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Investigating Iran's legal position in the post BARJAM (JCPOA) space and legal impacts of USA withdrawal in international community

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Abstract

Multilateral agreements between countries around the world on challenging issues often pave the way for the parties to play a role in the developments following such agreements. The Comprehensive Joint Action Plan was such a tool for Iran to become an effective player in international bargaining and regain its legal position in international community at a time when Iran was trying to isolate itself by trying to build nuclear weapons. BARJAM (JCPOA) was the result of more than a decade of tension and fruitless negotiations with the West. Iran officially entered the World and Regional Economic and Political Club in the post-BARJAM period. This article seeks to answer the question of how Iran's interaction with the international community in the post-BARJAM space has affected the country's role in West Asia and the world, and also how could impact it the withdrawal of USA from BARJAM? This article examines the hypothesis that Iran in the post-BARJAM space is out of the previously controlled position and has played an active role international community and managing regional crises, and this has changed the balance of power in the region to the detriment of Saudi Arabia and Turkey. Also we discussed Legal dimensions of the withdrawal of the United States from BARJAM agreements and Security Council Resolution 2231 which it gives Iran the right of demanding its loses by the two means of diplomacy and legal actions.

Keywords: BARJAM, the nuclear crisis, the balance of power, West Asia, Iran.

1. Introduction

Turning any issue in politics into political tension turns it into an erosive crisis in the international system [1]. Because the field of politics is the field of conflict between different actors and the continuation of the crisis is sometimes in the interests of a group of actors in the system [2,3]. With the victory of the Islamic Revolution, the West has always sought to raise various issues in opposition to the fledgling Iranian regime. Exaggerating the revolution for the countries of the region and imposing an eight-year war on Iran, imposing economic sanctions, accusing Iran of human rights abuses and supporting terrorism, and finally mapping out Iran's nuclear program as an attempt to acquire nuclear weapons [4]. Everyone has been in opposition to this revolution. For more than two decades, Iran's nuclear program has been the arena of weighing the interests of various political actors in the region and the world, and there was no benefit for Iran itself in these interactions. However, Iran diligently pursued the technical and scientific development of its nuclear program [5,6].

The regime of sanctions and breathtaking and fruitless negotiations resulted in the constant increase of various types of sanctions and the joining of other countries against them against Iran. As a result of this challenge, all of Iran's regional and global interests were spent on a US confrontation with the country, which intensified its isolation and pressure on Iran [7]. The escalation of US sanctions has put the Islamic Republic of Iran in a difficult dilemma. In the meantime, the Islamic Republic of Iran took an interactive approach with the international community. This approach, which showed signs of the end of Ahmadinejad's government, became the main approach of the government of prudence and hope [8]. An important event that took place in the 11th government to resolve Iran's challenges with the international community; The return of important cases from the Supreme National Security Council to the State Department. This enhanced the Foreign Ministry's ability to act and maneuver to open up Iran's relations with the outside world. Thus, with the management of the new Iranian Nuclear Team, an end was reached and the two sides reached a framework for continued cooperation in the technical and economic fields [9-11].

Given the importance of this agreement, which is a new leaf in Iran's relations at the regional and global levels, it is first necessary to mention the importance of Iran's nuclear program. Addressing this issue will further highlight the importance of BARJAM. BARJAM itself is a criterion for dividing the period before and after this agreement [12]. Addressing Iran's position in the pre-Burjam regional and global equations, which were largely created by the

challenges posed by the erosion of the nuclear program, demonstrates the importance of a positive outcome to the nuclear negotiations [13]. Finally, the effect of BARJAM on Iran's position in the post-BARJAM space in regional and global equations is mentioned, which includes the effects of this agreement in creating and maintaining this new space. Given the various security dimensions of this issue, security in the Copenhagen School has been chosen as the theoretical framework of this article.

2. Theoretical Framework: The Copenhagen School

The Copenhagen school highlighted other neglected aspects of security after the Cold War. It does not reduce security issues to the military, war and peace, and on the other hand, like new theories (such as critical theories and postmodernism), it does not just seek to criticize and challenge old ideas [14-17]. The theory of building security, which is the result of this school, means taking phenomena out of the realm of "ordinary politics" or "public politics" and bringing them into the realm of security [18]. In the framework of this theory, security is not an objective and external phenomenon, but the result of a specific social process. Rejecting the objectivity of security, he considers security theory to be "intersubjective" and "self-referential" [19]. The subconscious mind points to the importance of building security between the security actor and his audience. According to the Copenhagen school, the concept of security is a function of the interpretive method and its meaning lies in its function and is not something that can be defined analytically or philosophically based on what should be the best. Security theory believes that security of any phenomenon consists of three components: the security actor, the security phenomenon and the audience [20-21]. In this context, success depends on two factors: "Linguistic - Grammatical" (internal) and "Contextual-Social" (external). Another factor in security success is avoiding all kinds of verbal action as a security phenomenon; Therefore, it is necessary to create security issues that can be placed within the concept of "Existential Threat". Accordingly, any entity has the potential to be secured, provided that it can be brought to a point where it is accepted as an existential threat [22].

