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## ***Talking Foreign Policy. The Iran Nuclear Accord***

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## TALKING FOREIGN POLICY: THE IRAN NUCLEAR ACCORD<sup>1</sup>

*Broadcast quarterly, "Talking Foreign Policy" is a one-hour radio program, hosted by Case Western Reserve University School of Law Co-Dean Michael Scharf, in which experts discuss the salient foreign policy issues of the day. The broadcast on September 4, 2015, addressed the controversial Iran Nuclear Accord.*

*Dean Scharf created "Talking Foreign Policy" to break down complex foreign policy topics that are prominent in day-to-day news cycles, yet difficult to understand. "Talking Foreign Policy" is produced in partnership between Case Western Reserve University School of Law, the only U.S. law school with its own foreign policy talk radio program, and WCPN 90.3 ideastream, Cleveland's National Public Radio affiliate. Archived broadcasts are available for viewing in video format online at [law.case.edu/Academics/Academic-Centers/Cox-International-Law-Center/Talking-Foreign-Policy](http://law.case.edu/Academics/Academic-Centers/Cox-International-Law-Center/Talking-Foreign-Policy).*

*This broadcast featured:*

- *Milena Sterio, Associate Dean and Professor of Law at Cleveland-Marshall College of Law. Sterio is also one of six permanent editors of the IntLawGrrls blog and an expert in the field of international law;*
- *Avidan Cover, Director of the Institute for Global Law & Policy at Case Western Reserve University School of Law and an expert in national security law. Cover has also litigated national security cases in federal and state courts;*
- *Paul Williams, who is President and co-founder of the Public International Law & Policy Group and has advised parties to treaty negotiations around the world; and*
- *Col. Mike Newton, Professor of Practice at Vanderbilt University School of Law. Newton has published more than 80 books, articles, and book chapters and is an expert on transnational justice and conduct of hostilities issues.*

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1. Transcript edited and footnotes added by Katelyn Masetta-Alvarez, Kelsey Ward, and Kevin J. Vogel.

TALKING FOREIGN POLICY:  
IRAN NUCLEAR ACCORD — SEPTEMBER 4, 2015 BROADCAST

MICHAEL SCHARF: In mid-September, Congress will vote on the Iranian Nuclear Accord.<sup>2</sup> President Obama says, “This deal is not just the best choice among alternatives, this is the strongest non-proliferation agreement ever negotiated.”<sup>3</sup> Republicans uniformly oppose it. Democratic Senator Chuck Schumer says, “I believe we should go back and try to get a better deal.” Some experts believe that if Congress rejects the Accord, we will be drawn into a war with Iran. The stakes couldn’t be higher.

I’m Michael Scharf, and this is “Talking Foreign Policy.” For this broadcast, we’ve assembled panel of leading experts to help us understand the pros and cons of the Iran Nuclear Deal, right after the news.

————— *Station Break* —————

MICHAEL SCHARF: Welcome back to “Talking Foreign Policy.” I’m your host, Michael Scharf, Dean of Case Western Reserve University School of Law. In today’s broadcast, our expert panelists will be helping us make sense of the controversy surrounding the Iranian Nuclear Accord, which will be voted on by the Congress in mid-September.

Our guests today include Milena Sterio, Associate Dean of Cleveland-Marshall College of Law, who is a leading expert in international law. Also with us, for the first time, is Professor Avidan Cover, Director of the Institute for Global Security Law and Policy at Case Western Reserve University School of Law. Joining us from Washington, D.C., is Dr. Paul Williams, President of the Public International Law and Policy Group, who has negotiated treaties dealing with dozens of conflicts across the globe. And rounding out our panel from a studio in Nashville, Tennessee, we welcome Colonel Mike Newton, a professor at Vanderbilt Law School who is an expert on military issues. Thank you all for being with us tonight.

Let’s begin our discussion by examining the history and content of the Iran Nuclear Accord. Proposals for a deal to limit Iran’s nuclear capabilities go back to 2003. The current round of

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2. Congress did not end up “killing the deal.” *E.g.*, Pamela Dockins, *Iran Nuclear Deal Withstands Final Vote in Congress*, VOICE OF AMERICA (Sept. 17, 2015, 7:53 PM), <http://www.voanews.com/content/us-implementation-of-iran-nuclear-deal-to-go-forward/2967894.html> [<https://perma.cc/TBC8-BPNR>].

3. *Full text: Obama Gives a Speech About the Iran Nuclear Deal*, WASH. POST (Aug. 5, 2015), <https://www.washingtonpost.com/news/post-politics/wp/2015/08/05/text-obama-gives-a-speech-about-the-iran-nuclear-deal/> [<https://perma.cc/SD8E-JLKY>].

negotiations began in 2012 and ended with an agreement just last month. Colonel Mike Newton in Nashville, Tennessee, can you describe the context for these negotiations?

MIKE NEWTON: Well sure, Michael. We don't really have time to go back and describe the thirty plus years of contentious relations between the United States and Iran, but that of course forms a necessary backdrop. In more recent times, number one we've seen the Russian resurgence, the Russian attempts to reach back out and aggrandize their own authority and support the Syrian Assad regime and begin to reinstate their dialogue with the Iranians.<sup>4</sup> Two, we've seen the tremendous expenditure of diplomatic effort, principally by the United States with European allies, to rebuild the European sanctions against Iran but now we've seen those sanctions begin to crumble and so in some ways the agreement reflects the inevitable. And then lastly, we've seen the Obama foreign policy priority, in the last year or couple of years, of shifting the status quo, looking for places around the world where the status quo, in their opinion, isn't serving U.S. interests and trying to reframe those things into ways that better serve longer term U.S. interests.

