Protecting the Playground: Options for Confronting the Iranian Regime

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Abstract

The Iranian regime is threatening Israel and the West. Governments are growing increasingly frustrated with this regime. There are six options to approach this regime – diplomatically, economically and militarily, each in a positive and negative way. This article reviews these six options with regard to the Iranian regime and recommends a course of action that is likely to bring an end to the confrontation.

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Part I: Introduction

Imagine that you are the biggest and toughest kid in your grade at school. While not always popular, at least you are well-known and respected – even somewhat feared. One of your best friends is constantly being bullied by another kid, who goes so far as to threaten to wipe him off the face of the playground. Then you discover that the other kid may not just be harassing after all, but is probably acquiring weapons to carry out his threats. What do you do?

This is the situation facing the United States in its relations with the Iranian regime. After years of hurling threats and physical abuse by proxy at Israel, the mullahs
are coming closer than ever to obtaining nuclear weapons. Few people doubt that they intend to use them – either as bombs or simply as threats – to get what they want. Time is running out for the United States (and the rest of the kids on the playground) to take action and prevent a catastrophe.

There are six ways for a party – either the United Nations or an individual country like the United States – to intervene. They can approach the Iranian regime diplomatically, economically or militarily. Within these approaches, they can take either a positive or a negative angle. Of these six options – three approaches with two angles each – there is bound to be something that will convince the Iranian regime to give up its aggression and play peacefully with everyone else.

There will be five parts to this article. The Introduction has briefly outlined the six different approaches that can be taken to the problem. Part II will discuss why the world is so concerned with Iran in the first place. Part III will discuss the various options as they relate specifically to the problem, whereas Part IV will make suggestions as to which of the options is best given the current environment. Part V will conclude. It is hoped that, by laying out the options for dealing with the behavioural issues of the Iranian regime, a swift and effective resolution of the confrontation can take place. Barring that, hopefully it will shed some light on the analysis of similar problems in the future.

**Part II: The Issues**

The Iranian regime is a problem for two main reasons. First, they have actively supported terrorism both in the Middle East and in other areas of the world. Second, they have continued to press on with their nuclear program despite United Nations resolutions ordering them to stop. The Iranian regime has taken the role of a bully, using force
(violent and otherwise) to get what it wants despite the ramifications for the rest of the world. It is this individualism and lack of concern for the global whole that worries observers and has led to the calls for action.

**Terrorism**

Iran has a history of providing financial and ideological support to violent organizations. In Lebanon, the Iranian regime has funded Hezbollah since its inception. In Gaza, the regime provides support to both Hamas and Palestinian Islamic Jihad. In supporting these groups, the Iranian regime has had a direct or indirect hand in the deaths of thousands of people around the world.

In the early 1980’s, Hezbollah was created by the Iranian Revolutionary Guard – a militant force under the control of the Iranian Supreme Leader. Iran reportedly injects $120 million into Hezbollah annually, as well as periodic shipments of missiles. The fact that such support has been given to a group whose avowed goal is to destroy Israel has raised eyebrows internationally. Hezbollah’s violence has, however, reached well beyond Israel and affected other nations as well.

In 1983, as one of its first acts as an organization, Hezbollah orchestrated a truck bomb attack at the US Marine barracks in Beirut that killed 241 people. Until 11

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September 2001, Hezbollah had killed more Americans than any other terrorist group. In 1994, with Iranian funding, Hezbollah also bombed the Jewish-Argentine Mutual Association building in Buenos Aires, Argentina – killing 85 and wounding 300 others. Hezbollah, with Iran’s help, has spread its particular brand of violence to several corners of the globe.

But Hezbollah is not the only terrorist group that benefits from Iranian patronage. Hamas, before they became the ruling party of the Palestinian Authority, were receiving funding from Iran. This funding increased when they gained power. Iran also supplies rockets to Hamas, who believe that, “[i]n the face of the Jews’ usurpation of Palestine, it is compulsory that the banner of Jihad be raised.” While Hamas does not have a history with the same level of violence as Hezbollah, the Iranian support that they garner has rightfully raised a good deal of concern. Also in Gaza, Iran has supplied a bounty to the Palestinian Islamic Jihad (PIJ) for the rockets that they fired into Israel.

The link between all three of these terrorist organizations is their anti-semitism. It is no secret that the Iranian regime wants to see the Israeli state removed from the Middle East. It is the regime’s avowed distaste for Israel that also drives the world’s concern about its nuclear program. Although the regime consistently swears that it is only

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8 Ibid.
10 Al Jazeera, “Hamas Secures More Iranian Funding” (6 March 2007), online: Al Jazeera <http://english.aljazeera.net/NR/exeres/2A62C583-E1C7-454E-B0B3-16DB56E3C4FD.htm>.
14 There are too many quotes about Israel being a “cancer” to cite.
pursuing nuclear energy for civilian uses, it has not been able to convince the world of its peaceful intentions.