According to Weaver, each department can be the most important focus at any time on threats, injuries and defenses. In such a case, the logic of security can be expanded without losing its specificity [23]. The mechanism that accepts and makes this development possible is: recognizing security by the logic of existential threats and, finally, the necessity of

urgency. The Copenhagen School summarizes successful security in three factors; First, the adaptation of the phenomenon to the existential threat; Second, the need for emergency action to deal with that phenomenon, in other words, the urgency of dealing with that phenomenon and, ultimately, the impact on relations between units [24,25].

According to the Copenhagen school, anyone can secure any phenomenon. This attitude itself is chaotic. It is always possible for the security situation of a phenomenon not to end. Because different security actors with different positions and situations have different interests, interests and values, and therefore insecurity due to selfish security constructions is always a serious threat to interests [26]. In this regard, Iran, with its political system, has always been one of the challenges of the American democratic system, which has faced strong reactions from the United States, including trying to turn Iran into a security issue that requires immediate and immediate action. Referral of a nuclear case from the IAEA to the Security Council was the country's success in securing Iran, which led to the escalation of sanctions [27,28]. This shows that the United States has been able to convince other influential states in international relations that Iran's activities are threatening, not because Iran's nuclear activities are really threatened, but because the United States does so to other governments. Has represented; Thus, a US-led consensus was formed against Iran [29].

As a result of the process of securing Iran, it is no longer just the United States that is trying to make Iran a threat to the world, but also other governments that are threatening Iran and governments such as; Russia and China have voted in favor of the Security Council resolutions, endorsing US claims [30]. The more the United States succeeds in internationalizing and securing Iran's nuclear activities, the more it will be able to bring other governments with it to put pressure on Iran, thereby legitimizing its actions. This process of gradual securing, if continued, can lead to dangerous results; Therefore, it was necessary for the Iranian authorities to pursue their policy of insecurity with all their might. BARJAM was the result of this policy [31].

3. The importance of the nuclear program for Iran

It is the right of every people to have access to advanced and high-level technology to facilitate their lives. Nuclear technology, although today it has become a tool for the production of deadly weapons by deviating from its path of progress by some countries, but it has the ability to produce the cleanest type of energy in the world [32-34]. The energy from

nuclear fission of a 12-gram fuel tablet with a richness of 5.3 percent is equivalent to the energy from burning one ton of coal, or 2.5 tons of wood, or 476 cubic meters of natural gas, so the desire to achieve this power is inevitable. Before addressing the importance of this technology for Iran, it is necessary to mention the history of Iran's nuclear program [35].

3.1. Nuclear program before the revolution

Achieving nuclear capability in the history of recent decades has been an issue that has been the focus of the country both during the Pahlavi regime and after the revolution. In fact, the history of taking steps to achieve this technology began in the second Pahlavi era with the support of Western countries [36]. Iran began its nuclear program in the mid-1960s under Pahlavi with US support. In 1967, the United States provided Iran with a 5-megawatt nuclear research reactor to establish the Tehran Nuclear Research Center. Iran's rationale for starting nuclear power was based on a 1972 study by Stanford University that "recommended the construction of 20,000 megawatt nuclear power plants using nuclear energy." As a result, the United States pushed Iran to develop its non-oil energy sector, declaring that Iran needed nuclear reactors to acquire the electrical capacity announced by the Stanford University Research Institute [37,38].

Iran's position at a time when it was in fact carrying the US presence in the Persian Gulf as a regional gendarme required it to be at the forefront of regional power in all respects. Brzezinski and some other American politicians may have later admitted that The United States also intended to equip the king with nuclear weapons [39]. So with the support of the United States, France, and Germany, the Shah began a nuclear program to build 23 nuclear reactors to be commissioned in 1990 [40]. The three supporting countries also signed agreements to train Iranian nuclear scientists. The main part of this nuclear program included the construction of the Bushehr nuclear power plant on the south coast of Iran

In 1974, the Atomic Energy Organization of Iran was established and "Akbar Etemad" was appointed its chairman. The Atomic Center of the University of Tehran was also monitored. Following the establishment of this organization, the then government made large investments in the rapid growth of nuclear science and technology [41]. Therefore, the construction of 23 nuclear power plants with a capacity of about 23,000 MW was the main goal of the government in this decade. Iran's nuclear activities before the revolution were pursued with the support of the West with two short-term and long-term approaches, namely the production

of nuclear power and achieving a complete fuel cycle. The economic attractiveness of Iran's nuclear power plant to industrialized nations was sometimes such that even strategic concerns over the proliferation of nuclear weapons were sidelined; However, the Islamic Revolution was so significant that it completely changed the West's view of Iran's nuclear program.

3.2. Nuclear program after the Islamic Revolution

Since the beginning of the victory of the Islamic Revolution, Iran's nuclear activities have gone through ups and downs in accordance with the prevailing circumstances. The first phase of the nuclear program was a period of stagnation. The Germans withdrew from completing the Bushehr project, and the semi-finished reactors were severely damaged by six separate Iraqi invasions between 1984 and 1987 [42]. The second stage, which was the beginning of the nuclear program, Iran first tried to persuade the Germans to start nuclear activities. However, until a year after the end of the war in 1989, not only did the Bushehr power plant not start operating, but the Germans withdrew from cooperating with Iran. As a result, Iran turned to Russia and in 1994, under a \$ 700 million contract, handed over the completion of the first unit of the Bushehr power plant to the Russians. The agreement came into effect in late January 1996 between the Atomic Energy Organization of Iran and Atom Stroe Export of Russia [43,44].