MICHAEL SCHARF: And Mike, at the base of all of this is the scary fact that Iran has acquired nuclear capabilities, is that correct?

MIKE NEWTON: Well, yes, of course, they've acquired those in the face of supposedly binding UN sanctions and so their record of compliance with those things is not true. For example, one thing that's already happening is, before UN experts get into the Parchin military complex, which is permitted under the agreement, satellite imagery shows the Iranians moving in to clean up that complex and try to hide the evidence of their research that was going on there, even in the face of binding UN sanctions.<sup>5</sup>

MICHAEL SCHARF: And how close would they be to acquiring nuclear bomb material to actually use against or threaten some of our allies in the region?

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4. See, e.g., Henry Meyer et al., *Putin Defies Obama in Syria as Arms Fuel Assad Resurgence*, BLOOMBERGBUSINESS (Aug. 3, 2014, 6:36 AM), <http://www.bloomberg.com/news/articles/2014-04-02/putin-defies-obama-in-syria-as-arms-fuel-assad-resurgence> [<https://perma.cc/VG2X-5YGN>].
  5. *Satellite Imagery Reportedly Shows Iran 'Sanitizing' Nuclear Site Days After Deal Signed*, THE JERUSALEM POST (Aug. 6, 2015), <http://www.jpost.com/Middle-East/Iran/Satellite-imagery-reportedly-shows-Iran-sanitizing-nuclear-site-days-after-deal-signed-411304> [<https://perma.cc/J3NG-MQVB>].

MIKE NEWTON: Well, on its face the agreement prohibits highly enriched uranium. The Iranian line has been all along this is just peaceful nuclear power.

MICHAEL SCHARF: But I'm saying, without the agreements, what's the current status of their nuclear program?

MIKE NEWTON: The White House has estimated their "break out time" to be two to three months.<sup>6</sup>

MICHAEL SCHARF: So, Milena Sterio. You're an international law expert, and you've been studying this deal. Can you summarize its main provisions for us?

MILENA STERIO: Sure. So first of all, this deal was signed by Iran, and six major world countries -- five of which are permanent members of the Security Council, and the sixth is a representative from the European Union. In a nutshell, what the deal does is it will eventually lift oil and financial sanctions on Iran—which have been crippling Iran's economy—starting sometime in early 2016, in return for Iran's agreement to place limits on its nuclear production capability and fuel stockpile over the next fifteen years.<sup>7</sup> Now, the deal is very, very specific. It's a hundred and nine pages long and has multiple annexes, and so there are multiple provisions, very specific provisions, some of which will continue anywhere from eight to fifteen years. But after fifteen years, the deal will come to its end.

MICHAEL SCHARF: Okay, so basically we're just buying some time before they get to relaunch their campaign to get nuclear weapons grade materials.

MILENA STERIO: That is a downside of the deal. That is what the critics of the deal point out, that after fifteen years Iran could essentially start doing whatever it wants to do.<sup>8</sup> We are buying time

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6. *The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon*, WHITEHOUSE.GOV, <https://www.whitehouse.gov/issues/foreign-policy/iran-deal> [<https://perma.cc/A8YA-7CWL>] (last visited Nov. 6, 2015) ("If Iran decided to rush to make a bomb without the deal in place, it would take them 2 to 3 months until they had enough weapon-ready uranium (or highly enriched uranium) to build their first nuclear weapon.").

7. *Id.*

8. See David E. Sanger & Michael R. Gordon, *Future Risks of an Iran Nuclear Deal*, N.Y. TIMES (Aug. 23, 2015), [http://www.nytimes.com/2015/08/24/world/middleeast/in-pushing-for-the-iran-nuclear-deal-obamas-rationale-shows-flaws.html?\\_r=0](http://www.nytimes.com/2015/08/24/world/middleeast/in-pushing-for-the-iran-nuclear-deal-obamas-rationale-shows-flaws.html?_r=0) [<https://perma.cc/7VNF-2EHE>] (arguing that after 15 years the

but proponents of the deal say that it's crucial that we do this because, first of all, who knows what will happen in fifteen years. But second, during those fifteen years hopefully we can engage with Iran on a more diplomatic level and try to persuade Iranian leadership that this is really not in their best interest.

MICHAEL SCHARF: Well, during these fifteen years, how is the deal to be enforced? Is there some kind of monitoring that is allowed so that we know that they're not cheating?

MILENA STERIO: Yes, so the monitoring will be done by an international agency—the International Atomic Energy Agency—that will have a team of a hundred and fifty inspectors that are supposed to have access to multiple Iranian facilities, where they have been up to now conducting research and development, enriching uranium and doing all these things that, some of which, by the way, will be prohibited now under the terms of the deal.<sup>9</sup> Now of course, the danger will be in the fact that Iran is the size of Texas. There are multiple undeclared sites and so, you know, how a hundred and fifty inspectors supposed to be able to monitor all this remains to be seen. Again, proponents of the deal say that this is the most comprehensive deal that we've ever had in terms of nuclear non-proliferation or nuclear kind of limitation type agreements.

