

Economic Sanctions and Inequality in the US-Iran Nuclear Negotiations

Agnese Macaluso

Abstract

Over the last three decades, relations between Iran and the United States have been dominated by hostility and economic restrictions. In the autumn of 2013, however, Iran and the P5+1 began negotiating over what was welcomed as an historical nuclear deal. After almost two years of difficult negotiations, a comprehensive agreement has now been reached, though it has not yet been ratified. The announcement triggered new optimism over the future of their relations but also doubts on the sustainability and durability of such an agreement. This paper both explores the extent to which the inequality that has characterized the relations between Iran and the US has been the cause of the deadlock, and discusses the way in which the lack of both procedural and distributive justice has hindered negotiations. The paper also discusses the implications, for the concept and perception of equality and durable peace, of pursuing an agreement by imposing economic sanctions.

Keywords

Equality, Justice, Economic Sanctions, Iran, U.S. Foreign Policy



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Introduction

The causes and consequences of the antagonism between Iran and the United States (US) are well documented in the literature.¹ New frameworks are still needed, however, to explain why their relations remain deeply polarized and far from normalization despite the 2015 nuclear agreement. This paper aims to contribute to understand the current transition phase, exploring how the inequality that has characterized their relations and has been reflected in the nuclear negotiations may affect the durability of the deal.

Equality is a justice principle and can be defined as identical distribution of both resources and burdens and, specific to this case, as equal opportunity in participating in and influencing a negotiation process.² This paper considers equality as a principle of both procedural justice (PJ) and distributive justice (DJ)—PJ indicating the way and conditions in which the parties negotiate and DJ referring to the allocation of collective benefits among the negotiators—and looks at the outcome rather than the process.³ Although the concept of equality is commonly considered in relation to peace negotiations, this paper adopts a broader perspective and discusses the bilateral talks in light of the history of US-Iran relations over recent decades. The reason for this choice is that to appreciate the dynamics of power and the political weight of the talks for both sides, it is essential to interpret them as part of a process, one that is both embodied in history and politics and the result of a difficult and unbalanced interaction. Analysis of relations between the two countries shows that inequality has traditionally been a common denominator. As Cecilia Albin and Daniel Druckman wrote in 2011, “Unresolved issues of justice perpetuate the conflict and contribute to impasses in negotiation.”⁴

The paper then discusses the negotiations in light of the concepts of equality, procedural and distributive justice, and reciprocity, arguing that, from the perspectives of the process and outcomes, the two countries are far from equal. In addition, the P5+1 requests on the Iranian nuclear enrichment activities spark legitimacy issues and further feed mutual mistrust. Finally, based on the findings of the most recent literature, it will discuss how inequality might affect the durability of the recently agreed nuclear deal.

1 See, for instance, Barbara Slavin, “U.S.-Iran Relations After the Revolution: A Catalogue of Missed Opportunities” (Washington, DC: American Foreign Policy Project, 2008); Meghan L. O’Sullivan, “Iran and the Great Sanctions Debate,” *Washington Quarterly* 33 (2010): 7–21; John Dumbrell, “The Bush Administration, US Public Diplomacy and Iran,” SGIA Research working paper (Durham University, 2007); International Crisis Group, “Spider Web: The Making and Unmaking of Iran Sanctions,” *Middle East Report* no. 138 (Brussels: ICG, 2013).

2 Cecilia Albin and Daniel Druckman, “The Role of Equality in Negotiation and Sustainable Peace,” in *Psychological Components of Sustainable Peace*, ed. Peter T. Coleman (New York: Springer, 2012), 131–51.

3 Daniel Druckman and Cecilia Albin, “Equality Matters: Negotiating an End to Civil Wars,” *Journal of Conflict Resolution* 56 (2012): 155–82.

4 Daniel Druckman and Cecilia Albin, “Distributive Justice and the Durability of Peace Agreements,” *Review of International Studies* 37 (2011): 1138.

1. Inequality in Iran-US Relations and the Role of Economic Sanctions

To understand the dynamics and balance of power in the nuclear negotiations between Iran and the P5+1, it is necessary to dig into recent history and reexamine the main features of US-Iran relations.⁵

Realizing the political and economic implications of sanctions and discussing the role of inequality in their relations are crucial to understanding the negotiations. I argue that the profound unbalance of their interaction and the unilateral damage caused by sanctions to the Islamic Republic are a primary example of inequality in bilateral relations. Here, inequality is intended as power inequality and as lack of equal treatment between parties. The imposition of massive economic sanctions and their economic and humanitarian costs to Iranian society have never been balanced by an equal or comparable damage to the US economy and society. The perception of inequality also affects the willingness to negotiate and seek engagement.