The third stage of the post-revolutionary nuclear program should be considered as an uprising, in other words, a challenge to this program. In 2000, the Organization of the Iranian Hypocrites provided evidence that two nuclear power plants had been established without notifying the International Atomic Energy Agency. They claimed that the Natanz uranium enrichment facility and the Arak heavy water plant were part of a secret nuclear weapons program. Thus, Western countries, led by the United States, turned the nuclear program into a challenge against Iran [45]. At a joint meeting of members of Congress and the US Senate in January 2002, George W. Bush cited Iraq, North Korea, and Iran as the axis of evil, threatening international security with their unconventional weapons. In February 2002, the then President of Iran (Seyyed Mohammad Khatami) announced Iran's decision to acquire uranium enrichment technology. Continued pressure from the United States, which included other Western countries, forced Iran to accept the annexation agreement. The Iranian government announced after talks with the ministers of Britain, Germany and France that it had accepted the Additional Protocol and suspended uranium enrichment programs.

3.3. The position of nuclear technology in Iran's power

Nuclear technology in today's world has both military and civilian aspects. About nine countries in the world now have nuclear weapons, with a total of more than 16,000 nuclear warheads stored in their military depots [11]. However, as the leadership of the revolution issued a fatwa forbidding the production of this weapon, the civilian use of this technology has been important for Iran. Among all developed countries, attention to clean energy is now at the top of energy policies. There is a huge scientific gap between the holders of this technology and the countries without it, which is known as the exclusive club of holders of the nuclear cycle [13]. One dimension of the power of nuclear technology in the production of clean energy must be found in Iran's membership in environmental treaties, especially the Kyoto Protocol. Although the world's great powers created the pact to minimize greenhouse gas emissions, they were not loyal to it. One of the most important advantages of nuclear technology is its compatibility with the environment, especially the emission of greenhouse gases [15-17].

Another importance of using this technology goes back to Iran's economic conditions. On the one hand, Iran is in the group of growing economies in the world that need access to cheap and low-risk energy, and on the other hand, the use of fossil fuels with low efficiency, has led to increased production costs. The dependence of the country's economy on its fossil energy market is considered a kind of vulnerability [9]. A clear symbol of this vulnerability is evident in the economic sanctions that are often imposed on oil and gas. Since 2002, the rapid growth of the global economy has had a significant impact on the growth of fossil fuel prices, as well as increasing the cost of producing these fuels. For the countries that produce these fuels, the excessive consumption of natural resources and increased dependence on the global economy. In this regard, we have seen the growth of the use of nuclear energy to generate electricity in the world since the 1960s [21,25,18].

The industrialized countries have the largest number of reactors active in the production of electricity in the world. Among the 30 nuclear power generators in the world, if we ignore the small number of developing countries that have used this technology to build nuclear weapons (India, North Korea and Pakistan), Iran ranks 29th. And at the same time, it is the only developing country that stands out among the industrialized countries for producing nuclear power. The pressure of Western countries to stop Iran from developing this technology indicates the role of this technology in increasing the power of a government in

the global arena. It was necessary that while having this technology, the hostile countries also recognize it and do not use this program as an excuse for their hegemonic goals. Conditions that existed before BARJAM.

4. The effects of the nuclear program on Iran's position before BARJAM

During this period, Iran faced systemic pressure from the powers that shape the structure of the international system, and the use of sanctions was the main tool of these pressures. In the mid-1980s, US sanctions were imposed to force Iran to stop supporting terrorism and reduce its influence in the Middle East. Since the mid-1990s, sanctions have focused on convincing Iran to curb its nuclear program and ensure it is peaceful [3]. From 2006 and especially from 2010 onwards, Western and regional countries have joined the US sanctions in pursuit of the same goal. Security Council sanctions were imposed on Iran at a time when Iran was failing to achieve significant results after the nuclear issue and various negotiations and commitments were reached [26]. The International Atomic Energy Agency (IAEA) referred Iran's case to the Security Council, which adopted Resolution 1696 on August 30, 2006. This resolution provided the legal basis for subsequent Security Council resolutions. On December 23, 2006, this council adopted Resolution 1737 against the Islamic Republic of Iran, and the scope of pressure increased [29,33].

Resolutions 1747 and 1803, based on previous resolutions, were passed against Iran and placed on the list of individuals, institutions, bodies, organs and companies that, according to the Security Council leaders, were related to Iran's nuclear program. Finally, Security Council Resolution 1929 was passed against Iran at a time when Iran, Turkey, and Brazil (which in a way represented the West) had reached an agreement on a nuclear program, which was considered an opening on the nuclear issue [4,15]. There was no logical closure of this case by 5 + 1. The passage of these sanctions put Iran in a regional and global arena, which was more evident in the economic and financial spheres. The West saw Iran's nuclear program as a threat to the Middle East, and led countries in the region to do the same. So that the American arms sales market flourished among the Arab countries of the Persian Gulf. For example; The UAE has become one of the main protesters against Iran's nuclear program, and with the emergence of this program, it has seen a 5% increase in its arms purchases from the United States. It became the largest buyer of weapons from the United States in the world [41].

