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Diplomacy or Driving a Hard Bargain?
Lessons from the Negotiation that Led to the Iran Nuclear Deal
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In presenting the US National Security Strategy document on December 18, 2017, President Trump referred to his predecessors as leaders who “made a disastrous, weak, and incomprehensibly bad deal with Iran,” and determined that Iran has the potential to resume its work on nuclear weapons. These remarks, along with the upcoming mid-January decision benchmark for the President on whether to sign waivers on the sanctions on Iran, make an analysis of the Joint Comprehensive Plan of Action (JCPOA) negotiation process particularly salient at this time.

The Center for Applied Negotiations and the Arms Control and Regional Security program at INSS invited leading experts from academia, media, and security circles for a seminar on the negotiations with Iran. These negotiations - which led to the JCPOA - involved a months-long effort to put a stop to Iran’s NPT-violating military nuclear activities by dismantling its (dual-use) uranium enrichment and heavy water reactor infrastructure. Despite the substantive leverage that the P5+1 possessed at the outset, the resulting JCPOA fell short of that goal.

For senior investigative journalist Jay Solomon, the puzzle was how Iran went from a weak negotiating position to attainment of such a good deal from its perspective. In 2012 Iran faced an economic crisis that threatened the regime, feared a possible Israeli attack, and was concerned about the collapse of the Assad regime. By July 2015 Iran had secured a deal that alleviated all of these concerns (re Assad, in 2013 Obama refrained from attack in Syria against the backdrop of Iranian threats to leave the negotiation if it did), and left it with its nuclear infrastructure intact, seemingly against all odds. How was this possible? Solomon identified five main reasons: Obama’s own fear of Israeli attack that pushed him to engage diplomatically; the shift in the “DNA” of key personnel from the first Obama administration to the second, with Kerry significantly less hawkish on Iran than Clinton; Kerry’s domination of the negotiations, which was not planned in advance; Obama’s sense that the negotiation was a key to his legacy, which meant that Iran could hear the ticking clock; and the fact that Iran and Russia were working together behind the scenes of the negotiation.

Additional insights emerged in a moderated panel discussion. It was argued that when confronting a determined nuclear proliferator like Iran, the specific negotiations structure requires that the international negotiators compel the state that violated its commitment to remain non-nuclear according to the NPT, to reverse course, and to return to the fold of the treaty. The fact that the P5+1 sought this result through dialogue (without employing military force) did not mean that the effort would not require a forceful approach. However, at the negotiating table, the international negotiators began making concessions to Iran in order to secure a deal, and in the hope that a more cooperative approach on their part would elicit a similar response from Iran. That did not happen, because in contrast to the P5+1, Iran worked with the knowledge that it was engaged in a hard bargaining situation, and that only tough bargaining tactics would enable it to achieve its goal of maximum sanctions relief in return for minimal nuclear concessions. From this bargaining position, concessions from the other side sent only one message: that the bargaining partner had “blinked” first, exposing the extent to which it desired, and indeed was dependent on a deal. The concessions that were offered also signaled to Iran that more concessions could be extracted. In assessing the JCPOA itself, it was noted that while the Obama administration insisted that this deal was better than no deal at all, that assertion was nevertheless contentious, mainly due to the “sunset provisions” that dictated the expiration of key restrictions, beginning in 7-8 years. At that time Iran will be able to build up a vast nuclear infrastructure.

An opposing view contended that Obama actually scored a major success vis-à-vis Iran in his use of soft power. This is the one form of power that the Iranian regime has no effective tools to confront, so Obama was correct to purposely direct messages to the Iranian people, thereby frightening the regime. It is this fear that brought Iran to the table looking for a deal. Moreover, Obama sincerely believed in diplomacy, and in the positive effect of demonstrating to Iran a cooperative American approach. Israel’s threat to employ military force only strengthened Obama’s determination to reach a deal at almost any cost – he knew that if Israel followed through on the threat, the US could easily be pulled into military conflict as well, which Obama sought to avoid.

There was some disagreement among panelists over whether since the deal was implemented Iran has opened its military nuclear facilities to inspections. The inability to make a firm call confirms that since implementation of the nuclear deal, there is (ironically) much less transparency in the public domain regarding Iran’s nuclear activities, due to confidentiality rights that Iran was granted. It was also pointed out that if inspections at military facilities are conducted and a violation is found, the P5+1 will have little political will to actually confront Iran on such a violation.

In the closing keynote address, former Defense Minister Moshe (Bogie) Ya'alon characterized the problem in the negotiation from Israel's perspective: Iran came to the negotiations on its knees because of the pressure that was applied, but what an outside observer of the negotiation saw is that it was rather the US that looked to be on its knees. This was hardly an auspicious starting point for the P5+1 in conducting such a difficult negotiation. Ya'alon also related to the comparison with North Korea, pointing out that diplomacy has failed in both cases. A nuclear Iran, however, would be much more dangerous than North Korea due to its hegemonic regional ambitions, and once free of sanctions, Iran was in effect granted legitimacy to expand its regional influence across the Middle East. Iran seeks the immunity from attack that nuclear status will in effect grant the regime. Ya'alon's advice is not to open the deal, but to begin a campaign to restore the level of pressure that the regime faced in 2013, on issues not covered by the deal.

Final remarks were delivered by INSS Executive Director Amos Yadlin who assessed the nuclear deal as positive in the short term but extremely problematic in the long term. He noted that the US and Iran negotiated with different timeframes in mind: whereas the US was looking to the end of Obama's second term, Iran was thinking decades into the future. Secretary Kerry's assumption had been that by the time that sunset clauses come into effect, they will not present a serious threat because the nature of the Iranian regime will have fundamentally changed, but what we have seen since the deal was signed is a more aggressive Iran. He concluded by stressing the need for greater US-Israel coordination on the Iranian threat, including a parallel deal between the US and Israel that would cover both nuclear and conventional realms.

From Israel's national security perspective, its absence from the JCPOA negotiation rooms requires that it reach bilateral understandings with the United States on issues such as what would be regarded as a significant violation of the agreement by Iran. Otherwise, Israel will have little or no influence on any future policy planning and negotiation processes.