguided.”<sup>262</sup> Sadly,

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<sup>258</sup> Oren Dorrell, *Trump Sanctions Iran Over Missiles, Terrorism After Saying It Complies with Nuclear Deal*, USA TODAY (July 18, 2017), <https://www.usatoday.com/story/news/2017/07/18/trump-adds-new-sanctions-iran-targeting-ballistic-missiles-and-support-terrorism/487583001/>; Tracy Wilkinson, *Escalating Tensions with Iran, Trump Adds New Sanctions but Keeps Nuclear Deal in Place—for Now*, L.A. TIMES (Oct. 13, 2017), <http://beta.latimes.com/nation/la-na-pol-trump-iran-deal-20171013-story.html>; Landler, *supra* note 5.

<sup>259</sup> Erdbrink, *supra* note 166.

<sup>260</sup> Conor Finnegan, *Trump Announces US Withdrawing from Iran Nuclear Deal*, ABC NEWS (May 8, 2018), <https://abcnews.go.com/Politics/trump-announce-us-withdrawing-iran-nuclear-deal-sources/story?id=55017606>.

<sup>261</sup> Kit Rees, *Oil Soars as Trump Dumps Iran Nuclear Deal, Dollar Dips*, REUTERS (May 8, 2018), <https://www.reuters.com/article/us-global-markets/oil-soars-as-trump-dumps-iran-nuclear-deal-dollar-dips-idUSKBN1IA064>.

<sup>262</sup> The New York Times, *Trump Withdrew From the Iran Deal. Here’s How Republicans*

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such developments are not new or uncommon under the Trump presidency. What is worrying in this particular circumstance, though, is that “[t]here is no strategy” in Washington for what transpires next—an alarming hallmark of President Trump’s modus operandi.<sup>263</sup>

The American decision to violate the JCPOA and reinstate sanctions against Iran presents many known and yet known consequences that will be felt by all parties involved. In particular, it will create tension among America’s allies when seeking to confront Iran, collaterally punish ordinary Iranians, hurt the American consumers and American economy in addition to escalating already fraught regional tensions in the Middle East.

At the outset, such a decision isolates the United States at a particularly precarious moment in international politics when geopolitical developments seem to be in unceasing flux.<sup>264</sup> This latest decision could cause a serious rupture with European allies already seething from the Trump administration’s threatened steel tariffs and withdrawal from the Paris climate agreement.<sup>265</sup> Moreover, given that the European signatories, along with Russia and China, plan to stick with the JCPOA, President Trump’s dream of exacting maximum leverage, in the form of punitive multilateral sanctions that were imposed under the Obama administration, could be unattainable.<sup>266</sup> Particularly telling is the fact that Britain, France, Germany, and the European Union have made clear they would view a reinstatement of American oil-related sanctions as a violation of the nuclear agreement.<sup>267</sup> France has condemned as “unacceptable” the U.S. move to reimpose sanctions on companies trading with Iran, arguing European companies should not have to pay for an American decision.<sup>268</sup> European officials have signaled they will not pull out of the deal as their stated strategy is to seek to protect their companies from any U.S. sanctions, using so-called blocking legislation

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*Democrats, and the World Reacted*, N.Y. TIMES (May 8, 2018), <https://www.nytimes.com/2018/05/08/world/middleeast/trump-iran-deal-republicans-democrats-world-reactions/html?ref=collection%2Fsectioncollection%2Fmiddleeast>.

<sup>263</sup> Stephen Collinson, *Everything Scrapping the Iran Deal Says About Donald Trump*, CNN (May 9, 2018), <https://www.cnn.com/2018/05/09/politics/donald-trump-iran-lessons/index.html>.

<sup>264</sup> Ian Bremmer, *How President Trump’s Iran Deal Decision Could Backfire*, TIME (May 8, 2018), <http://time.com/5270395/president-donald-trump-iran-decision-backfire/>.

<sup>265</sup> Dan De Luce et al., *What Happens if the U.S. Bows Out of the Iran Nuclear Deal?*, FOREIGN POL’Y (May 7, 2018), <https://foreignpolicy.com/2018/05/07/what-happens-if-the-u-s-bows-out-of-the-iran-nuclear-deal-sanctions-oil-middle-east-j-c-p-o-a-diplomacy-trump/>.

<sup>266</sup> Collinson, *supra* note 263.

<sup>267</sup> De Luce et al., *supra* note 265.

<sup>268</sup> BBC News, *Iran Nuclear Deal: France Condemns US Move to Re-Impose Sanctions*, BBC NEWS (May 11, 2018), <http://www.bbc.com/news/world-europe-44079831>.

drawn up in the 1990s.<sup>269</sup>

Rather than punishing the Iranian government, President Trump's move to dispose of American involvement in the JCPOA and restore sanctions against Iran will squeeze the average Iranian.<sup>270</sup> For the working class and low-income people, new sanctions and renewed isolation will mean fewer jobs, less security and more poverty.<sup>271</sup> As a result, the poor will be forced to change their priorities: the time and energy they could dedicate to peaceful protests will be consumed by struggling to provide bread.<sup>272</sup> As for the middle class and people living in large cities, renewed sanctions, buttressed by the threat of war, present an existential threat to their meager livelihood.<sup>273</sup> Such a reaction may well make the middle class become more conservative and more receptive to the Iranian government's narrative.<sup>274</sup> This pivot would stem from the fear of an economic collapse and chaos that will cause them to give up demands for equality and justice in order to protect their hard-earned relative comfort.<sup>275</sup> When it comes to the government itself, as the Obama years proved, a choked-off economy and its accompanying black markets allowed a group of powerful people to monopolize the economy.<sup>276</sup> Sanctions never forced the Iranian government to cut back its security and military budgets.<sup>277</sup> Instead, certain factions within power merely directed wealth to the top or transferred it overseas, and deployed all their political and military capital to protect it.<sup>278</sup>

The decision to nix American commitments to the deal will also inevitably hurt U.S consumers.<sup>279</sup> Crude oil prices hit three-and-a-half-year highs after President Trump made his announcement concerning the JCPOA.<sup>280</sup> As U.S. sanctions come back into force, Iran's oil production will take a hit causing a spike in oil prices, which will further increase retail gas prices, that are already expected to be at the highest summer

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<sup>269</sup> De Luce et al., *supra* note 265.

<sup>270</sup> Amir Ahmadi Arian & Rahman Bouzari, Opinion, *What Sanctions Mean to Iranians*, N.Y. TIMES (May 9, 2018), <https://www.nytimes.com/2018/05/10/opinion/sanctions-iran-nuclear-deal-protests.html?rref=collection%2Fsectioncollection%2Fopinion&action=click&contentCollection=opinion&region=rank&module=package&version=highlights&contentPlacement=5&pgtype=sectionfront>.

<sup>271</sup> *Id.*

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*

<sup>276</sup> Arian & Bouzari, *supra* note 270.

<sup>277</sup> Arian & Bouzari, *supra* note 270.

<sup>278</sup> Arian & Bouzari, *supra* note 270.

<sup>279</sup> Collinson, *supra* note 263.

<sup>280</sup> Rees, *supra* note 261.