MICHAEL SCHARF: So, let me turn to Dr. Paul Williams. This is our peace negotiator in Washington, D.C.. Paul, what is the role of the U.S. Congress in all of this? Can President Obama just unilaterally move forward with this deal or does he need congressional approval? And, even if he can move forward unilaterally, can Congress act to kill the agreement if it wants?

PAUL WILLIAMS: Well Michael, surprisingly this is not a treaty. It's simply an executive agreement and, therefore, despite all of the media hoopla and attention being paid to Congress at the moment, Congress actually has a very minor role in what's playing out here as a major foreign policy development. Because it's not a treaty, the Senate and the House are put into a position of having to affirmatively pass what's called a resolution of disapproval. So, with all of the Republicans opposed and many of the key Democratic Senators

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constraints on Iran's nuclear program will lapse, leaving Iran "free to produce uranium on an industrial scale.").

9. Iranian inspectors will play a role in these inspections. Laura Koran et al., *U.S. Acknowledges Likely Iranian Role in Nuclear Site Inspections*, CNN (Aug. 20, 2015, 5:08 PM), <http://www.cnn.com/2015/08/19/politics/iran-nuclear-deal-inspections-parchin/> [<https://perma.cc/NK8F-9NS9>].

opposed, the Senate will be able, and so will the House, to pass this resolution of disapproval, and then President Obama will simply veto it and then the Senate will have to try to muster a two-thirds majority to override his veto and they won't be able to.<sup>10</sup> So the reality is that with just barely over 33% of the elected representatives President Obama will be able to undertake this major realignment of the status quo, as Colonel Newton pointed out.

MICHAEL SCHARF: Alright, so just to do my math, it takes two-thirds of the 100 Senators for a veto override; that's sixty-seven votes. Right now, the Republicans have fifty-four votes to the Democrats' forty-eight, normally, when they vote along partisan lines. Two Democratic Senators have already said that they're going to vote with the Republicans, so that brings them up to fifty-six. So you don't think the opponents of the deal are going to get the additional eleven votes for the override?

PAUL WILLIAMS: No. This whole process is more for an ability of the Republican Senators to put their stamp of disapproval on this and then, for a handful of Democratic Senators to, you know, protect their representative base. There is no real impact-shaping input, unfortunately, that Congress is having on the agreement and there's no real option for them to kill the agreement if they thought that was in the best interest of the United States. It's a pretty risky limb for the administration to be out on with this type of limited support.

MICHAEL SCHARF: Now you said it's an executive agreement, though, so what happens if a Republican wins the next Presidential election? Can't they just end the agreement?

PAUL WILLIAMS: Technically. If we were just talking as a group of lawyers, we could have a long discussion about that. I think politically, in reality, a year and a half from now, whatever shape the agreement has taken in its implementation phase, it will be well underway and so the conversation will not be about cancelling the agreement. The conversation will be about what's our overall strategic approach to Iran—should we be continuing containment, should we be doing constructive engagement. I think a year and a half from now, we're going to have a mess in terms of what our policy is vis-à-vis Iran. There's going to be a lot of energy focused on how to put Iran back in the box and less about cancelling an agreement.

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10. David Espo, *Democrat, Republicans Differ on Iran Nuclear Deal*, WASH. TIMES (July 21, 2015), <http://www.washingtontimes.com/news/2015/jul/21/democrat-republicans-differ-on-iran-nuclear-deal/?page=all> [<https://perma.cc/EA75-2N8G>].

MICHAEL SCHARF: Speaking of constructive engagement, President Obama has said that the Iran Nuclear Accord will provide an opportunity to begin a new, more productive chapter of Iranian relations with the West. Let's bring Professor Avidan Cover into the conversation. Avi, what's the chance, in your opinion, that the Accord will be a first step in bringing Iran "in from the cold" and spell an end to its thirty six-year experiment with extremism?

AVIDAN COVER: Well, there's a chance, and I think there's a better chance than without the agreement. You know, I think it's difficult to obviously forecast plenty of the internal politics of Iran and certainly, as you note, there's been thirty six-years of extremism. With that said, Iranian President Rouhani ran, for his presidency, on the position that he was going to get this deal and bring back economic reforms, revitalize the economy with the money—the assets that will be unfrozen, the sanctions that will be lifted<sup>11</sup>—and I'm sure we'll get into the pros and cons of that. One hope is that a lot of that money will be allocated to the economy. Iran was a country that was very much a part of the international arena with economic relations, with really all of the P5+1 members, save the United States. It's in Iran's economic interest to come out from the cold if you will, or come out from the heat perhaps, and so we'll see. Having said all of that, I think it'd be difficult to predict entirely whether it will not also continue some of its wayward extremist ways.

MICHAEL SCHARF: Well, I do understand that the public in Iran took to the streets to express their joy, as opposed to their protest, for once, over this agreement when it was announced.<sup>12</sup> What do you make of that?

