

Should the JCPOA be Revived? An Analysis of the Iran Nuclear Deal

Yordan Gunawan

Faculty of Law, Universitas Muhammadiyah Yogyakarta
Facultat de Dret, Universitat Pompeu Fabra, Spain
Email: yordangunawan@umy.ac.id

Aisyah Ajeng Putri Riyanto

Faculty of Law, Universitas Muhammadiyah Yogyakarta
Email: aisyah.ajeng.law21@mail.umy.ac.id

Wandita Surya Putri

Faculty of Law, Universitas Muhammadiyah Yogyakarta
Email: wandita.surya.law21@mail.umy.ac.id

Cyabriena Asela

Faculty of Law, Universitas Muhammadiyah Yogyakarta
Email: c.asela.law21@mail.umy.ac.id

Dwilani Irrynta

Faculty of Law, Universitas Muhammadiyah Yogyakarta
Email: dwilani.i.law18@mail.umy.ac.id

Article Info:

| Submitted: 28 August 2022 | Revised: 23 December 2022 | Accepted: 26 December 2022

Recommended Citation: *Chicago Manual of Style 17th edition (full note)*

Yordan Gunawan, *et-all*, "Should the JCPOA be Revived? An Analysis of the Iran Nuclear Deal", *Jurnal Nurani Hukum : Jurnal Ilmu Hukum*, Vol. 5 No. 2, (December, 2022)", P.93-105

ABSTRACT

The Joint Comprehensive Plan of Action (JCPOA) is referred to as one the peaceful settlement of the international dispute in the form of a multilateral agreement restricting Iran's nuclear development in exchange for the lifting of economic sanctions. However, some issues have emerged since the agreement entered into effect. The United States withdrew from the agreement and reimposed the economic sanctions against Iran, consequently affecting Iran's commitment to its nuclear obligations. State Parties' initiative to reinstate the agreement in its original form is invalid under international law since the issue is Iran and the United States' actions. In this research, the authors examined the termination and establishment of a new agreement as a strategy to overcome existing issues. The research methodology combines qualitative research with normative legal research. The results showed that the JCPOA is a "treaty of contract" agreement that binds only the State Parties and must be terminated because the unilateral United States withdrawal and Iran's loosening of compliance obligations effected the agreement to run out of control, preventing it from achieving its targeted purpose. After the agreement is terminated, a new agreement on Iran's nuclear program should establish in accordance with international law.

Keywords: Iran, JCPOA, New Agreement, Termination Agreement, United States.

ABSTRAK

Joint Comprehensive Plan of Action (JCPOA) disebut sebagai salah satu usaha penyelesaian damai sengketa internasional dalam bentuk perjanjian multilateral untuk membatasi pengembangan nuklir Iran dengan imbalan pencabutan sanksi ekonomi oleh negara penandatangan lainnya. Namun, beberapa masalah muncul sejak perjanjian tersebut berlaku. Dimulai dengan Amerika Serikat yang menarik diri dari perjanjian dan memberlakukan kembali sanksi ekonomi terhadap Iran dan lalu mempengaruhi komitmen Iran sendiri terhadap kewajiban nuklir sebagaimana tertuang dalam jalan JCPOA. Di lain pihak, inisiatif negara-negara penandatangan untuk mengembalikan perjanjian dalam bentuk aslinya sebetulnya dianggap tidak sah menurut hukum internasional, terutama jikalau mereferensi tindakan pelanggaran yang dilakukan oleh Iran dan Amerika Serikat. Dalam penelitian ini, penulis mengkaji pengakhiran perjanjian dan pembentukan perjanjian baru sebagai strategi untuk mengatasi permasalahan yang ada. Metodologi penelitian menggabungkan penelitian kualitatif dengan penelitian hukum normatif. Hasil penelitian menunjukkan bahwa JCPOA merupakan perjanjian "*treaty of contract*" yang hanya mengikat negara pihak. JCPOA harus diakhiri karena penarikan diri secara sepihak oleh Amerika Serikat dan pelanggaran kewajiban akan kepatuhan oleh Iran menyebabkan perjanjian lepas kendali sehingga mencegah tercapainya tujuan yang ditargetkan. Setelah perjanjian diakhiri, perjanjian baru tentang program nuklir Iran seharusnya dibuat sesuai dengan norma hukum internasional yang berlaku.