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levels in four years.<sup>281</sup> This would occur just in time for the summer driving season and the midterm elections.<sup>282</sup> Experts have predicted that “thousands of American jobs in various locations of the U.S. would be in jeopardy”<sup>283</sup> if the U.S. Treasury Department followed through with its stated promise of revoking already-issued licenses that allowed U.S. companies, particularly those in the aviation sector, to negotiate and transact business deals with Iran.<sup>284</sup> Any such revocation would cause Boeing to miss out on \$20 billion worth of contracts it has signed with Iran.<sup>285</sup> This development would represent a huge lost opportunity for the Chicago-based company.<sup>286</sup> It cannot be underscored enough that “[t]he U.S. economy will face headwinds from prices that will come as a natural result of this [decision].”<sup>287</sup>

Halfway around the world, the reality of a JCPOA without the United States will inevitably lead to more instability in the Middle East as the geopolitical tensions there will only become more pronounced.<sup>288</sup> Within forty-eight hours of Trump’s announcement that he was pulling the U.S. out of the deal, Iran and Israel came closer than ever before to a direct military confrontation.<sup>289</sup> The Israelis are increasingly worried about Iran’s establishment of a permanent military presence in Syria and have begun taking things into their own hands with airstrikes.<sup>290</sup> Iran’s actions in Syria are first and foremost about preserving the Syrian government as part of the “axis of resistance”—a longstanding alliance between Iran, Syria, and Hezbollah, among

<sup>281</sup> Justin Worland, *How Pulling Out of the Iran Nuclear Deal Could Hurt the U.S. Economy*, TIME (May 9, 2018), [http://time.com/5269906/iran-nuclear-deal-donald-trump-oil/?xid=time\\_socialflow\\_twitter&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=time](http://time.com/5269906/iran-nuclear-deal-donald-trump-oil/?xid=time_socialflow_twitter&utm_medium=social&utm_source=twitter.com&utm_campaign=time).

<sup>282</sup> Bremmer, *supra* note 264.

<sup>283</sup> Jennifer Epstein & Justin Sink, *What’s Next: Who Gets Hit When U.S. Resumes Iran Sanctions*, BLOOMBERG (May 8, 2018), <https://www.bloomberg.com/news/articles/2018-05-08/what-s-next-who-gets-hit-when-the-u-s-resumes-iran-sanctions>.

<sup>284</sup> Lawder, *supra* note 230.

<sup>285</sup> Bob Bryan, *Boeing and Airbus Will Miss Out on a Combined \$39 Billion Payday Because of Trump’s Iran Deal Decision*, BUS. INSIDER (May 9, 2018, 11:39 AM), <http://www.businessinsider.com/trump-iran-deal-boeing-airbus-contracts-sanctions-2018-5>.

<sup>286</sup> Johnson & Katz, *supra* note 236.

<sup>287</sup> Worland, *supra* note 281.

<sup>288</sup> Richard Nephew & Ilan Goldberg, *Here’s What to Expect Now That Trump Has Withdrawn From the Iran Nuclear Deal*, FOREIGN POL’Y (May 9, 2018), <https://foreignpolicy.com/2018/05/09/heres-what-to-expect-now-that-trump-has-withdrawn-from-the-iran-nuclear-deal/>.

<sup>289</sup> Jonah Shepp, *Trump’s Iran-Deal Exit Has Raised the Risk of War Even Faster Than Expected*, N.Y. MAG. (May 12, 2018), <http://nymag.com/daily/intelligencer/2018/05/iran-deal-exit-raised-risk-of-war-even-faster-than-expected.html>.

<sup>290</sup> Nephew & Goldberg, *supra* note 288.

others.<sup>291</sup> Iran is also seeking to consolidate its hard-won position in the power competition between the main stakeholders in the Syrian conflict: Turkey, the United States, and the Syrian government, along with their respective regional and international allies.<sup>292</sup> Syria provides Iran with vital strategic depth, allowing it to project power through the Levant, and gives it a gateway to Hezbollah, enhancing Iranian deterrence of Israel.<sup>293</sup>

In light of its objectives and Israeli aggression against “Iranian targets—both facilities and people,”<sup>294</sup> Iran exhibited restraint by not directly responding to Israel’s strikes in Syria.<sup>295</sup> That all might have potentially changed when, one day after the Trump administration’s upending of the JCPOA, twenty missiles from Syria struck the Israeli-occupied Golan Heights,<sup>296</sup> which Israel quickly attributed to the Quds Force, the overseas arm of Iran’s Islamic Revolutionary Guard Corps.<sup>297</sup> This attack was provocative, assuming the Israeli military was right to attribute it to Iran, as it marked the first direct attack by Iranian forces in Syria on what Israel considers its own territory.<sup>298</sup> From Tehran’s perspective, Israeli strikes against positions linked to Iran and its allies in Syria, alongside belligerent U.S. and Saudi rhetoric, are aimed at undermining Iran’s deterrent capability.<sup>299</sup> Provoking a military standoff with Israel is not an Iranian priority.<sup>300</sup> Nevertheless, the specter of war between Israel and Iran is rising and President Trump has done nothing to temper this volatile and unpredictable situation.<sup>301</sup>

Despite the United States’ unilateral actions, the JCPOA is “not dead” yet.<sup>302</sup> President Rouhani said that he will hold talks with the deal’s other signatories in the coming weeks, before the sanctions kick back in,

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<sup>291</sup> Payam Mohseni & Hassan Ahmadian, *What Iran Really Wants in Syria*, FOREIGN POL’Y (May 10, 2018), <https://foreignpolicy.com/2018/05/10/what-iran-wants-in-syria>.

<sup>292</sup> *Id.*

<sup>293</sup> *Id.*

<sup>294</sup> Haaretz, *Israel Admits to Striking Syria: ‘It Was the First Time We Attacked Live Iranian Targets’*, HAARETZ (Apr. 16, 2018), <https://www.haaretz.com/middle-east-news/syria/israel-admits-to-syria-strike-in-first-we-hit-live-iranian-targets-1.6007914>.

<sup>295</sup> Nephew & Goldberg, *supra* note 288; Avishai, *supra* note 177.

<sup>296</sup> The Golan Heights are considered occupied Syrian land under international law and in the view of most other countries, which do not recognize Israel’s unilateral decision to annex the territory in 1981.

<sup>297</sup> Avishai, *supra* note 177.

<sup>298</sup> Shepp, *supra* note 289.

<sup>299</sup> Mohseni & Ahmadian, *supra* note 291.

<sup>300</sup> Mohseni & Ahmadian, *supra* note 291.

<sup>301</sup> Wesley Clark, *Here’s the Real Cost of Leaving the Iran Deal*, CNBC (May 9, 2018), <https://www.cnbc.com/2018/05/09/trumps-iran-deal-exit-could-lead-to-useless-war-general-wesley-clark.html>.

<sup>302</sup> BBC News, *Iran Nuclear Deal Not Dead Despite Trump Move, France Says*, BBC NEWS (May 9, 2018), <http://www.bbc.com/news/world-us-canada-44049532>.



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to determine whether the deal would continue to benefit Iran.<sup>303</sup> Foreign Minister Zarif said he would embark on a round of international diplomacy to try and save the deal.<sup>304</sup> This glimmer of optimism is tempered with President Rouhani's warning that Iran could now restart enriching uranium "without any limitations" if its "national interests" were not met and the deal could not be preserved at the conclusion of further dialogue with the remaining signatories.<sup>305</sup> Without the United States' active support, the deal faltered over the past years.<sup>306</sup> Now, with the United States actively opposed, it will likely collapse, and soon.<sup>307</sup> It might be nice for Americans to think that the United States, a democracy, exhibits more integrity and demonstrates its trustworthiness more than Iran, but, as it relates to commitment to the JCPOA, this would be a fantasy.<sup>308</sup>

With a population of about eighty-two million and substantial oil reserves, Iran represents a largely untapped market with the potential for tremendous growth, a rare economic opportunity for Western companies who wish to further their global reach.<sup>309</sup> It is no surprise that exports from the European Union to Iran increased by about one-third in 2017 to about \$13 billion.<sup>310</sup> However, in light of President Trump's decision, many economic goliaths consider Iran as "not an environment in which other big companies will see any reason to commit capital."<sup>311</sup> German Chancellor Angela Merkel said President Trump's decision to renege on the deal was a serious blow because it would be difficult to keep the deal alive, given that a "huge economic power has left."<sup>312</sup> In light of this reality and the fact that it remains unclear if the deal can be preserved in the longer term without

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<sup>303</sup> NBC News, *Iranian President Rouhani Reacts to President Trump's Deal Withdrawal*, NBC NEWS (May 9, 2018), <https://www.nbcnews.com/video/iranian-president-rouhani-reacts-to-president-trump-s-nuclear-deal-withdrawal-1228547139968>.