AVIDAN COVER: Well that's right, and so I think certainly that can be interpreted optimistically as a move reminiscent of the Green Revolution toward re-engagement with the West. It can also be viewed a little more cynically as a victory for Iran. Iran beat the United States, if you will, in the deal. It retained its right to enrich

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11. For a discussion of how the deal will affect President Rouhani, see Amir Farmanesh & Ebrahim Mohseni, *What's Next for President Rouhani in Iran?*, THE GUARDIAN (July 14, 2015), <http://www.theguardian.com/world/iran-blog/2015/jul/14/whats-next-for-president-rouhani-in-iran> [<https://perma.cc/ZP8K-CXB4>].
  12. Saeed Kamali Dehghan & Ian Black, *Thousands Take to Iran Streets to Celebrate the Historic Nuclear Deal*, THE GUARDIAN (July 14, 2015, 5:11 PM), <http://www.theguardian.com/world/2015/jul/14/joy-in-tehran-at-end-to-isolation-but-hardliner-reaction-to-nuclear-deal-feared> [<https://perma.cc/DD2X-EPCW>].



nuclear power and there are those, I think, who can see it from that perspective as well.

MICHAEL SCHARF: Mike Newton, is that your view?

MIKE NEWTON: Well, I mean, to put it in the context of a divorce setting, one party gets everything they wanted locked in on a permanent basis. The other party gets a very small fragment of what they started out wanting on a temporary basis. If you just frame it like that, from the perspective of the Iranians it's a big win, and President Rouhani is claiming it as a major victory. I think Avi's exactly right. If, in fact, they spend a good portion of that surge in income—some estimates are more than a hundred billion dollars in the short term, much more over the longer term—on their economy, there's a chance that it really does solidify the civil society and Iran and bring back some structure and some engagement. On the other hand, if the majority of that goes into weaponry to solidify regional hegemony and continues to fund terrorism in the region, then that's a big problem.

MICHAEL SCHARF: Well, with that thought, it is time for a short break. When we return, our experts will weigh the pros and cons of the Iran Nuclear Accord, so stay with us.

————— *Station Break* —————

MICHAEL SCHARF: Welcome back to "Talking Foreign Policy," brought to you by Case Western Reserve University and WCPN 90.3 ideastream. I'm Michael Scharf, Dean of Case Western Reserve University School of Law. We're talking today about the Iran Nuclear Deal, which will be voted on by Congress in mid-September. Our expert panel includes peace negotiator Dr. Paul Williams, military expert Colonel Mike Newton, international law expert Milena Sterio from Cleveland-Marshall Law School, and Professor Avidan Cover, Director of Case Western Reserve's Institute for Global Security Law and Policy.

Before the break our experts were describing the main provisions of the Iran Nuclear Accord. In this next segment, we will provide a critique of the Accord. Let's begin with Professor Avidan Cover. Now Avi, before the broadcast began, you told us you were a proponent of the Accord. As such, what were you most pleased about in the agreement?

AVIDAN COVER: Sure, and I just want to qualify for a moment: while being a proponent, I think I have to say I'm a begrudging proponent. I think it's a deal that—and we can probably get into this—I don't think there are many other alternatives and I think we need to look

at this deal and find what is best in it. And I think primarily, if you think about what the primary objective of all of these negotiations has been, has been to push back, has been to stop Iran's nuclear capabilities, its nuclear weapons capabilities and this deal does this. As we understand from experts, some people suggest that Iran was really just weeks away from developing a nuclear bomb, known as "breakout time." This deal will push it back to upwards of a year.<sup>13</sup> It's not a lot, some people might say, you know, we want more. Sure, we would want more, but as Milena described, this deal will last for ten to fifteen years. It buys us time. It's not perfect, but it keeps us from going over the brink. It's a step. You know, I think that we did get some more things that we wanted. As part of the deal, 98% of the nuclear enriched stockpile will be removed. Two-thirds of the centrifuges will be removed. The inspections regime is viewed as unprecedented, the most rigorous inspections regime that we've ever had with nuclear agreements. There are plenty of problems with this deal. No one is happy about some of these sanctions being lifted and the mischief that Iran may be able to do, but if you think back to what this deal was primarily about, it will push Iran back from that breakout period. It buys us time and with that hope that things will change over that ten- to fifteen-year period.

MICHAEL SCHARF: Well, let's go to Nashville to our military expert Mike Newton. Mike, you heard what Avidan Cover just said. Would you say President Obama delivered on what he promised?

MIKE NEWTON: Well, you have to go back and just frame it from exactly what he promised. He said many, many times, "I'm prepared to abandon these negotiations if we cannot get a good deal." So, you know, if what was really going on was his goal to simply reopen dialogue to, as you said earlier, bring Iran in from the cold, then he delivered on what he promised. But if you judge us but what he has said, he said more than twenty-eight times, you know, "It's a red line. We will not allow Iran to get a nuclear weapon." Well, in fact, we will. He said that at the most visible time when negotiations were going on in secret, during the 2012 campaign in one of the presidential debates. He said, "While I'm president, we will not allow Iran to get a nuclear weapon." Fine, so he just arranged it that future presidents have to deal with that. So, by that measure, he kept his promise. The

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13. *Obama: Iran Will Face Longer 'Breakout Time,' Though Not Indefinitely*, NPR (Aug. 11, 2015, 5:09 PM), <http://www.npr.org/sections/parallels/2015/08/11/431652556/obama-iran-will-face-longer-breakout-time-though-not-indefinitely> [<https://perma.cc/86YD-C2DF>] ("There's a general consensus that the current breakout time is around two to three months, and that would be extended to around a year under the agreement.").