1.1. The Sanctions Regime and Its Political and Economic Implications

Economic sanctions have been the benchmark of US policy toward Iran and have distinguished relations between the two countries for decades. Once prosperous, these relations have become polarized since the 1979 hostage crisis and, more broadly, the radical political change occurred after pro-American Shah Mohammad Reza Pahlavi was deposed and the Islamic Republic created.⁶ Since then, the United States has put in place an aggressive regime change rhetoric and implemented a hostile policy almost entirely based on economic sanctions meant to bring the Islamic Republic to the collapse.⁷ At least two trends have marked the evolution of the sanctions regime. The first is a progressive expansion of measures designed to have a broader and deeper impact on the economy and financial sector. The second is a shift from mainly unilateral US pressure to a multilateral effort, which got under way in 2006 with the first round of United Nations (UN) Security Council resolutions and peaked in 2012 with a coordinated oil and financial embargo by the US and the European Union (EU).⁸

An analysis of Washington's Iran policy between 1990 and 2000 reveals a complete lack of engagement or dialogue. Except during the last phase of the Clinton administration, the imposition of a broad and rigid regime of sanctions has left little space for political

5 Although the current negotiations involve players beyond the US, this paper considers only the US perspective, which does not always correspond to that of other its allies. When referring to the P5+1, the intention of the author is to discuss the US position or that of its coalition when unanimous.

6 Ray Takeyh, "What Really Happened in Iran, The CIA, the Ouster of Mosaddeq, and the Restoration of the Shah" *Foreign Affairs*, July/August 2014, <https://www.foreignaffairs.com/articles/middle-east/2014-06-16/what-really-happened-iran> (accessed August 31, 2015).

7 See Agnese Macaluso, "The Apparent Success of Iran Sanctions: Iran, Rouhani, and the Nuclear Deal," Working Paper no. 2 (The Hague: The Hague Institute of Global Justice, July 2014).

8 Macaluso, "The Apparent Success of Iran Sanctions." For some of the most important acts that mark key milestones in the history of US Iran sections, see "Fact Sheet: Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA)," US Department of State, May 23, 2011, <http://www.state.gov/e/eb/esc/iransanctions/docs/160710.htm> (accessed August 19, 2015); Bureau of Economic and Business Affairs, "Iran Sanctions Contained in the Iran Threat Reduction and Syria Human Rights Act (ITRSHRA)," US Department of State, September 28, 2012, <http://www.state.gov/e/eb/rls/fs/2012/198393.htm> (accessed August 19, 2015).

engagement and had more a punitive than constructive effect.⁹ US policy was partly a response to human rights violations, terrorist threats, and money laundering.¹⁰ The need to limit proliferation of weapons of mass destruction was only one element, and became central only after the discovery in 2002 by the International Atomic Energy Agency (IAEA) of Iran's nuclear enrichment activities.¹¹ Additionally, regime change rhetoric, which many US officials supported, undermined any potential interest from Tehran to negotiate.¹² Whether such accusations are valid and supported by evidence is arguable, but it is undeniable that the US approach was not guided by the principles of reciprocity and proportionality. The threat and the damage that Iran may have caused to the US interests are not comparable to the harm the sanctions are still causing to Iran's society and economy.¹³

Under the Bush and Obama administrations, the aim of economically and financially isolating Iran became one of the priorities of US foreign policy, and between 2006 and 2012 the sanctions regime reached its highest point in terms of both level of economic repression and coordination among sanctioning states.¹⁴

Preferring repression to engagement does not imply a lack of equality. It is fair to argue, however, that the imposition of economic sanctions denotes the desire of one party to use its economic and political influence to pressure another party to comply. Furthermore, the level of economic and humanitarian damage caused by the sanctions imposed on Iran also makes clear how deeply unbalanced the political confrontation between the two parties has been. When sanctions reached their peak in late 2012, for example, Iran's inflation rate tripled over

9 In its first phase, the Clinton administration implemented the most severe restrictive measures since the 1979 hostage crisis. However, after the election of Khatami to the Iranian presidency, it scaled down its policy, partially lifted sanctions, and made the first attempt since 1979 to establish a US-Iran dialogue.

10 On human rights violations, see "Iran Threat Reduction and Syria Human Rights Act"; "Iran Sanctions," US Department of State, <http://www.state.gov/e/eb/tfs/spi/iran/index.htm> (accessed March 20, 2015); In regard to terrorism, in 1984 the US Secretary of State labeled Iran as a "state sponsor of terrorism" and created a new framework to justify restrictive measures under the authority of Section 6(j) of the Export Administration Act of 1979. On money laundering, see "Background Briefing on the Recently Announced Sanctions on Iran," US Department of State, November 21, 2011, <http://www.state.gov/r/pa/prs/ps/2011/11/177613.htm> (accessed May 23, 2015). A senior administration official commented on the measure, arguing that the designation "covers money laundering, it covers terrorist financing, it covers WMD [weapons of mass destruction] proliferation finance, it covers deceptive financial practices, it covers just about any form of illicit finance that we'd be concerned about. It all gets wrapped up under the statutory term 'primary money laundering concern.'"

11 Dumbrell, "The Bush Administration."

12 The intention to promote a regime change is clearly expressed by the language used in the text of the Freedom Support Act: "the U.S. policy should support: (1) efforts by the Iranian people to exercise self-determination over their form of government, and (2) an internationally-overseen referendum in Iran and (the Act) authorizes the President to provide financial and political assistance to eligible foreign and domestic individuals and groups that support democracy and advocate non-proliferation in Iran." "S.333 - Iran Freedom and Support Act of 2005," Library of Congress, <https://beta.congress.gov/bill/109th-congress/senate-bill/333.A> (accessed February 24, 2015); Akbar E. Torbat, "Impacts of the US Trade and Financial Sanctions on Iran," *The World Economy* 28 (2005): 40734. For all the measures adopted by US government, see Foundation for Defense of Democracies, "United States Sanctions," <http://www.defenddemocracy.org/united-states-sanctions> (accessed August 31, 2015).