<sup>304</sup> Fredrick Pleitgen & James Masters, *Iran Vows to Pursue 'Industrial Scale Enrichment' If Nuclear Deal Fails*, CNN (May 11, 2018), <https://www.cnn.com/2018/05/11/middleeast/iran-israel-syria-intl/index.html>.

<sup>305</sup> Nasser Karimi & Amir Vahdat, *Iran's President Warns Uranium Enrichment May Resume if Nuclear Deal Fails*, TIME (May. 8, 2018), <http://time.com/5270004/hassan-rouhani-iran-nuclear-deal/>.

<sup>306</sup> Nephew & Goldberg, *supra* note 288.

<sup>307</sup> Nephew & Goldberg, *supra* note 288.

<sup>308</sup> Beinart, *supra* note 146.

<sup>309</sup> Jack Ewing & Stanley Reed, *European Companies Rushed to Invest in Iran. What Now?*, N.Y. TIMES (May 9, 2018), <https://www.nytimes.com/2018/05/09/business/iran-nuclear-trump-business-europe.html?rref=collection%2Fsectioncollection%2Fmiddleeast>.

<sup>310</sup> *Id.*

<sup>311</sup> *Id.*

<sup>312</sup> Pleitgen & Masters, *supra* note 304.

American support, U.S. sanctions could force European companies to choose between retaining access to the American market or the Iranian one.<sup>313</sup> Most, if not all, will turn away from Iran instead of risking painful U.S. penalties, meaning that Iran will see diminishing economic returns, thus frustrating the main reason it signed the accord in the first place.<sup>314</sup> If this is indeed the case, the international community can be confident that Iran will not sit on its hands in the face of a major U.S. provocation and unfulfilled economic promises.<sup>315</sup> It is at this exact juncture that President Rouhani's warning of Iran resuming its "enrichment without any limitations" could become a reality.<sup>316</sup>

Two key sanctions deadlines are important in gauging the longevity of the JCPOA. The first such deadline is August 6, 2018, by which time companies must wind down holdings of Iranian sovereign debt or Iranian currency.<sup>317</sup> Any person or entity that assists the Iranian government with acquiring or purchasing U.S. dollar banknotes will be subject to American sanctions by that date.<sup>318</sup> Additionally, August 6 is critical because that is when sanctions are set to snap back into effect, hindering Iran's trade in gold and other precious metals, graphite and coal, metals such as aluminum and steel, the country's automobile sector and luxury exports such as Iranian-origin carpets and caviar.<sup>319</sup>

The second crucial date to be mindful of is November 4, 2018.<sup>320</sup> On this date, sanctions targeting companies conducting business with Iran's oil industry are reinstated, including penalties against foreign financial institutions that conduct significant transactions with the Central Bank of Iran.<sup>321</sup> On top of that, the U.S. will impose sanctions on Iran's energy sector and on petroleum-related transactions with certain designated firms.<sup>322</sup>

What is likely to unfold is a relative period, perhaps several weeks, of calm while the remaining signatories try to salvage the deal by negotiating some marginal enhancements.<sup>323</sup> They might succeed if they

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<sup>313</sup> De Luce et al., *supra* note 265.

<sup>314</sup> De Luce et al., *supra* note 265.

<sup>315</sup> Nephew & Goldberg, *supra* note 288.

<sup>316</sup> Karimi & Vahdat, *supra* note 305.

<sup>317</sup> Epstein & Sink, *supra* note 283.

<sup>318</sup> Epstein & Sink, *supra* note 283.

<sup>319</sup> Epstein & Sink, *supra* note 283.

<sup>320</sup> Epstein & Sink, *supra* note 283.

<sup>321</sup> Epstein & Sink, *supra* note 283.

<sup>322</sup> Epstein & Sink, *supra* note 283.

<sup>323</sup> Clark, *supra* note 301.

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can assuage Iranian pride.<sup>324</sup> Then again, they might not.<sup>325</sup> If this is not resolved before the wave of sanctions roll in, Iran will reserve the coveted “moral high ground”—ceded by President Trump—to resume its nuclear program, should they so choose.<sup>326</sup> The reality is that with the return of sanctions, Iran now has a strong incentive to resume its atomic-weapons activities.<sup>327</sup> Thus, the potential nuclear crisis that may soon unfold will not be Iran’s fault, but rather that of the Trump administration and those who prodded it to abort the one mechanism in the past thirty-five years that has reliably and verifiably constrained Iran’s nuclear program.<sup>328</sup>

If Iran decides the JCPOA is in fact dead, it could kick out IAEA inspectors and begin enriching uranium without any of the deal’s safeguards in place.<sup>329</sup> In light of this, a rational thinker would understand the premise that if you are worried that Iran is determined to get a nuclear weapon, it is better to have the inspectors in the country and on the sites as opposed to not.<sup>330</sup> Under the terms of the JCPOA, Iran can enrich limited quantities of uranium up to 3.67%, well below the ninety percent weapons grade uranium needed to build a bomb.<sup>331</sup> Those limits are still verifiable so long as Iran exhibits what would now be optional, unparalleled and unilateral good faith by adhering to the JCPOA’s monitoring mechanisms in the face of American absence. President Trump has repeatedly proclaimed that he considered having “no deal” to be a better alternative than having “this deal”—the world will soon judge whether or not he was right.<sup>332</sup> Either way, the United States is far weaker as a result of President Trump’s decision to sabotage the JCPOA, not only because it broke its commitment to implement the deal in good faith, but also because it imperiled the possibility of attaining diplomatic settlements by undermining its credibility in diplomacy.<sup>333</sup>

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<sup>324</sup> Clark, *supra* note 301.

<sup>325</sup> Clark, *supra* note 301.

<sup>326</sup> Colum Lynch et al., *The ‘Silver Lining’ to Trump Pulling Out of the Iran Deal*, FOREIGN POL’Y (May 10, 2018), <http://foreignpolicy.com/2018/05/10/the-silver-lining-to-trump-pulling-out-of-the-iran-deal/>; Susan E. Rice, Opinion, *Trump’s Most Foolish Decision Yet*, N.Y. TIMES (May 8, 2018), <https://www.nytimes.com/2018/05/08/opinion/trump-iran-deal-foolish.html>.

<sup>327</sup> Shepp, *supra* note 289.

<sup>328</sup> Nephew & Goldberg, *supra* note 288.

<sup>329</sup> Bremmer, *supra* note 264.

<sup>330</sup> Bremmer, *supra* note 264.

<sup>331</sup> Collinson, *supra* note 263.

<sup>332</sup> Bremmer, *supra* note 264.

<sup>333</sup> Nephew & Goldberg, *supra* note 288.

## IV. AMERICA'S INTERESTS

Despite their heated rhetoric and opposing worldviews, the United States and Iran share significant mutual interests. With the Middle East in such disorder, having the ability for these two countries to see eye-to-eye is a potential that should be embraced and utilized instead of dismissed and overlooked. While it would be naïve to say the JCPOA realigned the United States and Iran on major international issues, that same naïveté applies to those who refute the notion that areas of mutual interests exist between the two countries. Moreover, independent of any shared interests with Iran, the United States should have had a great interest in seeing the JCPOA succeed in order to employ it as a negotiating tool to convince other countries, such as, North Korea to denuclearize.

