

The Crisis of Compliance

Remarks by Assistant Secretary of State for Arms Control, Verification and Compliance

Dr. Yleem Poblete

followed by a panel discussion featuring Mark Dubowitz, Orde Kittrie, Valerie Lincy, and Andrew J. Tabler

DUBOWITZ: Hi folks, I think we're going to get started. Thank you for your patience. I'm Mark Dubowitz, and I'm the Chief Executive here at FDD. Thank you very much for joining us in this conversation about the crisis of compliance. It's really an honor for me to introduce Assistant Secretary Poblete, to all of you. I'm going to then be moderating a panel with hopefully some interesting insights, and remarks after her speech.

Before I introduce her, I want to thank, first of all, for attending. Second, to at least turn off your cellphones. There's folks watching, live-streaming, and on C-SPAN, and we're going to be live tweeting this @FDD. So FDD for those of you who don't know us, we're a non-partisan policy institute. We focus on national security and foreign policy.

The issue of nuclear weapons and chemical weapons has really been central to the work that we've done for over 15 years. We're particularly happy and grateful to be hosting this discussion. Let me actually introduce Yleem, because we've had the pleasure at FDD of working with her over many years. She is now the Assistant Secretary of State for Arms Control, Verification and Compliance.

She was sworn in after really an incredible career in public service. She worked at the Department of State and the White House. Spent two decades at the House of Foreign Affairs Committee, including as the Chief of Staff there. We had, again, the honor of working with her at HFAC on many of the issues that are dear and near to our hearts.

Dr. Poblete worked really virtually every regional and functional issues. She spearheaded multiple legislative efforts across the range of foreign policy national security priorities. But also with a particular focus on counter-proliferation, to really hold violators and regimes accountable, particularly rogue states such as Iran, and North Korea, and Syria.

We are grateful for her service to our country, and I know I sleep better at night knowing that she is the Assistant Secretary in such a critical position. Yleem, welcome.

POBLETE: Thank you so much. As Mark was saying, I look around the room and I see so many friends, former colleagues. Friendships that were built in the legislative trenches, so to speak, as we were working collaboratively to develop legislative solutions, to the threats posed by these pariah states. Today marks exactly three months since my confirmation, and I cannot think of a better place, and a better environment to commemorate those three months.

Thank you for having me. Thank you to Toby as well, Cliff, who's not in the room. Thank you to Cliff, and just everyone at FDD. Again, I'm humbled by the opportunity to discuss some of the challenges posed by these pariah states to the United States, and other responsible nations, and to

address their previous or current violations of their obligations under the Nuclear Nonproliferation Treaty, or the Chemical Weapons Convention, as well as numerous UN Security Council resolutions.

Iran continues to refuse to provide or acknowledge certain information regarding the military dimensions of its past nuclear activities. The Foundation for Defense of Democracies has been in the forefront of efforts to keep these issues before the American people, and to support efforts by President Trump and his Administration, to confront and impose costs on both Iran and Syria, for the totality of their malign activities.

Before delving into some of the actions by these regimes, which constitute an unusual and extraordinary threat to U.S. national security, and to global peace and stability, I would like to share a few points of interest for this group, about the history and mission of the bureau that I am fortunate to lead. The Bureau of Arms Control, Verification and Compliance is one of only a handful at the Department of State, mandated by Congress with specific statutory authorities.

The chief of which is principle responsibility within the department, for verification and compliance with arms control, nonproliferation, and disarmament agreements, or politically binding commitments, to which the United States is a party. The Congress expressly created the position of Assistant Secretary for Verification and Compliance, the statutory name of the position I currently hold, to elevate verification to the same level as any official responsible for regional affairs, and to provide a specialist official within the Department of State, in negotiations on arms agreements, from the perspective of verifiability.

We develop frameworks for inspection and verification, and are required to evaluate the verifiability of any such accords, and submit such assessments to the Chairman of the relevant committees of jurisdiction in the Congress. We have a cadre of policy and technical experts, physicists, chemists, biologists, seismologists, engineers, former missile commanders, and former international and U.S. inspectors. They comb through information from a myriad of sources, to arrive at determinations on verifiability and compliance.

Whether focused on chemical, biological, radiological, and nuclear weapons, their delivery systems, or something that is not well known, activities in outer space, or under the sea, or any other new domains of potential warfare. AVC is also responsible for the preparation on behalf of the Secretary of State, of what is known as the Compliance Report. The report on adherence to, and compliance with arms control, nonproliferation and disarmament agreements and commitments.

In order to fulfill this mission, AVC was tasked as the principle policy community representative to the intelligence community on verification and compliance matters. Via our verification front, the AVC Bureau is able to drive development of monitoring and detection technologies, that can help enable a compliance, or noncompliance determination. I can assure you, we take our mission extremely seriously, and view it as integral to the implementation, and to advancing the goals delineated in the national security strategy, that was unveiled in December of last year.

Now let's turn to Syria. Under the rubric of defending our nation against weapons of mass destruction, this national security strategy I just referenced, notes how “The Syrian regime’s use of chemical weapons against its own citizens undermines international norms against these heinous weapons, which may encourage more actors to pursue and to use them.” Both before and after becoming a party to the Chemical Weapons Convention, Syria has brazenly violated the international norm, prohibiting the use of chemical agents as weapons. Bringing a horror that blighted the onset of the 20th century into the current landscape.

Responsible states have reacted to these violations using mechanisms provided for in the Chemical Weapons Convention, CWC. In particular, to bring the Assad regime back into compliance. The United States was critical in ensuring the creation of a fact finding mission of the Organization for the Prohibition of Chemical Weapons, or OPCW.

As well as a joint OPCW United Nations Joint Investigative Mechanism, that is commonly referred to as the JIM. These bodies' investigations culminated in reports clearly establishing the Syrian Arab republic was responsible for at least four cases of chemical weapons use, and that the so called Islamic state was responsible for another two. After the Russian Federation vetoed the extension of the JIM's mandate in an effort to hide the Assad regime's crimes, we worked assiduously with other Chemical Weapons Convention states' parties to give the OPCW the authority to fulfill the JIM's old mission.

