(Mis)Reading the IAEA reports on Iran's nuclear program

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By Tzvi Kahn

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The head of the International Atomic Energy Agency (IAEA) last week [admitted](https://www.reuters.com/article/us-iran-nuclear-iaea/iaea-chief-calls-for-clarity-on-disputed-section-of-iran-nuclear-deal-idUSKCN1C12AN) an inconvenient truth. The U.N. watchdog, said Yukiya Amano, has proven unable to verify Iran’s compliance with Section T of the 2015 nuclear deal, which prohibits activities that could contribute to the development of a nuclear explosive device.

This disclosure comes as no surprise to critics of the Joint Comprehensive Plan of Action (JCPOA), who have long noted its failure to secure full access to key military sites such as Parchin, where Tehran previously engaged in weaponization efforts. But Amano’s statement also quashes another myth. Contrary to widespread media reporting, the IAEA has [never fully certified](https://www.cotton.senate.gov/?p=press_release&id=744) Iran’s compliance with the JCPOA.

Since the JCPOA’s implementation in January 2016, the IAEA has issued multiple reports that Iran and key world leaders have described as certifications of Tehran’s JCPOA compliance. “All sides are implementing — so far — fully the agreement, as it has been certified by the IAEA eight times,” [said](https://eeas.europa.eu/headquarters/headquarters-homepage/32546/remarks-high-representativevice-president-federica-mogherini-following-ministerial-meeting_fr) Federica Mogherini, the EU’s foreign policy chief, last month. Iranian Foreign Minister Mohammad Javad Zarif [tweeted](https://twitter.com/JZarif/status/903992603946999808) that the most recent IAEA report, released in late August, affirmed the “verification of Iran(’s) compliance with (the) JCPOA.”

In fact, none of the IAEA’s reports states that Iran has complied with the JCPOA. Rather, as the JCPOA notes, the IAEA’s mandate primarily entails monitoring and reporting on Tehran’s nuclear-related actions (or lack thereof) pursuant to the JCPOA’s provisions. Individual members of the Joint Commission, the body established by the JCPOA to monitor its implementation, determine independently whether Iran’s reported behavior constitutes JCPOA compliance. The Joint Commission consists of representatives from each JCPOA participant state and the EU.

As Amano [put it](http://carnegieendowment.org/2017/03/20/plenary-iran-deal-international-perspectives-pub-67681) in March 2017, “we are serving as eyes and ears of the international community, we are on the ground 24/7, and we can state that the JCPOA is being implemented.” At the same time, he added, “it is the responsibility” of each JCPOA member to reach an “interpretation” and a “judgment,” based on the IAEA’s reporting, of “whether or not (Iran is) in compliance.”

The distinction between the roles of the IAEA and of the Joint Commission harbors significant policy implications. Misleading claims of IAEA certification of Iranian compliance implicitly bestow an authoritative legal imprimatur on Tehran’s nuclear activities where none exists. In so doing, they obscure not only key omissions in the IAEA’s reporting of Iranian behavior, but also evidence that Iran has violated the deal’s letter and spirit — problems that should have elicited a response by the IAEA and members of the Joint Commission.

Thus, as the Institute for Science and International Security has [documented](https://oversight.house.gov/wp-content/uploads/2017/04/Albright-Statement-Iran-Violations-4-5.pdf), Tehran has repeatedly violated the letter of the JCPOA by engaging in research and development of advanced centrifuges. Meanwhile, it has routinely defied U.N. Security Council Resolution 2231 — not to mention the JCPOA’s spirit — by [launching](http://iranprimer.usip.org/blog/2017/aug/01/iran%E2%80%99s-missile-tests-2017) more than a dozen ballistic missiles, the key delivery vehicle for nuclear weapons.

In this context, the IAEA’s reports have [failed](http://isis-online.org/isis-reports/detail/analysis-of-the-iaeas-seventh-iran-nuclear-deal-report/) to include key information on a range of compliance issues, including centrifuge R&D, nuclear weaponization activities, IAEA access to military sites, illegal procurement efforts, and the exact amount of heavy water under its control. After the release of the latest report, the IAEA [acknowledged](http://www.reuters.com/article/us-iran-nuclear-inspections/u-s-pressure-or-not-u-n-nuclear-watchdog-sees-no-need-to-check-iran-military-sites-idUSKCN1BB1JC) that the agency had not inspected any Iranian military sites since the JCPOA’s implementation.

Historically, the IAEA has played a vital role in monitoring the spread of nuclear technology worldwide. But these lapses make it impossible for Joint Commission members to reach reliable, fully informed, and independent JCPOA compliance determinations. Moreover, they erode not only the credibility of the IAEA, but also the integrity of the JCPOA itself, which President [Barack Obama](http://thehill.com/people/barack-obama) once defended by [hailing](https://obamawhitehouse.archives.gov/the-press-office/2015/07/15/press-conference-president) its putatively “unprecedented” transparency and verification measures.

What accounts for the IAEA’s silence and the Joint Commission’s failure to demand greater transparency? The answer likely lies in the weakness of the JCPOA’s enforcement mechanism.

As U.S. Ambassador to the U.N. [Nikki Haley](http://thehill.com/people/nimrata-nikki-haley) noted in a recent [speech](https://www.aei.org/publication/nikki-haley-address-on-iran-and-the-jcpoa/), the JCPOA allows for only one penalty for any JCPOA violation, no matter the size: the reimposition of sanctions. “And if sanctions are re-imposed,” she said, “Iran is then freed from all the commitments it made. Think about that. There is an absurdly circular logic to enforcement of this deal. Penalizing its violations don’t make the deal stronger, they blow it up.”

Thus, in late August, an anonymous IAEA official offered another troubling admission. Asked by Reuters about the IAEA’s failure to secure access to Iran’s military sites, the official [cited](https://www.reuters.com/article/us-iran-nuclear-inspections/u-s-pressure-or-not-u-n-nuclear-watchdog-sees-no-need-to-check-iran-military-sites-idUSKCN1BB1JC) the possibility that President Trump would use Tehran’s refusal as a rationale to abandon the JCPOA. “We just don’t want to give them an excuse to,” the official said. Effectively, the U.N. watchdog acknowledged that political considerations had interfered with its mission of serving as an independent and unbiased monitor of Iran’s nuclear activities.

But the greater danger may lie in the reticence and inadequate transparency of the IAEA and the Joint Commission. If Tehran achieves a covert nuclear breakout capability as a result of their dereliction, the JCPOA would instantly collapse on its own, no matter the wishes of the U.S. president. It’s an inconvenient truth that defenders of the JCPOA might ponder as they continue to ignore Iran’s ongoing defiance of its provisions.