**Nuclear Dispute**

Iran’s civilian nuclear program was started with the help of the United States in 1959, but the few installations that were in place by 1980 were heavily bombed during the Iran-Iraq war.\(^\text{15}\) Iran’s American-funded civilian nuclear program had been utterly destroyed by the time the fighting ended in 1988.

After the war, the Iranian regime began building a new nuclear program in secrecy. While it was suspected that Iran was trying to acquire nuclear weapons as early as the mid-1990’s,\(^\text{16}\) their strides toward developing their own devices were kept in complete secrecy. With the aid of nations such as Pakistan, China and Russia – as well as the notorious black-market nuclear network of A.Q. Khan - Iran developed enough knowledge to be able to master the process of uranium enrichment.\(^\text{17}\) By the turn of the millennium, Iran had come a long way in developing a dual-use program. They were mastering the technology required in order to build nuclear power generators, but with it came the knowledge needed to make nuclear weapons.

In 2002, the National Council of Resistance of Iran – an Iranian political opposition group that many accuse of being a terrorist organization in its own right -


\(^{16}\) For example, President Clinton’s Letter to Congress on 14 March 1997 highlighted that his Executive Order 12957, *infra* note 64 was issued, “in response to actions and policies of the Government of Iran, including support for international terrorism, efforts to undermine the Middle East peace process, and the acquisition of weapons of mass destruction and the means to deliver them.” See Federation of American Scientists, “Text: Clinton March 14 Letter To Congress, Iran Emergency” (17 March 1997), online: Federation of American Scientists <http://www.fas.org/news/iran/1997/wl97031701.htm>.

exposed these nuclear research activities to the world. The International Atomic Energy Agency (IAEA) demanded to inspect the alleged nuclear research sites and discovered that Iran had been hiding significant amounts of undeclared nuclear materials. Since this revelation, there has been widespread concern about the motivation of the Iranian regime in building their secret nuclear program.

In an effort to assuage the concerns of the global community, the Iranian regime denies that the program will have any military application. G. Ali Koshroo, Iran’s former Deputy Foreign Minister for Legal and International Affairs, has said that the Iranian regime believes that, “the acquiring, development and use of nuclear weapons [is] inhuman, immoral, illegal and against our basic principles. They have no place in Iran’s defense doctrine.” Iran’s Supreme Leader, Ayatollah Khamenei, has also issued a religious decree saying that the production and use of nuclear weapons are forbidden under Islam. Despite these statements, however, doubts persist. These doubts are probably best captured by Abbas Maleki, former Iranian deputy foreign minister, who said that Iran’s need for peaceful nuclear generation is “akin to raising cows in your house to provide you with your daily glass of milk.” The United States, Israel and the Security Council obviously believe that the Iranian regime is raising its cows for a more sinister purpose.

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19 Ibid.
20 Barnaby, supra note 15 at 5.
One of the reasons for these doubts is the lack of credibility held by the Iranian regime with regard to the nuclear issue. In 2003, a complex web of lies regarding the conversion activities of Iranian scientists at the Tehran Nuclear Research Center was finally untangled. Confronted with its conflicting statements, the regime was forced to admit that it had lied to the IAEA. False statements made by the regime about their uranium metal stocks, the P-2 Centrifuge program, the extent of the laser enrichment program, and covert experiments involving reprocessed fuel have also been uncovered. It is quite understandable that, at this point, very little that the regime says about its program can be taken at face value.

To make matters worse, the mullahs have been going to great lengths to build hidden, underground facilities that are immune to conventional aerial attacks. The facilities at Natanz, for example, are buried beneath 23 metres of concrete and earth. Satellite imagery shows tunneling near some existing nuclear sites, leading some to believe that even more secret facilities are being built. Further, international inspectors have identified nuclear activities on military-controlled sites, many of which they have been refused access to. Given all this evidence, the global community is finding it hard to believe that Iran’s intentions are only peaceful.

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There is global concern, not the least of which comes from Israel and the United States, that the Iranian regime is plotting catastrophe. With its detest of the Israeli state, long-standing support for terrorism and undercover nuclear operations, such concerns certainly have an air of validity. In responding to these two concerns – terrorism and nuclear progress – something effective has to be done.

Part III: The Options

Diplomacy

Diplomacy can still work to encourage the Iranian regime to change its behaviour. On a positive level, the regime can be enticed with an offer of regional power sharing in exchange for getting back onside with the international community. Taking a negative angle, the world can continue the admonition of the regime that has been going on for quite some time.