Kata Kunci: *Amerika Serikat, Iran, JCPOA, Perjanjian Baru, Pengakhiran Perjanjian.*

Introduction

Some issues in relationships between states (including with international organizations) can no longer be settled by reference to international customs. Realizing this, states establishing connections with one another incorporate these diverse issues into an international agreement.¹

In general, the substances of international agreements are divided into two categories: (1) treaty of contract; and (2) law-making treaties. A treaty contract is an agreement with purely legal consequences, including the parties' rights and obligations. A law-making treaty is an agreement that establishes legal norms and rules for the entire international community. An international agreement will grant specific rights and obligations in the international field that are expressly mentioned in the articles of the agreement, as considered from the perspective of the agreement's substance. Some examples of international agreements that give rights and obligations to non-parties include (1) the United Nations Charter and (2) the Vienna Convention on the Law of Treaties 1969.²

One of the international agreements that exclusively confers rights and obligations on State Parties is the Iran Nuclear Deal, which is formally known as the Joint Comprehensive Plan of Action (JCPOA), was signed on July 14, 2015, by Iran, the five permanent members of the United Nations Security Council (China, France, Russia, United Kingdom, and the United States), and Germany -

collectively referred to as P5+1.³ The United Nations Security Council (UNSC) approved this agreement by adopting Resolution 2231 on July 20, 2015, in order to strengthen its practical foundation and enforcement. This resolution serves as a guarantee for the implementation of the JCPOA and urges all State Parties to fulfill their duties.⁴

The JCPOA imposes restrictions on Iran's nuclear development in exchange for the lifting of economic sanctions against Iran. In this agreement, Iran committed not to enrich uranium that may be used to make nuclear weapons. Iran also committed to implementing an "Additional Protocol" granting inspectors from the International Atomic Energy Agency (IAEA), the United Nations' nuclear watchdog, full access to its nuclear facilities, including potentially undeclared sites. In exchange for this agreement, the P5+1 and the United Nations have agreed to lift nuclear-related sanctions against Iran.⁵

The JCPOA emphasizes an all-encompassing commitment to cooperation. However, cooperation between the parties of this agreement has not been straightforward from the beginning. In 2018, the United States unilaterally withdrew from the JCPOA without the consent of the State Parties and used the mechanism to reimpose suspended sanctions against Iran. This does not violate the terms of the Iran Nuclear Deal because unilateral withdrawal is not regulated by the agreement. Meanwhile, Iran believes the United States has violated the agreement. By enriching uranium to near-weapon

¹ Dragana Nešović and Dušan Jerotijević, "Role and Importance of International Agreements in Regulating International Relations in Modern Conditions," *Ekonomika* 64, no. 3 (2018): 89-102, <https://doi.org/10.5937/ekonomika1803089n>.

² Mehak Jain, "Concept of Treaties in International Law," *Ipleaders*, June 2020.

³ Kali Robinson, "What Is The Iran Nuclear Deal?," *Council on Foreign Relations*, July 2022.

⁴ United Nations Security Council Resolution 2231 (2015).

⁵ *Op. Cit.*

levels and seeking to remove 27 IAEA surveillance cameras from its nuclear facilities, Iran violated many of the agreement's restrictions on its nuclear program due to a misunderstanding.⁶ The actions of Iran and the United States make this agreement not run comprehensively.

Samin Ustiashvili's research, *International Law Perspective on the JCPOA and Post-JCPOA*, analyzes a legal and impartial assessment of Iran's action in the missile test and the United States' response to the implementation of new sanctions in the post-conflict period. According to the research, the State Parties cannot sue for violating the commitments of the other State Parties on the basis that they have violated each other, and they must rely on the mechanism outlined in the JCPOA agreement. In addition, this research addresses the United States government's efforts to weaken the JCPOA.⁷

The Iran Nuclear Deal plays a significant role in maintaining global stability and conduciveness, so the United States' decision to withdraw from the agreement, followed by the re-imposition of sanctions against Iran, are actions that are actually contradictory, which causes Iran to violate the agreement because the sanctions imposed have disrupted its economic condition. The remaining State Parties to the agreement are not in a strong position to convince Iran to comply with its commitments.

The explanation in the previous paragraph shows that the absence of a solution to the issue might be taken into

consideration to determine the ideal solution to the existing issues. Since April 2021, the State Parties have made efforts to reinstate the agreement as a strategy to overcome existing issues. However, the reinstatement is an effort to reinstate the Iran Nuclear Deal to its original form. In actuality, Iran and the United States are responsible for the JCPOA crisis, not the substance of the agreement. Therefore, reinstatement is a futile attempt.

By terminating the current agreement and establishing a new agreement, this issue will be effectively resolved. This research examines the termination and establishment of new agreements under international law.

