

“Ambassador Nikki Haley’s Remarks on Iran and the JCPOA”  
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*Remarks as Prepared for Delivery:*

Thank you very much for hosting me here today. Arthur Brooks is one of the coolest people I know. His book, *The Conservative Heart*, was brilliantly written. I value his friendship and the contributions AEI continues to make.

I am here today to speak about Iran and the 2015 nuclear agreement. This is a topic that should concern all Americans as it has a serious impact on our national security and the security of the world. It’s a topic that comes up frequently at the United Nations.

And it’s a topic we have been looking at carefully, including recently visiting with the Iran nuclear monitors at the International Atomic Energy Agency in Vienna.

We were impressed by the IAEA team and its efforts. Director General Amano is a very capable diplomat, and he is a serious person who clearly understands the critical nature of his task. In our discussion, Amano made an observation that stood out to me. He said that monitoring Iranian compliance with the nuclear deal is like a jigsaw puzzle. Picking up just one piece does not give you the full picture.

That’s a very appropriate metaphor and it goes well beyond the work of the IAEA. It goes to the entire way we must look at Iranian behavior and American security interests.

Many observers miss that point. They think, “Well, as long as Iran is meeting the limits on enriched uranium and centrifuges, then it’s complying with the deal.”

That’s not true. This is a jigsaw puzzle.

Next month, President Trump will once again be called upon to declare whether he finds Iran in compliance with the terms of the deal. It should be noted that this requirement to assess compliance does not come from the deal itself.

It was created by Congress in the Iran Nuclear Agreement Review Act, also known as the Corker-Cardin law. That’s a very important distinction to keep in mind, because many people confuse the requirements of the deal with the requirements of U.S. law.

I am not going to prejudge in any way what the President is going to decide next month. While I have discussed it with him, I do not know what decision he will make. It is his decision to make, and his alone.

It’s a complicated question. The truth is, the Iran deal has so many flaws that it’s tempting to leave it. But, the deal was constructed in a way that makes leaving it less attractive. It gave Iran what it wanted up-front, in exchange for temporary promises to deliver what we want.

That’s not good.

Iran was feeling the pinch of international sanctions in a big, big way. In the two years before the deal was signed, Iran’s GDP actually shrunk by more than four percent. In the two years since the deal, and the lifting of sanctions, Iran’s GDP has grown by nearly five percent. That’s a great deal for them. What we get from the deal is much less clear.

Richard Nephew 9/5/2017 12:09 PM

**Comment [1]:** This is true, but it underscores the central point: the JCPOA deals with the nuclear program in a way that it is **unattractive** to lose the nuclear-related restrictions in order to impose more sanctions. That’s exactly right.

Richard Nephew 9/5/2017 12:11 PM

**Comment [2]:** This is not true. If anything, the opposite was true. We promised Iran long-term economic growth and benefit that would not begin until our sanctions were eased in January 2016. We told people that we would sanction them right up until the deal went into force because we were concerned about this very same problem. Implementation day worked out that our sanctions were only relieved that day, while the IAEA confirmed Iran had moved its nuclear program from 2-3 months to a bomb option to a year, increased transparency, etc. **We got our benefits immediately, Iran was given a promissory note.** It is true that our benefits are temporary and Iran’s are forever (provided that they stay on the straight and narrow) but it is exactly the opposite of this contention.

Richard Nephew 9/5/2017 12:11 PM

**Comment [3]:** Building off of a much smaller base and still without much in the way of investment or business development to speak of. That’s one of Iran’s core complaints.

I am here to outline some of the critical considerations that must go into any analysis of Iranian compliance. And I hope to debunk some of the misperceptions about the decision the President will face next month.

The question of Iranian compliance is not as straight forward as many people believe. It's not just about the technical terms of the nuclear agreement. It requires a much more thorough look.

Iranian compliance involves three different pillars. The first is the nuclear agreement itself, the Joint Comprehensive Plan of Action, or JCPOA.

The second pillar is UN Security Council Resolution 2231, which endorsed the nuclear deal, but also restricted numerous other Iranian behaviors.

And the third pillar is the Corker-Cardin law, which governs the President's relationship with Congress as it relates to Iran policy.

Before diving into these details, it's important to lay a foundation for exactly what we're dealing with when we talk about the Iranian regime.

Judging any international agreement begins and ends with the nature of the government that signed it. Does it respect international law? Can it be trusted to abide by its commitments? Is the agreement strong enough to withstand the regime's attempts to cheat? Given these answers, is the agreement in the national interests of the United States?