A. *The Iranian Youth*

The United States has a huge democratizing incentive in assuring that ordinary Iranians benefit from the JCPOA. Iran's young, westernized population actually serves as an ironic foil to its eastern, religious-dominated system of governance. It is well documented that Iranian hard-liners face a large and formidable population of high-spirited youth who are fatigued by decades of religious edicts and isolation at the hands of their government.<sup>334</sup> Over sixty percent of "Iran's eighty million people are younger than 30 years old," which means they were not born until after the 1979 Islamic Revolution that transformed their country.<sup>335</sup> In fact, the "Iranian youth are among the most politically active in the 57 nations of the Islamic world."<sup>336</sup> Such activity came to a head with the Green Movement in 2009 when Iranians poured into the streets to challenge what they viewed as a rigged re-election of President Mahmoud Ahmadinejad in a mass protest, which shook Iran to its core.<sup>337</sup> The Green Movement and its push for "people power" and democratic change was, in fact, the precursor to the Arab Spring, which swept across the Middle East.<sup>338</sup> Recently, Iran, once again, experienced a national movement of unrest which saw tens of thousands of protestors rise up in

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<sup>334</sup> Bill Spindle, *Iran's Legions of Weary Young People Push Against the Old Ways*, WALL ST. J. (July 7, 2015), <http://www.wsj.com/articles/irans-legions-of-weary-young-people-push-against-the-old-ways-1436323115>.

<sup>335</sup> Omid Memarian & Tara Nesvaderani, *The Iran Primer: The Youth*, U.S. INST. OF PEACE (Aug. 2017), <http://iranprimer.usip.org/resource/youth>.

<sup>336</sup> *Id.*

<sup>337</sup> Mehdi Khalaji, *Who's Really Running Iran's Green Movement*, FOREIGN POL'Y (Nov. 11, 2009), <http://foreignpolicy.com/2009/11/04/whos-really-running-irans-green-movement>.

<sup>338</sup> Memarian & Nesvaderani, *supra* note 335.

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what is likely the most severe internal crisis the country has faced this decade.<sup>339</sup> As in 2009, the Iranian youth, this time aggrieved by their bleak economic prospects and double-digit unemployment rates, are playing a vital role in putting the government on notice.<sup>340</sup>

Poignantly, the Iranian youth share a commonality with the United States in that both have been very much opposed to Iran's conservative leadership—a fact demonstrated by the youth's overt resistance to their government's traditionalist tendencies.<sup>341</sup> The very fact that the Iranian population is “young, well-educated and primed to benefit from the country's opening to the rest of the world” presents the United States with an opportunity to connect with a mass of people from which it has long been disconnected.<sup>342</sup> The youth in Iran “so deeply long to incorporate American and Western values and traditions into their everyday lives.”<sup>343</sup> Many Iranians “enjoy aspects of Western culture, seen through illegal satellite dishes or over internet connections that subvert government censorship,” but feel trapped by their leaders.<sup>344</sup> The most involved, impressionable and westernized bloc, in Iran is its youth who are stuck in limbo facing what seems to be an unceasing binary pull between East versus West, Iran versus the United States, and theocracy versus democracy. Iran's Supreme Leader has even publicly proclaimed, “[Iranians] don't have any problem with the American people. What we are dealing with here is the politicians.”<sup>345</sup> Not surprisingly, Washington's position differentiating between Iran and Iranians is nearly identical to that of Tehran's distinction between America and Americans. President Trump tweeted several times in early 2018 about Iran's “corrupt government” and his “respect” for “[t]he great Iranian people.”<sup>346</sup>

<sup>339</sup> Marwa Eltagouri, *Tens of Thousands of People Have Protested in Iran. Here's Why*, WASH. POST (Jan. 3, 2018), [https://www.washingtonpost.com/news/worldviews/wp/2018/01/03/tens-of-thousands-of-people-protested-in-iran-this-week-heres-why/?utm\\_term=.0c046ec1a574](https://www.washingtonpost.com/news/worldviews/wp/2018/01/03/tens-of-thousands-of-people-protested-in-iran-this-week-heres-why/?utm_term=.0c046ec1a574).

<sup>340</sup> Ivana Kottasova, *The Economic Forces Driving Protests in Iran*, CNN (Jan. 3, 2018), <http://money.cnn.com/2018/01/01/news/economy/iran-economy-protests/index.html>.

<sup>341</sup> Spindle, *supra* note 334.

<sup>342</sup> Leah McGrath Goodman, *Iran is Being Courted by European Business and Big Oil*, NEWSWEEK (Apr. 27, 2015), <http://www.newsweek.com/2015/05/08/iran-being-courted-european-business-and-big-oil-324942.html>.

<sup>343</sup> Omid Irani, Opinion, *Christmas in Tehran*, IRAN REV. (Nov. 1, 2016), <http://www.iranreview.org/content/Documents/Christmas-in-Tehran-2.htm>.

<sup>344</sup> *Utah State Senator's Summer Visit to Iran Sparks Firestorm*, VOICE OF AM. (Sept. 19, 2016), <http://www.voanews.com/a/utah-state-senator-summer-visit-iran-sparks-firestorm/3515709.html>.

<sup>345</sup> Eqbali & Stancati, *supra* note 203.

<sup>346</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Jan. 3, 2018, 5:37 AM), <https://twitter.com/realDonaldTrump>.

The United States has the “transformative power of markets” such as “Hollywood, hip-hop, the Internet, democracy and free speech.”<sup>347</sup> Iran has already embraced American influence through everything “from nose jobs to Steve Jobs.”<sup>348</sup> Moreover, nearly fifty million Iranians are estimated to be using smartphones, equipped with social media and various communication apps.<sup>349</sup> If America’s goal is to reach the young Iranian populous and garner Iranian support on other fronts such as eradicating terrorism and assuring regional stability, engaging and embracing the youth is “likely to work a lot better than ostracism, covert action, and repeated threats of military force, which merely galvanize Iranian nationalism and help justify continued repression by hardliners.”<sup>350</sup>

These facts all favor America’s vision for Iran. The United States should be mindful not to sabotage potential international investors seeking to invest in Iran. Should the United States permit Iran to enjoy a modest near-term boost in its economic morale, America’s long-term democratization interests in the country would be greatly advanced.

#### *B. Geopolitics: Terrorism and International Security Concerns*

After peeling back the prevailing layers of distrust and rhetoric between the United States and Iran, it becomes evident that at least one significant overlap exists between their mutual interests—the need to address and eliminate specific terrorism-related and national security issues.<sup>351</sup> Chief among these concerns are the growth and spread of terrorist organizations like ISIS and Al-Qaeda, buttressed by the threat of their international “wanna-be” adherents who blindly follow these caustic ideologies.<sup>352</sup> “[B]rainwashed by petrodollar-financed demagogues,”

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er.com/realDonaldTrump/status/948548807612084224; Donald J. Trump (@realDonaldTrump), TWITTER (Jan. 1, 2018, 4:44 AM), <https://twitter.com/realDonaldTrump/status/947810806430826496>.

<sup>347</sup> Stephen M. Walt, *Accentuate the Positive*, FOREIGN POL’Y (Jan. 25, 2017), <http://foreignpolicy.com/2014/01/21/accentuate-the-positive/>.

<sup>348</sup> *From Nose Jobs to Steve Jobs, Young Iranians Embrace Western Culture*, ABC NEWS, <http://abcnews.go.com/ThisWeek/video/nose-jobs-steve-jobs-young-iranians-embrace-western-32398349> (last visited May 10, 2018).

<sup>349</sup> Karim Sadjadpour, *The Battle for Iran*, THE ATLANTIC (Dec. 31, 2017), <https://www.theatlantic.com/international/archive/2017/12/the-battle-for-iran/549446/>

<sup>350</sup> Walt, *supra* note 227.

<sup>351</sup> Tim Lister, *How the U.S. and Iran Found Common Interests in Unlikely Places*, CNN (Dec. 19, 2016), <http://www.cnn.com/2015/03/03/world/us-iran-common-interests/>.

<sup>352</sup> *Id.*; J.M. Berger, *It’s Too Easy for Wanna-be Terrorists to Use Google, YouTube for Promotion of Their Extremist Causes*, N.Y. DAILY NEWS (Nov. 12, 2016), <http://www.nydailynews.com/opinion/easy-wanna-be-terrorists-google-youtube-promotion-extremist-article-1.980586>.

