

The initial articles and analysis wrote by Mehran on the Iran nuclear deal (JCPOA) in 2015/16 were based on the assumption that the parties involved were engaged in a negotiation process. However, as Mehran continued to monitor and analyse the "negotiations" further, he encountered numerous questions regarding Iran's approach towards reaching an agreement.

Addressing these questions and conducting a thorough assessment of the political landscape in the Islamic Republic of Iran (IRI), as reflected in his most recent articles, has led him to the conclusion that negotiation, as a tool, is not available to the IRI. In other words, expecting the Mullahs to sit down and negotiate is akin to asking a fish to climb a tree. It is simply not a tool available to them, and it holds no meaning in their language or way of life.



## Hostile Intentions

an agreement based on mutual distrust

Mehran Mossadegh  
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### Background

Iran and P5+1 (China, France, Germany, Russia, United Kingdom and United States) negotiations over Iran's nuclear program have been continuing for many years, dating back to 2006. The more serious and perhaps the most promising stage of these talks began in February 2013, in Almaty, about 4 months before the election of Iranian President Hassan Rouhani. The negotiations are currently guided by the leadership of Foreign Minister Mohammad Javad Zarif - Iran Chief Negotiator.

The multi-stakeholder talks are a Complex Negotiation, an often-cited reason for extending the negotiation period and last-minute deals. This article looks at the current Iran and P5+1 negotiations from the perspective of negotiation as a science and art. Political commentaries are found in many other articles.

The Geneva interim agreement, the first step towards an agreement between Iran and P5+1, is officially titled the Joint Plan of Action ["JPA"] and was signed in November 2013. Implementation began January 2014.

### About author

Mehran Mossadegh is the founder of NegotiationWise® with specific focus to influence and engage in collaborative discussions and a Wise Conversation.

With over 25-years' experience in corporate and private industry in Negotiations, Business, Commercial, Contract and Project Management, Mehran brings credibility from a wealth of experience in delivering leading edge commercial projects and negotiating contracts, during which time he has analyzed commercial success from various perspectives.

Mehran holds a Bachelor of Electrical Engineering from the University of Technology, Sydney, Master of Commercial Law from Monash University, and Graduate Certificate of Law from Victoria University.

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'Simple Complexity' and 'Reluctant Factor' are developed concepts of NegotiationWise.

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In April 2015, the parties agreed or came to an understanding on key parameters of Joint Comprehensive Plan of Action [“JCPOA”] – the “Framework”, in order to finalise a detailed agreement 2-3 months later by June 30, 2015.

The framework understanding should be a relatively easy task compared to the difficult road ahead - to agree on details. Why has it taken 26 months (February 2013 to April 2015) to reach a framework understanding and why only 2-3 months for the details? Have the parties chosen the right negotiation strategy, asked the right questions and identified the problems in order to achieve a ‘Wise’ outcome, as opposed to one that is merely acceptable?

#### A Hostile Approach

The two key negotiating parties, Iran and the United States, have both chosen a hostile approach to the negotiations. The US view requires that any final agreement should allow the US to immediately re-apply the current sanction regime in case Iran does not honour its commitments. Iran will only agree on a negotiated outcome that allows it to resume its nuclear program/activity at a speed and capacity prior to the JPA agreement in case the US does not honour its commitments.



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This threatening approach is consistent with the Win-Win strategy. Over the last 26 months, the parties have achieved nothing more than an understanding on the Framework.

Within their Win-Win approach to the negotiated agreement, both parties have already used ‘Tit-for-Tat’ tactics: in January 2015, the US Congress threatened to introduce a bill triggering more sanctions against Iran, should negotiations fail. This provoked the Iranian Parliament (Majles) to introduce a bill obliging the Iran government to produce 60% Uranium Enrichment, in case the US Congress followed through on their threat.

The Win-Win approach, or as Foreign Minister Zarif refers to as ‘a non-zero sum’ has already displayed inherent shortcomings to achieve a ‘Wise’ negotiated outcome, one of which is the parties’ need to use threatening and Tit-for-Tat tactics to force the other side to engage in negotiation. Another failure is the ‘power play’ exercise in which the US uses its powerful capability to force Iran to reluctantly agree to a deal.

