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# FRIENDS OF ISRAEL INITIATIVE

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## Walking Away from the Bad Deal with Iran

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**Why and How the US Administration Should Abandon the JCPOA**

Friends of Israel Initiative

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# Putting the JCPOA in context: Guidelines for more effective US policy toward Iran

**Emily B. Landau**

There is a reason for anniversaries – in international politics as in life. They encourage us to assess where we are and where we are going. The two-year anniversary of the Iran nuclear deal (otherwise known as the Joint Comprehensive Plan of Action, or JCPOA) coincided with the six-month mark of the Trump administration. This provides an opportune moment to take stock and offer advice about how to proceed with regard to the nuclear deal, especially as the administration nears completion of its Iran policy review.

Debate surrounding the nuclear deal initially focused on what it actually achieved and what it did not; its flaws and weaknesses; the prospects for successful implementation; and where Iran is likely to be, and the options that will be available to the international community, when the deal expires. Since the JCPOA was presented two years ago, experts have been debating whether even if upheld for ten years, the fact that the nuclear deal enables Iran to continue work on its nuclear infrastructure will not end up easing its path to a military nuclear capability down the line.

## What's (still) wrong with the JCPOA

The debilitating flaws of the JCPOA have been examined in depth elsewhere,<sup>1</sup> but it is important to briefly review the major weaknesses of the nuclear deal. First, rather than leaving Iran with only a symbolic uranium enrichment program (of about 1500 centrifuges – to enable Iran to save face), which was the original intention of the Obama administration, the JCPOA left Iran with 6000 centrifuges, and the explicit right to work on R&D on a full range of advanced centrifuges. In addition, president Obama stressed that in the future – when the deal expires – Iran will be able to run a large-scale industrial nuclear program. As such, rather than emphasizing the acute dangers of work on the fuel cycle (because centrifuges are dual use technology that can be diverted from civilian to military use), the deal – coupled with Obama's rhetoric – actually *legitimized* Iran's uranium enrichment program.

A second problem is the ambiguity surrounding critical provisions in the deal regarding inspections at Iran's military facilities. Rather than insisting on the "anytime, anyplace" inspection rule – which would have helped closed a major loophole in the NPT – the P5+1 conceded to Iran on this point, and the text ended up with ambiguous provisions that can easily be abused by Iran in order to play for time before allowing an inspection, well beyond

the 24 days that it can gain once the clock begins ticking. As a violator of the NPT – namely, a state that broke its commitment to eschew work on a military nuclear program, and advanced such a program at the military facility Parchin – this concession to Iran is incomprehensible. Moreover, Iran's supreme leader has stated firmly and repeatedly that Iran will never allow inspectors to enter its military facilities. What this means is that, at the very least, an IAEA request to inspect will be strongly challenged by Iran; the regime will do everything in its power to drag its feet, while also taking precautions not to be declared in violation of the deal.

A related issue has to do with the file on Iran's past military work. For years the IAEA denoted this work the "Possible Military Dimensions" (PMD) of Iran's nuclear program, until it came out with its final report on the issue in early December 2015.<sup>ii</sup> In this report, the IAEA determined that Iran worked on a military program until 2003, and in a less coordinated manner until at least 2009. It is significant that the IAEA could not say anything more definitive about the period after 2009 because Iran had not cooperated fully with the investigation, even though it was carried out in the months *after* the JCPOA was announced. Despite the damning conclusion of the IAEA report, Iran continues to insist that it never did anything wrong in the nuclear realm, and rather than contradicting that narrative and reminding everyone that Iran is an NPT violator, the P5+1 have remained silent in the face of Iran's false narrative.

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There are negative consequences to having brushed aside the account of Iran's past military work, one of which is that on this basis Iran demanded confidentiality in the arrangements it concluded with the IAEA. Iran demanded the same rights as other non-nuclear members of the NPT, even though as a *violinator* of the NPT, Iran should have lost this privilege. The deliberations and decisions of the Joint Commission set up by the JCPOA for oversight of the deal are also problematically confidential, and the IAEA reports on Iran that have been released since Implementation Day (January 2016) lack the full information that they had included in the past. It was only over the course of 2016 – and due to investigative reporting – that it became known for example that Iran has plans to install thousands of advanced centrifuges from year eleven of the deal.<sup>iii</sup> Transparency and clarity with regard to the workings of the Procurement Working Group (PWG) set up by the nuclear deal are also missing.<sup>iv</sup>

Additional problems with the JCPOA regard the lack of decision-making guidance for dealing with an Iranian violation, beyond the so-called "snapback sanctions" and the laconic statements issued by the Obama administration according to which: 'if there is a violation, we will know, and we will have time to take care of it.' But what are the relevant operational definitions behind this proclamation? What will qualify as a significant violation? How significant does it have to be to warrant a response? Who decides? What can be done in response, and by whom? Is it only sanctions – which of course do not snap back on their own but need to be decided upon? Who has to be on board decisions about what to do? And in what time frame? Can effective counter-action be achieved in time (one year)?

For full article:

<http://friendsofisraelinitiative.org/walking-away-from-the-bad-deal-with-iran2>