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these terrorists live to put American lives in their crosshairs on a daily basis.<sup>353</sup> The seemingly endless terror attacks, highlighted by the tragedies in the United States, Paris, Brussels and the Middle East, underscore the need for “global cooperation” aimed at eradicating extremist terror groups and preventing them from gaining a greater foothold.<sup>354</sup>

Iran’s Foreign Minister has publicly made known that “there are multiple arenas where the interests of Iran and other major stakeholders intersect.”<sup>355</sup> Iran now, perhaps more than ever, holds several cards of great value as it relates to activities in Yemen, Iraq, and Syria.<sup>356</sup> As these zones of conflict come into greater focus, Iran is a key player who can help dictate the fate of the entire region as the whole Middle East is seemingly on the teetering edge of complete collapse. It is patently naïve to overlook the fact that:

“[t]he United States will have a hard time solving problems in the Mideast without Tehran’s cooperation: in Lebanon, where it backs the Shiite militant group Hezbollah; in Syria, where it is propping up the government of President Bashar al-Assad; in Iraq, where it supports the government of Prime Minister Haider al-Abadi and trains powerful Shiite militias; and in Yemen, where to some extent, it is backing the Houthi rebels against the government.”<sup>357</sup>

President Obama even acknowledged such a reality when he proclaimed that, “it’s important for [Iran] to be part of that conversation.”<sup>358</sup> Such a viewpoint is not merely one of a former President who is invested in seeing the JCPOA remain intact, it is also echoed by former U.N. Secretary-General Kofi Annan because of the recognition that “Iran is part of the solution” to many of the Middle East’s most volatile conflicts.<sup>359</sup>

Ensuring the JCPOA’s survival has the potential to “serve as a prelude to contextualizing the region’s most far-reaching complications in a manner that is inviting and conducive for Iranian participation.”<sup>360</sup> President Obama again recognized this geopolitical reality, saying “[t]he

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<sup>353</sup> Mohammad Javad Zarif, Opinion, *Saudi Arabia’s Reckless Extremism*, N.Y. TIMES (Mar. 2, 2017), <http://www.nytimes.com/2016/01/11/opinion/mohammad-javad-zarif-saudi-arabias-reckless-extremism.html>.

<sup>354</sup> *Id.*

<sup>355</sup> *Id.*

<sup>356</sup> Irani, *supra* note 343.

<sup>357</sup> Erdbrink, *supra* note 166.

<sup>358</sup> Jessica Schulberg, *Obama: No End to War in Syria Without ‘Buy-In’ From Iran*, HUFFINGTON POST (Jan. 11, 2017), [http://www.huffingtonpost.com/2015/07/15/obama-iran-deal\\_n\\_7802768.html](http://www.huffingtonpost.com/2015/07/15/obama-iran-deal_n_7802768.html).

<sup>359</sup> Lederer, *supra* note 152.

<sup>360</sup> Irani, *supra* note 343.

truth of the matter is that Iran will be and should be a regional power.”<sup>361</sup>

i. Yemen

Yemen, one of the Arab-world’s poorest countries, has been devastated by a war between rebel forces and neighboring Saudi Arabia that has caused unimaginable internal strife.<sup>362</sup> Yemen is representative of the larger context in which American and Iranian interests potentially are aligned. Foreign Minister Zarif has indicated willingness to sit down and discuss the country’s most pressing humanitarian issues with the United States, saying, “Yemen would be a good place to start.”<sup>363</sup> Iran has “offered a reasonable and practical approach to address this painful and unnecessary crisis,” and called “for an immediate cease-fire, humanitarian assistance and facilitation of intra-Yemeni dialogue, leading to the formation of an inclusive, broad-based national unity government” in the hopes of ending a conflict that was needlessly started and has been needlessly protracted.<sup>364</sup>

America’s image certainly is very much invested in Yemen and what unfolds there. This is especially true in light of President Trump’s unrelenting order of Yemeni drone strikes and his approval of a botched raid which resulted in the deaths of a Navy SEAL and an eight-year old American girl.<sup>365</sup> The United States, through its intelligence assistance and arms sales to Saudi Arabia, amounting to \$110 billion under President Obama alone, is “complicit in this carnage.”<sup>366</sup> This military collaboration proved to be bipartisan when President Trump signed a massive \$100 billion-plus arms deal with the Saudis only months after taking office.<sup>367</sup>

Children are being killed in airstrikes at a staggering rate; sixty

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<sup>361</sup> Schulberg, *supra* note 358.

<sup>362</sup> Noah Browning, *New Warning as Yemen Warring Parties Face Internal Strife*, REUTERS (Aug. 20, 2017), <https://www.reuters.com/article/us-yemen-security-breakdown/new-warning-as-yemen-warring-parties-face-internal-strife-idUSKCN1B00EF>.

<sup>363</sup> Zarif, *supra* note 119.

<sup>364</sup> Zarif, *supra* note 119.

<sup>365</sup> Charlie May, *More Than 30 Drone Strikes Have Hit Yemen in Just 2 Days*, SALON (Mar. 6, 2017), <http://www.salon.com/2017/03/04/more-than-30-drone-strikes-have-hit-yemen-in-just-2-days/>; Robert Windrem et al., *SEAL, American Girl Die in First Trump-Era U.S. Military Raid*, NBC NEWS (Mar. 1, 2017), <http://www.nbcnews.com/news/world/seal-american-girl-die-first-trump-era-u-s-military-n714346>.

<sup>366</sup> N.Y. Times Editorial Board, Editorial, *America Is Complicit in the Carnage in Yemen*, N.Y. TIMES (Aug. 17, 2016), <http://www.nytimes.com/2016/08/17/opinion/stop-saudi-arms-sales-until-carnage-in-yemen-ends.html>.

<sup>367</sup> Jeremy Diamond & Zachary Cohen, *Trump Signs Kushner-Negotiated \$100B Saudi Arms Deal*, CNN (May 20, 2017), <http://www.cnn.com/2017/05/19/politics/jared-kushner-saudi-arms-deal-lockheed-martin/index.html>.



percent of the 785 child casualties caused by airstrikes were attributed to American-sold,<sup>368</sup> Saudi-flown aircrafts.<sup>369</sup> Surely the United States does not want to again be in the news across the world as being an active supporter in a war that has killed “more than 6,500 people, displaced more than 2.5 million others and pushed one of the world’s poorest countries from deprivation to devastation.”<sup>370</sup> The people of Yemen are facing dire circumstances as the humanitarian crisis in Yemen “looks like the Apocalypse.”<sup>371</sup> Their “suffering is largely a result of monstrous misconduct by a Saudi-led coalition that is supported by the United States . . . .”<sup>372</sup> The opportunity to remedy this tragic situation is within plain sight. The United States and Iran both have national interests as it relates to the Yemini despair, so why not create a climate where further cooperation can develop organically? Iran has offered its hand; the United States should extend its as well. After all, “[t]here’s an American imprint on every civilian life lost in Yemen.”<sup>373</sup>

#### ii. Iraq and Syria

Iraq and Syria both have all the hallmarks of a proxy battlefield, civil strife, and sectarian antagonism.<sup>374</sup> They are both in the midst of utter destruction at the hands of terrorist organizations who will stop at nothing to hunt and kill innocent civilians, including Americans.<sup>375</sup> These terror groups, and the extent of their claimed land, have ebbed and flowed in both countries in the face of vigorous battles—yet they have still managed to linger, much to the chagrin of peace seekers.<sup>376</sup>

<sup>368</sup> U.N. Secretary-General, *Children and Armed Conflict*, ¶ 167, U.N. Doc. A/70/836-S/2016/360 (Apr. 20, 2016).

<sup>369</sup> Mark Bearak, *The U.S. Will Rearm Saudi Arabia to the Tune of \$1.5 Billion as Airstrikes Resume in Yemen*, WASH. POST (Aug. 11, 2016), [https://www.washingtonpost.com/news/worldviews/wp/2016/08/11/the-u-s-will-rearm-saudi-arabia-to-the-tune-of-1-5b-as-air-strikes-resume-in-yemen/?utm\\_term=.0648ca586e95](https://www.washingtonpost.com/news/worldviews/wp/2016/08/11/the-u-s-will-rearm-saudi-arabia-to-the-tune-of-1-5b-as-air-strikes-resume-in-yemen/?utm_term=.0648ca586e95)

<sup>370</sup> N.Y. Times Editorial Board, *supra* note 366.