Typically, a Win-Win approach requires cooperation to achieve a mutually beneficial agreement. It *creates* value before *claiming* value, to the benefit and satisfaction of both parties. Despite this, the Win-Win Strategy sees one or more parties demonstrate adversarial and competitive attitudes as seen in Iran and P5+1 talks.

*It must be asked: Did the Reluctant Factor play a role in reaching the Framework in April 2015? How wide were the differences between the negotiating parties at the time of announcing the Framework? How can the negotiators overcome the limitations of a Win-Win approach?*

The last-minute agreements may be called bargaining or give-and-take, and taken as a sign of a 'Reluctant Factor'. This behaviour is a gamble for time, when a party sees no choice but to temporarily agree to an outcome which is better than any other available alternative, hoping to find a more favourable outcome in the future. This results in a risky agreement and problematic implementation. It would not solve one or more parties' problems; at least one party is waiting to find a better solution in the future.

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#### Progress So Far

As of April 2, 2015, Iran and P5+1 have managed to reach a common understanding on most issues discussed. Both parties, after the JPA agreement and the Framework understanding, have engaged in selling the outcome of the talks to their country constituents, opposition and other stakeholders. Each party has been free to interpret their understanding of some of the more controversial issues of discussion.

For example, most recently after the Framework understanding, the US interpretation in the form of a 'factsheet' seemed different from Iran's. Some commentators view this differing interpretation as a gap and lack of agreement on some issues between the parties. While some topics may require further agreement, this mere difference in *interpretation* is not, by itself, undesirable.

It is a key reason for talks progressing this far: the flexibility of being able to interpret the controversial topics in a sellable format to one's party. For example, within the 'glass half full or half empty' argument, this flexibility allows all parties in the negotiation to look at the glass from their own perspective. They can agree on the glass and the water, and can tell their side how they see the contents.

In contrast, a common understanding and interpretation of the negotiated outcome is critical in this next stage: agreeing on details and implementation strategy of future deals. The final agreement, JCPOA, needs to be clear and precise on details, avoiding any ambiguity in the agreement terms and the obligations and rights of the parties. Parties should agree exactly how they will see and interpret these items if there is any hope for an honoured agreement. So while the limited Win-Win approach has resulted in progress so far, its continued implementation may not suit the next stage of agreeing on details.