13 One could argue that Iran's nuclear program is a direct threat to US interests, both in the region and internationally. Iran's support for the Assad regime in Syria, as well as his attitude toward Israel, could also be interpreted as a threat, but they are not causing direct harm to the US, as economic sanctions or other forms of restrictive measures. At least these damages cannot be measured.

14 The official fact sheet on Iran sanctions available on the White House website, literally states that "The Obama Administration also worked with allies such as the European Union, Japan, the Republic of Korea, Australia, Canada, and others to adopt additional national measures to increase pressure on the Iranian regime, including in the financial, banking, insurance, transportation, and energy sectors. Iran is now cut off from large parts of the international financial system and we are working aggressively to isolate Iran even further." White House, "Fact Sheet on Additional Iran Sanctions," July 31, 2012, <http://iipdigital.usembassy.gov/st/english/texttrans/2012/07/2012073142626.html#axzz31aYadNg7> (accessed August 19, 2015).

the average level of the previous decade, and revenues from the oil sector, the pillar of Iran's economy, dropped by 60 percent.¹⁵ Iran's automobile production diminished by about 40 percent from 2011 to 2013. Its government, constrained by banking restrictions, was no longer able to access \$60 to \$80 billion of its hard currency reserves.¹⁶

1.2. From Repression to Engagement: Missed Opportunities of the Past and the New Approach with Obama and Rouhani

Examining the sanction regime and its evolution makes one of the main symptoms of the inequality that has characterized their relations quite clear. Specifically, Iran has been considered for decades as an enemy to isolate and contain rather than as a possible interlocutor to engage. In a previous comparative analysis of US-Iranian policy across presidencies, I found no clear long-term US direction.¹⁷ Many congressional measures appear to have had a repressive intent rather than any focus on triggering engagement. Moreover, identifying the Iranian elite as an enemy to combat and sabotage has only undermined opportunity to normalize relations. This emerges clearly when looking at the several missed opportunities to work on issues of mutual interests, especially with reference to the conflicts in Afghanistan and Iraq. In both cases, Iran had offered the United States both strategic and logistic support to fight against the Taliban and the forces loyal to Saddam Hussein, but the Bush administration refused to consider any cooperation.¹⁸ The diplomatic efforts put in place by the EU-3 (UK, France, and Germany) in 2003 were equally spoiled by Washington's perseverance against engagement with Tehran.¹⁹ This lack of will, combined with poor diplomatic engagement, has undermined any chance of reconciliation.

The second term of the Obama administration opened a new phase. Interestingly, even though it has marked the beginning of dialogue and mutual engagement, it has also coincided with the most severe and comprehensive restrictive measures.

Obama's public recognition of the Islamic Republic and the research of dialogue have turned the traditional repressive approach into a new and more complex strategy that combines economic pressure with engagement and a rhetoric inspired by principles of equality, mutual respect, and dialogue.²⁰

This shift has coincided with the election to the presidency of the Islamic Republic of the moderate candidate Hassan Rouhani, former nuclear negotiator and outspoken supporter of the need to end sanctions and establish normalized relations with the West. The decision to negotiate a deal with the West should be considered neither a defeat for Iran nor proof of its

15 Nader Habibi, "The Economic Legacy of Mahmoud Ahmadinejad," Middle East Brief no. 74 (Boston, MA: Brandeis University, 2013); "Iran: Overview," US Energy Information Administration, March 28, 2013, <http://www.eia.gov/countries/cab.cfm?fips=ir> (accessed April 2, 2014).

16 Kenneth Katzman, "Iran Sanctions" (Washington, DC: Congressional Research Service, 2013), 51.

17 I have previously researched how the sanction regime has evolved throughout the various US presidencies, from 1979 until the second term of the Obama administration. My analysis was based on the study of public speeches, regulations, and official declarations on sanctions and their achievements. See Macaluso, "The Apparent Success of Iran Sanctions," 3-6.

18 Slavina, "U.S.-Iran Relations After the Revolution."

19 Seyed Hossein Mousavian, "US, Iran Cannot Afford Another Missed Opportunity," Al-Monitor, May 26, 2014, <http://www.al-monitor.com/pulse/originals/2014/05/iran-us-missed-opportunity.html> (accessed August 31, 2015).

20 David Blair, "Barack Obama Abandons US Rhetoric on Iran to Show that a Deal Is Possible," Telegraph, September 24, 2013, <http://www.telegraph.co.uk/news/worldnews/middleeast/iran/10331748/Barack-Obama-abandons-US-rhetoric-on-iran-to-show-that-a-deal-is-possible.html> (accessed August 31, 2015). President Obama's 2009 speech in Cairo on American relations with the Muslim world also marked another milestone in the transformation of the US approach toward Iran, recognizing that "in the middle of the Cold War, the United States played a role in the overthrow of a democratically elected Iranian government." See Takeyh, "What Really Happened in Iran."

weakened economy and political fragility. First, despite the significant impact of sanctions, the Iranian economy is solid and far from collapse.²¹ Second, despite sanctions, the nuclear program has continued to develop steadily.²² Finally, the election of Rouhani can be explained by his knowing how to deal with Western interlocutors and being familiar with the nuclear file. His election should not be seen as a radical change in policy priorities by the Iranian establishment, but rather as a reflection of shift in approach and immediate objectives, among which is the termination of sanctions.²³ In this respect, it is also useful to explore the public speeches of Ayatollah Khamenei and his concept of heroic flexibility to explain the approach of Iran to nuclear negotiations.²⁴

1.3. Does Inequality Lead to Redistribution of Power?

The inequality in relations and treatment has not led to any radical redistribution within Iran in terms of political, economic, and geopolitical weight. Despite the sanctions, the Iranian economy and its nuclear program are still far from collapsing and, especially the latter, has steadily developed despite the pressure of sanctions.²⁵ From a political perspective, the Iranian establishment has used the US regime-change rhetoric and the continuous imposition of broader economic sanctions to boost its narrative on the unfair and unjustified interference by western powers.