Methodology

The research employs normative legal research, which uses legal sources in the form of laws and regulations, court decisions, contracts or agreements, and legal theory to examine the relationship between practical applications and theoretical research in outcoming the issues that will be the subject of this research.⁸ In the implementation of this research, the authors referred to the NPT and JCPOA agreements. Furthermore, the study employed qualitative research, which examines data on the research object in the form of ongoing proceedings, international law, and the opinions of legal experts.⁹ As part of this type of research, the authors referred to the Vienna Convention on the Law of Treaties as the foundation of the termination and establishment of a new agreement.

⁶David Gritten, "Iran Removes Nuclear Watchdog's Cameras after Criticism," *BBC News*, June 2022.

⁷ Samin Ustiashvili, "International Law Perspective on the Jcpoa and Post-Jcpoa," *International Journal of Science Academic Research* 02, no. 04 (2021): 1322–26.

⁸ Sezai Caglayan, "Hukuk Araştırmasında Teorik ve Normatif Çerçevesel: Teorinin Uygulamaya Aktarımı,"

Hacettepe Hukuk Fakültesi Dergisi § (2021), <https://doi.org/10.32957/hacettepehdf.947172>.

⁹Haradhan Kumar MOHAJAN, "Research Methodology in Social Sciences and Related Subjects. *Journal of Economic Development, Environment and People*," *Journal of Economic Development, Environment and People* 7, no. 1 (2018): 23.

Discussion

1. JCPOA and International Law

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) regulates global nuclear development, which was an agreement signed on July 1, 1968, that the aim is to restrict nuclear weapons ownership. Additionally, the NPT seeks to guarantee the right of all State Parties to develop nuclear weapons for peaceful purposes to support human health, water resource management, food security, protection of the environment, nuclear power infrastructure development, and nuclear safety and security.¹⁰

More than 170 sovereign states participate in the NPT and are divided into two categories, namely Nuclear Weapon States (NWS) and Non-Nuclear Weapon States (NNWS). The agreement defines the NWS as states that had tested nuclear devices prior to January 1, 1967. China, France, the United Kingdom, the Soviet Union, and the United States are the five permanent members of the Security Council as the NWS.¹¹

The draft of NPT's text obligated the five of the NWS to achieve general and complete disarmament and not to transfer nuclear weapons to the NNWS (Article I). The NNWS - all others - were obligated not to receive or otherwise acquire nuclear weapons (Article II) and accepted comprehensive IAEA safeguards (Article III). Iran concluded a comprehensive safeguards agreement with the IAEA in 1974.¹² This agreement became effective on March 5, 1970, after ratification by the United Kingdom, the Soviet Union, the

United States, and forty other states, including Iran.¹³

Numerous nuclear laws in the field of international law have been implemented, including multinational, regional, and bilateral agreements. This is a consideration of the significance of nuclear regulation so that every state can develop nuclear weapons for peaceful purposes. Iran has a legitimate right under the NPT to utilize nuclear energy for peaceful purposes.¹⁴

In 2003, the IAEA reported that a high-grade uranium factory had been uncovered in Natanz, Iran. According to the IAEA report, Iran is extremely secretive about its nuclear program and does not let the IAEA inspections of its development facilities. Since the IAEA report until 2015, the UNSC has adopted seven resolutions (Resolution 1696, 1737, 1747, 1803, 1835, 1929, and 2224).

The essence of the resolution is to stop Iran's nuclear program, request that Iran report to the IAEA on its nuclear development programs, and permit the IAEA inspections to determine if Iran's nuclear development is peaceful or not. In addition, based on Iran's Comprehensive Safeguards Agreement with the IAEA, the IAEA can request access to Iran's (and any other State Parties) undeclared nuclear facilities through a special inspection if the IAEA Director General deems it necessary to verify the accuracy and completeness of information submitted by Iran. When confronted with situations or conditions that could result in a special inspection, the agency is required to confer with Iran.

¹⁰ Bill Palmer, "The IAEA Peaceful Uses Initiative and the NPT," *U.S. Department of State*, January 2019.

¹¹ Ambassador Thomas Graham, "The Nuclear Non-Proliferation Treaty: Delayed Review-Issues Old and New," *Journal for Peace and Nuclear Disarmament* 4, no. 1 (2021): 186-95, <https://doi.org/10.1080/25751654.2021.1921499>.

¹² Treaty on the Non-Proliferation of Nuclear (NPT) 1968.

¹³ *Op. Cit*, p. 188.

¹⁴Hassan Soleimani Mehdi Khazaie, Mousa Mousavi Zanouz, "The Joint Comprehensive Plan of Action (Jcpoa): Results and Achievements," *PalArch's Journal of Archaeology of Egypt* 18, no. 4 (2021): 2344-56.