Actions Already Taken

President Ahmadinejad has personally caused a stir by making remarks that have been construed as denying the Holocaust.\(^{31}\) Most famously, President Ahmadinejad made remarks in 2005 about Israel being “wiped off the map”.\(^{32}\) For these remarks, he has received condemnation from the United Nations,\(^{33}\) mock indictments for genocide,\(^{34}\) and


\(^{34}\) Weiner, supra note 204; B’nai Brith Canada, National Press Conference, “Indictment of Iranian President Mahmoud Ahmadinejad for Incitement to Genocide Against the Jewish People” (6 March 2007), online: B’nai Brith <http://www.bnaibrith.ca/pdf/institute/IndictmentIranianPresidentMarch07.pdf>.
a criminal indictment \textit{in absentia} in Germany for Holocaust denial.\textsuperscript{35} These are not the only controversial statements that the President has made,\textsuperscript{36} nor is this the only activity for which the Iranian regime has been the subject of an indictment. In 1994, the Iranian regime funded an attack on the Jewish-Argentine Mutual Association building in Buenos Aires which also elicited an indictment from Argentinean authorities.\textsuperscript{37}

The Iranian regime has consistently denied aiding the insurgencies in Iraq and Afghanistan despite evidence that they are doing just that.\textsuperscript{38} The regime has shown a desire to be a regional leader when the United States and its coalition forces withdraw from the area.\textsuperscript{39} This is consistent with Iranian philosophy regarding foreign relations. The traditional Islamic doctrine of \textit{Dar al-Islam} says that lands once subjugated by Muslims should remain under Muslim control.\textsuperscript{40} The occupation of Iraq and Afghanistan disrupts this concept of the Islamic house. Of course, it goes without saying that the Iranian regime would like to see itself playing a large role in ridding these areas of Western influence and bringing them back under Islamic control.

The Iranian constitution implicitly enshrines the traditional philosophy of \textit{Dar al-Islam} by advocating the export of Islamic government throughout the world.\textsuperscript{41} In furtherance of this goal, the Iranian state has gotten itself involved in the affairs of

\textsuperscript{35} Anthony David Marks, “Israeli Lawyer Registers Criminal Indictment Against Ahmadinejad in German Court” \textit{IHC News} (14 May 2006), online: Israel Hasbara Committee <http://www.infoisrael.net/images/articles/140520061.pdf>.

\textsuperscript{36} See Anti-Defamation League, \textit{supra} note 31.


\textsuperscript{40} Bat Ye’or, \textit{Islam and Dhimmitude} (Cranbury, NJ: Associated University Presses, 2002) at 59.


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Palestine, Lebanon, Algeria, Sudan, Afghanistan, Yemen, Iraq and Somalia, among other nations. The Iranian government has tried desperately to elevate itself to the level of a regional power by spending money to create and then solve problems in countries based in traditional Muslim lands. Perhaps offering a power-sharing structure in the region as an incentive to improve their behaviour could prove effective with the Iranian regime.

**Economics**

The negative economic incentive is, of course, economic sanctions. Kofi Annan, the former Secretary-General of the United Nations, has called economic sanctions, “a necessary middle ground between war and words.” At the same time, there is no

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43 MEMRI, Special Dispatch No. 1620, “Saudi Columnist in Scathing Criticism of Hizbullah and Syria: They Are Trying to Destroy Lebanon Down to the Last Man” (14 June 2007), online: MEMRI <http://memri.org/bin/latestnews.cgi?ID=SD162007>.
shortage of detractors who feel that sanctions do not work.\(^{52}\) Sanctions can also produce tremendously negative humanitarian effects for the citizens of the targeted state and, at the same time, hurt the neighbours of the target state as well as the state which is itself imposing the sanctions.\(^{53}\) Economic sanctions, at the very least, have to be carefully implemented in order to avoid serious unintended consequences.

The positive economic incentive is economic aid. This can take many forms. There can be direct funding from national governments or the International Monetary Fund. Economic Aid can also take the form of helping the country to help itself – by aiding Iran’s push to become a member of the World Trade Organization, for instance.\(^{54}\) By holding this carrot out for the regime, the world may be able to influence its behaviour without imposing the negative consequences that sanctions can entail.

**Actions Already Taken**

Once upon a time, the United States had very cordial relations with Iran. These soured with the 1979 Islamic Revolution and the hostage crisis at the United States Embassy in Tehran. In response to this turn of events,\(^{55}\) the United States instituted the **Iranian Assets Control Regulations**.\(^{56}\) These regulations instituted an asset freeze on the assets of the Iranian government in the United States and were subsequently expanded to include a full trade embargo. Upon the signing of the Algiers Accords in 1981, the trade


\(^{53}\) De Jonge Ondraat, *supra* note 51 at 335.


\(^{56}\) 31 C.F.R. §535 (1979) [“Assets Control Regulations”].
embargo was lifted and most of the frozen assets were released.\textsuperscript{57} While these regulations still partially remain in place,\textsuperscript{58} they are of little practical effect for the relations between the two countries today.