In the economic field, these pressures on Iran increased even more. As sanctions escalated, Iran put Ahmadinejad's presidency on the agenda to circumvent sanctions by focusing on its neighbors. The United Arab Emirates, and especially the Emirate of Dubai, was Iran's first priority in easing sanctions. Of course, Iran's trade relationship with this government was extensive even before the escalation of sanctions [12,19]. Despite the pressure of sanctions, the UAE's position was to maximize economic benefits and strengthen its trade position even through cooperation with Iran, and even during most of the war, the UAE's exports to Iran were higher than the total exports of other GCC members. However, in 2010 the UAE ambassador, with the support of some other Arab governments such as Saudi Arabia, stated in Washington that the UAE feels the greatest danger from Iran's nuclear program and that the United States should prevent the development of this program even by force [27,42]. Youssef al-Otaiba saw the Islamic Republic of Iran as the UAE's only threat to the region. The government even said that a pre-emptive US war against Iran would be less costly than when Iran was equipped with a nuclear weapon. In May 2006, members of the GCC in Kuwait called the Iran nuclear case a matter of concern for GCC countries, but the position of some of these countries, including the UAE, was that this concern should not lead to the use of non-peaceful means to resolve it. In fact, the UAE was one of the countries that Iran paid attention to in circumventing sanctions [45]. Even Chinese goods had to be exported to Dubai first and then re-exported to Iran. A large volume of Iran's imports from the UAE are capital goods and intermediaries, and this adds to the importance of Iran-UAE trade. About 50% of Iran's imports from the UAE are capital goods, 25% are intermediate goods and another 25% are consumer goods. Economic sanctions have forced Iran to change its trading partners. The shift in trade relations from Europe to Russia, China and the UAE is analyzed in this context [1,20,36].

The escalation of sanctions has also put pressure on Western powers, Iran's largest regional trading partner in the Persian Gulf. For example, the; Dubai is a place for importing some basic equipment for uranium enrichment and Iran has imported them through this emirate. As sanctions increased, even the UAE was forced to join [14]. In accordance with Resolution 1929, the UAE Central Bank ordered the banks under its control to suspend the assets of 41 individuals and to transfer money to sanctioned institutions, which made it extremely difficult for some banks to trade with Iran in dollars and euros. Following the implementation of this resolution by the UAE, the offices of 40 Iranian companies in the UAE were closed. After the

intensification of sanctions in 2010, its effects on the import process are clear. This year, Iran's imports have decreased, both in terms of weight and value [21,30].

A report to the US Senate Committee on National Security and Government Affairs released by the US Senate in February 2013 on sanctions against Iran shows that with the increase in sanctions, Iran's oil production also decreased, while the oil production of countries equals to Iran. Has grown. Iran's oil production, while in 2010 it was about 2,800,000 barrels per day, reached 2,400.00 per day by 2012. During this period, Iran's inflation rate increased significantly. It went from 10% to over 25% in 2012. According to the report, the unemployment rate as a result of sanctions was expected to reach above 18 percent. While this rate in 2011 was about 13 percent. With the coming to power of the Rouhani government, the ground was prepared for the continuation of constructive negotiations with the Western parties, which eventually led to a comprehensive plan of joint action, or BRJAM. BARJAM, in fact, provided a new era for Iran in the regional and global arena, which is mentioned.

5. The effect of BARJAM on Iran's position in the equations of West Asia

Regarding what changes BARJAM has made to Iran's views, most Western scholars believe that Iran has continued its militant behavior as it did before BARJAM. Some international experts and analysts are of the opinion that BARJAM has not caused any change in the foreign policy of the Islamic Republic of Iran, and although the tone and tone of Iran's foreign policy has changed after BARJAM, the more Iran's foreign policy changes after BARJAM, the more It looks like before BARJAM. Katzman also believes that after BARJAM, there is no sign of a change in Iran's foreign policy. Iran's approach in the region is the same as in the past. Continuing to support Bashar al-Assad, testing ballistic missiles, purchasing new defense systems from Russia, turning Iran into a challenging regional player, Iran's efforts to acquire modern missile technology and deliver it to its regional allies, more active naval patrols Iran and the conduct of threatening actions in the Persian Gulf are among Iran's actions in the post-BARJAM period, which shows the continuation of the past trend of Iran's foreign policy. Iran can use its financial resources to hire Shiite fighters from Muslim countries to support Bashar al-Assad and the Bahraini opposition, and could become the region's energy and trade hub; In a way that undermines the United States' ability to exert economic pressure if the BRICS is not implemented. Gary Sick and Sima Shine have similar

views to Katzman, but these are the views of Westerners. BARJAM has had an impact on Iran's foreign policy behavior in the region.