sanctions regime, which I know we'll talk about, is deeply flawed. You know, over and over and over again, the Energy Secretary and Ben Rhodes from the National Security staff and the Secretary of State and the President all said, "anytime, anywhere sanctions." Well, so what we ended up with is "sometimes, some places, by somebody, under some circumstances, after an extensive time delay." So it's anything but certain that the agreement, the viable parts of the agreement, will in fact be enforced. And then the last thing is, you know, there was clear discussion about the lifting of the sanctions, very often with this idea of "snapback sanctions." And that, to me, I think is one of the most troubling parts of the deal. What we've done is we've created a setting where sanctions are already going away. The Security Council has already voted on that. That's an irrevocable train that has left the station. So we're forced, if at some point we do impose sanctions, to do so on a unilateral basis while the rest of the world laughs at us and enriches Iranian coffers. It's a no-win situation just on the sanctions issue.

MICHAEL SCHARF: And we'll return to the sanctions question, but let me turn to Paul Williams to provide the big picture here, the 30,000 foot view of this. On balance, Paul, do you consider the nuclear accord to be a success for U.S. interests in the region?

PAUL WILLIAMS: I think if you look at the nuclear accord in the context of U.S. policy in the region it's very, very scary. It was essentially negotiated and will probably be implemented in a policy vacuum. And we've talked on this interview already about an approach of containment or an approach of constructive engagement, but the reality is that, at the moment, the United States has no strategic approach to how to deal with the Iranians. So we've just negotiated a deal, which will allow them over a period of time to have the bomb and which will allow billions of dollars of sanctions relief, without actually knowing how we're going to deal with the Iranian regime. They are still a state sponsor of terror. They are actively engaged in what's happening, the conflict in Yemen, the conflict in Syria. Many would argue that we have ISIS, the Islamic State, because of what the Iranians have done in Syria and in Iraq. We have no policy for dealing with them and we've negotiated this deal. I would be much more comfortable with this deal if we actually knew how we're going to approach and contain, which would be my preference, or constructively engage, which others have a preference for, but we haven't even answered.

————— *Station Break* —————

MICHAEL SCHARF: This is Michael Scharf and we're back with "Talking Foreign Policy." I'm joined today by four experts on the Iran Nuclear Accord. A recent poll indicates that the American public

wants Congress to block the Iran Nuclear Accord by a margin of 52% to 44%.<sup>14</sup> Let me ask Professor Avidan Cover, Director of Case Western Reserve's Institute for Global Security Law and Policy—can Congress do that?

AVIDAN COVER: The short answer is “yes, theoretically.” What’s known as the Iran Nuclear Agreement Review Act is really all about sanctions relief, right, which is really what comes down to what Congress’ role is here. In a number of statutes, Congress had given the President authority to waive sanctions for various behavior by Iran regarding nuclear weapons. This act would give Congress the authority to disapprove that ability to waive that relief. Congress could theoretically do so. I think Paul’s gone into good detail about the lack of a likelihood that Congress will be effective in doing so—

MICHAEL SCHARF: But they are likely to pass the law.

AVIDAN COVER: The law has been passed, and I think that the question is whether they will vote to disapprove the President’s ability to waive those sanctions. I think that is likely, too. The President will, in all likelihood, veto that and they will not be able to muster enough votes to override his veto. You know, whether this is legitimate as a matter of constitutional law, I think it is. I don’t think it’s a violation of separation of powers, for example. And that is in part because, as Paul noted, this is an agreement that is not a treaty. It’s a non-binding executive agreement and these sorts of agreements are conducted all the time in our foreign diplomacy. It’s something that I actually have some misgivings about, but I think it doesn’t seem like this constitutionally is raising ire.

MICHAEL SCHARF: Why does Iran trust this agreement given that, if it’s an executive agreement and only the President really controls it—and we’re in the middle of an election cycle—that there could be a Republican President and he or she could just decide, ‘I don’t want to go forward with this agreement anymore.’

AVIDAN COVER: There has always been that possibility, and similarly on the Iranian side. The Parliament could’ve put a kibosh on it on their side. This is not a treaty; it’s not a binding agreement. It’s

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14. CNN & ORC International, *Cnn/Orc Poll: Obama, Iran, And The Economy*, CNN 11 (July 28, 2015, 9:53 AM), <http://www.cnn.com/2015/07/28/politics/cnn-orc-poll-data-july-28-6-am-embargo/index.html> [<https://perma.cc/F6DL-73V4>].

called a ‘joint comprehensive plan of action’<sup>15</sup> and so there’s a level of good faith and diplomacy that goes into all of this, but this is the way that foreign relations have been conducted for, really, centuries. You think back to Nixon’s normalization of relations with China. That was done through a non-binding executive agreement. FDR’s agreement with Great Britain during World War II to assist them. That was a non-binding executive agreement.

MICHAEL SCHARF: Okay, so let’s say a year and a half from now Donald Trump or one of the other Republicans is the President and he quashes the agreement. Some say that would draw the United States into war with Iran; others say it would be the worst of both worlds—an erosion of the sanctions and an immediate escalation of the Iranian nuclear program.<sup>16</sup> Let me ask each of our experts to weigh in: if you were the next President and you had that option, what would you do and why? Milena?