The oppressive US attitude not only lent credibility to Iran's claim to developing a nuclear program but also reinforced the idea of Iran as champion of resistance to US interference in the region.²⁶ Iran is both a significant economy and an influential state in the Middle East. Sanctions and repressive policy against it have considerably frustrated Tehran's international ambitions and economic development. Still, Iran remains a strong regional player, and its position is now crucial more than ever to the growing political instability in the region, the Shia-Sunni conflict, and the crisis in Syria and Iraq.²⁷ Despite the huge losses in the oil sector, isolation from the financial system, and the humanitarian cost of sanctions, Iran remains a robust economy with great human potential and advanced facilities.²⁸ It has been able to adapt its economy to new conditions by using illicit or informal trade and banking transactions,

21 Mr. Willem van Kemenade, an expert on Chinese foreign policy who has written extensively about China-Iran relations, interview by Agnese Macaluso, The Hague, April 30, 2014; Crisis Group interview with Iranian businessman, Dubai, April 2012, in International Crisis Group, "Spider Web," 2013.

22 Bijan Khajepour, Reza Marashi, and Trita Parsi, "The Trouble with Sanctions," *Cairo Review of Global Affairs*, July 21, 2013, <http://www.aucegypt.edu/gapp/cairoreview/Pages/articleDetails.aspx?aid=385> (accessed August 31, 2015).

23 "President Rouhani: Reconciliation is our domestic, foreign policy," Islamic Republic News Agency, April 30, 2014, http://www.irna.ir/en/News/81144241/Politic/President_Rouhani_Reconciliation_is_our_domestic_foreign_policy (accessed August 31, 2015).

24 Arash Karami, "Ayatollah Khamenei's 'Heroic Flexibility'," *Iran Pulse*, September 19, 2013, <http://iranpulse.al-monitor.com/index.php/2013/09/2854/khameneis-heroic-flexibility/> (accessed August 31, 2015).

25 For example, the IAEA certified in 2013 that Iran's stockpile of low enriched uranium had grown from 839Kg in November 2008 to 8,271Kg in February 2013, and the number of IR-1 centrifuges installed rose from 7,100 in April 2009 to 12,669 by the end of February 2013. See Khajepour, Marashi, and Parsi, "The Trouble with Sanctions."

26 Ray Takeyh and Suzanne Maloney, "The Self-Limiting Success of Iran Sanctions," *International Affairs* 87 (2011): 1297–312.

27 Akhilesh Pillalamarri, "Iran's Important Role in the Future of the Middle East," *The Diplomat*, June 21, 2014, <http://thediplomat.com/2014/06/irans-important-role-in-the-future-of-the-middle-east/> (accessed August 31, 2015).

28 For an overview of the impact of sanctions on Iranian economy and society see Katzman, "Iran Sanctions" and International Crisis Group, "Spider Web."

diversifying sources of income and exports, and turning to other trading partners.²⁹ Its resistance to the sanction regime is proof of its strength and gives a clear message on its ambition to be treated as an equal interlocutor. Washington's decision to undertake negotiations is a step toward recognizing Iran's status and acknowledging the failure of the sanctions regime.

1.4. Toward a Comprehensive Nuclear Deal: A New Chapter for US-Iran Relations?

In following three decades of open hostility, the decision to engage in substantial talks and a comprehensive nuclear deal clearly marks a shift in history. However, mutual mistrust, a legacy of sanctions, and political confrontation have hampered the negotiation process. The negotiations, officially begun in November 2013 with the signature of the interim agreement, have been long and difficult.³⁰ After missing the first deadline in July 2014 and the November 2014 extension, the talks were extended again, offering skeptical commentators and hard-liners additional opportunity to argue against an agreement. The framework deal reached in Lausanne in April 2015 was in fact almost unexpected.³¹ It also triggered new optimism and led to a full deal signed in Vienna on July 14, the Joint Comprehensive Plan of Action (JCPOA).

The JCPOA has been welcomed by many observers as a historical moment and an unprecedented occasion to give a fresh start to Western-Iranian relations.³² The long and tumultuous negotiation process, however, poses some concerns and doubts over the durability of the deal. In particular, some are skeptical about Iran's possible behavior after sanctions are lifted, and how the geopolitical balance in the Middle East might be affected.³³

The agreement is an undeniable achievement toward normalization, yet only the beginning of a long and difficult process. How negotiations have been held could have implications for the implementation phase and thus hamper the sustainability of the deal.