5.1. BARJAM regional implications for Iran's foreign policy

Nearly a decade before BARJAM, a significant portion of Iran's diplomatic power was involved in the nuclear issue, which, with the achievement of BARJAM, freed Iran from this and could play a more decisive role in the political and international equations, especially in regional crises. BARJAM removed the Iranian nuclear god from Iran's foreign policy. In fact, what has happened in Iran's foreign policy since BARJAM is that the West's twelve-year focus on nuclear activities that have accumulated in Iran's foreign policy and taken the time and energy of the country's intellectual and instrumental elites has disintegrated. Another regional consequence of BARJAM is the increase in Iran's geopolitical importance in the West; In a way, the implementation of BARJAM provides the ground for stabilizing the region in order to prevent the growth of extremism and terrorism and to resolve regional crises. Europe faces a number of security challenges, including a wave of ISIS attacks and a flood of migrants from West Asia. The convergence of the European Union is in jeopardy, as exemplified by Britain's withdrawal from the bloc. Iran can be considered an opportunity for Europe. In the sense that it can take the energy market of these countries out of the monopoly of the Russians.

The direct impact of BARJAM on increasing the Islamic Republic of Iran's influence in the region is so obvious that Iran's regional opponents, including Saudi Arabia and regional rivals such as Turkey, have increased their military interventions and adventures in the periphery; They prefer that political isolation and economic sanctions against the Islamic Republic of Iran remain in place in order to manage developments in the region in their own interests. In fact, the increase in Iran's acting capacity has forced Turkey to seek more than ever to revive the Brotherhood crescent against Iran.

BARJAM has had profound implications for the equations of the West Asian region, especially for the GCC countries. Through BARJAM, Iran has been able to upset the regional balance in its favor. Iran's oil production and exports will increase to about three million and six hundred thousand barrels per day in 2017. The World Bank estimates that the lifting of sanctions will increase Iran's GDP to about 5.1 percent in 2016 and 2017 and 5.5 percent in 2017 to 2018. Injecting blocked capital into the Iranian economy; It enables the country to

shift the regional balance in its favor. In this situation, Iran is above weak competition. The implementation of BARJAM, with all its positive economic and geopolitical effects for Iran, is undoubtedly considered a loss by the Saudis in the field of regional equations, and therefore Saudi Arabia has increased its military power. A recent report by the Peace Institute stated that Saudi Arabia is the world's third-largest arms buyer after China, with about \$ 80 billion. Between May 2015 and March 2016, the United States approved \$ 33 billion worth of arms sales to its allies in the Gulf Cooperation Council. Accordingly, Saudi Arabia has launched a sectarian and geopolitical ideological rivalry with Iran based on the model of zero algebraic sum.

Another positive consequence of BARJAM is the strengthening of the axis of resistance. Despite the fact that the post-BARJAM developments have increased the polarization and complexity of the region's strategic equations, not only is the overall picture not as vague even as it was before the agreement, but it is much clearer for the Islamic Republic of Iran than before. Is; Because in those circumstances, we should have witnessed the growing weakness of the Islamic Republic of Iran as the focal point of the axis of resistance and allies, and in the face of the growing strength of rivals and their enemies in the region, while now the position and path ahead of Iran is better and smoother. From the past. Thus, the regional arena will witness a destabilizing trend towards Iran, which was also a concern of the Copenhagen school and was expressed in a theoretical framework.

5.2. International implications of BARJAM for Iran

The international legitimacy of Iran's nuclear program was the first consequence of the UN Security Council. The repeal of six UN Security Council resolutions and 13 International Atomic Energy Agency resolutions and the closure of the file on the possible military dimensions of Iran's nuclear program in the most important international body overseeing nuclear activities in the world, which was approved by its official resolution on December 15th. It was a seal of approval for the international legitimacy and legitimacy of Iran's nuclear program and an end to its misrepresentation. BARJAM itself was a sign that Iran was recognized as an influential power at the international level. In the new era, Iran was able to convince the world that it is a responsible and capable actor even without having and without the need for an atomic bomb, and for this reason, immediately after the implementation of BARJAM, Tehran became a place for business and diplomatic delegations. Burjam had an

approach from security to non-security in the context of the Copenhagen school, and this is a positive point. Securing implies that we may derive a security analysis from every simple threat, thus raising the simple threats to the national level and the security threat. To avoid this scourge, which itself leads to the weakening of national security and is considered a threat, it is necessary to have a specific criterion to distinguish the national security threat from others. It is only after such criteria are set that security threats can be separated from others, and thus unprotected issues and issues can be de-secured. In fact, it was such a criterion that turned the nuclear issue from a security concern to a technical one.

US officials estimate that Iran has lost about \$ 11 billion in foreign investment since the oil embargo. However, Iran has had the highest will and the greatest effort to achieve technological independence in the oil industry; But in the development of new oil and gas fields and the construction of new oil facilities, it depends on the foreign technology available to the big oil companies. The prestigious Unctad stat magazine, while presenting various articles about Iran, provides statistics on Iran's foreign investment. According to the publication, foreign direct investment in Iran, after a period of growth, was down in three years, 2012, 2013 and 2014, and fell sharply by 4662, 3050 and 2105 million dollars, respectively. In such circumstances, with the formation of the BARJAM agreement, the current security climate in Iran will be reduced, and this will provide a psychological basis for safe investment in Iran. On the other hand, with the lifting of sanctions and the possibility of various political and economic exchanges, conditions will be created for foreign investment in various sectors, especially in the oil and gas industry.