The Comprehensive Safeguards Agreement between Iran and the IAEA does not stipulate a timeline for resolving disputes over special inspections, but the Director General will typically submit the issue to the IAEA Board of Governors.¹⁵

The UNSC Resolution 1929 authorized broader financial and economic sanctions against Iran, such as banning foreign investment in Iran's energy sector, restricting credit for trade with Iran, banning arms sales to Iran, and blocking financial transactions with Iran's banks.¹⁶ However, the Iranian government did not attempt to comply with these international demands.

To overcome the nuclear conflict with Iran, Iran and the P5+1 adopted a gradual approach through negotiations. By participating in these nuclear negotiations, Iran considers the diplomatic path as a win-win solution to ensure that a strict vigil was kept on Iran's nuclear program, lest Iran develops a nuclear weapon and at the same time, tough and crippling economic sanctions against Iran were to be revoked giving Iran the much needed economic relief.¹⁷

Iran's consideration is supported by Chapter VI of the United Nations Charter, which states: "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation."¹⁸

The JCPOA is the result of negotiations that represented a significant turning point in the Iran nuclear conflict.

Furthermore, the JCPOA brought in a brief period of prosperity that addressed Iran's domestic and public concerns while sustaining the regime, preserving Iran's right to civil nuclear energy, and increasing the state's status as a responsible regional power. Iran's primary motivation for signing the agreement was its economic benefits.¹⁹ The JCPOA agreement was signed on July 14, 2015, and ratified by the UNSC Resolution 2231 on July 20, 2015.

Article 2 Paragraph 1 (a) of the Vienna Convention of 1969 defines an international agreement as a written international agreement between two or more states that are governed by international law, whether in the form of a single instrument or two or more related instruments and whatever its particular designation.²⁰

The Convention specifies that international agreements are written agreements between states. Iran and the other State Parties are sovereign states with the authority to enter into agreements. In line with paragraph I of the JCPOA's Preamble and General Provisions, the Iran Nuclear Agreement has been adopted by the parties, signed by all State Parties, and ratified by UNSC Resolution 2231. The JCPOA Agreement has a total of 159 pages, composed of 21 pages of the main text and 5 pages of attachments. Five pages are divided into the preface, introduction, and general provisions or agreements in the primary text. There are four subsections on the remaining 15 pages: Nuclear, Sanctions,

¹⁵ Kalsey Davenport, "IAEA Urges Iran to Cooperate," 2020.

¹⁶ Seyed Hossein Mousavian and Mohammad Mehdi Mousavian, "Building on the Iran Nuclear Deal for International Peace and Security," *Journal for Peace and Nuclear Disarmament* 1, no. 1 (2018): 169-92, <https://doi.org/10.1080/25751654.2017.1420373>.

¹⁷ Abdullah Alarqan, "United States Position Towards Iran After the Nuclear Deal

(2015-2019)," *Humanities & Social Sciences Reviews* 8, no. 1 (2020): 210-19, <https://doi.org/10.18510/hssr.2020.8130>.

¹⁸ United Nations Charter 1945.

¹⁹ Kulsoom Belal, "Uncertainty over the Joint Comprehensive Plan of Action: Iran, the European Union and the United States," *Policy Perspectives* 16, no. 1 (2019): 23-39, <https://doi.org/10.13169/polipers.16.1.0023>.

²⁰ Vienna Convention on the Law of Treaties 1969.

Implementation Plans, and Dispute Resolution Mechanisms. There are 5 attachments:

- 1) Nuclear-Related Activities;
- 2) Sanctions-Related Obligations;
- 3) Peaceful Nuclear Cooperation;
- 4) Joint Commission; and
- 5) Execution Plan.²¹

Articles 1 (a) and (b) of the Vienna Convention of 1986: (a) treaties between one or more States and one or more international organizations, and (b) treaties between international organizations.²² The JCPOA is an agreement classified as such by multiple states and international organizations. The agreement binds Iran with the P5+1 and the UNSC, which supports the agreement by adopting UNSC Resolution 2231.²³ This argument asserts that Iran's relationship with the P5+1 and the United Nations is an issue of international law that can be the subject of international agreements.