We continued our efforts, and just last month, we were successful in ensuring that the UK drafted, US supported and cosponsored decision on attribution of chemical weapons use, was adopted at a special conference of state parties at the OPCW. But I would be remiss if I did not also note U.S. efforts outside of the OPCW, to bring pressure on Damascus over its use of these heinous weapons. These include treasury department sanctions on key figures within the Syrian regime, the Department of States' efforts to impede the flow of key dual use supplies to the CW program, and of course, U.S. military's air strikes.

I also do not want to minimize the important role that our partners have played in the effort. From the EU's long standing dual use export ban on Syria, to France's international partnership against impunity, and the French and British involvement in this past April's air strikes. Now, Syria's blatant disregard for its international obligations, of course, is not limited to just the Chemical Weapons Convention. Syria also remains in continued noncompliance with the treaty on the Nonproliferation of Nuclear Weapons, NPT, and its safeguards agreement with the International Atomic Energy Agency.

As a result of its clandestine efforts to construct Dair Alzour, an undeclared plutonium production reactor in Eastern Syria. For those of you who are familiar with the Dair Alzour facility, it was built with North Korean assistance. While the Dair Alzour reactor was destroyed by an Israeli air strike in 2007, Syria has persistently refused to cooperate with the IAEA's investigation, and denied the agency's request for information and access to address all outstanding questions regarding its activities at the site, and other related sites.

Syria's failure to cooperate with the IAEA remains a matter of ongoing concern indeed for all of us. Moreover, Syria's efforts to impeded the IAEA's investigation illustrates the degree to which

the Assad regime is prepared to go, to conceal its clandestine nuclear activities. Rather than responding in good faith to the IAEA's request for information and access, Syria continues to go to great lengths to deceive, obfuscate, and distract international attention from its perennial noncompliance. In many instances, with the assistance of the Russian Federation.

The Trump administration has been clear that we cannot allow Syria's NPT and IAEA safeguards noncompliance to just merely fade into our collective memory. All outstanding questions regarding Syria's noncompliance must be resolved. Now, clearly, the behavior of the Assad regime with respect to the Chemical Weapons Convention and the NPT, presents a stark challenge to all other parties of these agreements, or at least, those who remain in compliance with their own international obligations, other responsible actors.

As well as a challenge to the role that these very agreements play in the maintenance of international peace and security. Within the region, the ongoing conflict fueled by Assad's determination to remain in power through any means necessary, adds to instability that provides opportunities for even larger threats to develop. As I mentioned, the so called Islamic State's use of chemical weapons, in addition to other threats. Syria has provided an opportunity for its fellow rogue, Iran, to expand its influence, in order to threaten the security of Israel, and even other targets around the entire Mediterranean region.

Turning to Iran and JCPOA. The JCPOA agreement was flawed at multiple levels. First, I'd like to address the technical problems. It allows Iran to continue to conduct certain research and development activities on more efficient centrifuge machines that if deployed on a larger scale, would significantly reduce the number required to produce highly enriched uranium, and could make clandestine enrichment facilities more difficult to detect. It also does not provide irreversibility of limitations imposed on existing centrifuge equipment.

For example, IR-1 centrifuges at Natanz in excess of JCPOA limitations are stored, not destroyed. Now, President Trump has underscored the dangers posed by the sunset provisions in the JCPOA. But technical examples include ending the limit on Iran's stockpile of uranium hexafluoride, enriched to 3.67%. Selling infrastructure for the advanced IR-8 centrifuges at Natanz. And eventually ending containment and surveillance of centrifuge rotors and bellows, as well as ending the prohibition to operate additional heavy rotor reactors, or accumulation of heavy rotor.

The verification provisions of JCPOA did not go far enough. Given Iran's history of clandestine nuclear activities, and extensive sanitation campaigns, something one of our members of the audience knows extremely well, having been an IAEA inspector. Iran's extensive sanitation campaigns to conceal the nature and scope of these efforts once detected, effective verification in Iran, requires an intrusive inspection regime, that helps ensure the paramount objective of permanently denying Iran any pathway to nuclear weapons.

The JCPOA at a political level creates the conditions under which Iran's noncompliance had been addressed prior to the negotiation and implementation of the JCPOA. These conditions have drastically been altered, since the negotiation implementation of this agreement. Unanswered questions about the possible military dimensions of Iran's past nuclear activities,

still loom large in our assessment of the potential threat that Iran represents. Playing on the other party's evident desire to keep the JCPOA alive, Iran is now attempting to throw a scare into other JCPOA parties, over continued compliance, in order to prompt them to provide the economic benefits that Iran believes are due to the regime under the JCPOA.

And most concerning of all perhaps, as it relates to broader U.S. nonproliferation objectives, the JCPOA did not cover Iran's missile programs, or its other WMD programs and activities. The JCPOA fails to prevent Iran from ever having fissile material production capabilities that were permitted to rapidly break out into weaponization. This, along with its failure to address Iran's aggressive misbehavior in the region, is why President Trump has described the JCPOA as a terrible deal.

Iran asserts it's perceived, inalienable right under the NPT. But the NPT must be viewed in its entirety. One article of the NPT must be viewed in relation to other obligations under other articles of the NPT. Article IV speaks of the states party's rights to develop, research, production, and use of nuclear energy for peaceful purposes. But it connects that right to conformity with Articles I and II of the treaty. The safeguards described in Article III, are also an explicit requirement for the demonstration and confirmation of the peaceful nature of a nuclear program.

Iran has not yet demonstrated to the world that it has rectified its egregious record of noncompliance and deception. With Articles II and III, which led the IAEA board of governors to refer the Iran matter to the UN Security Council, and which led to the passage of 10 resolutions, just between 2006 and 2014. Iran is also using the JCPOA to justify its renewed acquisition of equipment and materials, ostensibly for its peaceful nuclear program. These materials have a dual use application.

The recent disclosure by Israel of its discovery of thousands of documents preserved, and in storage regarding Iran's past nuclear weapons program, including according to recent press reports, plans for the design of a nuclear device, should leave no one in doubt that Iran has not yet clearly put its unlawful nuclear weapons ambitions forever behind it. AVC experts are monitoring these and other developments that would inform our assessments going forward on Iranian compliance with again, the totality of its obligations.

Now, looking ahead. President Trump has made it clear that we need to abandon the JCPOA mindset. But in withdrawing from this deal, the President also said it is the policy of the United States that one, Iran be denied a nuclear weapon and intercontinental ballistic missiles. He later said that the policy of the United States is to counter Iran's aggressive developments of missiles, and other asymmetric and conventional weapons capabilities.