In fact, the non-security provided by BARJAM has clarified the perspective of these cases; Iran's economy provided a competitive arena for foreign investors. BARJAM brought about a change in foreign policy from a static to an active approach, and will make the tourism industry flourish by removing the shadow umbrella that casts a shadow over Iran. The agreement also seeks greater cooperation with international institutions and a change in the perception of Iran. The signs of this are already evident.

6. The legal status of the withdrawal of the United States from the BARJAM

International responsibility is the main one that forms the pillars of the international system, in such a way that neglecting it weakens international law and creates instability and instability in international relations. In terms of time in the system of international relations,

the principle of responsibility is as old as the principle of equality of countries. The most important efficiency of this principle is in the treaties and agreements between the actors of the international system. Considering that the BARJAM is also an international document and agreement, after 22 months of intensive negotiations on Iran's nuclear issues, on July 23, 2014 in Vienna, Austria, between the representatives of the Islamic Republic of Iran, the governments of the 5+1 group and the High Representative of the European Union for Foreign Policy. An agreement was reached and in a way it was the end of several years of disputes between Iran and these countries regarding Iran's nuclear program. Now that the government of the United States of America has withdrawn from this agreement, an agreement that was proposed as the most comprehensive non-proliferation and arms control agreement in history, which is aimed at the goals of the arms control and non-proliferation treaties, according to the principles of international law and based on Council Resolution 2231 Security was working. Therefore, this issue is one of the most fundamental topics and issues surrounding this agreement; The issue of the withdrawal of the new government of the United States from it is an issue that has caused differences between the members of that agreement, especially the Islamic Republic of Iran, as the main party to this agreement, with the United States. It is usually assumed that rights are a tool and support of politics and where diplomacy is required or a solution is needed, rights should be spent for the benefit of diplomacy. It should be noted that the relationship between law and politics is more complicated than predetermined absolute propositions, and in some cases it is the opposite; Politics requires diplomacy to support the transformation of political disputes into legal disputes. Rights have a meaningful correlation with the concept of justice, and providing justice includes compensation for damages in the past and present and binding guarantees for the future. Conceptually, diplomacy is more related to the concept of peace than justice and is basically forward-looking. It is in such an atmosphere that governments find the necessary motivation to file and pursue legal complaints in international courts and institutions and seek legal condemnation and compensation (if possible) for violations that occurred in the past and may have effects. have in the future as well. Iran's preliminary victory in the International Court of Justice is a clear sign of the balance of power in international relations, which is only achieved by the laws and legal speeches of lawyers before the court. As long as the legal war of the United States against Iran continues, along with the domestic effort to neutralize the sanctions, a defense strategy based on the rules of international law should be designed.

Although the interests of countries can be the subject of law and diplomacy, but their basic separation from each other can maintain both levers to secure national interests; In such a way that sometimes diplomacy postpones issues related to justice to legal proceedings in neutral institutions and reduces the inflammation of controversial issues or the unequal power of one side. From this point of view, law and diplomacy are both at the service of politics in the general sense of the word, and politics can provide justice and peace in a balanced way by taking advantage of both.

7. The international responsibility of governments in the BARJAM agreement

The international responsibility of the government is one of the most fundamental international legal institutions, which is the factor of development and evolution of international law and is considered the best guarantor of its implementation. International responsibility is a legal institution according to which the country to which the act against international law is attributed must compensate the damage caused to the country affected by that act according to international law. International responsibility occurs when a state violates an obligation to another state. Every international illegal act by a state implies the international responsibility of that state. The international responsibility of an act is determined by international law. If the government has a valid defense, it will be released from responsibility, otherwise it will be forced to pay damages as a result of responsibility. Because in any legal system, national or international, the violation of a binding obligation causes legal responsibility. In international law, any government becomes internationally responsible for committing an act against international law. The international procedure also clearly emphasizes this: "It is a principle of international law that the violation of an international obligation entails the obligation to pay damages." And "compensation is a necessary complement to the implementation of an agreement without being a requirement in itself."

Considering that one of the most important issues of the day in the field of international responsibility of governments is the issue of the BARJAM agreement, an agreement whose implementation process has caused differences between its main members, such as Iran and the United States. To clarify the international responsibility of governments in this agreement, it is necessary to check whether this agreement is a political document or a legal agreement and treaty? And to answer this question, it is important to determine the nature of the

BARJAM; For the BARJAM to be considered a type of agreement that provides the international responsibility of its member states, two theories need to be examined. The first theory is that the BARJAM was not signed by any of the parties and does not include any provisions for ratification or enforcement, which is supported by almost all the regulations established in the United States of America regarding the BARJAM. Proponents of this theory believe that the BARJAM is a political commitment and is mainly based on "voluntary actions" rather than legally binding commitments. In return; The second theory believes that the BARJAM is an international treaty creating legal obligations that needs to be reviewed. According to Article 2 of the 1969 Vienna Convention on International Treaties; A treaty is an agreement concluded in writing between governments and under international law, whether it is in one or more documents, if the BARJAM is an international treaty according to the 1969 Vienna Convention on the Law of Treaties, no matter what the name is, (Treaty, BARJAM, agreement, covenant, charter, etc.) according to Article 77 of the Constitution of the Islamic Republic of Iran, it must be approved by the Islamic Council, and after the approval of the Council and the declaration of its non-contradiction with the Holy Sharia of Islam and the Constitution in the Guardian Council, it must be According to Article 125 of the Constitution, it is signed by the President; But if the BARJAM is an international political agreement, only the commitment of the governments (executive power) of the respective countries is sufficient. Therefore, it is clear that the BARJAM is a written document concluded between the governments, and of course, many international legal issues are also observed in it, but whether it is called BARJAM or something else does not affect its status as a treaty. The consideration of international law in the writing and conclusion of the BARJAM by the parties to the nuclear negotiations was because this document has important effects on the resolutions of the Security Council, the Additional Safeguards Protocol of the Nuclear Non-Proliferation Treaty (NPT), the internal laws of some embargoing countries and ... and therefore legal issues have been very important in this regard, but this does not mean that the BARJAM is governed by international law and can be considered an international treaty.