2. The Principle of Equality in Nuclear Negotiations

Negotiations are affected by numerous geopolitical, economic, and legal factors, and trying to forecast whether and when the deal will be implemented would be pointless. However, the nature of US-Iran relations and their effect on the negotiations can help identify some of the primary challenges. The lack of equality is one such factor.

From a procedural justice perspective, it is fair to observe—the imbalance at the negotiation table, where Iran faced the five largest world powers, aside—that reaching a comprehensive agreement has been so difficult indicates clearly enough that neither party has been able to

29 Humeyra Pamuk and Emma Farge, "Iran Sidesteps Sanctions to Export Its Fuel Oil," Reuters, December 20, 2012, <http://www.reuters.com/article/2012/12/20/us-iran-fuel-exports-idUSBRE8BJ0C020121220> (accessed March 25, 2015); Khajehpour, Marashi, and Parsi, "The Trouble with Sanctions," 24.

30 Kenneth Katzman, Paul K. Kerr, and Mary Beth D. Nikitin, "Iran: Interim Nuclear Agreement and Talks on a Comprehensive Accord" (Washington, DC: Congressional Research Service, 2014).

31 "Everything You Want to Know About the Iranian Nuclear Deal," Economist, April 5, 2015, <http://www.economist.com/blogs/economist-explains/2015/04/economist-explains-3> (accessed August 31, 2015).

32 Lyse Doucet, "Iran Nuclear Deal: Turning Point or Transformation?" BBC News, July 22, 2015, <http://www.bbc.com/news/world-middle-east-33624217> (accessed August 3, 2015).

33 Martin S. Indyk, "The Regional Implications of a Nuclear Deal with Iran," Order from Chaos, June 5, 2015, <http://www.brookings.edu/blogs/order-from-chaos/posts/2015/06/05-testimony-iran-regional-implications-indyk> (accessed August 3, 2015).

easily impose its conditions on another. Despite Iranian concessions, the pressure of the international community and the threat of a new round of sanctions have not weakened Iran's position, and its negotiators have remained firm in defending its right to enrichment and the peaceful purpose of the nuclear program.³⁴ As discussed below, this does not exclude that the negotiations lack both procedural justice and distributive justice in several aspects.

2.1. Reciprocity

One of the norms that distinguishes the principle of equality, reciprocity is widely recognized in the literature as essential for justice and fairness and to move negotiations forward to agreement.³⁵ Robert O. Keohane defines reciprocity as “exchanges of roughly equivalent values in which the actions of each party are contingent on the prior actions of the others in such a way that good is returned for good, and bad for bad.”³⁶ Reciprocity requires an equivalence of treatment and implies certain patterns: equal concession, equal sacrifices, responsiveness to trends, and comparative responsiveness.³⁷ The last of these refer to reciprocal concessions and relate to the process, whereas equal concession and equal sacrifices relate to the content.

From a distributive justice perspective, the relationship between benefits and costs for the two negotiating parties is far from balanced. Among other provisions, Iran is asked to significantly limit its capacity to enrich uranium, to reduce existing stockpiles of low enriched uranium by 96 percent, and to dismantle two-thirds of its centrifuges for at least fifteen years, moves that have not only implications for its research and development but also high political costs.³⁸ At the same time, the P5+1 countries are not ceding anything, simply lightening their pressure on Iran's economy and society. Relief from sanctions would without question dramatically benefit Iran, and quite probably exceed the economic cost of partially dismantling the nuclear program. The P5+1 countries, however, are not bearing any cost. First, the financial and social benefits from lifted sanctions might be considered not a concession but instead restitution of goods and services that are the property of the Islamic Republic. Second, from an economic perspective, the US and the EU would each benefit from an end to the restrictive measures. Recent data shows that between 1995 and 2012, the US sacrificed more than \$175 billion in potential export revenue to Iran, and the EU lost more than double that between 2010 and 2012.³⁹ One possible objection to this argument relates to different types of costs, not all of which can be measured in monetary terms. For example, for the US, agreeing to a deal with Iran would displease many in Congress and might be regarded as too soft an approach, which in turn could deeply undermine public support for the administration. In terms of foreign policy, the deal would also have a negative impact on US

34 Laura Rozen, “Iran, P5+1 Reach ‘Historic’ Framework Deal,” *Al-Monitor: Iran Pulse*, April 2015, <http://www.al-monitor.com/pulse/originals/2015/04/zarif-iran-deal-reactions-lausanne-nuclear-talks.html> (accessed August 3, 2015); Mohammad Javad Zarif, “Iran Is Committed to a Peaceful Nuclear Program,” *Washington Post*, June 13, 2014, http://www.washingtonpost.com/opinions/mohammad-javad-zarif-iran-is-committed-to-a-peaceful-nuclear-program/2014/06/13/491fc982-f197-11e3-bf76-447a5df6411f_story.html (accessed August 31, 2015).

35 For a discussion of the literature on the relationship between reciprocity and justice see Albin and Druckman, “The Role of Equality.”

36 Robert O. Keohane, “Reciprocity in International Relations,” *International Organization* 40, no. 1 (December 1986): 8, doi:10.1017/S0020818300004458.

37 Albin and Druckman, “The Role of Equality,” 135.

38 Julian Borger, “Iran Nuclear Deal: The Key Points,” *Guardian*, July 14, 2015, <http://www.theguardian.com/world/2015/jul/14/iran-nuclear-deal-key-points> (accessed August 3, 2015).