#### Why is an agreement desirable?

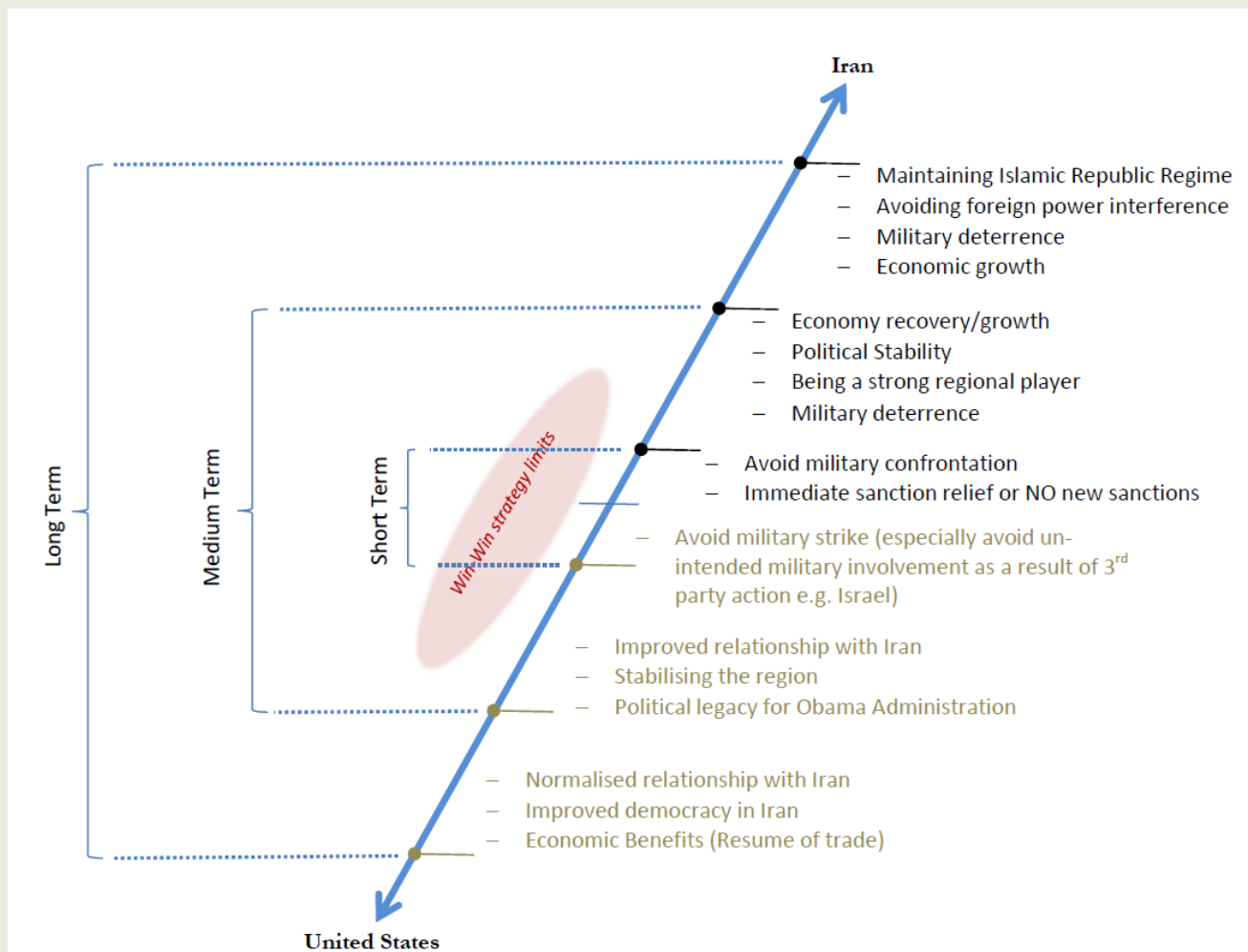
Problems can be categorised as short, medium, and long term, and must be clearly identified early in the negotiation process for all stakeholders. It is the distinction between short, medium, and long term 'Drivers' (needs, desires, interests, fears, and concerns) that leads the negotiating parties to find creative solutions within a complex negotiation.



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Simplifying complex negotiations through a Win-Win strategy cannot deliver permanent, optimum results. Miscalculation in developing the right strategy can and does occur when seeking a Win-Win outcome, as parties may deviate from identifying the real underlying problems of each party. With each party focusing on its victory speech, any achieved agreement may not address these problems and is not a mutual, Wise solution. Such an agreement may suffer during implementation through lack of commitment to it by one or more parties.

The following diagram is an example of categorising short, medium, and long term objectives of both Iran and US as part of the P5+1 negotiations. For the sake of simplicity and readability of this article, only some of the key objectives of the Iran and US are shown.



The author is not involved in the P5+1 and Iran negotiations, therefore not privy to the negotiating parties' confidential discussions. The assumptions made about the parties' Drivers, objectives and problems are based upon the author's own research from publicly available data. The diagram above is a simplified version to demonstrate some of the most compelling issues. It does not include *all* Drivers of *all* stakeholders.

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The JPA agreement reached in November 2013 was a result of both parties' immediate and short term objectives. Neither wished a military confrontation. Iran needed to immediately reduce the impact of sanctions or at least avoid imposition of further sanctions, lessening the pressure on its economy. Both parties' Win-Win approach to the negotiation worked since neither party had a more compelling BATNA (Best Alternative To a Negotiated Agreement) than the JPA. After the JPA agreement, deadlocks and extension of talks resulted from the increased complexity of topics, in conjunction with many stakeholders' conflicting Drivers. Negotiating parties constantly reminded each other that the other side's BATNA was not an attractive option.