On the other hand, every commitment or signed text should not be considered as an international treaty or agreement and the right to review it should be given to the parliaments of the countries. Therefore, since the final text of the BARJAM was not sent to the legislative assemblies of the parties to the agreement for approval, it can be pointed out that this agreement, from a legal perspective, is an agreement and a political document regarding the

resolution of all key issues related to the nuclear issue of the Islamic Republic and the lifting of sanctions. And the unilateral and multilateral resolutions of the Security Council, the European Union and the United States of America are against the Islamic Republic of Iran. The result is that the intention of the parties in the comprehensive plan of joint action was that this document contains a comprehensive political agreement, not a legal agreement, and this does not mean that the parties can violate the provisions of the BARJAM because this agreement is a guarantee of political and moral implementations that sometimes It is stronger than the guarantee of legal executions, and this issue creates international responsibility for its signatory members.

8. Legal dimensions of the withdrawal of the United States from the BARJAM agreement

As it became clear, BARJAM is a multilateral agreement and political document. This document does not fit into the framework of international treaties, and for this reason, its parties cannot be allowed to take countermeasures in violation of the agreement by simply alleging a violation of the obligation by the other party, citing the authorization of reciprocal violation (Article 60 of the 1969 Convention on the Law of Treaties), and it is necessary to In this case, they can only resort to the mechanism foreseen in the BARJAM (BARJAM Joint Commission). The behavior of the American government regarding the BARJAM has been completely contrary to the clauses of this international agreement. More specifically, America's decision to extend sanctions on Iran, contrary to paragraph 25, suspending the BARJAM and interfering with Iran's benefit from the lifting of sanctions contrary to paragraph 26, and developing policies with a specific purpose to negatively affect the normalization of trade and economic relations with Iran, contrary to Paragraph 29 of the BARJAM is recognized that all these behaviors by themselves prove the violation of the BARJAM by the United States.

In addition, the withdrawal of the United States from the BARJAM was against Article 36 and 37 of this agreement, because according to Article 36 and 37, the withdrawal of the parties from the BARJAM must be discussed and reviewed in the Joint Commission and then in the Commission of Foreign Ministers, so that this is not the case. In addition, based on the general principles governing contractual agreements, Article 56 of the 1969 Vienna Convention on the Law of Treaties stipulates that if the terms of unilateral withdrawal are not

stipulated in an agreement, the principle is that this is not possible unless the withdrawal is done by agreement of the parties. Or the nature of the agreement can justify unilateral withdrawal, which does not exist due to the importance of the BARJAM issue and its connection with international peace and security and nuclear disarmament. Since the BARJAM deals with the issue of nuclear disarmament based on the Nuclear Non-Proliferation Treaty and the cancellation of sanctions, including the sanctions of the United Nations Security Council, it is closely related to the issue of international peace and security; Therefore, the behavior of the United States in this matter has led to the violation of a universal international obligation, and on this basis, according to articles 42 and 48 of the International Law Commission's plan on the responsibility of governments, all members of the international community have the possibility of invoking the international responsibility of the American government for legal damages. Regarding a matter that involves the interest of the entire international community, they have and can appeal to the general system of international responsibility of states regarding the violation of a general international obligation by the United States.

From the point of view of the rights of international organizations, since the BARJAM came in the form of a Security Council resolution, according to Article 25 of the United Nations Charter, it is necessary for all members of the United Nations to comply with it, and according to Articles 34 and 35 of the Charter, whether the Security Council itself or other governments They can intervene in the decision of an issue that threatens international peace and security and creates a kind of international friction. In sum, America's withdrawal from the BARJAM is a material and formal violation of an international agreement along with a violation of a universal international obligation. From the point of view of international law, the American government is responsible for its violation, because this agreement was approved as an international document based on the rules accepted in the international system, and the United States, at the beginning of the agreement, gave its consent to fulfill the stated obligations. In it, he has declared, in addition, that the result of the internal laws of a country cannot prevent the implementation of the responsibility of that government in the field of international law.