MILENA STERIO: I agree. I think going back on the agreement would be the worst of both worlds. I think, when you talk about diplomacy, any time that you’re trying to entice a rogue regime to change its ways, I think you’ve got to have a carrot and a stick. And I think this agreement accomplishes that by providing a carrot to the Iranians, saying, ‘We’re going to lift the sanctions if you comply,’ and then the stick are the sanctions. And we can debate about how well this is going to work but I think that this is, diplomatically, a very significant agreement and I think going back would be a huge step backwards. I think it would definitely escalate relations with Iran and I think the danger is we would wind up with another war like the Iraq war, which would, I think, entail a lot of casualties and not necessarily resolve anything in the long-term.

MICHAEL SCHARF: Paul Williams, do you agree?

PAUL WILLIAMS: I think a year and a half from now, whether it’s a democratic or republican president, the course of action will be obvious. Either the U.S government will come up with a strategic

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15. U.S. DEP’T OF STATE, JOINT COMPREHENSIVE PLAN OF ACTION 1 (July 14, 2015), <http://www.state.gov/documents/organization/245317.pdf> [<https://perma.cc/3ABZ-CDG6>].

16. See Frederik Pleitgan, *What Iranians Make of the Tough Talk from Republican Candidates*, CNN (Sept. 16, 2015, 8:46 AM), <http://www.cnn.com/2015/09/16/middleeast/iran-nuclear-deal-republican-debate> [<https://perma.cc/KP3L-5YUL>] (reporting that Donald Trump, Marco Rubio, and Carly Fiorina have stated that they would “cancel or change the nuclear agreement recently signed between Iran and world powers . . .”).

approach and the Iranians will choose economic development and democracy over regional hegemony and the deal would be a signal of amazing success. Or the Iranians will be running amuck in the Middle East, still being a sponsor of state terror, still seeking to have proxy wars with the Saudis to destabilize their enemies and renegeing on the deal would be the worst of our problems.<sup>17</sup> So, I think a year and a half from now things will be pretty clear. It's a risky environment to be playing in and I'm not terribly optimistic.

MICHAEL SCHARF: But even under the worst case scenario, Mike Newton, are we talking about all-out war, or would the more likely course of action be, maybe, a proxy Israel doing some airstrikes on the nuclear facilities where Iran is building these bombs.

MIKE NEWTON: Well, I think the war-or-peace scenario is in many ways a false dichotomy because there is a proxy war and, remember, that the Iranians—in the context of activities in Iraq, in the context of funding Hamas—have already been waging a proxy war and the only real question is, to go back to your proxy question, is do we choose to reengage in that same proxy war? I think that Paul's right. In a macro sense, in a year and a half or two years, the large policy becomes pretty clear, but if we wait that long to establish things like channels for support to people that would fight a proxy war on our behalf, we've waited too long; if we begin to establish things like real military planning for how would we accomplish "x" military task, we've waited too long. We need to be thinking about those things now in the context of a larger strategy.

MICHAEL SCHARF: So, let's say they have the nuclear bomb. I mean, Iran has had chemical weapons for a long time. They haven't used those against Israel or any other country in the Middle East. What makes us think that nuclearized Iran would necessarily be any more of a threat than India or Pakistan when they got the bomb? Mike?

MIKE NEWTON: Well, that's a good question. One thing is the notable threats. On July 25 of this year, the commander of the Revolutionary Guard did a Facebook posting, and I'll just quote it because it's

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17. See Brian Murphy, *Iran Nuclear Pact Stirs Hope – and Fear – of New Political Order in Mideast*, WASH. POST (Apr. 3, 2015), [https://www.washingtonpost.com/world/middle\\_east/saudi-king-give-cautious-nod-to-iran-nuclear-deal/2015/04/03/aeb04901-e608-4735-8bf3-4dfd71c4c74d\\_story.html](https://www.washingtonpost.com/world/middle_east/saudi-king-give-cautious-nod-to-iran-nuclear-deal/2015/04/03/aeb04901-e608-4735-8bf3-4dfd71c4c74d_story.html) [<https://perma.cc/D8Z4-943N>] (regarding the proxy wars, the article states that “[t]ensions have further escalated as a Saudi-led coalition carries out airstrikes in Yemen aimed at weakening a Shiite rebel force, which gulf leaders say receives support from Tehran.”).

interesting. And the question is do you believe people when they chant “Death to America! Death to Israel!” He says, “Once the Supreme Leader orders all forces to start jihad, we can reduce Israel to dust in 24 hours.”<sup>18</sup> That’s impossible right now without a deliverable nuclear weapon. In the context of a deliverable nuclear weapon, that’s possible. And then some have also speculated about a larger threat to the U.S. Iran, for regional hegemony, does not need intercontinental ballistic missiles. And yet, there’s been intelligence to indicate that they’re beginning to want to acquire that technology and that the Russians and others are more than happy to facilitate that. So we really are looking at a large strategic shift and, as just a military professional, I think all military professionals out there would say that you don’t wait until it’s the very worst case; you get proactive and you think about, “What is the strategy?” and “What are the available military options?” and, more importantly, “How do we shape the strategic environment in ways that really do serve U.S interests long-term?”