The State Parties of the JCPOA presented the agreement at the 7488th meeting of the UNSC, which resulted in Resolution 2231. The resolution is for one of the UNSC's authorities to take the necessary steps to maintain international peace and security. Through this resolution, the UNSC has the ability to

impose sanctions as specified in Chapter VII of Article 41 of the United Nations Charter.²⁴

This resolution contains 104 pages and two attachments, one of which is the JCPOA in its entirety. In this resolution, the UNSC ensures that Iran's nuclear program is solely for peaceful, non-military objectives so as to maintain international peace and security. Indirectly, this agreement is in line with the objectives of the NPT.²⁵

Article 2 of the UNSC Resolution 2231 states: "Calls upon all Member States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the JCPOA, including taking actions commensurate with implementation plan set out in the JCPOA's and this resolution and by refraining from actions that undermine implementation of commitments under the JCPOA."²⁶

All documents of the JCPOA are attached to UNSC Resolution 2231. This demonstrates the significance of the JCPOA as an attachment to UNSC Resolution 2231. Without UNSC Resolution 2231, the JCPOA cannot be implemented. However, without the JCPOA, UNSC Resolution 2231 will lose its meaning, subjectivity, and purpose.²⁷

²¹Mojtaba Mireh Gini and Maryam Sedaghat, "A Review of Inconvertibility of Iran Nuclear Deal into an International Treaty," *Budapest International Research in Exact Sciences (BirEx) Journal* 1, no. 2 (2019): 86-94, <https://doi.org/10.33258/birex.v1i2.230..>

²²Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations 1986.

²³ Paul K. Kerr, "Iran's Nuclear Program: Tehran's Compliance with International Obligations," *Verification and Monitoring of the Nuclear Agreement with Iran: Resources and Challenges* § (2016).

²⁴ Faramarz Yadegarian, "Iran's Countermeasures to US Withdrawal from JCPOA and the Trigger Mechanism" 2, no. 2 (2019): 89-110.

²⁵ Jordan Gunawan, "Transboundary Haze Pollution in the Perspective of International Law of State Responsibility," *Jurnal Media Hukum* 21, no. 2 (2014): 170-180, <https://doi.org/10.18196/jmh.v21i2.1185>.

²⁶ Mirko Sossai, "'The Dynamic of Action and Reaction' and the Implementation of the Iran Nuclear Deal," *Questions of International Law* 66, no. 1 (August 2018) (2020): 5-22.

²⁷ Jovan, "The United States Unilateral Withdrawal from the Restrictions

The UNSC Resolution 2231 should be considered in its whole, from the preamble to the attachment, along with subsequent statements and practices of the UNSC members. In this circumstance, the JCPOA cannot be ruled out as an attachment to UNSC Resolution 2231.

Both are instruments that are connected. The achievement of this resolution is contingent on the implementation of the JCPOA by the State Parties. The UNSC Resolution 2231 and the JCPOA are binding sources of international law for State Parties. This is based on the general principle of *Pacta Sunt Servanda*, which applies to all international agreements and demands compliance with the agreement in good faith by all parties. In addition, it is based on Article 25 of the UN Charter, which states: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with present Charter."²⁸

Even though the JCPOA cannot stand alone as an international agreement, this is based on the following explanation. However, the presence of the UNSC Resolution 2231, which adopted the JCPOA, rendered the agreement's terms enforceable. Therefore, based on UNSC Resolution 2231, the JCPOA State Parties must comply with the resolution's commitments and be bound by the duties resulting from the agreement's terms.²⁹ The JCPOA is an agreement "treaty of contract" that solely binds the parties to the agreement.

2. Termination of the JCPOA Agreement under International Law

The JCPOA does not include a clause regarding unilateral withdrawal from the agreement by State Parties. In addition, the JCPOA "Dispute Resolution Mechanism" lacks an acceptable definition of unilateral withdrawal.³⁰ If a country withdraws unilaterally from the agreement, then its acts cannot be classified as violations and remain internationally valid. In practice, there is a possibility for one of the parties not to be able to properly fulfill the agreement which has determined all the rights and obligations.³¹

As was the case in 2018, the United States unilaterally withdrew from the JCPOA without the consent of the State Parties and reimposed suspended sanctions against Iran.

By limiting the incentives for non-compliance to be penalized, a State Party's withdrawal from an agreement enables it to end cooperation with other State Parties to the agreement. The JCPOA does not include a clause regarding unilateral withdrawal, so the United States cannot violate the agreement's provisions, cannot be asked to justify its non-compliance before a court established by the agreement, and cannot be subject to sanctions under the agreement. The other State Parties cannot participate in reciprocal acts of non-compliance in accordance with international law. In addition, Jean Galbraith accepted that the president has the constitutional authority to withdraw

of Iran's Nuclear Program in JCPOA 2015 under International Law."

²⁸Jessica Priscilla Suri, "The United Nations Security Council Resolution on Sanctions Towards Individual from the Perspective of International Law," *Padjajaran Journal of International Law* 3, no. 2 (2019): 216.