Secretary of State Pompeo has described how this policy will be pursued and has said, "President Trump is ready, willing and able to negotiate a new deal. But the deal is not the objective. Our goal, the Trump administration's goal is to protect the American people, and we will not renegotiate the JCPOA itself." Those are direct quotes from Secretary of State, Pompeo. Any new agreement must address the full spectrum of threats to U.S. security and interest, presented by Iranian noncompliance with its international obligations.

It should verifiably and indefinitely deny Iran all paths to nuclear and other weapons of mass destruction. It should not just merely contain, control, or delay the regime's efforts. As such, it is incumbent for the U.S. in moving beyond the JCPOA to seek what is termed effective verification. The Senate Foreign Relations Committee report accompanying the legislation which created my position as Assistant Secretary for Verification and Compliance, and the ensuing AVC bureau, stated that effective verification consists of a high level of assurance, and the United States ability to detect, a militarily significant violation, in a timely fashion.

And should also, and this is, I must emphasize this because it has relevance to the JCPOA in Iran, its compliance, should also provide detection of patterns of marginal violations. I'd like to close with one observation. Nothing in the conduct of foreign policy is ever done in a vacuum. The end-state that we must seek for the successful conclusion of any future deal with Iran, must also inform and be informed by the end-state we're seeking for North Korea.

Inconsistency in our approach to either negotiation will undermine our credibility, and most likely doom the prospects for successfully dealing with the threats to our security posed by these and other actors, and the threats posed to address the proliferation challenges of the future. Once again, I'd like to refer to the National Security Strategy. In it, the President states, "The scourge of the world today is small groups of rogue regimes that violate all principles of free and civilized states."

In response to these threats, the strategy calls for the augmentation of measures to prevent the spread of, and to illuminate WMD and related materials, their delivery systems, and technologies. It further underscores the need to hold state and non-state actors accountable for the use of WMD. Accountability is critical for deterrence. To do so, we must be always vigilant, intensifying monitoring, detection, and verification of the activities of these pariahs' rogue regimes.

Wishful thinking cannot substitute for such vigilance, and hope cannot be allowed to replace rigor. Noncompliance and blatant disregard of international norms must be dutifully and thoroughly reviewed, documented, and assessed. This is where the AVC's bureau's mandate comes into focus, with the compliance report, among other tools, serving as a predicate for action, and accountability.

I'd like to just say I am honored and humbled by the opportunity to work with AVC professionals in the service of our nation, to ensure that this accountability will lead to the prevention of WMD proliferation, and to the elimination of the threats to our national security, and our interests, posed by WMD and these rogue regimes. Thank you very much. Appreciate it.

DUBOWITZ: Great. Thank you for having us. We're going to move right into the panel. I'd like to welcome the panelists to the stage. Okay, for some reaction to the speech, I'm pleased to introduce to my right, my colleague Orde Kittrie, he's a senior fellow at FDD. He's the leading expert on nonproliferation and a lot of sanctions policy. He previously served for 11 years at the Department of State, as the Department's lead nuclear affairs attorney.

To his right is Valerie Lincy, who is the Executive Director of the Wisconsin Project on Nuclear Arms Control. She oversees the project's risk report database, and Iran Watch website.

Andrew Tabler is the Martin J. Gross fellow at the Washington Institute. Focuses his research on Syria and U.S. policy in the Levant. He has really unparalleled access to Bashar Al-Assad's Syria. He spent 14 years of residence in the Middle East, and served as co-founder and editor in chief of *Syria Today*. Really, great experts on Iran, on Syria, on nonproliferation, on compliance issues. I'm just going to turn it to each of you, just give me your reaction to the Assistant Secretary Poble's comments. Anything that struck you or stood out to you.

KITTRIE: Yeah, I mean, I thought it was a very important reiteration of some of the key points that we've been seeing coming out of the administration. One thing that struck me perhaps, particularly as an international lawyer, was the statement where she said, "Iran has not yet demonstrated to the world that it rectified its egregious record of noncompliance with Articles II and III of the NPT."

My own view is that the Iranian nuclear archive that was taken out of Iran by the Israelis is raising a lot of questions, indeed, about whether Iran is currently in noncompliance, currently in violation of the Nuclear Non-Proliferation Treaty, as well as Iran's comprehensive safeguard's agreement with the International Atomic Energy Agency, which is required by the Nuclear Non-Proliferation Treaty.

I wonder if Yleem's statement there was perhaps a reference to those continuing questions which have in fact been accelerated, I would say, exacerbated by the material that has come out as part of the archives.

DUBOWITZ: Valerie.

LINCY: Well, I was struck and Andrew and I were speaking about this before coming on here by the, happily struck by the focus on Syria and Syria's use of chemical weapons, which as someone who represents a nonproliferation organization, I've been frustrated by the lack of continued, sustained emphasis on the need to do something about that. Both within the OPTW and the UN, and outside of those organizations, if not enough can be done. Then as Orde said, a strong reiteration of the shortcomings of the JCPOA, and a path forward on how to look for improvements.

DUBOWITZ: Okay, Andrew.

TABLER: First, thanks very much for having me today, and thanks to all of you for coming out. Yeah, it's interesting speaking about, I expected this discussion to be Iran first, then Syria, because that's most of the time when we look at this problem, or when those in the region look at the threat posed by Iran, they see it as paramount. Interestingly, it starts with Syria, then goes to Iran. I think this really shows that Syria remains a major problem in this regard, beyond the civil war, beyond the politics.

Syria, before the war, we had problems with their chemical weapons stockpiles. I think it was one of the largest stockpiles in the world, if not the largest. They had the nuclear issue with the Dair Alzour reactor, and I was in Syria that day, and let me tell you, it was a really eye opening experience for all of us that covered Syria, to think that the first time that North Korea would be found proliferating outside of its borders, would be out in Dair Alzour of all places. There is that.

Then of course, we had Bashar's erratic and benevolent nature, and how much different Bashar's behavior was vis a vis Hafez al-Assad, who was brutal, but more predictable. Bashar's behavior was sort of all over the place. Since the war and after the war, so to speak, it's clear that Syria is becoming an even bigger problem. On chemical weapons we have used, at least four cases which are verified by the regime, two by ISIS. Then you have Syria joining the CWC as part of the Redline Agreement, or the subsequent Redline Agreement.