MICHAEL SCHARF: Professor Avidan Cover.

AVIDAN COVER: I think it’s interesting; in some ways, I think Iran has had incredible strategic power just in simply having this proximity to the capability of having nuclear weapons. I don’t know that, to use your hypothetical, obtaining one nuclear weapon will change matters. Israel, by all accounts, has 200 nuclear bombs.<sup>19</sup> Would Iran—Iran is not ISIS—Iran, with very rational leaders—withstanding by any means their designs and their objectives, they are rational actors—would they really use a nuclear bomb against Israel, a weapon that they might not know will be successful, when Israel has that sort of capability and numerous other capabilities? They have had numerous other weapons and they have not used them against Israel, notwithstanding the proxy wars that have been going on. And so, I think you need to look at lots of game theory and these other aspects to really think how much that will change matters. In some ways, Iran has great leverage right now. I don’t know if they would actually want to spoil things for themselves.

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18. Michael Segall, *The Nuclear Deal: No Pause in Iran’s Vow to Destroy Israel*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (Aug. 16, 2015), <http://jcpa.org/article/nuclear-deal-irans-vow-destroy-israel> [https://perma.cc/8UJP-K86S].

19. See generally Glenn Kessler, *Iran’s Claim that Israel has 400 Nuclear Weapons*, WASH. POST (May 1, 2015), <https://www.washingtonpost.com/news/fact-checker/wp/2015/05/01/irans-claim-that-israel-has-400-nuclear-weapons>.

MICHAEL SCHARF: So, Paul Williams, you've mapped out two scenarios and you said we'll have to wait a year and a half to see which one will come about, but can't we actually look at the situation involving North Korea and its attempts to build up nuclear bombs to give us a sense of what is likely to happen here?

PAUL WILLIAMS: Yeah, I think if you look at North Korea it bodes not terribly well for what's going to happen in the Middle East. It's not about just getting a deal and putting pen to paper. In my experience in peace negotiations, that's the fundamental mistake that parties make, the idea that they sign an agreement and then all is good. And the issues with the North Koreans, we did various agreements and then did not fully implement them. We did not have a strategic approach. Dealing with the situation in the Middle East is extremely complicated; even though it's a 107-page deal, as Milena pointed out, it's not just about signing a deal. It's about a lot of moving pieces: the Iranians, what's happening in Syria, the Yemenis, the Israelis, Saudi Arabia. I got to tell you, lately we don't have a lot of positive experience with formulating and implementing complex strategic approaches to the problems around the world. We've got a string of failures in Libya, Yemen, Iraq, Syria. I'm not seeing a whole lot right now that leads me to believe that what we're doing with the Iranians will be any different than what we've done with these other important players and important countries, in the last few years and that's what makes me very nervous.

MICHAEL SCHARF: So back to Avi Cover. How would you distinguish this situation from North Korea?

AVIDAN COVER: I agree that the North Korea example is not a terrific one, and may not bode well. That said, there are some important distinctions.<sup>20</sup> I mean, North Korea was about as isolated a country as you could have ever had. Iran is not that country. As we've discussed, it had economic relations and good relations with a number of European countries, with Russia, with China. It's not in their interest to be isolated, whereas North Korea has certainly gone that route. North Korea was further ahead in its nuclear weaponization than Iran and, frankly, could have done a lot more harm probably immediately to South Korea than could Iran to its neighbors, notwithstanding its actions. And finally, and maybe most critically, that was really a bilateral agreement just with the United States,

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20. See also George Perkovich, *Why the Iran Nuclear Deal is Not the North Korea Deal*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Apr. 28, 2015), <http://carnegieendowment.org/2015/04/28/why-iran-nuclear-deal-is-not-north-korea-deal/i7wa> [<https://perma.cc/XGL6-BMS>] (distinguishing the situation in the Middle East from North Korea).



whereas here you have a multilateral agreement. We have the P5+1, and so there's far more things, sort of really more "carrots," if you will, for Iran to adhere to it. But that said, I am a cynical idealist.

MICHAEL SCHARF: Milena Sterio.

MILENA STERIO: So, first of all, let me say that I agree. I would say that I am sort of cautiously optimistic and I would say the key distinction with North Korea is it goes back to what Avi just said. I think Iran is really a rational actor whereas, I would characterize the North Korean leadership as an irrational, erratic, rogue regime. Again, without praising the current Iranian leadership and notwithstanding Facebook posts that Mike Newton had mentioned, I do think that the current leadership in Iran is a lot more rational. I think they have every interest to at least try to comply with most of the terms of this agreement, and I think again that they key is it buys us time and extends that breakout time from two weeks, or two months, to up to a year.

MICHAEL SCHARF: I notice that there are news reports that the leader of North Korea, Kim Jong-Il, is jealous of the Iranian agreement and he wants one, too.

MILENA STERIO: Well, I guess if he were willing to come to Geneva and Lausanne and Vienna and negotiate with the P6 and the EU, then I guess it's a possibility.

MICHAEL SCHARF: Let me go to another issue that we haven't talked about, but is one of concern to me. I understand there is a clause in the agreement that would remove many Iranians from the terrorist watch list.<sup>21</sup> Avi, why would the Obama administration agree to a clause to lift sanctions on individual terrorists?