The Islamic Republic of Iran was born in an act of international lawbreaking.

On November 4, 1979, a group of Islamic revolutionary students overran the U.S. Embassy in Tehran. In violation of international law, they held 52 American Marines and diplomats hostage for 444 days.

For the 38 years since, the Iranian regime has existed outside the community of law-abiding nations. Henry Kissinger famously said that Iran can't decide whether it is a nation or a cause.

Since 1979, the regime has behaved like a cause — the cause of spreading revolutionary Shiite Islam by force. Its main enemy and rallying point has been and continues to be what it calls the Great Satan . . . the United States of America.

And the regime's main weapon in pursuit of its revolutionary aims has been the Islamic Revolutionary Guard Corps, or IRGC.

Soon after the revolution, the IRGC was created to protect the revolution from its foreign and domestic enemies. The IRGC reported, not to the elected government, but to the Supreme Leader alone.

Soon after its own creation, the IRGC founded Hezbollah to spread Iran's influence and its revolution abroad.

Then came the bombing of the U.S. embassy in Beirut in 1983. 63 Americans were killed.

Then came the bombing of the Marine barracks. 241 Americans killed.

Then the kidnapping and murder of CIA station chief William Buckley.

Richard Nephew 9/5/2017 12:13 PM

**Comment [4]:** This is an interesting point and worth thinking about. It argues, quite strongly, that Haley does not believe an agreement with Iran under its present form of government is achievable. What precisely would be the intent, therefore, of decertifying Iran under the JCPOA?

In 1985, a TWA airplane was hijacked. The body of a U.S. Navy diver was dumped on the runway at the Beirut airport.

In 1988, U.S. Marine Colonel Robert Higgins, a UN peacekeeper in South Lebanon, was kidnapped and executed.

Under the IRGC's direction, Hezbollah then expanded its lethal reach to Europe, Africa, Asia and the Americas in search of victims to kill.

In 1994, a Jewish community center in Buenos Aires was bombed. 85 killed.

In 1996, a truck bomb blew up Khobar Towers in Saudi Arabia. Nineteen U.S. airmen killed.

Throughout the Iraq war, the number one killer of U.S. troops was improvised explosive devices, or IEDs, the deadliest of which were supplied by the IRGC. Thousands of American men and women were wounded or killed.

In 2005, Lebanese Prime Minister Rafik Hariri was assassinated.

In 2011, the U.S. disrupted an IRGC plot to bomb an American restaurant less than two miles from here. The target was the Saudi Ambassador.

Today Hezbollah is doing the Iranian regime's dirty work supporting the war crimes of Syria's Assad. And it is building an arsenal of weapons and battle-hardened fighters in Lebanon in preparation for war.

This is the nature of the regime, and its quest to overturn the international order. Its power and influence has grown over time, even as it remains unaccountable to the Iranian people. It's hard to find a conflict or a suffering people in the Middle East that the Iranian regime, the IRGC, or its proxies do not touch.

In parallel with its support for terrorism and proxy wars, Iran's military has long pursued nuclear weapons, all while attempting to hide its intentions.

For decades, the Iranian military conducted a covert nuclear weapons program, undeclared and hidden from international inspectors. In 2002, Iranian dissidents revealed the existence of a uranium enrichment plant and heavy water reactor—both violations of Iran's safeguards agreement with the IAEA.

The regime went on to break multiple promises to abide by international inspections and limits. It hid its nuclear weapons development and lied about it until it got caught.

In 2009, American, British, and French intelligence revealed the existence of a secret uranium enrichment plant deep inside a mountain, deep inside an IRGC base. The British Prime Minister summed up Iran's behavior well, calling it, quote, "the serial deception of many years."

It was soon after this that President Obama began negotiating a deal with Iran. The deal he struck wasn't supposed to be just about nuclear weapons. It was meant to be an opening with Iran; a welcoming back into the community of nations.

President Obama believed that after decades of hostility to the U.S., the Iranian regime was willing to negotiate an end to its nuclear program.

Much has been written about the JCPOA. I won't repeat it all here. Let's just say that the agreement falls short of what was promised.

Richard Nephew 9/5/2017 12:15 PM

**Comment [5]:** Worth noting that these dissidents were the National Council of Resistance of Iran, which was the front of the MEK terrorist group. The same MEK that has paid thousands of dollars to folks at AEI and elsewhere in Washington.

