Iranian Nuclear Negotiations Challenge U.S. Officials to Reinforce the Role of the Rule of Law

by Dr. Nancy Gallagher

The Obama administration is facing what could become one of the most consequential policy decisions of the twenty-first century: Whether diplomacy and international law or threats and use of military force is the more effective way to reduce nuclear risks, with Iran’s nuclear program being the current focus.

Recent U.S. media coverage has revolved around Republican leaders’ invitation for Israeli Prime Minister Benjamin Netanyahu to tell Congress why he fears that the Obama administration is about to make a set of negotiating compromises that would perpetuate an “existential threat” to one of the United States’ closest allies. But coverage of the partisan political drama often misses more fundamental questions for security policy.

Netanyahu insists that the only way to prevent a nuclear-armed Iran is to ensure that the country has no dual-use nuclear capabilities. Unless Iran dismantles all centrifuges and gives international inspectors unrestricted access to all scientists and sites where clandestine nuclear work could occur, the best option is preventive military action like Israel’s 1981 attack on a nuclear reactor in Iraq, and the United States’ 2003 invasion. The George W. Bush administration took that rhetorical position vis-à-vis Iran, too, but never decided that the benefits of military action outweighed the costs and risks in practice.

The Obama administration wants to address concerns about what Iran might do with its nuclear capabilities by trading partial sanctions relief for a package of limitations and transparency measures such that Iran could operate enough centrifuges to meet its “practical needs” for a purely peaceful program, but not make a bomb’s worth of fissile material in less than a year by “breaking out” or “sneaking out” of its commitments. Technical experts are exploring various combinations of constraints on how many and what type of centrifuges Iran could operate or store, how much low-enriched uranium it could retain instead of send to Russia for fabrication into fuel rods, how quickly and easily it could increase its enrichment capability, and how fast inspectors could detect violations. They are also discussing how much sanctions relief Iran would receive, and how long Iran would have to comply with these special restrictions before being treated like Japan, Brazil, or any other country with advanced nuclear capabilities which has pledged under the Nuclear Nonproliferation Treaty not to make weapons.

Even if negotiators can agree in the next few weeks on a set of parameters within which they could hammer out the technical details of an accord, another critical question is whether they can get the necessary domestic support in both the United States and Iran. Here, the fundamental problem is that the types of things that the Obama administration has been saying to reassure American hardliners increases opposition among hardliners in Tehran, while Ayatollah Khamen'i’s pronouncements have a comparable effect on U.S..
Perhaps the most important thing that is rarely mentioned is that the outcome of negotiations with Iran will affect not only security in the Middle East, but also global efforts to prevent proliferation through cooperation rather than military action. Reaching agreement on rules about what Iran will do with the dual-use nuclear capabilities it has, and on international oversight to ensure that it honors those commitments would reaffirm an international consensus on the core principles of the 1968 Non-proliferation Treaty (NPT). The United States played a leading role in the creation of that accord, as well as the 1995 agreement to extend it indefinitely. It provides the legal basis for all international efforts to increase transparency and reduce nuclear risks. Israel, India, Pakistan, and North Korea are the only countries that still reject this accord. Strengthening the near-universal consensus on cooperative nonproliferation will only become more important in the coming years as more countries decide that they, too, want to use nuclear power to meet their own economic development and energy needs without risking public health through air pollution or causing catastrophic climate change.

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