

The Iran Nuclear Deal

(Remarks prepared for a rally at the Legislature, Winnipeg, Mb. 30 July, 2015)

by David Matas

Introduction

The Iran nuclear agreement, formally called the 'Joint Comprehensive Plan of Action', between Iran on one side and the five permanent members of the Security Council, Germany and European Union on the other, signed July 14, 2015, raises two questions. One is whether a better deal could have been negotiated. The other is whether no deal is better than this deal. The answer to both questions is yes.

Iran Nuclear Deal & Human Rights

It defies understanding why those negotiating with Iran did not insist on a commitment from Iran to human rights as part of this deal. If it had been asked, Iran would have likely accepted and this acceptance would have been useful. Not that Iran respects human rights. Far from it. For them, the acceptance would have been an exercise in hypocrisy. But it would have been an exercise in hypocrisy in which, history shows us, they would have been all too willing to engage.

Iran has ratified the *International Convention on the Elimination of all Forms of Racial Discrimination* in 1968, the *International Covenant on Civil and Political Rights* in 1976 and *The International Covenant on Economic Social and Cultural Rights*, also in 1976. These instruments admittedly were ratified before the mullahs seized power. But the mullahs could have renounced the ratifications and have not done so. Iran ratified the Convention on the Rights of the Child in 1994.

Iran continues to comply, admittedly belatedly, with at least the procedural requirements of the instruments, engaging in periodic reporting. Iran reported to the Committee on Economic Social and Cultural Rights established under The International Covenant on Economic Social and Cultural Rights in 1993 and 2013. Iran reported to the Human Rights Committee established under the International Covenant on Civil and Political Rights three times, the second time in 1993 and third time in 2011. Iran has reported nineteen times to the Committee on the Elimination of Racial Discrimination established under International Convention on the Elimination of all Forms of Racial Discrimination, the most recently in 2010. Iran reported twice to the Committee on the Rights of the Child established under the Convention on the Rights of the Child, the most recently in 2005.

It would have been a simple matter to ask Iran, as part of the deal, to reaffirm its commitments already undertaken by virtue of its ratification of these instruments. From all available evidence, this did not happen - not because Iran balked, but because Iran was never asked. It is unfathomable why the question was never put.

One might well ask, what is the point, given the hypocrisy and substantive disregard Iran now shows for human rights, despite its adherence to these instruments? To answer that question, one need only turn to the Helsinki Accord.

The Helsinki Accord, the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki in 1975, by 35 states of Europe and North America linked territorial integrity and inviolability of frontiers with human rights. It took the place of a World War II peace treaty in Europe that was never signed.

There had never been a peace treaty after World War II recognizing the boundaries of the states set up after the War in Eastern Europe. The Helsinki Accord came as close to a Western acceptance of the Soviet view of the boundaries

of Eastern Europe as the Soviets were likely to get. To the Soviets, the Helsinki Accord was a prize document. The ten basic principles of the Helsinki Accord, including one on human rights, were put into the Soviet constitution.

Because the Helsinki Accord was such a prize to the Soviets, human rights activists had a great deal of leverage when using it. If human rights were not being respected, as the Helsinki Watch groups argued they were not, then all the other principles, including the principles of territorial integrity and inviolability of frontiers did not need to be respected.

Helsinki Watch groups sprung up first in Eastern Europe and the Soviet Union, and then, in support, in the West. In the United States, Robert Bernstein founded Helsinki Watch in 1978. Helsinki Watch in turn was instrumental in forming the International Helsinki Human Rights Federation (the IHF), which was created in 1982, headquartered in Vienna. The US Helsinki Watch broadened to become in 1988 Human Rights Watch. Though the IHF is now gone, it played an important part in drawing back the Iron Curtain.

A human rights component to the nuclear deal, if only it had been inserted, could have played a similar role to the human rights component of the Helsinki Accord. The loss of that opportunity is inexplicable.

No Deal is Better than This Deal

As to the second question, whether no deal is better than this deal, the answer to that question also is yes. The world would be better off with no deal, even though it means that Iran continues to attempt to obtain nuclear weaponry by hook or by crook, than this deal, in spite of the fact that this deal does degrade nuclear weapons development for Iran. There are at least twelve reasons for this position:

1) The countries which have the most to lose from nuclear weapons development by Iran, Saudi Arabia and Israel, are both against this deal. Saudi Arabia and Israel come at the issue from entirely different perspectives and do not agree on a whole lot. Their opposition should tell us something.

2) The deal provides Iran with a financial windfall through the lifting of sanctions. Iran has an estimated \$150 billion in assets frozen by international sanctions. An estimated \$50 billion of that amount exists in liquid form.