In 1987, a second set of sanctions came into force. President Ronald Reagan made an executive order prohibiting all imports of goods and services from Iran into the United States.\textsuperscript{59} He did so, “[t]o ensure that United States imports of Iranian goods and services will not contribute financial support to terrorism or to further aggressive actions against non-belligerent shipping.”\textsuperscript{60} Eventually, the Reagan Executive Order gave rise to the \textit{Iranian Transactions Regulations},\textsuperscript{61} which codify the U.S. embargo on trade in goods and services and are still in effect today.\textsuperscript{62} The \textit{Iranian Transactions Regulations} go farther than the Reagan Executive Order, however, in that they prohibit not only the importation of Iranian goods and services, but also the exportation and re-exportation of U.S. goods, technology, and services to Iran.\textsuperscript{63}

In 1995, President Clinton’s Executive Orders 12957\textsuperscript{64} and 12959\textsuperscript{65} tightened the sanctions against Iran even further. This time, however, the sanctions did not focus on flows of goods, services, and technology. Rather, these two executive orders prohibited flows of money from the United States to Iran. In particular, the financing of imports of

\textsuperscript{57} U.S. Treasury, “What You Need To Know About Sanctions”, \textit{supra} note 55 at 4.
\textsuperscript{58} \textit{Ibid.} Claims under these regulations are still being litigated at the United States Claims Tribunal at The Hague.
\textsuperscript{59} \textit{Executive Order 12613 – Prohibiting Imports From Iran}, 52 Fed. Reg. 41940 (29 October 1987) [“Reagan Executive Order”].
\textsuperscript{60} \textit{Ibid.} at Preamble.
\textsuperscript{61} 31 C.F.R. §560 (1995) [“Iranian Transactions Regulations”].
\textsuperscript{62} In 2000, the \textit{Iranian Transactions Regulations} were eased slightly. They were amended to incorporate §560.534, which was added to allow Iranian carpets and certain food products to be imported into the United States.
\textsuperscript{63} In §§560.204 and 560.205.
\textsuperscript{64} \textit{Executive Order 12957 – Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources}, 60 Fed. Reg. 14613 (15 March 1995) [“Clinton Executive Order 12957”].
\textsuperscript{65} \textit{Executive Order 12959 – Prohibiting Certain Transactions With Respect to Iran}, 60 Fed. Reg. 24755 (6 May 1995) [“Clinton Executive Order 12959”].
goods or services or the export of goods, services or technology;\textsuperscript{66} new investments in Iranian property;\textsuperscript{67} and the financing, supervising, or managing of the development of petroleum resources located in Iran\textsuperscript{68} were all prohibited. All of these provisions were also later included in the \textit{Iranian Transactions Regulations}.\textsuperscript{69} Violations of the \textit{Iranian Transactions Regulations} could be punished criminally with a fine of up to $1 million and, for natural persons, up to 20 years in jail.\textsuperscript{70}

Not being content with simply restricting its own citizens, the United States also enacted the \textit{Iran and Libya Sanctions Act (ILSA)} in 1996.\textsuperscript{71} According to one American author, the act was “born out of frustration that our allies and friends were unwilling to restrict investment into Iran’s petroleum sector as the United States did in 1995.”\textsuperscript{72} The purpose of the \textit{ILSA}, effectively, is to bar access to American markets – essentially create a secondary boycott – for non-U.S. companies who invest in Iranian petroleum development.\textsuperscript{73} While the \textit{ILSA} sanctions have yet to be imposed on a foreign company,\textsuperscript{74} the threat has induced non-U.S. firms to join their American counterparts and avoid investments in Iran.

The economic sanctions imposed on Iran by the United States are heavy. They include embargoes on goods, services, technology, and investment flows. On the other

\textsuperscript{66} \textit{Ibid.} at Section 1(a) and (b).
\textsuperscript{67} \textit{Ibid.} at Section 1(e).
\textsuperscript{68} Clinton Executive Order 12957, \textit{supra} note 64 at Section 1(a) and (b).
\textsuperscript{69} \textit{Supra} note 61 at §§560.207–560.209.
\textsuperscript{70} U.S. Treasury, “What You Need To Know About Sanctions”, \textit{supra} note 55 at 1.
hand, the sanctions are unilateral. Although the United States has used the ILSA to try to influence companies in other nations to comply with the sanctions, they have no jurisdiction aside from denying access to American markets. The price of U.S. sanctions may be steep for Iran, but their application is, in the end, quite narrow.

By 2006, the United Nations Security Council had seen several IAEA reports expressing concern over Iran’s nuclear program and the Iranian regime’s lack of cooperation in providing information about it. In Resolution 1696, the Security Council issued an ultimatum to the Iranian regime – either cease nuclear enrichment and reprocessing activities and comply with the IAEA’s transparency procedures, or become the target of U.N. sanctions. The resolution gave the Iranian regime one month to comply before sanctions took effect. Needless to say, compliance did not follow.

