NEGOTIATING WITH ‘BULIMIC MAN’: THE (F)UTILITY OF ENGAGING IRAN

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NEGOTIATING WITH TERROR: THE (F)UTILITY OF “ENGAGING” IRAN

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I. INTRODUCTION

In the aftermath of the World Trade Center bombings of September 11, 2001 (“9/11”), the American psyche has been inordinately consumed with the notion of terror and global jihad against Western culture. Even before these dramatic events, though, our unique sense of humor has enabled us to enjoy a good scare. Increasingly since the advent of television,1 this aspect of our

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“We always did feel the same. We just saw it from a different point of view.”

- Bob Dylan, Tangled Up in Blue

I. INTRODUCTION

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1 Even before this time, the radio was instrumental in disseminating fear. Among the most memorable broadcasts, Orson Welles’ adaptation of H.G. Wells’ “War of the Worlds” thrust some listeners into a panic as they received it as recounting an actual Martian invasion. “Radio Listeners in Panic, Taking War Drama as Fact,” The New York Times, October 30, 1938, available at http://www.war-of-the-worlds.org/Radio/Newspapers/Oct31/NYT.html.
collective psychology has been commoditized by Hollywood and politicized at election time. The fact that Halloween traditionally falls less than a week before Election Day might also contribute to our feelings of vulnerability — and hostility to perceived national security threats — when visiting the voting booth.

In this context, one pointed criticism of President Barack Obama’s 2008 campaign aimed at its stated choice to engage Iran as well as its ambiguity about the measures it would employ in doing so.\(^2\) After 9/11, American public opinion understandably disfavored talk of negotiating with perceived enemies of the state. With the Iran Hostage Crisis still fresh in our minds,\(^3\) diplomatic engagement with Iran was a hard sell and thus it became politically advantageous to appear tough with the Ahmadinejad regime. The ultimate question, though, of how the world’s only remaining superpower – the United States – may legitimately address Iran’s pursuit of nuclear technology in accordance with international law must not be affected by changing political winds. In fact, one fundamental rationale in establishing legal precepts is to avoid ambiguities that may arise when a certain course of conduct becomes expedient.

Thus, we turn first to basic principles of international law governing how to deal with “rogue states” as well as to foundational documents such as the *Federalist Papers* that continue to guide our foreign relations. With this as background, we then review proffered solutions to assess their practical likelihood of passing muster. Among other examples, we consider the lessons of foreign relations failures with Cuba, the Soviet Union and North Korea. We conclude that the history of American diplomacy dictates that the unique brand of respect in negotiations that Iran demands are unlikely to be forthcoming from the United States.

II. **BACKGROUND**

A. **American Ideology**

The early American republic found a means to assess its responsibilities in the international theatre.\(^4\)

The Federalist Papers reveal a good deal about the philosophical underpinnings of our foreign policy. [DEVELOP]

\(^2\) Obama

\(^3\) The 1979 rescue of 52 American hostages was......

\(^4\) This occurred through the enactment of the Alien Tort Claims Act of 1783.
B. *Iranian Reception to Western Efforts*

Attempts by the United States and Iran to “deal” with one another have historically been unsuccessful though arguably well-intended. [DEVELOP]

Following the Obama-Biden 2008 election’s campaign rhetoric and buoyed by a 2012 re-election, Vice President Joe Biden recently extended an olive branch to Iran by declaring his willingness to engage in nuclear talks. “There is still time, there is still space for diplomacy backed by pressure to succeed. The ball is in the government of Iran’s court” though he emphasized that talks for talk’s sake were not good enough; rather they must be real and tangible.⁵ However, this was rebuked by Iran’s spiritual leader, the Ayatollah Ali Khamenei, declaring talks deceptive if they are used “as a tactic, a gesture of superpower.”⁶ This response was ratified by Iran’s President, Mahmoud Ahmadinejad.⁷ However, prospects for negotiation might still become tangible at the P5+1 summit on February 26;⁸ if those talks also do not yield tangible gains, the claim that Iran’s strategy is merely to stall while attaining nuclear weapon capability may gain hold.⁹

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⁷ *Id.*

⁸ This group includes Germany and the five permanent members of the United Nations Security Council. Tangible concessions at this meeting can pave the road for the easing of sanctions. Marcus George, “Iran’s Khamenei Rebuffs U.S. Offer of Direct Talks,” *Reuters* (February 7, 2013).

is that continued multilateral pressure will convince the Iranians to take part seriously in those discussions.  

In rejecting talks with America at this time, Iran might not be turning its back definitively. Rather, this can be interpreted as a form of preliminary clarification necessitated by “irreconcilable demands” emanating from the Treaty on the Non-proliferation of Nuclear Weapons (NPT). Specifically, Iran wants international recognition of its right to enrich uranium and for related sanctions to be removed. On the other hand, the United Nations Security Council members and Germany (P5+1) have demanded that Iran take measures beyond those called for by the NPT.

III. RESPONSIBILITIES UNDER INTERNATIONAL LAW
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   i. Soviet Union

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10 David E. Sanger, “Iran’s Leader Rejects Direct Talks with U.S.,” The New York Times (February 7, 2013). By comparison, the unilateral economic embargo by the United States against Cuba cannot be said to have warmed relations between the nations; rather, the unwillingness of third countries to participate in that embargo have reduced the effectiveness of America’s unwillingness to trade with the island nation.


13 Seyed Hossein Mousavian, “Embrace the Fatwa,” Iran Review (February 9, 2013), available at http://www.iranreview.org/content/Documents/Embrace-the-Fatwa.htm. These measures include the implementation of the NPT’s Additional Protocol which enables inspections by the International Atomic Energy Agency (IAEA) at military visits; making its nuclear program more transparent; respond to inquiries by the IAEA concerning potential military uses of Iran’s nuclear activities; limiting uranium enrichment to 20% of capacity; and either converting uranium stockpiles to fuel rods or exporting them if they are not immediately consumed domestically.
ii. Cuban Missile Crisis

iii. North Korea

B. The Responsibility to Protect

C. A Responsibility to Engage

IV. A WAY FORWARD?

A. Salient Solutions?

To mitigate these concerns, Ahmadinejad has vowed to limit uranium enrichment to 20% if the international community will agree to supply Iran’s necessary nuclear material. Additionally, Foreign Minister Ali Akbar Salehi has seized upon the Additional Protocol as a potential solution.

Among other possible solutions, former Irani nuclear negotiator Seyed Hossein Mousavian proposes that focus be re-directed from the NPT to the fatwa issued by Ayatollah Khamenei in 2003 banning nuclear weapons and weapons of mass destruction. As Foreign Minister Salehi has indicated Iran’s willingness to translate this into a secular document that binds it to the fatwa, this might offer one solution. For example, it may offer the possibility that a non-IAEA team inspect the military site at Parcha instead of the IAEA team as has been insisted.

Ambassador Mousavian offers his doubts for a political solution, due to two factors. First, he indicates that the latest proposal to Iran neither

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recognizes its right to enrich uranium nor offers sanction relief. Additionally, domestic opposition might make commitments by the Ahmadinejad regime beyond the NPT and Additional Protocol politically untenable.  

B. Limitations

V. CONCLUSION

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