<sup>371</sup> Al Jazeera, *Yemen Could Be ‘Worst’ Humanitarian Crisis in 50 Years*, AL JAZEERA (Jan. 6, 2018), <http://www.aljazeera.com/news/2018/01/yemen-worst-humanitarian-crisis-50-years-180105190332474.html>.

<sup>372</sup> Nicholas Kristof, Opinion, *The Photos the U.S. and Saudi Arabia Don’t Want You to See*, N.Y. TIMES (Aug. 29, 2017), <https://www.nytimes.com/interactive/2017/08/31/opinion/columnists/yemen-famine-cholera.html>.

<sup>373</sup> N.Y. Times Editorial Board, *supra* note 366.

<sup>374</sup> Creede Newton, *Saudi-Iran Proxy Wars: In Pursuit of Regional Hegemony*, AL JAZEERA (Nov. 14, 2017), <https://www.aljazeera.com/news/2017/11/saudi-iran-proxy-wars-pursuit-regional-hegemony-171113110353492.html>.

<sup>375</sup> Tim Lister et al., *ISIS Goes Global: 143 Attacks in 29 Countries Have Killed 2,043*, CNN (Feb. 12, 2018), <https://www.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html>.

<sup>376</sup> Jim Michaels, *Islamic State Exporting Terror Despite Losses in Iraq*, USA TODAY

Republican Senator Lindsey Graham, who is no friend of Iran, has advocated for “coordination” with Iran in Iraq due to its influence, reach, and contiguous boundaries with the war-torn nation.<sup>377</sup> He, like many others, has begun to recognize the importance of Iran’s role in Iraq’s stabilization by presenting the idea of Iran “provid[ing] some assets to make sure Baghdad doesn’t fall.”<sup>378</sup> The two most influential outside players in Iraq, the United States and Iran, have the ability to jointly bring stability to the war-ravaged country.<sup>379</sup> If the situation in Iraq is not tempered, it would serve, not only as an embarrassing reminder of failed American intervention, but also as a breeding ground for terrorists across the border in Syria who continue to seek the overthrow of its President, Bashar al-Assad.

For policymakers seeking to invoke meaningful leadership change in Syria, “the choice is stark: the devil you know, or a pack of rapacious demons.”<sup>380</sup> It is clear that, “[i]f Assad were to fall, the chief beneficiary would be the very Islamist forces that the United States is bombing.”<sup>381</sup> The Trump administration’s messages, as revealed by the President himself, and U.S. Ambassador to the United Nations Nikki Haley, have been extremely incoherent as they relate to Syria and Assad’s governing prospects moving forward.<sup>382</sup> President Trump’s limited, but strategically inconclusive April 2017 and 2018 missile strikes on Syrian airbases and other facilities demonstrate how fraught the geopolitical implications of this arena truly are and how such efforts may be nothing more than an “exercise in futility.”<sup>383</sup> Because of the looming uncertainty

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(July 1, 2016, 6:53PM), <http://www.usatoday.com/story/news/2016/07/01/isis-exporting-terror-despite-losses-iraq/86619974/>.

<sup>377</sup> Benjy Sarlin, *Lindsey Graham: We Need to Work with Iran to Save Iraq*, MSNBC (June 15, 2014, 12:56 PM), <http://www.msnbc.com/msnbc/lindsey-graham-we-need-work-iran-save-iraq>.

<sup>378</sup> *Iraq Forces Suffer New Setback as US Reportedly Prepares to Open Iran Dialogue*, FOX NEWS (June 16, 2014), <http://www.foxnews.com/world/2014/06/16/iraq-forces-suffer-new-setback-as-us-reportedly-prepares-to-open-iran-dialogue.html>.

<sup>379</sup> Nephew & Goldberg, *supra* note 288.

<sup>380</sup> Dominic Tierney, *Bashar al-Assad and the Devil’s Endgame*, ATLANTIC (Sept. 28, 2015), <http://www.theatlantic.com/international/archive/2015/09/assad-syria-devil-endgame-putin-obama/407635/>.

<sup>381</sup> *Id.*

<sup>382</sup> Abby Phillip & Mike DeBonis, *Tillerson, Haley Issue Differing Statements on Future of Assad in Syria*, WASH. POST (Apr. 9, 2017), [https://www.washingtonpost.com/news/post-politics/wp/2017/04/09/tillerson-haley-issue-differing-statements-on-future-of-assad-in-syria/?utm\\_term=.64af7f75613a](https://www.washingtonpost.com/news/post-politics/wp/2017/04/09/tillerson-haley-issue-differing-statements-on-future-of-assad-in-syria/?utm_term=.64af7f75613a).

<sup>383</sup> Michael R. Gordon et al., *Dozens of U.S Missiles Hit Air Base in Syria*, N.Y. TIMES (Apr. 6, 2017), <https://www.nytimes.com/2017/04/06/world/middleeast/us-said-to-weigh-military-responses-to-syrian-chemical-attack.html>; Dennis Slattery, *President Trump Proclaims ‘Mission Accomplished!’ After U.S.-Led Missile Strike on Syria*, N.Y. DAILY NEWS (Apr. 14,

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surrounding a potentially viable replacement for Assad, any deviation from the status quo would amount to a random guess at best. Through a very strategic domestic approach to the Syrian conflict, President Assad has masterfully positioned himself to serve as the lesser of two evils in the eyes of domestic and foreign audiences, while simultaneously parlaying the rise of ISIS's radicalism into portraying himself as a de facto U.S. ally.<sup>384</sup>

Influential voices, such as Ryan C. Crocker, a former U.S. ambassador to Syria and other Middle Eastern countries,<sup>385</sup> and General Sir David Richards,<sup>386</sup> the United Kingdom's former military chief, have advocated for Assad to remain in power. Both American and Iranian interests recognize an Assad-led Syria as the most favorable outcome of the Syrian conflict.<sup>387</sup> In fact, "for several years, the Israelis appeared to prefer that Syrian President Bashar al-Assad survive in power, fearing that any alternative would be far worse."<sup>388</sup> Despite the ongoing internal conflict in Syria, Israel's Defense Minister has already proclaimed that "Assad has emerged victorious in the battle," further underscoring the importance of American and Iranian cooperation in the country.<sup>389</sup>

The Iranian position is almost parallel to that of America's regarding the Syrian quandary.<sup>390</sup> While neutralizing Sunni-based terrorism is not an explicit national security priority for Iran as compared to its more vital concentration of retaining regional influence, the net result ultimately yields the same reality: an amalgamation of American and Iranian interests. Through its overt and sizeable support for President Assad and wholesale aid in the battle against Wahhabi terrorism, Iran has blatantly advertised to the United States that their mutual positions on Sunni-based

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2018), <http://www.nydailynews.com/news/world/trump-mission-accomplished-syria-missile-strike-article-1.3933563>.

<sup>384</sup> Tierney, *supra* note 380.

<sup>385</sup> Ryan C. Crocker, Opinion, *Assad Is the Least Worst Option in Syria*, N.Y. TIMES (Dec. 21, 2013), <http://www.nytimes.com/roomfordebate/2013/12/21/for-peace-in-syria-will-assad-have-to-stay/assad-is-the-least-worst-option-in-syria>.

<sup>386</sup> Nicholas Watt, *Keep Assad in Power to Defeat Isis in Syria, Says Former UK Military Chief*, GUARDIAN (Nov. 8 2015), <https://www.theguardian.com/uk-news/2015/nov/18/cameron-aims-over-isis-and-assad-in-syria-are-contradictory-says-former-military-chief>.