AVIDAN COVER: Well, again this evidence is perhaps the good and the bad of a multilateral agreement and I have a feeling that the Obama Administration probably held its nose as it agreed to this aspect of it. As I understand it, those provisions—which indeed would ultimately, perhaps up to eight years, assuming compliance with the agreement, remove certain people who have been identified as terrorists from various lists—that all relates to an EU resolution identifying

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21. See Ed Feulner, *Why the Iran deal makes war more likely*, WASH. TIMES (Aug. 10, 2015), <http://www.washingtontimes.com/news/2015/aug/10/ed-feulner-iran-nuclear-deal-makes-war-more-likely> [https://perma.cc/NGW8-M9FR] ("The rogue's gallery includes such individuals as Mostafa Mohammad Najjar, who trained and commanded Hezbollah fighters in Lebanon at the time of the Beirut barracks bombing.").

individuals as such and not U.S. sanctions. In fact, U.S. sanctions on individuals identified as terrorists would continue regardless, but again, this is an agreement involving various parties. I'm not entirely certain what prompted the EU leaders to insist on this provisions or agree to this provision with Iran, but it is not something that, as far as I understand it reading through the annexes of the agreement, the United States will be lifting.<sup>22</sup>

MICHAEL SCHARF: One of the other unusual aspects of this whole agreement was when Israeli Prime Minister Benjamin Netanyahu, came and spoke before the U.S. Congress and urged the Congress to kill the agreement.<sup>23</sup> That was pretty much unprecedented. What do you think of that? Was that successful, good politics on his part?

MILENA STERIO: I mean, I really think that it had a lot to do with his own election strategy and his own political constituents. I think the vote here in the United State in our Congress is pretty much split among party lines. There are no Republicans that have expressed support for the deal and among the Democrats, I think there are only two thus far that are opposed. Everybody else is voting with the President, so I don't think this is changing much, really.

MICHAEL SCHARF: So, Mike Newton, do you think it's fair to characterize the accord as a betrayal of Benjamin Netanyahu and Israel, or do you agree with Milena that it was just politics during his election?

MIKE NEWTON: Well, I go back to Henry Kissinger. Nation-states don't have friends; they only have interests. It's his job to represent Israeli interests. I agree with Milena, that may have been part of it and certainly was part of his election strategy, although it's important to note that on that issue, he and the opposition party are in perfect sync with each other and they've said that. So this really is an Israeli defense issue and I think part of what was going on there was a signal of deterrence. I think Avi's right—we will deter a nuclear-armed Iran.

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22. See Elizabeth Whitman, *What Sanctions Against Iran Won't be Lifted? Bans for Terrorism Support, Human Rights Abuses to Remain Intact*, INT'L BUS. TIMES (July 14, 2015), <http://www.ibtimes.com/what-sanctions-against-iran-wont-be-lifted-bans-terrorism-support-human-rights-abuses-2008066> [<https://perma.cc/AJ6X-YF2V>] (commenting on the U.S. lifting the Iranian Sanctions).

23. For video of Netanyahu addressing Congress, see *Netanyahu Rails Against Iran Nuclear Deal – in 100 Seconds*, CNN (Mar. 3, 2015, 12:44 PM), <http://www.cnn.com/videos/politics/2015/03/03/benjamin-netanyahu-speech-congress-iran-js-origwx.cnn/video/playlists/u-s---israel-relations> [<https://perma.cc/6GMA-7TCU>].

And the other part of what was going on, I think, and I'm reading between the lines because nobody has briefed me on this, is the progress that Israel has made in connection with regional Sunni powers in standing up to the Iranian Shiite hegemonic designs. You know, there's a lot of operation that sits quiet that, in some ways, is extraordinarily effective. I think that might have been Netanyahu speaking both to his domestic population, but also the leaders of those other countries to say that what we're doing to counter this regional menace needs to be strengthened and needs to be improved. Because he full well knows that there aren't the votes to override a veto and he knew it when he said it in the House.

MICHAEL SCHARF: So let's end with a look to the future. Paul Williams, haven't heard from you lately, as a former State Department official, what do you see as our next steps in our relations with Iran?

PAUL WILLIAMS: Well, Mike, this deal is going to require extensive involvement of the United States in the Middle East. It's not something that we sign and we can retrench. Signing this deal, for better or for worse, is going to require the United States to be heavily engaged with the Iranians, both to hold them to the deal but also to get them into a box. Not necessarily to keep them in a box, but to get them out of other people's countries' business, to stop being a sponsor of state terrorism, to get them out of Syria, to get them out of Yemen and sort of back into Iran. And then a lot of engagement with our allies, the Israelis as you've talked about but also the Saudis, the Qataris, the U.A.E, others are going to need a lot of American engagement and assistance and I think we ought to be prepared for a decade plus of heavy American involvement in the Middle East. That's the only way we're going to reap the benefits of this deal that Avi and Milena and others have been speaking about.

MICHAEL SCHARF: I think that's a good place to wrap up. Paul Williams, Mike Newton, Milena Sterio, and Avi Cover, thank you all so much for providing your insights on this complex and very timely and important issue. I'm Michael Scharf, you've been listening to Talking Foreign Policy, produced by Case Western Reserve University and WCPN 90.3 ideastream.

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