39 Jonathan Leslie, Reza Marashi, and Trita Parsi, “Losing Billions: The Cost of Iran Sanctions to the U.S. Economy” (Washington, DC: National Iranian American Council, 2014), <http://www.niacouncil.org/wp-content/uploads/2014/07/Losing-Billions-The-Cost-of-Iran-Sanctions.pdf> (accessed May 1, 2015).

relations with Israel and Saudi Arabia, both traditional US allies in the region. Similar arguments might be validating for Iran, however.

2.2. Legitimacy, Perception and Trust

The request to limit Iran's enrichment capacity and contain development of its nuclear program requires further consideration. In fact, the negotiations not only lack reciprocity, they also pose issues of legitimacy and, in turn, trust. First is a double issue of legitimacy regarding the Iranian nuclear program. Western accusations that Iran is pursuing a nuclear weapon have never been proved and have always emphatically rejected by Iranian negotiators, who firmly support the peaceful nature of their nuclear program and their right to nuclear energy.⁴⁰ The latter is recognized as an inalienable right by Article IV of the Non-Proliferation Treaty (NPT), which Iran has ratified.⁴¹ This situation poses a problem of trust, which creates uncertainty and a profound disagreement on the very object of the negotiations.

Negotiated agreements on arms control often use equality provisions, setting terms that suggest equivalent treatments and shares for each participant.⁴² According to Cecilia Albin, "arms control is about mutual obligations and mutual rights."⁴³ Conversely, the NPT and how it has been interpreted so far raise additional legitimacy and reciprocity issues, especially for non-nuclear weapon states (NNWS) like Iran. The NPT was designed on a contest of disparity in access to nuclear technology. Nuclear weapon states (NWS), which include the US, have agreed not to share the military technology they already own (Article I) whereas NNWS are required to not acquire any nuclear weapons (Article II).⁴⁴ Although the bargain principle expressed in Article VI imposes disarmament as an ultimate goal for all signatories, the NPT negotiations in recent years indicate that NWS are still reluctant to fulfill their related obligations.⁴⁵ What is important to this analysis is whether the conditions imposed on Iran respect the principle of equality and are perceived as equal and fair by Iran. More simply, is it equitable that a nation state with an advanced nuclear program and atomic weapons deny another state the right to nuclear enrichment? Only a few days after the announcement of the framework agreement, in which Iran accepted considerable limitations on its nuclear enrichment activities, its deputy UN Ambassador Gholam Hossein Dehghani publicly accused the UN Disarmament Commission of failing to make any concrete step toward disarmament, referring specifically to nuclear weapon states.⁴⁶

40 As reported by the IAEA director general in 2014, "the Agency over the last three years has been conducting intensive investigations of Iran's nuclear programme with a view to providing assurances about the peaceful nature of that programme. During these investigations, the Agency has not seen indications of diversion of nuclear material to nuclear weapons or other nuclear explosive devices. Regrettably, however, after three years of intensive verification, there remain uncertainties with regard to both the scope and the nature of Iran's nuclear programme." International Atomic Energy Agency, "Introductory Statement to the Board of Governors," March 6, 2006, <https://www.iaea.org/newscenter/statements/introductory-statement-board-governors-8#iran> (accessed May 2, 2015).

41 United Nations Office of Disarmament Affairs, "Treaty on The Non-Proliferation of Nuclear Weapons," May 11, 1995, <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml> (accessed June 10, 2015).

42 Albin and Druckman, "The Role of Equality."

43 Albin, *Justice and Fairness*, 184.

44 "Treaty on the Non-Proliferation of Nuclear Weapons."

45 Art VI requires that "in exchange for the agreement of the NNWS to forgo nuclear weapons, the nuclear-armed states agree to pursue disarmament in good faith" (Nina Tannenwald, "Justice and Fairness in the Nuclear Nonproliferation Regime," *Ethics & International Affairs* 27, no. 3 (2013): 301).

46 "Iran Calls for Global Nuclear Disarmament Timetable," *Aljazeera International*, June 2015, <http://www.aljazeera.com/news/2015/04/iran-calls-global-nuclear-disarmament-timetable-150409011200288.html> (accessed April 9, 2015).

The perception of inequality can also have a significant impact on the behavior of the parties and affect both the process and the outcome of the negotiations. Referring to the Iranian determination to defend its right to nuclear enrichment, Karim Sadjadpour and Nicholas Wright use neuroscience to explain how denial of a universally recognized right triggers inevitable determination to fight for that right and to reject unfairness even at very high cost, which in the case of Iran is the sanctions regime.⁴⁷

2.3 Lack of Procedural Justice

A recent milestone of the negotiation process—the framework agreement, signed in April 2015—further confirms the inequality that has affected the talks. At least two aspects point to the lack of procedural justice in the negotiation process.