<sup>387</sup> *Id.*

<sup>388</sup> Dov Zakheim, Opinion, *Trump Needs a Plan for Israel's Confrontation With Iran*, FOREIGN POL'Y (Apr. 18, 2018), <http://foreignpolicy.com/2018/04/18/trump-needs-a-plan-for-israels-confrontation-with-iran/>

<sup>389</sup> AFP, *Israeli Defence Minister Says Syria's Assad 'Victorious'*, YAHOO! (Oct. 3, 2017), <https://www.yahoo.com/news/israeli-defence-minister-says-syrias-assad-victorious-164147913.html>.

<sup>390</sup> Giorgio Cafiero & Daniel Wagner, *The US and Iran's Common Interests in Syria*, HUFFINGTON POST, [http://www.huffingtonpost.com/giorgio-cafiero/the-us-and-irans-common-i\\_b\\_8501520.html](http://www.huffingtonpost.com/giorgio-cafiero/the-us-and-irans-common-i_b_8501520.html) (last visited May 10, 2018).

terror movements—particularly ISIS and Jabhat Fateh Al-Sham (formerly Jabhat al-Nusra)<sup>391</sup>—are not too far apart from one another.<sup>392</sup> Due in large part to the aligned interests of the Americans, Iranians, and Russians, as well as their varied contributions toward fighting extremists, “ISIS has already sustained heavy losses in men and real estate in Iraq and Syria.”<sup>393</sup> With ISIS losing ground daily and just barely clinging on to reality and relevance, the effects of American and Iranian cooperation could not be more evident. Iran, much like the United States, has waged an almost identical war against the very same terror groups that seek to wreak havoc in Europe and America.<sup>394</sup> President Obama reiterated this when he acknowledged, “[W]e’re not going to solve the problems in Syria unless there’s buy-in from the . . . Iranians . . . .”<sup>395</sup>

These two hotbeds of terror have raised shared concerns for the leaders and citizens of the United States and Iran. If these nations can shelve long-standing fear in favor of pragmatism, they could make substantial gains in these volatile arenas. By understanding and embracing the unique intermingling of American and Iranian interests, policy-makers in the United States should work toward salvaging and strengthening the JCPOA, rather than subverting and sullying it. They must communicate to Iran-oriented investors that their existing financial ventures will not be penalized under the existing web of American sanctions, rather than leading foreign investors down a path of obscured legal ramifications that do nothing but impede the survival of the JCPOA.

### *C. The Endangered Prospect of Denuclearization and International Arms Control*

Thousands of miles away from the Middle East, sits an isolated, paranoid, attention-seeking regime that, despite its recent charm offensive and sudden about-face, has seemingly been hell-bent on amassing nuclear weapons in order to reach an “equilibrium” of military

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<sup>391</sup> Bryony Jones et al., *Al-Nusra Rebranding: New Name, Same Aim? What You Need to Know*, CNN (Aug. 2, 2016, 5:26 AM), <http://www.cnn.com/2016/08/01/middleeast/al-nusra-rebranding-what-you-need-to-know/>.

<sup>392</sup> Cafiero & Wagner, *supra* note 390.

<sup>393</sup> Arash Irani & Omid Irani, *Opinion, An Iran Accord for Stability*, YOUR MIDDLE EAST, (May 10, 2015), [http://www.yourmiddleeast.com/opinion/an-iran-accord-for-stability-in-the-middle-east\\_31933](http://www.yourmiddleeast.com/opinion/an-iran-accord-for-stability-in-the-middle-east_31933).

<sup>394</sup> *After Fighting Common Enemy ISIS, How Will Rising Tensions Between U.S. and Iran Affect Iraq?*, PBS NEWSHOUR (Dec. 8, 2017, 6:35 PM), <https://www.pbs.org/newshour/show/after-fighting-common-enemy-isis-how-will-rising-tensions-between-u-s-and-iran-afet-iraq#transcript>.

<sup>395</sup> Schulberg, *supra* note 358.

force with the United States.<sup>396</sup> In North Korea, Kim Jong-un rules a country that neglects the well-being of its own citizens, has virtually no international allies and has declared its “final goal” to make “U.S. rulers dare not talk about military option for [North Korea].”<sup>397</sup> Since coming to power in 2011, Kim Jong-un has tested more missiles than his father and grandfather combined.<sup>398</sup> Coupling this armed, insecure, and dangerous dictator with an equally unpredictable and chauvinistic President Trump, could spell disaster for the international community.

#### i. North Korea

President Trump and his comments have not only exacerbated the rhetorical war of words with the unpredictable regime in Pyongyang, but have also fanned the flames of nuclear war with its young and enigmatic leader, Kim Jung-un. Despite President Trump’s insistence that “all options are on the table” as it relates to a potential military strike on North Korea, others believe such talking points are merely bluster.<sup>399</sup> While serving in his capacity as President Trump’s chief strategist, Steve Bannon, said in an interview, “Until somebody solves the part of the equation that shows me that ten million people in Seoul don’t die in the first 30 minutes from conventional weapons, I don’t know what you’re talking about, there’s no military solution.”<sup>400</sup> This has led President Trump and Kim Jong-un, among others, to conclude that the North Korean problem can only be solved through unprecedented face-to-face diplomatic negotiations aimed at resolving the decades-old standoff between the two nations.<sup>401</sup> This once unimaginable meeting is slated to unfold in Singapore on June 12, 2018, after Kim Jung-un extended a

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<sup>396</sup> Christine Kim, *North Korea Says Goal is ‘Equilibrium’ with U.S. After Testing Hwasong-12 Missile*: KCNA, REUTERS (Sept. 15, 2017, 6:06 PM), <https://www.reuters.com/article/us-northkorea-missiles-report/north-korea-says-goal-is-equilibrium-with-u-s-after-testing-hwasong-12-missile-kcna-idUSKCN1BQ2Y3>.

<sup>397</sup> *Id.*

<sup>398</sup> Joshua Berlinger, *North Korea’s Missile Tests*, CNN (Dec. 3, 2017, 10:47 PM), <http://www.cnn.com/2017/05/29/asia/north-korea-missile-tests/index.html>.

<sup>399</sup> John Wagner & Anna Fifield, *Trump: ‘All Options Are on the Table’ After North Korea Launched Missile Over Japan*, WASH. POST (Aug. 29, 2017), [https://www.washingtonpost.com/news/post-politics/wp/2017/08/29/trump-all-options-are-on-the-table-following-north-korea-missile-launch-over-japan/?utm\\_term=.0b2eeda1d309](https://www.washingtonpost.com/news/post-politics/wp/2017/08/29/trump-all-options-are-on-the-table-following-north-korea-missile-launch-over-japan/?utm_term=.0b2eeda1d309).

<sup>400</sup> David Choi, *Steve Bannon Says ‘There’s No Military Solution’ to US Stalemate with North Korea*, BUS. INSIDER (Aug. 16, 2017, 10:09 PM), <http://www.businessinsider.com/steve-bannon-interview-north-korea-china-2017-8>.

<sup>401</sup> Peter Baker, *Trump’s Meeting With Kim Jong-un Is Another Pledge to Do What Nobody Else Can*, N.Y. TIMES (Mar. 8, 2017), <https://www.nytimes.com/2018/03/08/us/politics/trump-meeting-kim-jong-un.html>; Leinz Vales, *James Clapper: For the First Time I Agree with Bannon on North Korea*, CNN (Aug. 30, 2017, 8:41 PM), <http://www.cnn.com/2017/08/30/politics/james-clapper-north-korea-missile-launch-chris-cuomo-cnntv/index.html>.

goodwill gesture to the United States by releasing three American prisoners.<sup>402</sup> And this is where the JCPOA comes into focus.

A special adviser to the South Korean President publicly said that “if the US had spent even one fifth of the time and effort on the North Korean issue compared with the Iranian case, then the North Korean nuclear issue could have been resolved.”<sup>403</sup> Such a sentiment only underscores the strength and positivity the JCPOA and negotiations can have on seemingly intractable issues. What the overall JCPOA experience demonstrates is that the diplomatic success yielded therein can be replicated, and potentially also upended, in other arenas as well, namely North Korea.