9. Legal dimensions of the withdrawal of the United States from Security Council Resolution 2231

In order to consolidate the practical foundations and guarantee the implementation of the BARJAM agreement, the United Nations Security Council, during its 7488th meeting, approved Resolution 2231 on July 29, 2014 (July 20, 2015) and included the text of the agreement in the first appendix of the resolution. In this resolution, the Council requested the BARJAM signatory countries to be diligent in implementing their obligations and to cancel all previous sanctions resolutions against Iran. In this resolution, which is placed under Chapters 6 and 7 of the charter, it is informed to the governments that, as in the previous resolutions regarding Iran, all governments were obliged to take some restrictive measures against Iran. "to cooperate with Iran for the implementation of the BARJAM" and is committed to continuing the previous measures. In other words, in Resolution 2231, the Security Council prohibited the previous mandatory actions of the governments and made the previously declared prohibited actions mandatory. In Article 1 of its resolution, the Council approves the BARJAM and demands its full implementation based on the schedule included in the BARJAM. Also, in Article 2, it asks all governments, regional and international organizations to adopt those measures that are appropriate to support the BARJAM.

Considering that in the reference of Resolution 2231 to the BARJAM, terms are used that are considered a "decision" in the procedure of the Security Council; Among other things, in paragraph 2, the phrase call upon is used and it calls on all the member countries of the United Nations to implement the BARJAM; Therefore, whether the BARJAM is a treaty or a political agreement, it is valid because it is attached to a resolution and decision. Considering that UN Security Council Resolution 2231, as a guarantee for the implementation of the BARJAM, while fully approving the BARJAM and stressing its entry into force, requests all parties to this document to adhere to their obligations and, in the implementation of the BARJAM, all previous resolutions The Council canceled the sanctions under Chapter Seven of the United Nations Charter. Therefore, the recent efforts of the Trump administration, in weakening and making the BARJAM appear ineffective and his explicit withdrawal from the BARJAM along with the imposition of new sanctions against Iran, not only contradict the BARJAM obligations of this country, but also violate Article 1 of Security Council Resolution 2231 on the requirement to implement Its completion was based on the schedule included in the BARJAM, and it is also contrary to Article 2 of this resolution, which requires

all governments, regional and international organizations to adopt those measures that are appropriate to support the BARJAM.

In addition, since Security Council Resolution 2231 in its article 7, while specifying in articles 7, 8 and 9 of the resolution, the inclusion of this resolution under the seventh chapter of the charter, the termination of seven sanctions resolutions (1929, 1835, 1803, 1747, 1737, 1696 and 2224) and the meaning of this resolution's emphasis on Article 41 of the Charter (Seven Chapters) at the end of the above seven resolutions is that just as all countries have had a legal obligation arising from Article 25 of the Charter in the implementation of the seven resolutions, now On the same binding basis, they are obliged to end all sanctions against the Islamic Republic of Iran. With regard to this approach, the Security Council considers any sanctions action against the Islamic Republic of Iran or any decision by the countries party to the BARJAM, which results in actions against the economic and political relations of the Islamic Republic of Iran with the outside world due to Iran's nuclear issue, disturbing the spirit of the BARJAM. And it is a violation of Security Council Resolution 2231. Therefore, keeping these discussions in mind, the withdrawal of the United States of America from the BARJAM and the imposition of new extensive sanctions against Iran, in addition to violating this international document (whether we consider it a treaty or not), is also a violation of UN Security Council Resolution 2231. In other words, violating the contents of the BARJAM is in itself a violation of the Security Council Resolution, and by withdrawing from the BARJAM and imposing new sanctions, the US has not only committed a clear violation of its obligations in the BARJAM, but also violated the Security Council Resolution on which the BARJAM is based and the basis for its issuance. has been violated objectively and concretely.

10. Conclusions

According to the rules of customary international law on the international responsibility of the state (reflected in the draft of the International Law Commission of 2011 on the international responsibility of the state), the description of the wrongful act is based on international law, and the source of the obligation can also include a treaty, custom, general legal principles or a resolution. the Security Council, based on this, the unilateral and illegal action of the United States in withdrawing from a binding agreement such as the BARJAM leads to the creation of international responsibility for this country, and this international responsibility and international legal obligation to compensate for the damages caused by the violation remain in

force until the trial. will remain. In addition, the withdrawal of the United States from the agreement is a clear non-compliance with Security Council Resolution 2231, although the violation of the resolution by itself entails political and legal responsibility for the United States of America: political responsibility in that the United States, as a permanent member of the Security Council, with its action invalidated the approved resolution of this council and the legal responsibility as well, since the United Nations Charter obliges all members of the United Nations to cooperate with the decisions of the Security Council. In cases related to international peace and security, even countries that are not members of the United Nations are obliged to implement the decisions of the Security Council, so the behavior of the United States in violating the resolution is a violation of peace and security and is against the principles of international law. In general, since the BARJAM is attached to the resolution of the UN Security Council and the legal mechanisms, including the self-sufficient mechanism mentioned in the BARJAM, termination of the BARJAM and countermeasures against America can be activated in this regard. Therefore, withdrawing from the BARJAM and violating Security Council Resolution 2231 has resulted in the international responsibility of the American system due to non-compliance with the obligations and non-compliance with the decisions of the UN Security Council. This issue, in addition to political consequences, will also have extensive legal consequences, and the Islamic Republic of Iran can sue the United States government for this illegal action. which is in complete conflict with the United Nations Charter, the principles and foundations of international law and the binding resolution 2231 of the Security Council, to call the international courts and request compensation from them, in this regard, the best applicable legal advice, to file a lawsuit against the international responsibility of the United States and receive compensation It is before the International Court of Justice.

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