A lifting of sanctions would mean that those assets would be at the disposition of the Iranian regime. Those assets could and almost certainly would be used in part to fund terrorism.

Both the United States and Canada have already designated Iran as a state sponsor of terrorism. It is foolish to give the regime a huge amount of money to do exactly that.

3) The Iranian regime of the mullahs is untrustworthy. It has lied, dissimulated, obfuscated and covered up consistently. No deal makes sense with a partner that one cannot trust.

Iran is already a state party to the Nuclear Non-proliferation Treaty. Like the human rights covenants, this treaty was signed before the mullahs seized power. (It was signed and ratified in 1970). Also like those covenants, Iran could have renounced the treaty but did not and instead pretended it was in compliance.

If Iran had been respecting that treaty, this deal would not have been necessary. When it's clear that Iran has not been respecting one nuclear non-proliferation treaty, why would anyone expect them to respect another?

To call the regime of the mullahs untrustworthy understates the risk. The regime is crazed, delusional. The irrational dishonest are considerably more untrustworthy than the rational dishonest. Take this example.

A suicide car bomb terrorist attacked the Jewish community centre, called the Israeli-Argentine Mutual Association (AMIA), in Buenos Aires in July 1994, killing 85 and wounding over 200. The Argentinean intelligence service investigated this attack and concluded, in a detailed report, that the attack was planned and organized by the Government of Iran.

The decision to mount the AMIA attack was taken in August 1993 by Iran's National Security Council. Participating in the decision were Ayatollah Khamenei as well as the then president Hashemi Rafsanjani. Iran used Hezbollah to perpetrate the attack.

Argentina has requested the extradition of five suspects from Iran for their part in the bombing and issued Interpol red notices for them. One of the five was Ahmed Vahidi. After the 2009 elections in Iran, then President Mahmoud Ahmadinejad named Vahidi as his Minister of Defence. Iran has refused to comply with the extradition requests.

Argentina had a nuclear materials transfer agreement with Iran, which was cancelled by Argentina in 1991. The Investigations Unit of the Office of the Attorney General, in a report published on October 25, 2006, wrote that the termination

"bore a lot of weight, in our opinion, in Iran's decision to carry out a terrorist attack in Argentina."

This example shows that we are dealing with a regime imbued with antisemitic hysteria. This is sort of murderous bigotry, which buys into the thesis of the Jewish

control conspiracy, as we learned all too well from the Nazis, threatens not just the Jews, but the peace of the world.

4) The size of the deal is its own refutation. It runs to 159 pages of closely typed and worded clauses, attempting to cut off every imaginable loophole. That sort of drafting is an acknowledgement that Iran potentially will exploit every loophole it can.

Yet, the imagination of the dishonest far exceeds the ability of the honest to close off loopholes. Only the known loopholes are potentially closed. The not yet, but inevitably invented, remain open.

If Iran were honest, a one sentence agreement - We will not develop nuclear weapons - would be enough. When Iran is dishonest, even a text of 159 pages is going to be too short.

5) The deal in any case does not close off every loophole. One loophole that remains is that inspection by the International Atomic Energy Agency of military facilities requires 24 days notice (Annex I "Nuclear Related Measures", Section Q "Access", Article 78). A lot can be hidden in 24 days. A proper inspection regime should allow for surprise inspections, not inspections only with substantial notice.

6) Characterizing the choice as one between 'sanctions' and 'this deal' is not quite right. The choice is rather between sanctions now and sanctions later. If Iran does not comply, the penalty for non-compliance is re-imposition of the sanctions.

Re-imposing the sanctions is going to be more difficult than maintaining them. Any claim of violation will inevitably be contentious. Unless and until sanctions are re-imposed Iran gets a double windfall, violation of the treaty, and no or lesser sanctions.

7) Proponents of the deal have argued that the sanctions regime cannot be maintained. Yet, if this were really so, Iran would not have agreed to the deal. Iran certainly believed that the sanctions regime was firmly in place.

Moreover, if the sanctions regime cannot now be sustained in the absence of a deal, how likely is the re-imposition of sanctions in the face of a violation? States not willing to maintain sanctions now even without a deal, insofar as such states exist, are unlikely to want to re-impose sanctions later.

8) The deal is temporary. Ten years from adoption, all of Iran's sanctions end. Fifteen years after adoption, uranium enrichment limitations end. Twenty years after adoption, International Atomic Energy Agency supervision ends. Twenty-five years after adoption, International Atomic Energy Agency verification ends.