Then you have continued use and violating of the CWC with the use of chlorine and sarin in at least a couple of cases. Also multiple problems with obviously the declarations, because of Sarins used after that was supposed to be disposed of. It begs the question, well, where did it come from in the first place. It would be a good question, I don't know, to Orde and to others what other violators of the CWC have we had to that degree, in its roughly 20 year history?

We had the nuclear problem outstanding, and I think it was important to emphasize that. But I thought it was very interesting as she got to the end of her Syria comments, which led to our conversation a little bit, that she was referring, I think a bit to how much the context has changed. Because Bashar al-Assad did not win the Syrian civil war on his own steam. He won it through a military intervention by a number of neighboring countries. On his side has been Iran and the Russian Federation.

So, in a way, I think it implied that somehow the subsequent problems that she talked about, the threats coming from Iran, that Syria could potentially be a launch pad for those problems, and part of the general concern of Iran projecting its power to the Mediterranean and beyond.

DUBOWITZ: Let me ask you this, because I sort of was struck during the speech, and I'm often struck during these discussions on nonproliferation issues. They're very technical, they're very legalistic, a lot of acronyms. But of course, behind all of this is our humanitarian issues that in Syria are stunning. Is it fair to say that our Syria policy broadly speaking, has been an abysmal bipartisan failure. Despite all the speeches given, and all the sanctions issued, and the limited military strikes, Bashar al-Assad has won the Syrian Civil War.

He did so using the most horrendous tactics of chemical weapons, and using conventional weapons. There's what, half a million people dead, there's millions of refugees. And he emerged out of this not only victorious, but in winning this victory, what nonproliferation norms? What norms are left?

TABLER: Sure. I mean, it's a very good point. First of all, in my opinion, and this is not a secret, I'm kind of well-known on this subject, primary responsibility for Syria policy as we see it now is that of the Obama administration, because they handled so much of the Syrian civil war, and the various choices along the way. Since that time, in order to effect the outcome of the civil war,

it would require wanting to become more militarily involved inside of the country, especially given the depleted nature of the Al-Assad regime's forces, the various spheres of influence inside of the country.

The United States decided that it didn't want to do that for a variety of reasons. We're then left with the current situation, in which, we have a humanitarian disaster. Over half of the Syrian people outside their homes, over 80 some instances of the use of chemical weapons as pertains to this discussion. Haley, I believe spoke about 50 instances. In here we've talked about four.

Anyways, it's important to note that I think a couple of things. One is western countries have noticed that the problem is not so much about where Bashar used this and that, and where the Assad regime used it. But rather that it's part of a set, a set pattern of behavior that has ground down the Syrian people into submission, under an Iranian and Russian sphere of influence, so to speak. I think that becomes a big part.

DUBOWITZ: Well, then, let's just continue along those lines. We've had dozens of sanctions against the Assad regime. We've had international condemnation, certainly, not of the UN Security Council because of Russia, but sort of public condemnation. We've had lots of speeches. We've had limited military strikes by United States and our key allies. None of this has worked. None of it has been effective.

I would pose it to you, and are we going to bring Assad and his henchmen to justice? Is this an indication that sanctions are a useless tool, in actually deterring and punishing WMD violations? Even limited military strikes of the very limited nature that were leveled by President Trump, seemed to have had no effect. What do you say to that?

LINCY: I'm surprised to say that I feel like there are some positive elements to be drawn out of Syria, what has happened in Syria, both from a nonproliferation point of view, and more broadly. At first, I would say that the process through the OPCW and the United Nations has been slow, but it has, there has been some success. Syria submitted a declaration of its chemical weapons stockpile. That declared stockpile was destroyed. The facilities that Syria declared were visited by UN inspectors, by OPCW inspectors.

There was a process that was successful. Now, clearly, we can see from the continued use of chemical weapons that the declaration was not complete. But there have been technical teams going out to verify the declaration. Here, you see a bit of a parallel with Iran the value of a declaration, the way much a declaration can be used to motivate inspections, or to guide inspectors. You did have OPCW inspectors able to interview personnel, review documents, and compare samples.

All of this was, I think, extremely valuable, and it allows us now at the present time to start to assign blame. So that's why you have the difference between the 50 or the four. There were four instances where we can say for sure that the Assad regime was responsible.

DUBOWITZ: Valerie, let me sort of be somewhat provocative and just pose it this, so you had a Syria situation with chemical weapons, sanctions, limited military strikes, condemnations,

declarations, and at the end of the day, Bashar Al-Assad was using chemical weapons to slaughter his own people. That was in the chemical context. Then take the Syria nuclear context. Syria was building the Dair Alzour plutonium reactor with North Korean help. There was a lot of discussion about this.

Bush administration decided that they wanted to handle that diplomatically, through a process. The Israelis said, "Thanks very much President Bush." Turned around and blew the reactive as smothering, and Syria no longer has a nuclear program. Thank God, because if it had, either Bashar Al-Assad or ISIS might have been in control of nuclear weapons. Isn't the lesson from that, that in the face of a brutal dictator building WMD, willing to use WMD, that you're better off obliterating the program, rather than using the mechanisms of the UN, or the NPT, or whatever other agency? I just put that out provocatively to all you guys.

TABLER: It works for a while.

LINCY: I think it also works for the single, let's say, single reactor versus the chemical weapon program, where the production capabilities are much more...

TABLER: Right, but they're not complying with the NPT anyway in terms of the follow up increase inspections and so and so. We don't know if the Syrian nuclear program is finished.

LINCY: Yeah, there's actually a question about it —

TABLER: Yeah, and I think that was a very important part of Assistant Secretary's discussion, because we don't know that. But what we do know about Bashar al-Assad and his behavior is that he responds to military action, unilateral military action. For a time, it's the mowing the grass concept. Except here it's not mowing the whole yard, it's like pinpointed albeit very important parts of the yard.

DUBOWITZ: Okay, Orde do you want to —

KITTRIE: Yeah, I mean, Valerie is right. There have been some small victories along the way in terms of not holding accountable, but sort of attributing blame for the chemical weapons strikes, etc. But overall, I'm concerned that the message of Bashar al-Assad winning the civil war, and not being held accountable for all of the things he's done, including in the WMD arena, including with regard to non-WMD atrocities. The message to rogue regimes is you ought to fight with no holds barred, and if you win, you won't pay a price for it.