Richard Nephew 9/5/2017 12:16 PM

**Comment [6]:** No, it was not yet a uranium enrichment plant.

Richard Nephew 9/5/2017 12:15 PM

**Comment [7]:** It was the production plant, not the reactor.

Richard Nephew 9/5/2017 12:17 PM

**Comment [8]:** It was 3.5 years and a lot of sanctions later. That's a presidential term, to be clear.

Richard Nephew 9/5/2017 12:18 PM

**Comment [9]:** This is simply not true. We started negotiating a nuclear agreement and that was the content of it. We decided long before hand that we would not get a broader agreement. In fact, that was one of the critiques starting in 2013. It WAS about an opening to Iran, but not supposed to get everything done in one go.

Richard Nephew 9/5/2017 12:19 PM

**Comment [10]:** No, that's not true. Read this:  
<https://obamawhitehouse.archives.gov/the-press-office/2013/11/23/fact-sheet-first-step-understandings-regarding-islamic-republic-iran-s-n>

You will see the word "constrain" with respect to the nuclear program. Obama said "end" back in his initial campaign and that was 5 years before we got to the JPOA, much less the JCPOA.

We were promised an “end” to the Iranian nuclear program. What emerged was not an end, but a pause. Under the deal, Iran will continue to enrich uranium and develop advanced centrifuges.

We were promised “anytime, anywhere” inspections of sites in Iran. The final agreement delivered much less. The promised 24/7 inspections apply only to Iran’s “declared” nuclear sites. For any undeclared but suspected sites, the regime can deny access for up to 24 days. Then there’s the deal’s expiration dates.

After ten years, the limits on uranium, advanced centrifuges, and other nuclear restrictions begin to evaporate. And in less than ten years, they have the opportunity to upgrade their capabilities in various ways.

The JCPOA is, therefore, a very flawed and very limited agreement. But even so, Iran has been caught in multiple violations over the past year and a half.

In February 2016 — just a month after the agreement was implemented — the IAEA discovered Iran had exceeded its allowable limit of heavy water. Nine months later, Iran exceeded the heavy water limit again. Both times, the Obama Administration helped Iran get back into compliance and refused to declare it a violation.

If that’s not enough, the biggest concern is that Iranian leaders — the same ones who in the past were caught operating a covert nuclear program at military sites — have stated publicly that they will refuse to allow IAEA inspections of their military sites.

How can we know Iran is complying with the deal, if inspectors are not allowed to look everywhere they should look?

Another major flaw in the JCPOA is its penalty provisions. Whether an Iranian violation is big or small — whether it is deemed to be material or non-material — the deal provides for only one penalty. That penalty is the re-imposition of sanctions.

And if sanctions are re-imposed, Iran is then freed from all the commitments it made.

Think about that. There is an absurdly circular logic to enforcement of this deal. Penalizing its violations don’t make the deal stronger, they blow it up.

Iran’s leaders know this. They are counting on the world brushing off relatively minor infractions, or even relatively major ones. They are counting on the United States and the other parties to the agreement being so invested in its success that they overlook Iranian cheating. That is exactly what our previous administration did.

It is this unwillingness to challenge Iranian behavior, for fear of damaging the nuclear agreement, that gets to the heart of the threat the deal poses to our national security.

The Iranian nuclear deal was designed to be too big to fail.

The deal drew an artificial line between the Iranian regime’s nuclear development and the rest of its lawless behavior. It said “we’ve made this deal on the nuclear side, so none of the regime’s other bad behavior is important enough to threaten the nuclear agreement.”

The result is that for advocates of the deal, everything in our relationship with the Iranian regime must now be subordinated to the preservation of the agreement.

Richard Nephew 9/5/2017 12:19 PM

**Comment [11]:** Again, that is emphatically not true.

Richard Nephew 9/5/2017 12:20 PM

**Comment [12]:** It is true that Secretary Kerry, I believe, uttered these words. That was an error and one corrected long before we debated the JCPOA’s final text.

Richard Nephew 9/5/2017 12:20 PM

**Comment [13]:** This is true.

Richard Nephew 9/5/2017 12:21 PM

**Comment [14]:** This is all true, but the amounts we are talking about – and the degree to which Iran exceeded the requirements to get back under the threshold – are being ignored.

Richard Nephew 9/5/2017 12:24 PM

**Comment [15]:** Because we have a robust system of inspections, intelligence services, and indicators that we can consult to give us a sense of these things.

