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Iran's Security Concerns and Legal Controversies Over the Nuclear Deal

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Brief Analysis

The Supreme Leader has remained noncommittal as usual while politicians argue about the approval process, but his hardline cadres are publicly insisting that the deal will threaten Iran's national security, damage its regional standing, and increase the risk of armed confrontation.

As Washington debates congressional action on the nuclear agreement and potential next steps in U.S.-Iranian relations, Iran is grappling with some of the same legal, political, and strategic questions.

PARLIAMENTARY REVIEW?

Iranian officials continue to debate which political body should review and approve the U.S.-brokered Joint Comprehensive Plan of Action (JCPOA): the Majlis or the Supreme National Security Council. On July 15, in response to President Hassan Rouhani's letter about the final agreement, Supreme Leader Ali Khamenei sidestepped any hint of explicit approval, deliberately avoided calling the outcome "an agreement," and noted that the "text needs to be studied carefully and go through the predicted legal process" ([see PolicyWatch 2454, "Khamenei vs. Rouhani: Projecting Very Different Views on the Nuclear Deal"](#)).

Hardliners insist that the Majlis should endorse the deal, and Article 77 of Iran's constitution states that "International treaties, protocols, contracts, and agreements must be approved by the Islamic Consultative Assembly" (i.e., the Majlis). But Rouhani's team argues that parliamentary approval is unnecessary because the

agreement is not a treaty or other legally binding document -- they compare it to UN Security Council Resolution 598, which established a ceasefire between Iran and Iraq in 1988 without a Majlis vote. Rouhani has a strong institutional reason to prefer that the Majlis not get involved -- while the U.S. president has the authority to veto Congress if it rejects the deal, the Iranian president has no such authority.

The alternative is initial approval through the Supreme National Security Council (which the president chairs); the document would then be sent to the Supreme Leader for official endorsement. On July 21, Majlis members approved the creation of a special commission for studying the JCPOA, based on Article 44 of the parliament's internal regulations. Yet this only gives the Majlis authority to review the deal, not vote for it.

WHERE DOES KHAMENEI STAND?

Thus far, the Supreme Leader's reaction has been in line with his traditional strategy of sidestepping public responsibility for major decisions. In 2003-2004, he did not explicitly endorse nuclear proposals made by the EU-3, even though the negotiations would not have been possible without his approval. Furthermore, he became an outspoken critic of those negotiations a few years later. Today, he may prefer that the Majlis review the JCPOA -- that way, if he decides he does not like the deal, he could indirectly force parliament to reject it. Khamenei has pressured the Majlis on important decisions in the past; for instance, some legislators have revealed that the Supreme Leader's office asked parliament to approve then-president Mahmoud Ahmadinejad's proposed cabinet in 2009.

In the end, it is not entirely clear what stance he will take on the deal. Although he has said nothing explicit against the agreement so far, he has also opposed putting Iran under deadline pressure. On April 9, for example, he said: "[The P5+1] may say that we do not have more than three months. Well, what would be wrong if three months become four months? No harm will be done. Once they themselves postponed it for seven months...so if the deadline for the final decision is pushed back, nothing will happen." And during a March 23 speech in Mashhad, he said, "America needs the nuclear negotiations...both Congress and the administration." Such statements show that Iran may not have a problem with prolonging the negotiations if the agreement falls through in either capital, and one cannot rule out the possibility that Khamenei will reject the current terms.

As for timing, the Majlis session for reviewing the deal has not been scheduled yet, so the U.S. Congress will most likely vote on it before Iranian legislators render judgment. Congressional rejection might be a better scenario for the Supreme Leader because it would give him an excuse to prolong the process without Iran taking the blame. On August 2, deputy chief negotiator Abbas Araghchi told state radio and television officials, "We should make our decision public soon so if the U.S. Congress wants to reject the agreement, it would be blamed for the failure of negotiations. In such case we do not lose anything; we would be able to continue our program and the world would not criticize us."

IMPACT ON IRAN'S REGIONAL POLICY

Khamenei has reiterated numerous times that the regime's policies in the Middle East would be unaffected by a nuclear deal, and that the negotiations would be confined to nuclear issues. On April 9, he stated, "For the time being we do not have any negotiations with America on other issues, nothing. Everyone should know it, neither on regional issues nor on domestic issues or international affairs...If the other party would end its usual misbehaviors, this would be a precedent for us, and we could then say, 'Okay, we can negotiate with them on the other issues.' But if we do not see [a change in U.S. attitude], this would naturally confirm our past experience."

Nevertheless, Iranian critics of the deal argue that it will significantly weaken the Islamic Republic's position in the Middle East. In an August 3 editorial in *Kayhan* newspaper titled "Beyond the Vienna Agreement," Khamenei confidant Hossein Shariatmadari claimed that "Islamic movements and the resistance line are among the main pillars of authority for the Islamic Republic of Iran; the enemy calls them Iran's 'strategic depth.' Obviously, if Iran's

prominent position were weakened, the resistance line that follows its model would be seriously damaged." He continued: "Iran's advanced military defense system includes mid-range and -- God willing in the future -- long-range ballistic missiles, and it is one of the pillars of the Islamic Republic's power...Resolution 2231 [the UN Security Council measure endorsing the JCPOA] can explicitly deprive the country of such an effective and advanced weapon...Endorsing the Vienna agreement would downgrade Iran's military and defense capabilities to the level of a very weak country."

Hardliners are also unconvinced that the JCPOA is merely a transactional deal; they worry that the United States sought an agreement solely as an excuse to collect more intelligence that would better enable it to attack Iran. In a July 9 report titled "Vienna Agreement: Shooting at Iran's Security," *Kayhan* newspaper -- which is widely known as a Khamenei mouthpiece -- argued that "despite conventional wisdom and the environment created by Western media and those Iranians who are enthusiastic about the deal, the nuclear agreement...would not decrease the likelihood of war and confrontation, but rather function in the opposite direction." After the deal, the report claimed, the military option would become stronger because America would use the implementation phase to obtain information that it currently lacks: "Unfortunately the deal would fill out the voids in the American intelligence puzzle and guarantee the success of a [military] attack...Such an attack could interrupt Iran's nuclear program for more than a decade, but the interruption would be less than two years at best if the U.S. did not gain new intelligence."

On August 2, Araghchi claimed that Iran had taken the possibility of a U.S. military strike quite seriously in the past. "People may not know the details, but our friends in the military and Islamic Revolutionary Guard Corps (IRGC) know that...around 2006-2007, we were worried every night that they might install the necessary equipment for attacking all over Iran the next morning...In meetings with our military friends, they were showing military bases on the map and explaining which planes were on standby at which bases, and attacking Iran required nothing but Mr. Obama's political will...They screwed sanctions so tight that continuing the situation would have led to a confrontation."

IMPLEMENTING THE DEAL

One of the main differences between Iranian and P5+1 negotiators is that the former have very little authority to actually implement the deal they have brokered. The nuclear program is run under the Supreme Leader's supervision, not the president's. Moreover, the IRGC's concerns about the JCPOA's security implications are widening the gap between Rouhani's team and those who are supposed to implement the deal. This gap could present challenges when it comes to ensuring continuing Iranian cooperation on making the deal work.

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