It sends unfortunately, a green light to other rogue regimes, other brutal dictators to fight no holds barred, and to violate all of these norms. It seems to me that we need to find a way of reversing that. Since it looks like Bashar al-Assad will win, we have to find some other way of reversing that.

I don't know what that would be, but it seems to me that that ought to be a higher priority. Because it's not just about Bashar al-Assad. There's a serious issue here of deterring future brutal dictators like Bashar al-Assad, from engaging in the things that he did.

DUBOWITZ: Okay. Let's switch topics to the second part of Yleem's speech, which was really about Iran. Orde, you had mentioned that one of your takeaways was about the Israeli atomic archive and its importance. I know there was a real debate in the analyst community about the importance of that archive. There are people who said it wasn't a big deal, there was nothing new. Even if it was new, it wasn't a violation of the JCPOA, or the NPT, or the Comprehensive Safeguards Agreement.

What is your view of the significance and enduring importance of that atomic archive? What does it say to you? Specifically as a lawyer, an international lawyer, can one say that the existence of it is a violation of the JCPOA and these international agreements?

KITTRIE: Yeah, in my view, the Iranian nuclear archives seemed to indicate that Iran is currently in violation of its obligations under the Nuclear Non-Proliferation Treaty and Iran's Comprehensive Safeguards Agreement with the International Atomic Energy Agency. As I said, Yleem made a somewhat different but similar point in her speech. Look, the archives show that the Iranian Nuclear Weapon's program was larger, more sophisticated, more focused and more advanced than previously understood.

The archives contain considerable previously unknown data on Iranian nuclear weapons' design, high explosive tests related to nuclear weapons development, individuals involved with the nuclear program, and sites for research development and testing. Some of the archive images appear to show undisclosed equipment employed for nuclear weapons work.

In discussing U.S. withdrawal from the JCPOA, the IAEA and many analysts have asserted that Iran is in compliance with the deal's terms. Implying Iran is not in violation of its nuclear related obligations or commitments and that the sole concern is a future change in Iranian behavior. Under that view, the international community's currently in a waiting mode, with Iran claiming the moral high ground, and holding the reigns at the brink of a nuclear breakout. It's a nuclear program largely unassailable, until it chooses to dash for a bomb at the time it deems most propitious.

But Iran, the atomic archive provides substantial evidence of current Iranian violation of its obligations under the NPT, and the Comprehensive Safeguards with too little attention, it seems to me, has been paid to this. The IAEA and the broader international community need to investigate these questions now, and Iran is obligated to comply, to cooperate with IAEA on their investigation. By investigation now, the IAEA would both fulfill its mandate, and help to significantly reduce Iran's ability to dash for a bomb at a time for its choice.

The problem is that legal and political commitments tend to serve as effective constraints only if they're enforced. The failure to punish may be lesser violations, such as retention of prohibited nuclear weapons design material, or retention of information received from outside nuclear weapons engineers, that typically serves to embolden greater violations. If you're not going to hold Iran accountable for holding on to this material, then Iran, it seems to me is going to be more likely to dash to create a nuclear weapon at a time of its choosing.

DUBOWITZ: Valerie, do you agree with that analysis? The argument he's making or its making is pretty definitive. He's saying that there's explicit violations of at least the NPT, the CSA, and I know Orde, you didn't get into the JCPOA itself, but there's been argument that Section T of the JCPOA which specifically prohibits Iran from I think it's acquiring, seeking and acquiring, developing nuclear weapons. That the retention of this massive archive for nuclear weaponization is a violation of Section T of the JCPOA. Are you as confident as Orde is?

LINCY: I'm not. Not having seen, no surprise to you probably, not having seen the full scope of the archive. Having seen really a quite limited amount that was in Prime Minister Netanyahu's presentation. And then that's been released in some news stories since then. My assessment is that it provides a lot more detail, and in some cases, images, which are of course, quite vivid about elements of Iran's nuclear weapon development history that we knew about in terms of the production of fissile material, weaponization of that fissile material, and testing.

DUBOWITZ: But Valerie, let me stop you there, because I'm not sort of, I don't want you to focus too much on whether it was new or not new. How much do we know, we don't know, I think is a raging debate which we can't really have, because we don't —

LINCY: We don't know.

DUBOWITZ: — we don't actually know. What I'm asking more specifically, and I think what this is kind of Orde's point is the fact that Iran retained that documentation. Not only retained that documentation, but then decided after reaching the JCPOA, to take all of this information, consolidate it, and then go hide it, in some warehouse in Tehran, so that it could actually be used in the future, potentially for some potential military nuclear program. In your view, is that a violation of the JCPOA, the NPT, and or the Comprehensive Safeguards Agreement?

LINCY: Well, not being an international lawyer, I would say that it certainly violates the spirit, if I can revive a phrase that was used often in the past, the spirit of the JCPOA, and certainly Iran's treaty commitments under the NPT. I think that it does reinforce a fundamental problem with the JCPOA, which was that Iran never made a full declaration of its nuclear work in the past. That declaration would have guided inspectors, and been the sort of a strong mandate and basis for accessing military sites where this work took place.

None of these things happened until, the revelations to me just reinforce or shine a light on one of the main shortcomings of the JCPOA.

DUBOWITZ: Okay, I'll go back to her in a second, but Andrew, I want to involve you here, because I think we sort of skipped past it too quickly. There is an argument that is made by folks in the Obama administration, by nonproliferation experts. I've heard this argument made certainly in Israel by some folks there, that the deal reached with the Russians and the Syrians on Assad's chemical weapons programs, as you pointed out, it was a massive chemical weapons program.

At the end of the day, most of it was destroyed. They were able to get inspectors in there. I think there is an argument made that it at least diminished what was otherwise a very significant risk,

certainly, to Israel, and to Jordan and some of the neighboring countries. Do you accept that line of argument...?

TABLER: Yes, I do, yes, I do.

DUBOWITZ: Why not?

TABLER: Well, I think there are a couple of things. First of all, it massively reduced the declared stockpile of chemical weapons. That's an indisputable and that's a great victory in terms of trying to get these horrible agents out of Syria. At that point, Syria, the course of the war could have gone either way. I never thought the Assad regime was going to completely collapse. But it could have significantly contracted, and those agents could have gotten to the hands of even more irresponsible parties than people like Bashar al-Assad, and that was a risk.