²⁹ *Op. Cit.*

³⁰ Naimeh Masumy, "Revisiting the Joint Comprehensive Plan of Actions: The

Role of Arbitration in Reviving a Broken International Agreement," *Opinio Juris*, January 2022.

³¹ Hazar Kusmayanti, Yola Maulin, and Eidy Sandra, "Breach of Notarial Deed for Peace under Indonesian Civil Law Perspective," *Jurnal Media Hukum* 26, no. 1 (2019): 34-46, <https://doi.org/10.18196/jmh.20190121>.

the United States from most international agreements.³²

The United States' withdrawal coincides with the end of cooperation with the agreement's other State Parties. In this regard, the United States is able to impose nuclear and economic sanctions on Iran. In response, Iran demanded guarantees from the E3 states (France, Germany, and the United Kingdom) and other State Parties. However, the efforts of the E3 states (France, Germany, and the United Kingdom) and other State Parties have been ineffective in the face of maximum pressure from the United States, which aims to deprive Iran of more rights to its nuclear program as well as restrict its ballistic missile program and regional control.³³

Consequently, in the fourth year of the JCPOA (May 8, 2019), Iran began to loosen its commitment to the JCPOA's nuclear terms. The unilateral withdrawal of the United States and the loosening of Iran's compliance obligations caused the JCPOA to run out of control.

Iran executed the loosening of compliance in violation of many of the agreement's restrictions on its nuclear activity. Iran's violations include attempting to remove 27 IAEA surveillance cameras and enriching uranium to near-weapons levels. These violations damaged the JCPOA over time.³⁴

Negotiations to revive the agreement and reinstate the JCPOA began in earnest in April 2021. At the end of the eighth round of negotiations in January

2022, the State Parties of the JCPOA, including the United States, convened in Vienna. In addition to the Vienna negotiations, there was also a round of indirect negotiations hosted at Doha on 28-29 June.³⁵

The reinstatement of this agreement aims to return the JCPOA to its original form and bring the United States back into the agreement.³⁶ However, procedures connected to agreements are not included in the JCPOA "Dispute Settlement Mechanism". Furthermore, reinstatement is not a step towards overcoming existing issues, as issues are caused by actions committed by Iran and the United States and not by the substances of the JCPOA. Therefore, the resolution is invalid under international law.

The crisis of the JCPOA weakness is a cause that must lead to the termination of the agreement. Section 3 of the Vienna Convention of 1969 defines the termination of an agreement and the grounds or justifications that may be used to terminate an agreement.

Article 60 Paragraph 3 (b) of the Vienna Convention of 1969 permits the termination of an agreement based on a violation of a term essential to the realization of the agreement's object or purpose. Iran agreed to two essential terms of the JCPOA, as follows: (1) Iran committed not to develop enriched uranium (HEU) or plutonium, both of which are used in the production of nuclear weapons; (2) Iran will make attempts to persuade the international

³² Laurence R. Helfer, "Introduction to Symposium on Treaty Exit at the Interface of Domestic and International Law," *AJIL Unbound* 111, no. 2017 (2017): 425-27, <https://doi.org/10.1017/aju.2017.102>.

³³ Arash Davari, "U.S.-Iran Relations under Maximum Pressure: A Narrow Path to Negotiations," *Middle East Brief Brandeis University*, no. 137 (2020).

³⁴ Kenneth Katzman, Kathleen J. McInnis, and Clayton Thomas, "U.S.-Iran

Conflict and Implications for U.S. Policy," *Congressional Research Service*, 2020.

³⁵ Rajeev Agarwal, "With JCPOA Revival Uncertain, Iran Is Slowly and Surely Making the Nuclear Deal Irrelevant," *WIO NEWS*, August 2022.

³⁶ Michael Crowley, Steven Erlanger, and Farnaz Fassihi, "U.S. and Iran Weighing 'Final' E.U. Offer on Nuclear Deal," *The New York Times*, August 2022.

community that its nuclear facilities at Natanz, Fordow, and Arak are used solely for peaceful purposes or energy production. In addition, Iran is bound by this agreement to limit the number and types of centrifuges that can be operated, as well as the level and quantity of enriched uranium. Iran also agreed to sign the "Additional Protocol", which provides inspectors from the IAEA, the United Nations' nuclear watchdog, unlimited access to its nuclear facilities and potentially undeclared sites.³⁷ However, Iran's actions violated these two essential terms, undercutting the agreement's purpose. Consequently, the JCPOA has to be terminated.

Article 59 (1) of the Vienna Convention 1969 permits for the termination of a prior international agreement if a new agreement is to be negotiated. After the agreement has been successfully terminated, it is possible to establish a new agreement.