Complex negotiations involve multiple stakeholders with what is often perceived as conflicting Positions, even internally within a stakeholder group, adding to this complexity.

The 'Simple Complexity' concept maintains that within such negotiations, there is an inherent 'Simple' umbrella approach (overall 'Simplicity') that can achieve a Wise outcome. Difficulty often arises as a result of parties focusing on Positions or the gap between them, so Simplicity is either not obvious at the beginning, or disregarded.

For P5+1, the short term Position was to ensure Iran's nuclear activities is of a peaceful nature. For Iran, the lifting of sanctions. Given the focus on two short term solutions, agreeing upon medium and long term solutions was extremely difficult, if not impossible. The Win-Win method showed its limitations and no longer responded to negotiators' needs or problems. The parties, unable to utilise a Simplicity approach to further engage in collaborative discussions, instead resorted to threatening and Tit-for-Tat tactics, forcing the other side to compromise.

At the 11<sup>th</sup> hour (Persian equivalent of 'at the 90<sup>th</sup> minute': *daghigeh-ye navad*) of March 30, 2015, the parties were left with two options: Come up with an agreement, or walk away from negotiation. Not having a good BATNA, parties reluctantly put together a framework to enable them to further continue negotiations.

The current talks are even more complex. If the parties continue with their current negotiation methodology, they will find it extremely difficult to reach a sustainable agreement that does not fail in its execution.

#### Walking Away From Negotiations

Work on details of an agreement is underway. Negotiating parties, particularly Iran and US, continue their tactics of threats and Tit-for-Tat in order to pressure the other side for more concessions and compromise.

Perhaps both Iran and US should be reminded of the danger of drawing red lines, or bottom lines. Neither party can afford to be seen as the reason negotiation failed – any party perceived as such will likely pay a heavy price: the US may lose sympathy and collaboration from allies to increase the pressure on Iran; Iran may find more pressure applied by a more strongly unified international community.

#### Achieving a Wise Outcome

A Wise process achieves success by avoiding the setup of a competitive environment which can result from a Win-Win strategy. Negotiators must break the complex negotiation into short, medium, and long term Drivers and identify the stakeholders' problems to engage in a collaborative conversation. They could reduce their sensitivity to current areas of dispute, for example, timing and method of sanction relief, and inspection and transparency of Iran's nuclear program.



*The next few weeks will be pivotal for all involved in the negotiations. There are many key issues to be addressed, and achieving an agreement in the remaining timeframe will be real challenge if underlying problems aren't discussed.*

Solutions may include a commercial framework agreement on a collaborative commercial enhancement program that addresses Iran's short to long term needs. Under such an agreement, it will be very costly for a party to break the agreement, increasing the likelihood that parties will honour their commitments.

Commercial activity enhancement may include joint commercial projects through consortium arrangements across a range of industries. The commercial framework may also include technology transfer and assistance with re-building Iran's economic and commercial foundation.

Involving trusted partners (Japan, Germany, Italy, China, etc., with limited engagement of US due to long hostile history between Iran & US) may provide the transparency that P5+1 requires to be assured that Iran's nuclear program is for peaceful purposes. This will provide Iran with rapid economy recovery, and lessen the sensitivity to the US implementation of sanction relief. The world's significant commercial investment in Iran will lessen Iran's concern for regional security. It will have a direct and measurable impact for the Iranian people, improving quality of life and emphasising that they are one of the key stakeholders in this negotiation.

A Wise sustainable agreement including a collaborative economy development program with Iran is achieved by asking different questions: How can investments be implemented? What are the prerequisites for collaborative commercial projects? And so on.

The next few weeks will be pivotal for all involved in the negotiations. There are many key issues to be addressed, and achieving an agreement in the remaining timeframe will be real challenge if underlying problems aren't discussed. The world watches as often opposing views seek common ground to find a Wise outcome.

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