The problem though is, and this has been from the beginning, western countries have highlighted this shortly after the deal, I think that year after, the declarations themselves were incomplete, and there were real concerns about that. That proved to be true in the sense of that they've used Sarin since the destruction of all the declared stockpile. That remains a big problem.

The larger problem though, I think is it ended up being a complete political failure, in the sense that it was always put to us that it was either a strike, or we had the chemical weapons deal. Well, in and outside of the U.S. government, this is a big debate. There could have been a strike, and you get the political balance, and you get the deal. That would have perhaps taken us in a better direction, we'll never know that.

Unfortunately, we end up with a rogue regime, so to speak, who only control 60% of its territory, under Iran's control and with outstanding issues on the CWC and the NPT.

DUBOWITZ: All right. Let me sort of turn back to Iran, and back to you Orde, because we're talking about rogue regimes, we're talking about certain imperfect arms control agreements, or nonproliferation agreements. We're talking about the fact that you can get certain declarations, but at the end of the day, they're incomplete. I was pulling some stats here. July 18, so Ali Akbar Salehi, who's the head of the Atomic Energy Organization of Iran announces that they've built a factory that can produce rotors of up to 60 IR-6 centrifuges a day, and that the factory has started all its work.

Then Salehi separately said that Iran now has a stockpile of about 950 tons of uranium, including 400 tons that were imported after the JCPOA was finalized. So do these raise significant concerns for you? We are in the process of re-imposing sanctions against Iran. What are we going to do about those IR-6 centrifuges that now amass a stockpile of uranium? Talk a little bit about this, in the context also of some of the other violations that you believe are happening.

KITTRIE: Sure, thanks. I just briefly want to go back to the point about the Iranian Nuclear Archives. The existence of the Iranian nuclear, with all of this data about how to make nuclear weapons, and all the experiments that Iran did. You contrast that with what happened in the Libya and South Africa situation. Those are countries that really came clean, pursuant in

agreement with the U.S. and the UK, Libya in 2004, allowed a team of British and American government experts to enter the country, completely dismantle its WMD infrastructure.

Libya turned over the nuclear weapons designs it had received, and the U.S., UK team shipped out of Libya more than a thousand tons of sensitive documents in nuclear missile components. That is a country really coming clean with regard to nuclear weapons. The same thing with regard to South Africa. South Africa decided in 1990 to dismantle its nuclear weapons program and devices, destroy the hardware, technical design, manufacturing information. In 1993, they turned over 12,000 documents containing that kind of information.

In contrast, you have the Iranian regime, that was basically holding all of the information, and according to the information, and I haven't seen the archives myself, but according to the press reports, they have been continuing the work, just under a different guise. It seems to me that this all, there's a violation going on there. When you contrast it with what happened in the Libya and South Africa situation, it brings out the problem with the current Iran nuclear situation.

With regard to Ali Akbar Salehi's announcement on July 18, I took a quick look, and it looks like these may both be steps that are designed to demonstrate Iranian restlessness, without clearly violating the JCPOA. I know that Salehi said a factory has been built and started, and not that additional centrifuges have been produced or installed, which would raise serious questions. The uranium stockpile appears to refer to non-enriched uranium, rather than enriched uranium.

Now, the challenge, when you're already throwing so much against Iran sanctions-wise, is that you have very little left to specifically respond to and deter incremental problematic steps. If this is a matter obviously of violating the JCPOA, which it may not be, since the U.S. has withdrawn from the JCPOA, it would be up to the EU three, who are still in the deal, to respond with commensurate measures.

What do they have? What are their plans to respond to incremental violations of the JCPOA, or even incremental violations of the NPT, and the Comprehensive Safeguards Agreement? I've seen no evidence of such a plan. Certainly, no announcement of if Iran does X, we will respond with Y. It seems to me that's something you need to have.

DUBOWITZ: It struck me Yleem, Assistant Secretary's Poble's speech, that there's a, she was somehow referencing to Iranian WMD. Are there Iranian WMD? What do we know of Iran's chemical weapons program, or their biological weapons program? Do we know much? I seem to recall also that the four main statutes of sanctions legislations that were passed by Congress, have a termination provision that those statutory sanctions will only be terminated permanently when Iran permanently dismantles its nuclear, chemical, biological programs. Is that speculative? Do we know much in the public domain about these other programs?

KITTRIE: I was struck by that sentence in her speech, actually. It seemed to be a little bit different than the formulations I've seen in the past. I had a chance to very, very quickly look at the annual chemical weapons compliance report by the State Department last issued in March of 2018. Which actually had very little to say about, for example, an Iranian chemical weapons

program. It just states, based on available information, U.S. can't certify Iran has met its obligations under the convention.

Yet here, she's talking about how one of the problems of the JCPOA is that it didn't address Iran's other WMD program. Is she indicating that now she believes that Iran does have other WMD programs? If so, that appears at least with regard to chemical weapons. Didn't have a chance to check biological weapons, to be perhaps a little bit of a change, from the compliance report that her own team issued in March 2018.

I think it'd be interesting to, for somebody to probe and see, was this a significant statement? Was this an indication that something is going on? There is new information with regard to an Iranian chemical or biological weapons program? Or was it just a phrase that's in there, and maybe we're putting a little too much emphasis on it.

DUBOWITZ: There is a recommended next step for an enterprising reporter who wants to follow up on that, because that is very interesting. All right, I think we're pretty much out of time. I think we're going to go to Q&A. We'll have microphones going around. Please put up your hand. I see my old friend, Mark Fitzpatrick over there. Managed to get by security.

FITZPATRICK: Hey, thanks very much for the invitation. This is great. I'm so glad that you got to this compliance issue with Iran because crisis of compliance. It's obvious with Syria. First order, noncompliance, using chemical weapons today. But Iran issue, Assistant Secretary Poblete didn't mention any cases of noncompliance. She did refer one time to Iranian noncompliance with its obligations, but didn't mention any examples, other than the one Orde picked up on, on not clarifying how they got past those past cases of safeguards, noncompliance from the decade or more ago.

Orde, do you think that they're still in noncompliance because of the atomic archives? Can you, with some degree of specificity say what provisions of the NPT of Iran's safeguards obligations, or of the JCPOA, the retention of documents of past nuclear weapons' development work, and Dr. Poblete did say past. What are the specific provisions that are being violated? Thank you.