The critical catch-22 for President Trump lies in his calculus of America’s countervailing interests in Iran and North Korea. From his perspective, the JCPOA was “an embarrassment to the United States.”<sup>404</sup> Yet, a total withdrawal therefrom now begs the North Koreans to mull over the prospect that after months or years of negotiations, any potential arrangement would be an utter waste of time as the American side would renege on its commitment at some point down the line, thus further escalating the already heightened tensions between the two sides.<sup>405</sup> The message North Korea now can discern from America’s deviation from the JCPOA is: “why negotiate with the United States if this president or the next one can just throw out any agreement?”<sup>406</sup> Naturally, “[t]he North Koreans will wonder about whether one can have credible negotiations with the United States” and question whether Washington would stand by and honor its international commitments if one were to be reached.<sup>407</sup> Iran’s Foreign Minister, mindful of the uncertainty

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<sup>402</sup> Michael C. Bender & Rebecca Ballhaus, *Trump Sets North Korea Summit for June 12 in Singapore After Greeting Freed Americans*, WALL ST. J. (May 10, 2018), <https://www.wsj.com/articles/trump-welcomes-home-three-americans-detained-in-north-korea-1525937231>.

<sup>403</sup> Taehoon Lee & James Griffiths, *South Korea Expects North to Launch ICBM on Saturday, Prime Minister Says*, CNN (Sept. 7, 2017, 4:54 AM), <http://www.cnn.com/2017/09/07/asia/south-korea-thaad-north-korea/index.html>.

<sup>404</sup> Peter Baker & Rick Gladstone, *Trump Pushes to Revisit Nuclear Deal, and Asks Allies to Help*, N.Y. TIMES (Sept. 20, 2017), <https://www.nytimes.com/2017/09/20/world/middleeast/trump-iran-nuclear-deal.html>.

<sup>405</sup> David E. Sanger, *How Trump’s Disdain for the Iran Deal Makes a North Korea Pact Even Harder*, N.Y. TIMES (Mar. 11, 2018), <https://www.nytimes.com/2018/03/11/us/politics/north-korea-iran-nuclear.html>; Eric Levitz, Opinion, *Trump Plans to Win Nuclear Deal With North Korea – While Killing One With Iran*, N.Y. MAG. (Mar. 12, 2018), <http://nymag.com/daily/intelligencer/2018/03/trump-plans-to-win-nuke-deal-with-kim-kill-one-with-iran.html>

<sup>406</sup> David E. Sanger, *The Contradiction Buried in Trump’s Iran and North Korea Policies*, N.Y. TIMES (Sept. 20, 2017), [https://www.nytimes.com/2017/09/20/world/asia/trump-iran-north-korea.html?\\_r=0](https://www.nytimes.com/2017/09/20/world/asia/trump-iran-north-korea.html?_r=0).

<sup>407</sup> De Luce & Johnson, *supra* note 199.

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surrounding the JCPOA's survival, warned of this exact potential in April 2018 when he said that an American withdrawal from the JCPOA would send a "very dangerous message" to those who wish to negotiate with the United States because it would create the impression that at the end of the day, the operating principle of the United States is 'what's mine is mine, what's yours is negotiable.'"<sup>408</sup>

For the United States, its commitment to the JCPOA was always much larger than monitoring Iran's nuclear program, it spoke to the very notion of American credibility and reliability. Wendy R. Sherman, the chief negotiator of the nuclear accord, warned that "if the president pulls back on the Iran deal, given Iranian compliance" with its terms, "it will make diplomacy on North Korea almost impossible because U.S. credibility will be shot."<sup>409</sup> Any weakening or abrogation of America's obligations to the JCPOA hampers Washington's ability to resolve other pressing international issues.

That is, if deals with the United States cannot be relied upon, President Trump will give Kim Jong-un and North Korea one more justification to keep chasing its nuclear ambitions and preemptively sabotage the prospects for any potential nuclear deal. And in light of the recent American stance toward the JCPOA, observers on the world stage are left asking themselves why North Koreans would believe that the Americans, over the long haul, would honor a deal any president strikes?<sup>410</sup> Put simply, the collapse of the JCPOA would serve to undermine the high-stakes talks between Washington and Pyongyang.<sup>411</sup>

President Trump's unyielding criticism of, threats to, and abandonment of the JCPOA do not create a conducive environment for another potential diplomatic win vis-à-vis nuclear non-proliferation. As the world has seen, the JCPOA has been instrumental in capping and verifiably monitoring a once unchecked nuclear program that many countries viewed as a threat to regional and international stability. In order to parlay the JCPOA into a similar achievement with the North Koreans, there must be certainty that any negotiated resolution, should it get that far, between the United States and North Korea would be honored. President Trump's actions vis-à-vis his May 8 JCPOA announcement proved to North Korea that American guarantees "can be

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<sup>408</sup> Elise Labott, *Iran's Foreign Minister Warns of Consequences If Trump Leaves Nuclear Deal*, CNN (Apr. 22, 2018), <https://www.cnn.com/2018/04/22/politics/iran-foreign-minister-nuclear-deal/index.html>.

<sup>409</sup> *Id.*

<sup>410</sup> N.Y. Times Editorial Board, Editorial, *Where's That Better Deal, Mr. Trump?*, N.Y. TIMES (May 8, 2018), <https://www.nytimes.com/2018/05/08/opinion/iran-deal-trump-withdraw.html>.

<sup>411</sup> *Id.*

reversed anytime.”<sup>412</sup> Constant threats of terminating or withdrawing from negotiated agreements do not elicit confidence for concessions from other prospective parties. President Trump either does not fully appreciate such a dynamic or is simply dismissive of it. In either case, the United States should be very mindful about the language and course of action it employs in the aftermath of its JCPOA retreat, because, in many respects, the North Korean regime is leaps and bounds more threatening than the exaggerated danger a denuclearized Iran poses to the world.

#### V. CONCLUSION

Far from being the Faustian bargain many cynics branded it as, the JCPOA has yielded concrete, verifiable compliance as it relates to Iran’s once-unregulated nuclear program. This precious opportunity is fleeting by the day as both sides become more susceptible to the behavior, rhetoric, and outlook that created the pre-JCPOA climate of distrust. The world must not let inane chauvinism or indolent acceptance of the status quo dictate the decisions of tomorrow. On July 20, 2015, audacious diplomats united together to prove, once more, diplomacy was not obsolete.<sup>413</sup> All parties involved in the creation and culmination of the JCPOA expended a considerable amount of political risk and capital in order to make this deal a reality. And yet, one might wonder how this deal will survive the many tumultuous days to come with naysayers barreling down on either side. But maybe these detractors are the driving force, for they raise the stakes. The Joint Comprehensive Plan of Action must survive for the simple reason that the cost of failure is just too great.

As the thirteenth-century Persian poet Rumi famously said: “*Patience is not sitting and waiting, it is foreseeing. It is looking at the thorn and seeing the rose, looking at the night and seeing the day.*”<sup>414</sup> Let us heed these ageless words and not be complacent simply because a deal has been reached, but instead let us foresee the promise it personifies and work to ensure its endurance.

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<sup>412</sup> Motoko Rich, *Trump’s Iran Decision Sends North Korea a Signal. Was It the Right One?*, N.Y. TIMES (May 9, 2018), <https://www.nytimes.com/2018/05/09/world/asia/trump-iran-north-korea-nuclear.html?action=click&module=Top%20Stories&pgtype=Homepage>.

<sup>413</sup> See S.C. Res. 2231, *supra* note 4.

<sup>414</sup> Aisha Abdelhamid, *Rumi: “Behind The Beauty Of The Moon Is The Moonmaker”*, EDEN KEEPER (June 25, 2014), <http://edenkeeper.org/2014/06/25/rumi-behind-beauty-moon-moonmaker/>.