First is the lack of clarity on whether and when the sanctions would be terminated once the deal is reached. According to Iran, the official joint statement released on April 2 states that once the final deal was signed, the UN would pass a resolution terminating all sanctions, including those US and EU had imposed.⁴⁸ The fact sheet published by the US Department of State, however, conditioned the relief—not termination—of sanctions to the compliance of Iran with the agreement, and stated that sanctions could be reintroduced at any moment in case of nonperformance.⁴⁹ The Iranian reaction was quite firm: "We will sign no agreement but the one that immediately abolishes all the economic sanctions on the first day of the implementation of the agreement," President Rouhani declared.⁵⁰ The idea of conditioning suspension of sanctions to compliance has been in place since the agreement on the interim deal in November 2013. The JCPOA largely reflects the provisions stated in the framework agreement but definitely resolves the issue of sanctions relief in favor of the P5+1. In fact, according to the agreement, the overwhelming bulk of sanctions relief will only occur when the IAEA certifies that Iran has completed those stipulated core nuclear requirements, and therefore depends on Iranian compliance. Moreover, if Iran violates any terms of the agreement, a "snap-back" mechanism is in place to allow immediate restoration of restrictive measures. Finally, not all sanctions will be lifted or suspended: those related to terrorism, human rights abuses, and proliferation-sensitive technology remain in place, and Iran will continue to be listed among the states sponsor of terrorism.⁵¹

If we examine the agreement through the lens of procedural justice, the P5+1 leverage over Iran is considerable, as the P5+1 states can impose new sacrifices and deduct concessions at

47 Nicholas Wright and Karim Sadjadpour, "The Neuroscience Guide to Negotiations with Iran," *The Atlantic*, January 14, 2014, <http://www.theatlantic.com/international/archive/2014/01/the-neuroscience-guide-to-negotiations-with-iran/282963/> (accessed April 10, 2015).

48 "EU: There's only one Iran nuclear talks statement," Islamic Republic News Agency, <http://www.irna.ir/en/News/81563540/> (accessed April 8, 2015). For the official statement, see "Joint Statement by EU High Representative Federica Mogherini and Iranian Foreign Minister Javad Zarif Switzerland," April 2, 2015, http://eeas.europa.eu/statements-eeas/2015/150402_03_en.htm (accessed April 5, 2015).

49 Bureau of Public Affairs Department of State. The Office of Website Management, "Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran's Nuclear Program," Press Release|Media Note, US Department of State, April 2, 2015, <http://www.state.gov/r/pa/prs/ps/2015/04/240170.htm> (accessed August 31, 2015). On the different interpretation of the framework agreement, also see Shahir Shahidsaless, "Differences Emerge in US, Iran Interpretations of Nuclear Deal," *Al-Monitor*, <http://www.al-monitor.com/pulse/originals/2015/04/iran-lausanne-differences-joint-statements.html> (accessed April 9, 2015).

50 "Iran Nuclear: No Guarantee of Final Deal, Khamenei Says," *BBC News*, April 9, 2015, <http://www.bbc.com/news/world-middle-east-32231750> (accessed April 10, 2015).

51 For an accurate analysis of the JCPOA, see Kenneth Katzman and Paul K. Kerr, "Iran Nuclear Agreement" (Washington, DC: Congressional Research Service, 2015), <https://fas.org/spp/crs/nuke/R43333.pdf> (accessed August 31, 2015).

any stage. Iran does not have any similar bargaining power. This disparity is in contradiction with the reciprocity principles of responsiveness to trends and comparative responsiveness. The second implication of the framework agreement is more rhetorical and refers to Iran's right to nuclear enrichment. While the Iranian negotiators were selling the agreement at home as the recognition of Iran's right to a nuclear enrichment program, US Secretary of State Kerry presented the deal as a result of a "comprehensive plan to block every pathway Iran might use to build a nuclear weapon."⁵² Certainly, similar rhetoric does not indicate any recognition of peaceful intentions of Iran's nuclear program. This brings us to introduce another relevant aspect of equality that characterizes the current negotiations: trust.

Trust is an essential component of procedural justice and at the same time a condition for it in the negotiation and its result.⁵³ As noted earlier, lack of trust and abundance of suspicion have long characterized relations between the US and Iran, and reciprocal rhetoric has only reinforced this cycle. Repercussions on the current negotiations are considerable. One recent example is the congressional visa ban denying Ambassador Aboutalebi, the new Iranian UN representative, entry into US territory on the basis of his alleged participation in the 1979 seizure of the US embassy in Tehran.⁵⁴ Once more this shows that unsolved disputes and past relations undermine the credibility of the current dialogue and any trust building process.

3. Inequality in Iran-US Relations and the Role of Economic Sanctions

Having proved the degree of inequality that has characterized the relationship between Iran and the US as well as the negotiation process, the paper aims now to discuss how it has hampered the efforts toward reaching a deal and might undermine its durability. Cecilia Albin and Daniel Druckman have explored the impact of both procedural and distributive justice in negotiations extensively, and have tried to assess the extent to which they affect the durability of peace agreements, with specific emphasis on civil wars. The authors conclude that "Although justice of procedure cannot guarantee an outcome based on DJ principles, it is reasonable to conclude that PJ may enhance the opportunities for an outcome based on DJ." In the case of the nuclear negotiations, it is clear that the lack of equality in the process has undermined the talks, causing delays and undermining progress. Second, as discussed, procedural inequality has continued to generate distrust, often associated with uncooperative behaviors, which also undermines progress.⁵⁵ This cycle has marked relations between the two countries and has been fostered by the persistent US accusation of Iran's secret nuclear ambitions and its alleged support of terrorism as well as by the silent threat of new sanctions. Evidence from previous studies also demonstrates that *difficult conflict circumstances*, which can be adapted here to polarized relations, have less impact on durability when the agreement is based on equality. The centrality of equality also has direct implications on the choice of forward-looking rather than backward-looking outcomes.⁵⁶ However, as this analysis makes

52 "Recognition of nuclear Iran a major achievement: Lawmaker," Islamic Republic News Agency, April 8, 2015, <http://www.irna.ir/en/News/81563551/> (accessed April 8, 2015); John F. Kerry, "A Critical Deal with Iran, but More Work to Be Done," *BostonGlobe.com*, April 3, 2015, <https://www.bostonglobe.com/opinion/2015/04/02/breakthrough-nuclear-deal-with-iran-but-more-work-ahead/x738VDtdxV8CJnO7VVqdUJ/story.html> (accessed April 8, 2015).