On 23 December 2006, nearly four months after the deadline for compliance, the United Nations Security Council passed Resolution 1737 - the first round of sanctions. Among other things, this resolution prohibited the supply, sale or transfer of goods which could aid Iran’s nuclear program and the financing of the acquisition of such goods; limited Iran’s ability to export goods related to its nuclear activities or ballistic missiles; restricted the mobility of those named persons involved with Iran’s nuclear program;

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76 Ibid. at Article 7.
78 Ibid. at Article 3.
79 Ibid. at Article 6.
80 Ibid. at Article 7.
81 Ibid. at Article 10. Exceptions are made for nationals of other countries and humanitarian considerations. See ibid. at Article 11.
and also froze the assets of these persons and entities.\textsuperscript{82} These sanctions were subject to review after a period of 60 days.\textsuperscript{83} In the event that Iran did not comply with the Security Council’s demands, the United Nations reserved the right to toughen the sanctions in a further resolution.

When the Iranian regime failed to comply, toughening the sanctions is exactly what the Security Council did. In Resolution 1747,\textsuperscript{84} the Security Council broadened the list of named persons and entities that were subject to the mobility\textsuperscript{85} and asset-freezing\textsuperscript{86} sanctions begun in the previous resolution. In addition, the Security Council restricted Iran’s ability to sell and transfer arms,\textsuperscript{87} and called on U.N. member nations to restrict grants, financial assistance and concessional loans to the Government of Iran except for humanitarian or development purposes.\textsuperscript{88} Again, these sanctions were subject to review after 60 days.\textsuperscript{89} Again, Iran failed to comply.

The third set of sanctions was instituted by the Security Council in Resolution 1803.\textsuperscript{90} Once more, the Security Council expanded the list of persons and entities subject to the mobility\textsuperscript{91} and asset-freezing\textsuperscript{92} provisions. Further, the Security Council called on all states both to “exercise vigilance in entering into new commitments for public provided financial support for trade with Iran, including the granting of export credits,

\begin{itemize}
\item \textsuperscript{82} Ibid. at Article 12. Exceptions are made for basic necessities, among other things. See ibid. Articles 13-15.
\item \textsuperscript{83} Ibid. at Article 24.
\item \textsuperscript{85} Ibid. at Article 2.
\item \textsuperscript{86} Ibid. at Article 4.
\item \textsuperscript{87} Ibid. at Article 5.
\item \textsuperscript{88} Ibid. at Article 7.
\item \textsuperscript{89} Ibid. at Article 13.
\item \textsuperscript{91} Ibid. at Article 3.
\item \textsuperscript{92} Ibid. at Article 7.
\end{itemize}
guarantees or insurance” for Iranian nationals and entities and to “exercise vigilance over the activities in their territories with all banks domiciled in Iran…. This round of sanctions, however, was given an expanded 90 day period before review.

To date, Iran has yet to comply with the demands of the Security Council. At the time of writing, a fourth round of sanctions is being contemplated which would include an embargo on sending refined petroleum and its by-products to Iran. This fourth round is currently being pushed by the United States, but it will likely come before the full Security Council for consideration in the fall. Such sanctions would be particularly painful for Iran, as 40% of the country’s domestic oil consumption is refined outside of the country.

Sanctions imposed by the United Nations Security Council, in contrast to those of the United States, have a very broad application. In theory, the prescribed measures are adhered to by all of the states in the United Nations. In contrast, the impact of the sanctions when compared to those of the United States is quite light. The areas of trade to which the sanctions apply are severely limited. If such serious sanctions as an embargo on exporting petroleum to Iran are to have an immediate effect, they must be adopted by the Security Council rather than unilaterally by the United States.

Military Force

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93 Ibid. at Article 9.
94 Ibid. at Article 10.
95 Ibid. at Article 19.
97 Delpech, supra note 30 at 103.
Before Iran develops the bomb, there are also military options that can be taken. A similar nuclear threat in 1981, resulted in the Israeli Air Force flying into Iraq and bombing the Osiraq nuclear reactor.99 The attack was quite successful in that it slowed down the Iraqi nuclear weapons program to the point where the Iraqis were no longer a nuclear threat to Israel’s existence.100 Could a similar preemptive attack be launched against Iran? If it can be, should it?

There are many difficulties for planners when plotting an attack on Iranian nuclear facilities. First is the sheer number of potential target points. In 2007, it was estimated that an attack on Iran would have some 400 aim points in order to have a relatively high certainty of success.101 Without hitting all of these targets, the Iranian nuclear program would be able to continue unfettered in some capacity until the destroyed facilities come back online.

Among these 400 aim points, roughly 75 would require some sort of penetrating warhead.102 After watching Iraq’s experience with its Osiraq reactor, Iran took pains to hide its facilities both in underground installations and near heavily populated areas.103 The facility at Natanz, for example, is covered by nearly 23 metres of concrete and earth.104 Additionally, there is no guarantee that all of these 400 aim points are still functioning facilities. It is likely that any bombing exercise would destroy facilities that

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103 Bagully, supra note 54 at 115.
are no longer affiliated with the nuclear program. In a heavily populated area, this is a serious concern.