KITTRIE: Sure. The principle relevant NPT provision is Article II under which Iran is obligated not to manufacture or otherwise acquire nuclear weapons, or seek or receive any assistance in their manufacture. It seems to me that Iran's evident retention of the atomic archive, including its own nuclear weapons design work, as well as the tangible substantive assistance it has received, and its apparent keeping together of its nuclear weapons research team, puts Iran currently in violation of Article II, as it has long been interpreted by the United States.

I'm planning on publishing something on this shortly. Seems to me the most appropriate and effective way to remedy this continuing violation of the NPT, would be for the IAEA to do something similar to what was done with regard to Libya and South Africa. To destroy all information and equipment in Iran, including in the atomic archive, which has no purpose, other than to contribute to the building of a nuclear explosive device.

Now, Iran's Comprehensive Safeguards Agreement, which Iran has entered into with the IAEA pursuant to Article III of the NPT, requires Iran to provide the IAEA with information concerning all nuclear material in Iran, which is subject to safeguards. With information about the features of facilities relevant to safeguarding such material. The atomic archive appears to show that Iran's nuclear program was far more extensive than IAEA inspectors previously understood.

Iran appears to have had and may still have nuclear related materials, activities and facilities that it was, and is required by the Comprehensive Safeguard Agreement to declare to the IAEA, but had not declared to the IAEA. That would place Iran in current violation of both its Comprehensive Safeguard's Agreement, and NPT Article III, which requires Iran to comply with the Comprehensive Safeguard's Agreement.

It seems to me that one remedy for that is the IAEA should undertake special inspections of previously undeclared and other suspect sites reflected in the atomic archive, to determine the extent, purposes and significance of Iran's failure to report to the IAEA nuclear material activities and facilities as required by the Comprehensive Safeguards Agreement.

DUBOWITZ: Can I just add to that, sorry, Valerie, you want to add to that.

LINCY: Just I would like to briefly —

DUBOWITZ: Yeah.

LINCY: I think when we think about compliance with the JCPOA, I think something that the Assistant Secretary didn't reference, but I think is important is to look at some of the recent allegations in UN Secretary General reports, specifically related to nuclear procurement. We know there's a debate about who's responsible, and perhaps the exporting state is technically in noncompliance for having sent nuclear material to Iran, outside of the procurement channel established by the JCPOA.

But Iran obviously has some obligations on its side as well, and the most recent report contained a number of allegations about nuclear dual use, sales or transfers to Iran, that did not go through the procurement channel. I think that's a compliance question that I wish got a bit more attention.

DUBOWITZ: I just take quick prerogative as moderator, but Mark, I also think Section T of the JCPOA is worth again taking a look at. Iran has, it explicitly prohibits Iran from seeking, acquiring and developing nuclear weapons, and I, just sort of common sense view, that if you're taking a massive archive of detailed designs and documents, about how to actually build nuclear weapons. You're taking those documents that are sitting in various places in Iran.

You're consolidating all of it, then you're clandestinely moving that to a warehouse in Tehran, hopefully, to keep it away from the IAEA, and the prying eyes of western intelligence. That just a common sense reading of that Section T suggests that Iran is in violation, because its attempting to still seek WMD.

If it were not attempting to seek WMD, it would turn over these documents. It wouldn't move these documents. It won't try to keep these documents away from the prying eyes of weapons inspectors. So, Michael Gordon.

GORDON: Mark, you are famously in the “fix-not-nix” camp, in terms of the JCPOA. What I would like to ask the panel is having identified these problems, where do we go from here? Because the documentation emerged about a week before President Trump withdrew from the JCPOA. One course of action might have been to actually confront the Iranians over this documentation and initiate a discussion at least attempt to, and then have that be a factor in your decision as to whether to stay with the agreement.

But instead, they got out of the agreement altogether. So we're not party to this agreement, the United States. At the same time, they're putting sanctions, pretty severe sanctions on, basically tied to Iranian behavior in the region. So if Iran were to satisfy U.S. concerns on the nuclear front, we won't take the sanctions off, because they have to cease their ties with Hezbollah, and do a whole range of activities.

We're not party to this agreement, sanctions don't seem to be an effective tool for resolving compliance concerns and the JCPOA, because they're tied to Iranian behavior more broadly. Europe is keeping the agreement, so the west is no longer unified. As much as President Trump talks about wanting to talk with the Iranians, there's in fact, no new negotiation going on, and no discussion whatsoever that anybody can identify.

What are the next, I'd like to hear the panel say, having gotten out of this agreement, and pursue this policy, and how you think one could actually constructively try to resolve these issues with the Iranians?

DUBOWITZ: I've lots of ideas, but I'm the moderator, so, I'm going to turn it over to you guys. I think just let me take Michael's question and ask you sort of a somewhat of a counterfactual. Orde, Valerie, Andrew as well, if Iran indeed was violation of Section T of the agreement, per this nuclear archive, because it was seeking nuclear weapons. Why not actually take that violation, go to the joint commission, and accuse Iran of being in violation? Give them a certain amount of time to explain themselves and come clean on the PMD issue.

If they didn't, move at the joint commission, and then at the UN to unilaterally snap back new sanctions against Iran, while the United States stays on the deal, and then use this tough sanctions, non-nuclear sanctions against the Central Bank for supporting Bashar al-Assad, or financing Hezbollah, or the various malign activities that Michael was referencing.

Why not keep United States in the deal, and assert Iranian violation, and let the Iranian say that they're not in violation for moving hundreds of thousands of documents to some secret warehouse, so they could restart a WMD program in the future? Why not?

LINCY: Why not indeed.

KITTRIE: Why not indeed. I mean, I co-wrote a piece with my colleague Behnam, over there, saying exactly that before the president withdrew from the deal. It was titled *Atomic Archives Strengthens Case to Fix Nuclear Deal*. Basically, my article which published, with Behnam, argued that the U.S. should have stayed in the deal, and used the additional information in the archives, to push Iran, and take advantage of not just the NPT. When I talked about violations, obviously, I focused on the NPT, and the Comprehensive Safeguards Agreement, because Iran is clearly still in those. Those are legally binding.