53 Albin and Druckman, "The Role of Equality," 146.

54 "Hamid Aboutalebi: US Congress Passes Ban on Iran Envoy," *BBC News*, April 10, 2014, <http://www.bbc.com/news/world-us-canada-26981576> (accessed September 4, 2014).

55 Druckman and Albin, "Equality Matters," 4, 22.

56 See Christophe Dupont and Patrick Audebert-Lasrochas, "The Congress of Vienna Negotiations," in *Peace versus Justice: Negotiating Forward- and Backward-Looking Outcomes*, ed. William I. Zartman and Victor Kremenyuk, 35–72 (Lanham, MD: Rowman & Littlefield, 2005).

clear, the terms of the negotiations are unequal and therefore—the fairness of the process aside—the outcome cannot conform to the principle of equality, which in turn reduces the likelihood of a durable peace.

I therefore claim that in this case unfairness not only concerns the process and the outcome of the negotiations, but also deeply affects the structure of the negotiations and, in turn, reflects the dispute and the relations between the parties. As a consequence, if any party perceives the structure as “weighing heavily against a particular party,” it is unlikely that it will perceive the outcome of negotiations as fair.⁵⁷ First, the architecture of the talks lacks balance in that Iran is confronted by five world powers. Second, the negotiations do not predispose equal concession and equal sacrifices because Iran is already paying a far higher price. Finally, the P5+1 have a strong leverage because of the sanctions regime still in place. Again, inequality has marked the overall structure of Iran-US relations, and the basis on which the nuclear negotiations have been designed and set are not conducive to any equal agreement.

As noted, research has shown that the fairness of the process increases the probability of equal outcomes from the perspective of distributive justice. In these nuclear negotiations, evidence supports the argument that inequality and unfairness affect the process and the structure of the talks itself suggests that the principles of equal concession and equal sacrifice are not respected. These elements suggest that the persistent asymmetry of their relations has been the main obstacle in resuming a deal.

Further, when the outcome of the agreements is perceived as unfair by both parties, the likelihood is greater that the provisions agreed to will not be considered acceptable in the longer term either, and especially once the pressure of the negotiations are over.⁵⁸ The provisions that should be imposed on the Iranian nuclear program if the deal enters into force foresee long-term limitations, from ten to fifteen years.⁵⁹ It is likely that in the coming years foreign and internal political changes in both countries may occur for which these provisions will not be acceptable anymore.

This profound asymmetry is very much in line with the historical nature of Iran-US relations, which, as seen above, has been based on coercive diplomacy for decades, and still is. The paper has discussed how and why negotiations have been hampered by inequality, but it is also worth to ask whether the negotiations could have been dealt differently, given the historical and political context in which they have taken place.

Negotiations, as stated in the introduction, are often the result and continuation of relationship, and deeply reflect the degree of inequality, mistrust and confrontation that has preceded them. In that sense, they cannot be considered as separate from one another. Building a fair and equal negotiation process on the foundations of coercion and asymmetry is at best difficult, and probably unlikely. That negotiations could have been designed and managed differently is equally probable. Respect of procedural justice in particular could have been relatively easy to ensure and certainly would have improved the interaction and made the process smoother.

Ultimately, the essence of both coercive diplomacy and fair negotiations are incompatible because they respond to two different logics and ways to trigger change and achieve political

57 Cecilia Albin, “The Role of Fairness in Negotiation,” *Negotiation Journal* 9, no. 3 (July 1, 1993): 226, doi:10.1111/j.1571-9979.1993.tb00705.x.

58 *Ibid.* 240.

59 Katzman and Kerr, “Iran Nuclear Agreement.”

objectives. The case of Iran-US relations highlights and addresses this complex dilemma, which will ideally be tested by the long-term outcomes of the nuclear deal.

4. Conclusions

This paper has tried to present and discuss why and how the lack of equality has undermined the negotiations and might also negatively impact on their outcome and durability. Equality can of course be considered an ethical and moral principle, but in negotiations it is also proven to be crucial in promoting mutually recognized and sustainable solutions. It is therefore in the interest of all parties to promote respect for and application of this principle, for their own sakes rather than for ethical reasons. The United States has shifted from repression and regime-change rhetoric to research of dialogue and recognition of Iran as an interlocutor. Since then, progress has been made, but the parties remain far from operating on a level of equality. Notably, the persistent use and threat of economic sanctions remains a main obstacle to any equal outcome. Finally, a long-term process to build sustainable and durable peace must be built on mutual respect, trust and ultimately the recognition that equal treatment is essential to advance and consolidate this process.

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