Further, even if all of the facilities could be destroyed with minimal civilian losses, the program might still continue on. As Mohamed ElBaradei, the head of the International Atomic Energy Agency, is fond of saying, “you cannot bomb knowledge.”\textsuperscript{105} Facilities can easily be rebuilt. Equipment can be purchased and smuggled into the country through a variety of means despite the ongoing sanctions. It is the knowledge of the nuclear fuel cycle – which will survive any amount of bombing – that will keep the Iranian nuclear program alive. At this point, it seems as if it will only be a matter of time before Iran obtains the technological knowledge required to build a nuclear weapon.

If a preemptive strike is carried out, there is no doubt that the Iranian regime will translate its technological knowledge into a nuclear arsenal at the first opportunity. Such strikes also increase the likelihood that the regime will actually use those weapons, rather than simply hold them as threats. A preemptive strike could escalate the conflict beyond the point that any amount of diplomacy could control it. Such a situation would not be in the interest of either side.

There is also the option of carrying out attacks after the Iranian regime has obtained the materials and knowledge required to build a bomb. These attacks, of course, will have to take a much different form. In World War II, the British employed tripwires for the Germans and Italians when they finally decided that appeasement was no longer possible. On 31 March 1939, the British announced that any aggressive action taken

against Polish independence would bring a military response from both the United Kingdom and France.\(^{106}\) This was followed by both governments issuing similar guarantees for the independence of Greece and Romania on 13 April.\(^{107}\) Hitler was infuriated, watching the British engage in what he called “the policy of encirclement.”\(^{108}\) Despite the guarantees, of course, Hitler went ahead with his plans to invade Poland on 1 September 1939 and drove Germany headlong into the Second World War.

In speaking about the British guarantees against Hitler’s aggressive plan, Lord Halifax said, “… it might still be possible to deter him from its execution if, as we had failed to do in 1914, we made it unmistakably clear that the particular acts of aggression which he was believed to have in mind would result in a general war.”\(^{109}\) Obviously, Hitler was not deterred. On the other hand, his aggression was finally unmasked and eventually his reign of terror was brought to an end. The tripwires led to war, but in the end they solved the problem.

Tripwires can also be effective in the Iranian situation. Clearly, however, the hope is that they will prevent a war rather than start one. By having guidelines with a clear set of serious consequences, rational leaders would seek to confine their activities to avoid the tripwires. Hitler, certainly, was not a rational leader. If the leaders of Iran choose to follow in the footsteps of Hitler and flagrantly violate the tripwire provisions, perhaps war is the only way to prevent them from committing atrocities against Israel. If the Iranian regime turns out to be as aggressive as Hitler was, it is probably in the world’s best interest to address the problem early on.


\(^{107}\) *Ibid.* at 129.


The positive side of military intervention is military aid. The idea should be given little thought in this situation, however. Military aid serves its greatest purpose when there is a mutual interest between the intervening party and the target regime to resolve an ongoing dispute between the target regime and a third party. The Iranian regime’s only dispute in this case is with Israel. Providing the mullahs with weapons in exchange for dropping their aggressive stance toward the Israelis is simply illogical. If military intervention is to take place, it can only be in the negative form in this situation.

Part IV: Suggestions

Diplomatic

There is some question as to whether the regime needs to be discredited any further. The recent election fiasco\(^\text{110}\) appears to have eroded a large portion of the regime’s power base. The young Iranian population\(^\text{111}\) has become very disenchanted with the Iranian political system. It is said that domestic politics determine foreign policy.\(^\text{112}\) If the regime has its hands full dealing with the Iranian people, it is likely that they will not have the time or energy to pursue aggression against Israel.

On the other hand, the regime has a habit of blaming others for its own problems. The protester deaths following the election fiasco were blamed on Britain and other Western countries.\(^\text{113}\) It is not outside the realm of possibility that the regime would use Israel as a distraction for its own internal problems. That said, the regime seems to be

\(^{110}\) Referring, of course, to the controversy surrounding the 2009 Iranian Presidential election. This is not the first election controversy President Ahmadinejad has been a party to. See BBC News, “Iran Loser Blasts ‘Illegal’ Poll” BBC News (25 June 2005), online: <http://news.bbc.co.uk/2/hi/middle_east/4622955.stm>.


aware of the consequences of any sort of preemptive attack. It would be sheer insanity to attempt any sort of violence without solid domestic unity. Now is not the time for the regime to be acting up. Discredited as it is, now is also not the time to be using diplomacy to beat a dead horse and delegitimize the regime further.