Before folks scream about “military sites,” stop and think: are we really talking about going to see every mess hall in the Iranian army? How about every truck maintenance shed? Of course not. We are talking about a defined list of potentially suspect sites that is created through intelligence analysis and threat probability. That’s the only way to derive the list of inspection targets to pursue. So, we were ALWAYS going to be stuck with a list of defined targets that isn’t “anywhere, anytime.” Beyond that, we had “anywhere, anytime” for long stretches in Iraq, and were convinced that we had lost that thread too because we had reports to the contrary. This is the bigger risk: false positives leading us down a path of narrative reaffirmation.

Richard Nephew 9/5/2017 12:24 PM

**Comment [16]:** This is emphatically not true and Secretaries Kerry and Lew testified to that fact.

Richard Nephew 9/5/2017 12:25 PM

**Comment [17]:** Your own logic is circular, Madam Ambassador, because this is also a reason why – if you actually believe your points about how fabulous the deal is for Iran economically – they would have zero incentive to test us in this fashion. Moreover, you’ve assumed throughout that this deal is not great for us in any event.

Richard Nephew 9/5/2017 12:26 PM

**Comment [18]:** H.R.3364 and Obama/Trump non-nuclear sanction suggest not.

The Iranians understand this dynamic. Just last month, when the United States imposed new sanctions in response to Iranian missile launches, Iran's leaders threatened once again to leave the JCPOA and return to a nuclear program more advanced than the one they had before the agreement.

This arrogant threat tells us one thing. Iran's leaders want to use the nuclear deal to hold the world hostage to its bad behavior.

This threat is a perfect example of how judging the regime's nuclear plans strictly in terms of compliance with the JCPOA is dangerous and short-sighted. More importantly, it misses the point.

Why did we need to prevent the Iranian regime from acquiring nuclear weapons in the first place? The answer has everything to do with the nature of the regime, and the IRGC's determination to threaten Iran's neighbors and advance its revolution.

And that is where the other two pillars that connect us to the nuclear deal come into play.

The second pillar directly involves the United Nations.

When the nuclear agreement was signed, the Obama Administration took Iran's non-nuclear activity — the missile development, the arms smuggling, the terrorism, the support for murderous regimes — and rolled it up into one UN Security Council resolution — 2231.

Critically, included in this supposed "non-nuclear" activity is the IRGC's ongoing development of ballistic missile technology. You can call it "non-nuclear" all you want — missile technology cannot be separated from pursuit of a nuclear weapon.

North Korea is showing the world that right now.

Every six months, the UN Secretary General reports to the Security Council on the Iranian regime's compliance with this so-called "non-nuclear" resolution.

Each report is filled with devastating evidence of Iranian violations. Proven arms smuggling. Violations of travel bans. Ongoing support for terrorism. Stoking of regional conflicts.

The Secretary General's report also includes ample evidence of ballistic missile technology and launches. The regime has engaged in such launches repeatedly, including in July of this year when it launched a rocket into space that intelligence experts say can be used to develop intercontinental ballistic missile technology.

They are clearly acting in defiance of UN Resolution 2231 by developing missile technology capable of deploying nuclear warheads.

Unfortunately, as happens all too often at the UN, many member states choose to ignore blatant violations of the UN's own resolutions.

In this way, we see how dangerously these two pillars of Iran policy work together: The international community has powerful incentives to go out of its way to assert that the Iranian regime is in "compliance" on the nuclear side. Meanwhile, the UN is too reluctant to address the regime's so-called non-nuclear violations.

The result is that Iran's military continues its march toward the missile technology to deliver a nuclear warhead. And the world becomes a more dangerous place.

Richard Nephew 9/5/2017 12:26 PM

**Comment [19]:** Correct, and you did so anyway and they did not leave.

Richard Nephew 9/5/2017 12:27 PM

**Comment [20]:** Uh, are there countries out there that you would like to possess nuclear weapons and don't yet have them?

Richard Nephew 9/5/2017 12:28 PM

**Comment [21]:** Amb. Haley might look up the basis for the arms sanctions and IRGC sanctions we imposed from 2006-2010. They were focused on the nuclear issue, as the willingness to terminate those sanctions once our nuclear concerns makes clear (it's the last paragraph of UNSCR 1737).

Richard Nephew 9/5/2017 12:27 PM

**Comment [22]:** South Korea and other countries may disagree with this.

Richard Nephew 9/5/2017 12:29 PM

**Comment [23]:** That is absolutely correct. So we ought to work on the compliance behavior of states at the UN, which is in fact your job.