The new agreement can be established on the steps of the Vienna Convention of 1969. The following are the steps involved in establishing an international agreement:

(1) Negotiation is the beginning phase of forming an international agreement, which is conducted by representatives of states who have been appointed and armed with full power documents. This document is not required to be submitted to state representatives if the representative of the state does not have the authority to represent his country during the negotiating phase. Using a diplomatic forum, multilateral international accords are negotiated, with the eventual result being the ratification and adoption of the agreement's text. This is in accordance with Article 9 (1) of the Vienna

Convention of 1969, which stipulates that the adoption of the text treaty takes place by the consent of all States participating in its drawing up.

(2) Signatory meets the requirements of Article 12 of the Vienna Convention of 1969. In a two-stage international agreement, the signatory serves as an indication that the parties are bound, whereas, in a three-stage international agreement, the signatory serves as an authentication of the text of the agreement so that the international agreement can go into effect immediately, but the parties are not yet bound. In the practice of two-stage international treaties, a nine-month grace period is typically granted for signings. If the deadline has passed, the party who wishes to be bound by the agreement must do so through accession. In a three-stage international agreement, the signature serves as a type of agreement text authentication. In a three-stage international agreement, ratification is required;

(3) Ratification means, in each case, the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty, as outlined in Article 2 (1) of the 1969 Vienna Convention on the Law of Treaties.

Recommendations for policy substance in the new agreement concerning Iran's nuclear program, including (1) regulation of Iran's nuclear movement activities; (2) arrangements related to compensation for State Parties that violate the agreed-upon terms of the agreement; and (3) fundamental arrangements related to the withdrawal of State Parties that were not previously regulated in the 2015 JCPOA.

³⁷ Sheriff Ghali Ibrahim and Mike Owoh Benjamin, "Impact Of U.S. WITHDRAWAL FROM THE JOINT COMPREHENSIVE PLAN OF ACTION

(JCPOA) ON THE GULF REGION AND THE WORLD," *African Journal of Law, Political Research and Administration* 5, no. 3 (2020): 248-53.

The framework of the 2015 JCPOA, which has been terminated, might be used as the foundation and structure for a new agreement. Thus, rather than establishing new negotiations, the JCPOA framework permits broader discussions and negotiations.

Conclusion

The JCPOA is an international "treaty of contract" agreement adopted by the United Nations Security Council (UNSC) Resolution 2231, which provides rights and obligations for the State Parties. The United States' withdrawal does not constitute a violation because the agreement lacks a unilateral withdrawal clause. On the other hand, Iran's activities constitute a violation of the terms that are essential to the realization of the agreement's objective or purpose. As a result of Iran and the United States' actions, the initiative taken by other State Parties to reinstate the agreement is not legally acceptable under international law. The issue is not with the agreement's substance but with Iran and the United States' actions which infringed the norm of public international law.

Therefore, the most effective settlement is to terminate the JCPOA in accordance with the rules of terminating an international agreement and establishing a new agreement regulating Iran's nuclear program. Establishing a new agreement will be more binding on all State Parties and provide a mechanism for resolving unexpected disputes or violations, such as the withdrawal of State Parties in the future.

References

- Agarwal, Rajeev. "With JCPOA Revival Uncertain, Iran Is Slowly and Surely Making the Nuclear Deal Irrelevant." *WIO NEWS*, August 2022.
- Alarqan, Abdullah. "United States Position Towards Iran After the

Nuclear Deal (2015-2019)." *Humanities & Social Sciences Reviews* 8, no. 1 (2020): 210-19. <https://doi.org/10.18510/hssr.2020.8130>.

- Belal, Kulsoom. "Uncertainty over the Joint Comprehensive Plan of Action: Iran, the European Union and the United States." *Policy Perspectives* 16, no. 1 (2019): 23-39. <https://doi.org/10.13169/polipers.16.1.0023>.
- Caglayan, Sezai. *Hukuk Araştırmasında Teorik ve Normatif Çerçevesi: Teorinin Uygulamaya Aktarımı*, Hacettepe Hukuk Fakültesi Dergisi 5 (2021). <https://doi.org/10.32957/hacettepe.hdf.947172>.
- Crowley, Michael, Steven Erlanger, and Farnaz Fassihi. "U.S. and Iran Weighing 'Final' E.U. Offer on Nuclear Deal." *The New York Times*. August 2022.
- Davari, Arash. "U.S.-Iran Relations under Maximum Pressure: A Narrow Path to Negotiations." *Middle East Brief Brandeis University*, no. 137 (2020).
- Davenport, Kalsey. "IAEA Urges Iran to Cooperate," 2020.
- Gini, Mojtaba Mireh, and Maryam Sedaghat. "A Review of Inconvertibility of Iran Nuclear Deal into an International Treaty." *Budapest International Research in Exact Sciences (BirEx) Journal* 1, no. 2 (2019): 86-94. <https://doi.org/10.33258/birex.v1i2.230>.
- Graham, Ambassador Thomas. "The Nuclear Non-Proliferation Treaty: Delayed Review-Issues Old and New." *Journal for Peace and Nuclear Disarmament* 4, no. 1 (2021): 186-95. <https://doi.org/10.1080/25751654.2021.1921499>.
- Gritten, David. "Iran Removes Nuclear Watchdog's Cameras after Criticism." *BBC News*, June 2022.
- Helfer, Laurence R. "Introduction to