It's a little hard now for the U.S. to be making a lot of arguments about the JCPOA and violations of Section T, since we have withdrawn from the JCPOA. What's the route forward? Obviously, the administration has decided to ramp up sanctions on Iran, and try to reach a new deal with Iran. Is that going to be successful? I don't know. I do note that a lot of European companies are pulling out of doing business with Iran.

Will Iran under pressure from those sanctions agree to a deal better than the JCPOA? I don't know, I suppose it could happen. Was that my preferred course of action? No, it wasn't. You can read my piece.

LINCY: I also wonder, I mean, I think I know the answer to this, but what is the administration's desired outcome for the JCPOA? Does it see a way forward whereby the United States in the JCPOA, but there is sufficient value in some elements of the agreement to allow it to not actively try to get rid of it entirely? I think my impression from comments is that they are talking about JCPOA in the past tense. The sanctions that they're looking to put back into place, or have put back into place are aimed at accelerating that.

I do think that there is some value for the JCPOA to continue, even if the United States is not in it. You have things like the procurement channel, you have things like the joint commission, and you have the ability for enhanced inspections. There are a series of things. You have the reconfiguration of the Iraq reactor, and the changes at the Fordow Enrichment Plant.

There are, from a nonproliferation point of view, I think there are benefits to have the JCPOA — I think the administration should see that there are benefits to have the JCPOA continue. I think for me, that's the immediate question in terms of looking towards the future.

DUBOWITZ: Andrew, you raised a great point, I think, on this in the Syria context, which I hadn't really thought of, which is there was a chemical weapons deal. President Obama decided not to "enforce the Redline, not to launch military strikes." He got this deal. It was clearly an imperfect deal. It was a flawed deal. It solved the certain short term problem, but it didn't solve a medium to long term problem. You underscored something very important, which is the sort of political dimensions of that deal, and the political consequences of that deal.

Which I think, at the end of the day, we all agree politically speaking, it's been a massive failure and a catastrophe, with respect to Bashar Assad, and the survival of this regime. Any lessons to draw from that, with respect to Iran, the nuclear deal, the JCPOA, this whole discussion that sort of nonproliferation nerds tend to have?

TABLER: It's an excellent question. I think the major criticism of the deal from a Syria context, or from a regional context was that the problem was not per se, about the agreement concerning, but was about what was baked into the agreement. What was baked into the agreement, not to mix metaphors here too much, was a license for Iran to expand in the region, which it did massively. That's undisputable.

This is where it gets down again to, and it's very easy, we think in terms of states, so we say oftentimes that Bashar al-Assad is winning the Syrian civil war. That's really only in the legal case. If you look at Iranian influence in Syria, it is a mosaic of forces, which are interspersed within what used to be the Syrian Arab Army. Therefore, you get what I think in Israel, I've heard referred to, but also in other places, is as a massive strategic failure.

What I expected after withdrawing from, what would make sense to me is after withdrawing from the nuclear agreement, that you would put in place a plan to roll back Iranian influence in the region. The problem, of course, in that is that you need to devote military resources, at least in part to doing that. At least in the case of Syria, passively holding territory, and keeping it out of the hands of the Assad regime, so that you can financially, in other means, strangle it in a way and pressure it.

But until now, this is still a matter of dispute, whether there was recently the deal between the Israelis and the Russians and the Jordanians over the Southwest. Then there's the issue about what to do in Eastern Syria, and should U.S. troops stay. It would seem to me that now that this license has been revoked, the United States will be in a good place to benefit from that, and to keep those forces there, both to keep ISIS down, and to use leverage points on the Assad regime, as we try and pull the Iranians, with Russian support out of that country.

DUBOWITZ: Right, but yet the president keeps flirting with this idea that he's going to withdraw the 2,000 U.S. troupes from Eastern Syria, bring them all home, and what, cut a deal with Putin to police Iranian behavior?

TABLER: Or a draw down. I mean, there are various reiterations of this, and it's a controversial issue inside of the U.S. government. We could see a reduction of troops. I think the main driver though of this, and this is important to watch, and this is in the context of the Southwest agreement, ISIS still exists in Syrian territory. What is under-reported is how much it exists in the center of the country under regime control. They're making raids around Palmyra on a regular basis. That's quite far westwards.

The problem is, is if troops are withdrawn too quickly, then the likelihood of ISIS reconstituting itself, or reasserting itself more quickly goes up. I think that's something we all need to avoid, whether it's in terms of regional security, or international security.

DUBOWITZ: Okay. Any further questions? Over here, sir?

TUCKER: Hi, thanks. Patrick Tucker with *Defense One*, a very comparatively dumb question. You mentioned these archives at several different points. Do we have an absolute sense of their actual size, their actual location? Like for instance, could there possibly be more of them than are

currently accounted for, because you seem to be making the case that their very existence shows that violations of JCPOA.

But if our understanding of their size is not complete, then how do we exactly make that determination? What's the method after I've withdrawn everything else, for determining the size and the completeness of our understanding of those archives?

DUBOWITZ: I would say for further details, you should talk to the gentleman sitting next to you. Introduce yourself, Dr. Olli Heinonen. He was former deputy director-general for the IAEA for safeguards, so.

TUCKER: Okay.

DUBOWITZ: When the event is over, you guys should have a chat.

KITTRIE: I just know with regard to that, the Israelis, all I know is what I've read in the *New York Times* and other press reports, that the Israelis went in, and they took some of what was in that warehouse. But far from all of it. They weren't able to carry all of it. We don't know whether there were other sites, where there's archival material. We don't know if the Iranians have kept other copies of this archival material.

It seems to me, this is a job for the International Atomic Energy Agency, to go visit that site, see what is left. To, if that material has left that, probably Iranians moved everything out of that site after they discovered these Israelis broke in. Well, where did they take it to? This, it seems to me is a job for the International Atomic Energy, this is why they exist. To track down this sort of material relevant to Iran's nuclear weapons program.

So far as I can tell, the Israelis have turned over what they got. They turned over copies, according to press reports to the U.S., to the Europeans, to the IAEA. But I have heard no reference to the IAEA going into Iran and trying to see what is left. Certainly, according to Israeli reports, there's plenty left, because the Israelis only took some of what was in that warehouse, let alone what was in other warehouses.

DUBOWITZ: Okay. I think on that note, thank you all for coming, and thank you to C-SPAN for broadcasting this. Certainly, feel free to stay afterwards for follow up questions. We'll see you soon at another FDD event. Thanks guys.