Iran's nuclear ambitions are long standing. The regime of the mullahs has had nuclear ambitions since the day they seized power in power in 1979. It is now thirty-six years from that date. The effort of Iran to acquire nuclear weapons is slow moving, but long standing. A ten, fifteen, twenty and even twenty five year hiatus, for the regime, will to them be just a blip, particularly when they gain other assets which makes acquisition after these periods much easier.

9) The deal gives support and legitimacy to a regime that deserves none. The best way to remove the Iranian nuclear threat is to remove the regime of the mullahs. That removal has to come from within, from the Iranians themselves. That means doing nothing to give credit or legitimacy to the regime. The deal, by doing that, moves in exactly the wrong direction.

Nuclear weapons in the hands of a human rights violating, terrorist sponsoring, antisemitic and anti-Zionist regime have to alarm everyone. The answer though is

not to keep the regime and have it promise to limit temporarily its nuclear weapons development. The primary target has to be to remove the ideologues from power that drive the regime. The current deal gets priorities reversed, pretending that nuclear weapons are the real problem, when the real problem is the ideology of the regime.

10) The deal can be looked at from two perspectives: one by looking only at the nuclear weapons issue alone, and the other by looking at the nuclear weapons issue in context. The better perspective is the contextual one.

The deal addresses nuclear weapons in a vacuum. Human rights are ignored. Terrorist activity is ignored.

The deal ignores the linkage between human rights and peace. Human rights and terrorism are sacrificed on the altar of the deal. By turning a blind eye to human rights violations and terrorism, these violations become more likely. Strengthening a regime which engages in systemic gross human rights violations and terrorist activity strengthens the prospect of these abuses.

Western proponents of the deal confuse means and ends. Getting to respect for human rights and peace means more than delaying the prospect of development of one particular type of weapon, as devastating as that weapon is. Even if the deal degrades, for a period, the ability of Iran to produce nuclear weapons, it enhances the ability of the regime of the mullahs to wreak havoc in other ways, by the huge cash infusion through the unfreezing of assets now frozen through sanctions and by the increase of legitimacy to the regime the deal gives.

The regime of the mullahs regularly threaten the Jewish people with genocide through calls for the destruction of Israel which the mullahs even refuse to call by its proper name - instead calling Israel "The Zionist entity". Genocide does not

have to occur through nuclear destruction. In Rwanda, it occurred with machetes. In the Holocaust, it occurred with bullets and poison gas. In Ukraine, it occurred through seizure of crops and forced starvation.

The regime of the mullahs of Iran is a threat to human rights because of its ideology of incitement to hatred, its antisemitism and anti-Zionism, its religious intolerance, its wide variety of human rights violations, its prolific terrorist activity. Putting all this to one side in pursuit of a deal which addresses only one type of weapon lacks perspective. It is an attempt to stop a forest fire by chopping down only one tree. The message the deal conveys to the mullahs is that those on the other side care less about what they do than how they do it.

The alternative to no deal is continuing sanctions. The comparison between continuing sanctions and the deal in their impact on the degradation of the ability of Iran to produce nuclear weapons has to be contextual. Even if continuing sanctions in isolation offers a lesser degradation of the ability of Iran to produce nuclear weapons than the deal, in context that is not so.

Sanctions, in addition to their immediate practical effect of forestalling nuclear weapons development, erode support for the regime. The lifting of sanctions undermines opposition to the regime. Because the best hope in the long term for a nuclear weapons free Iran is a regime not controlled by the mullahs, this deal goes in exactly the wrong direction by making the continuation of the regime of the mullahs more likely.

11) Even if the perspective is narrowed to look only at nuclear weapons development and nothing else, no deal with continuing sanctions does more to degrade nuclear weapons development in Iran than the deal does. No deal with sanctions means that the technology, the hardware, the raw materials Iran needs

to develop the bomb are all blocked. There are admittedly leaks in this system; the sanctions are not watertight. But neither is the deal.

The reason it has taken 36 years and counting for Iran to develop a nuclear weapon is the sanctions. The sanctions regime has been working. It makes little sense to abandon it.

12) In rejecting the deal, I am not proposing regime change through foreign invasion. The Americans and British tried that once, through an engineered coup in August 1953, removing the democratically elected Mohammad Mossaddegh and his National Front from office, considering him too leftist.

There is a direct link between that coup and the arrival of the mullahs in power. The aftermath of the 1953 coup is one example of many that foreign interference often leads from bad to worse.

Change has to come from Iranians, not foreigners. The mullahs are a tiny minority of Iranians, ruling by force. The duty of outsiders is to help the oppressed, the Iranians who resist the tyranny of the regime. The nuclear deal does anything but.

.....
David Matas is an international human rights lawyer based in Winnipeg, Manitoba, Canada and senior honorary counsel to B'nai Brith Canada.