- Symposium on Treaty Exit at the Interface of Domestic and International Law." *AJIL Unbound* 111, no. 2017 (2017): 425-27. <https://doi.org/10.1017/aju.2017.102>.
- Jain, Mehak. "Concept of Treaties in International Law." *Ipleaders*, June 2020.
- Jovan, Christopher Valerio. "The United States Unilateral Withdrawal from the Restrictions of Iran's Nuclear Program in JCPOA 2015 under International Law." *Padjajaran Journal of International Law* 2, no. 2 (2020): 1-12.
- Katzman, Kenneth, Kathleen J. McInnis, and Clayton Thomas. "U.S.-Iran Conflict and Implications for U.S. Policy." *Congressional Research Service*, 2020.
- Kerr, Paul K. Iran's nuclear program: Tehran's compliance with international obligations, Verification and Monitoring of the Nuclear Agreement with Iran: Resources and Challenges § (2016).
- Kusmayanti, Hazar, Yola Maulin, and Eidy Sandra. "Breach of Notarial Deed for Peace under Indonesian Civil Law Perspective." *Jurnal Media Hukum* 26, no. 1 (2019): 34-46. <https://doi.org/10.18196/jmh.20190121>.
- Masumy, Naimeh. "Revisiting the Joint Comprehensive Plan of Actions: The Role of Arbitration in Reviving a Broken International Agreement." *Opinio Juris*, January 2022.
- Mehdi Khazaie, Mousa Mousavi Zanouz, Hassan Soleimani. "The Joint Comprehensive Plan of Action (Jcpoa): Results and Achievements." *PalArch's Journal of Archaeology of Egypt* 18, no. 4 (2021): 2344-56.
- MOHAJAN, Haradhan Kumar. "Research Methodology in Social Sciences and Related Subjects. Journal of Economic Development, Environment and People." *Journal of Economic Development, Environment and People* 7, no. 1 (2018): 23.
- Mousavian, Seyed Hossein, and Mohammad Mehdi Mousavian. "Building on the Iran Nuclear Deal for International Peace and Security." *Journal for Peace and Nuclear Disarmament* 1, no. 1 (2018): 169-92. <https://doi.org/10.1080/25751654.2017.1420373>.
- Nešović, Dragana, and Dušan Jerotijević. "Role and Importance of International Agreements in Regulating International Relations in Modern Conditions." *Ekonomika* 64, no. 3 (2018): 89-102. <https://doi.org/10.5937/ekonomika1803089n>.
- Palmer, Bill. "The IAEA Peaceful Uses Initiative and the NPT." *U.S. Department of State*, January 2019.
- Robinson, Kali. "What Is The Iran Nuclear Deal?" *Council on Foreign Relations*, July 2022.
- Sheriff Ghali Ibrahim and Mike Owoh Benjamin. "Impact Of U.S. WITHDRAWAL FROM THE JOINT COMPREHENSIVE PLAN OF ACTION (JCPOA) ON THE GULF REGION AND THE WORLD." *African Journal of Law, Political Research and Administration* 5, no. 3 (2020): 248-53.
- Sossai, Mirko. "'The Dynamic of Action and Reaction' and the Implementation of the Iran Nuclear Deal." *Questions of International Law* 66, no. 1 (August 2018) (2020): 5-22.
- Suri, Jessica Priscilla. "The United Nations Security Council Resolution on Sanctions Towards Individual from the Perspective of International Law." *Padjajaran Journal of International Law* 3, no. 2 (2019): 216.
- Ustiashvili, Samin. "International Law Perspective on the Jcpoa and Post-Jcpoa." *International Journal of Science Academic Research* 02, no. 04 (2021): 1322-26.

Yadegarian, Faramarz. "Iran's Countermeasures to US Withdrawal from JCPOA and the Trigger Mechanism" 2, no. 2 (2019): 89-110.