From the positive standpoint, regional power sharing also does not make much sense at the present time. Given the domestic troubles that the regime is facing now, it is in no position to assume the civil unrest in Iraq and Afghanistan as well. If the carrot is held out for the regime to take once it has its own house in order, there is no telling what lengths it may go to in order to quell the rebellious voices in the country. At the present, it would be best to stay away from such diplomatic measures altogether.

**Economic**

The environment is optimal, however, for further economic measures – both positive and negative. With the political unrest the regime is currently facing, they may be desperate to complete their nuclear quest and reestablish their legitimacy. If this is the case, they will sink as much money as they can into the program to finish it as quickly as possible. If sanctions are stepped up now, they will reduce the amount of money available to the government to put toward the nuclear program. If the government makes cuts to social programs, hospitals and schools in order to redirect money toward nuclear science, the political unrest in the country will likely boil over. Stepping up sanctions now will put the regime between a rock and a hard place when it comes to pressing forward with its nuclear ambitions.

The population in Iran is young and growing increasingly desperate with their situation. If sanctions are upgraded and the regime does nothing to offset them, the
ensuing unemployment and inflation will only drive the civilians to greater depths of displeasure. There will be a breaking point in which the Iranian population can no longer deal with the economic situation that it is in. Such a breaking point was reached in 1979 when the Iranian people could no longer put up with the economic mismanagement of the Shah.\footnote{114} The Iranians are a proud people and, if the situation gets much worse, will rise to the occasion. A strengthening of the sanctions in place could very well give them the final push that they need to overthrow the regime and install the democracy that the people have wanted for so long.\footnote{115} Sanctions and selective military force proved effective in Libya because of the domestic pressure at the time in that country.\footnote{116}

Positive economic measures might also have a drastic impact in the current environment. The regime is facing a great deal of adversity and is searching for some form of accomplishment to latch onto in order to establish some form of legitimacy. If the global powers were to offer the regime increased trade or a place in the World Trade Organization, for example, in exchange for an end to their nuclear activities, the regime would likely jump at the chance to save face. Of course, the fact that the regime has been very duplicitous in similar dealings in the past must also be kept in mind.\footnote{117} If such an agreement were entered into, there would have to be some serious – possibly military – consequences for the regime reneging on the agreement, taking the carrot and continuing with its nuclear activities. In the event such an agreement does take place, the mullahs should be tied down with tripwires to the greatest extent possible.

Military Force

In the current environment, if an assault is to take place on Iran before it builds a nuclear weapon it must either be in response to an attack by Iran or be in accordance with a Security Council agreement.\textsuperscript{118} A Security Council agreement is highly unlikely, given the stance of Russia and China on the issue. An attack to which the United States or Israel could respond has arguably occurred, but international opinion would not be behind a retributive attack.\textsuperscript{119} A pre-emptive attack on Iran is not, at this moment, militarily, politically or legally feasible.

Putting tripwires in place is an attractive option.\textsuperscript{120} But, with regard to the Iranian situation, what should the tripwires be? In keeping with the historical precedent, an attack or attempted attack on another country using nuclear material should be the first red line. Traditional attacks on other countries by Iran can be dealt with in the traditional way – treating the act as a \textit{causus belli} and engaging in war. Relations between states have worked under this rule for countless years and there is no reason to change now.

Iran usually does not engage in traditional attacks. They use proxies, such as Hezbollah or Hamas, to carry out the aggressive acts for them. The individual target countries of such attacks have done enough to deter them so far and have allies they can call in should the attacks get any worse. If Iran were to cross the threshold and ship

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\item[\textsuperscript{118}] Mary Ellen O’Connell, “Preserving the Peace: The Continuing Ban on War Between States” (2007) 38 Cal. W. Int’l L.J. 41 at 41.
\item[\textsuperscript{119}] The Israelis could argue that Iran’s ongoing support of terror attacks against Israel constitutes a \textit{causus belli}, and the Americans could cite Iranian naval activities in the Strait of Hormuz. See Barbara Starr, “Iranian Boats ‘Harass’ U.S. Navy, Officials Say” CNN (7 January 2008), online: CNN <http://www.cnn.com/2008/WORLD/meast/01/07/iran.us.navy/index.html>.
\item[\textsuperscript{120}] Similar suggestions have been made by other scholars. See Fletcher Forum of World Affairs, “This New Struggle for Power: Assessing American Foreign Policy in the Middle East – An Interview with Martin Indyk” (2007) 31 Fletcher F. World Aff. 51 at 57 (“Fletcher - Indyk Interview”)
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nuclear material to these groups for use in their attacks\textsuperscript{121} - whether the materials are used or not – a tripwire should be activated and the international community should step in.

While dirty bombs may not be more physically destructive than a conventional terrorist attack, the psychological and economic effects on the target country could potentially be devastating.\textsuperscript{122} Not only that, but dirty bomb attacks are unnervingly simple to carry out.\textsuperscript{123} Given these effects, the possession or use of dirty bombs should not be tolerated. The nuclear material is likely to be fingerprinted and traced back to Iran.\textsuperscript{124} If such material is used or is found in the possession of one of Iran’s proxies, the international community should step in to forcibly change the regime. The passing off of nuclear material to terrorist groups should not be tolerated.