Richard Nephew 9/5/2017 12:29 PM

**Comment [24]:** ...when we no longer have a JCPOA constraining the nuclear program. I agree!

That's where the third pillar of our Iran nuclear policy comes in: The Corker-Cardin law.

As you recall, President Obama refused to submit the Iran deal to Congress as a treaty. He knew full well that Congress would have rejected it. In fact, majorities in both houses of Congress voted against the deal.

Among the NO votes were leading Democrats like Senators Chuck Schumer, Ben Cardin, and Bob Menendez.

Despite President Obama's constitutionally questionable dodge of Congress, the legislative body did attempt to exercise some of its authority with passage of the Corker-Cardin law.

The law requires that the President make a certification to Congress every ninety days. But, importantly, the law asks the President to certify several things, not just one. The first is that Iran has not materially breached the JCPOA. That's the one everyone focuses on.

But the Corker-Cardin law also requires something else; something that is often overlooked. It asks the President to certify that the suspension of sanctions against Iran is appropriate and proportionate to Iran's nuclear measures, and that it is vital to the national security interests of the United States.

So regardless of whether one considers Iran's violations of the JCPOA to have been material, and regardless of whether one considers Iran's flouting of the UN resolution on its ballistic missile technology to be "non-nuclear," U.S. law requires the President to also look at whether the Iran deal is appropriate, proportionate, and in our national security interests.

Corker-Cardin asks us to put together the pieces of the jigsaw puzzle.

Under its structure, we must consider not just the Iranian regime's technical violations of the JCPOA, but also its violations of Resolution 2231 and its long history of aggression.

We must consider the regime's repeated, demonstrated hostility toward the United States.

We must consider its history of deception about its nuclear program.

We must consider its ongoing development of ballistic missile technology.

And we must consider the day when the terms of the JCPOA sunset. That's a day when Iran's military may very well already have the missile technology to send a nuclear warhead to the United States — a technology that North Korea only recently developed.

In short, we must consider the whole picture, not simply whether Iran has exceeded the JCPOA's limit on uranium enrichment. We must consider the whole jigsaw puzzle, not just one of its pieces.

That's the judgment President Trump will make in October.

And if the President does not certify Iranian compliance, the Corker-Cardin law also tells us what happens next. What happens next is significantly in Congress's hands.

This is critically important, and almost completely overlooked. If the President chooses not to certify Iranian compliance, that does not mean the United States is withdrawing from the JCPOA.

Withdrawal from the agreement is governed by the terms of the JCPOA. The Corker-Cardin law governs the relationship between the President and Congress.

Richard Nephew 9/5/2017 12:30 PM

**Comment [25]:** Point of fact, votes did not take place in this fashion because the votes weren't there.

Richard Nephew 9/5/2017 12:31 PM

**Comment [26]:** I rather think that Amb. Haley would avoid suggesting all agreements must go to the Congress for ratification. This Administration will doubtless have one or two that it might not wish to send to Congress, as Republican predecessors also found.

If the President finds that he cannot certify Iranian compliance, it would signal one or more of the following three messages to Congress. Either the Administration believes Iran is in violation of the deal; or the lifting of sanctions against Iran is not appropriate and proportional to the regime's behavior; or the lifting of sanctions is not in the U.S. national security interest.

Under the law, Congress then has sixty days to consider whether to re-impose sanctions on Iran.

During that time, Congress could take the opportunity to debate Iran's support for terrorism, its past nuclear activity, and its massive human rights violations, all of which are called for in Corker-Cardin.

Congress could debate whether the nuclear deal is in fact too big to fail.

We should welcome a debate over whether the JCPOA is in U.S. national security interests. The previous administration set up the deal in a way that denied us that honest and serious debate.

If the President finds that he cannot in good faith certify Iranian compliance, he would initiate a process whereby we move beyond narrow technicalities, and look at the big picture. At issue is our national security. It's past time we had an Iran nuclear policy that acknowledged that.

Thank you.

Richard Nephew 9/5/2017 12:34 PM

**Comment [27]:** The fact that the President signed INARA into law in 2015 and that we had one of the most spirited, honest, and sober debates on national security that I can recall puts this argument to the test.

Richard Nephew 9/5/2017 12:34 PM

**Comment [28]:** Excellent! And the solution to this quandary would be?