A second tripwire should be evidence that Iran is enriching uranium beyond the needs of a civilian electricity generation program. To be used in a civilian electricity generation program, uranium need only be enriched to a level of 2 to 6 percent.\textsuperscript{125} To be used in a nuclear weapon, uranium is enriched to over 90 percent.\textsuperscript{126} This discrepancy leaves plenty of room in which to draw a line for a level of acceptable enrichment. If it were discovered that the Iranians were enriching uranium past a certain point – say, 20 percent, for example – it would be a clear sign that there are military intentions for the program. Given such evidence, the international community should step in and put an end

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\footnotetext[121]{For a discussion of Iran arming terrorists with “dirty bombs”, see Greenblum, supra note Error! Bookmark not defined. at 81.}
\footnotetext[122]{High Level Panel on Threats, Challenges and Change, \textit{A More Secure World: Our Shared Responsibility}, UN GAOR, 59\textsuperscript{th} Sess., UN Doc. A/59/565 (2 December 2004) at para. 113.}
\footnotetext[126]{\textit{Ibid.} at 162.}
\end{footnotes}
to Iran’s ability to enrich uranium. Unfortunately, given the regime’s secrecy regarding its program, such evidence will likely be difficult to come across.\footnote{See Delpech, \textit{supra} note 30 at 13-15.}

As a final tripwire, Iran should not be allowed to manufacture, develop, purchase, or possess any nuclear-capable warheads. By accumulating such weapons, the regime would not be showing good faith. Even if the regime’s enrichment is staying at civilian levels, the accumulation of warheads is a clear sign of a military intent. With the civilian technology already in place, it would only be a matter of months before weapons-grade uranium is manufactured. If the military methods of delivery are kept out of the Iranian regime’s hands, the civilian program is much less of a threat to global stability.

The point of the tripwires is to strike a compromise between the two positions. The mullahs say they only want peaceful electricity generation, but the Security Council is concerned that they want nuclear weapons. The aim of the tripwires is to allow a peaceful civilian program while providing guarantees that the military potential of the program will not be realized. If the Iranian regime restricts its activities to what it claims its intentions are, the conflict will dissipate and war, which to some seems to be almost inevitable, will surely be avoided.

Ideally, these tripwires will be put in place by the United Nations’ Security Council as a supplement to an economic measure. If the Iranian regime violates the terms of the tripwires, all of the nations of the international community will be free to respond in accordance with the previously agreed-to consequences. There is the possibility, however, that either Russia or China will prevent such tripwires from being enacted.\footnote{Both nations have proven difficult in allowing the passage of the three previous rounds of sanctions.} Political squabbling could remove the Security Council as an option, but it should not be
the only means of putting the tripwires into action. As an alternative, these tripwires could be enacted unilaterally by the United States and Israel. The message to the Iranian regime may not be as forceful as it would be coming from the Security Council, but the measures could still be successful nonetheless. The key will be the ability of the enacting nation or organization to follow-through with the outlined consequences.

**Part V: Conclusion**

There are three ways to approach the current problem with the Iranian regime: diplomatically, economically and militarily. To date, the international community has taken diplomatic and economic positions with only a threat of military action. Given the current political environment in Iran, it is time to step up the economic approach and put military measures in place in case the economic steps prove ineffective.

It is also time to consider providing the regime with some economic carrots to coax them out of their aggressive stance. Such incentives could provide the regime with a path to take that allows them to save face while acceding to global demands to halt their nuclear program. If something as mutually beneficial as increased trade can be given to the regime in exchange for more acceptable behaviour, the option should certainly be canvassed.

On the other hand, there is always the threat that the regime will backtrack. Further, other regimes may see this compromise as a green light to act like a rogue state for a few years and hold global security hostage in exchange for economic benefits. To address both situations, any benefits package should be accompanied by as many restrictions and tripwires as possible. The regime needs to know that it can not renege on
its word and other regimes need to see that the regime has not been completely enriched by its deviance from international norms.

On a larger level, this situation should act as a testing ground for methods of dealing with state funders of terrorism in the post-9/11 world. Whatever approach is taken by the United Nations, the United States, and the global community at large should be analyzed for its possible effectiveness in other situations. Of course, no two threats are the same. General principles, however, should be transferable between situations. It is these lessons that should be taken at the highest levels of government in order to deal more effectively with security threats in the future.

Iran is not the only country who acts aggressively on the global playground. Israel is not the only victim. Hopefully the rest of the kids on the playground can band together in this situation to find a solution that will keep the aggressor at bay. Someday they may find that they themselves are the bully’s target. If they do, they will certainly hope that it is not just the biggest kid on the playground who is able to save them.