

# Can the Senate Sue the President over his handling of the Iran Deal?



Yesterday, the Senate Republican majority failed in a last move to upend the Iran Nuclear deal. As [reported](#) by the AP, a Senate vote on a resolution linking lifting of sanctions to the Islamic Republic recognition of Israel failed once again to reach the 60 votes threshold. The [vote](#) was 53 to 45 before the deadline of September 17<sup>th</sup> under the Corker-Cardin Iran Nuclear Agreement Review Act. Senate Majority Leader Mitch McConnell (R-KY) said, in an [AP report](#) on the Administration's start to implement the JCPOA, the deal "likely will be revisited by the next commander-in-chief." However, at present we don't know who the contending Democrat and Republican nominees for President in the 2016 race will be.

The [AP reported](#) House Speaker John Boehner suggesting that possible litigation might be an option. Other Senators and Members of Congress have suggested renewal of the Iran Sanctions Act of 2006 before it sunsets in 2016. In the meantime, the UN nuclear watchdog, the IAEA, has to submit its so-called Road map on prior military developments by October 15<sup>th</sup> with acknowledged "ambiguities" in responses from the Islamic Republic. Those steps include changes to the cascade halls for enrichment at Natanz and the underground complex at Fordo. Sanctions have already been lifted by the Swiss, and will be shortly by the Russians and Chinese who have sequestered \$50 billion in sanctioned funds. The bulk of the \$100 billion in sequestered funds in US financial institutions might be lifted by early 2016. A letter [issued](#) on September

13, 2015 urging Congressional rejection of the Iran nuclear pact by three dozen Iranian ex-patriates and human rights activists drew attention to the direct control of Ayatollah Khamenei over the disposition of these sequestered funds. Meanwhile the EU-3 has trekked to Tehran to cut billions of trade and energy development deals contingent on evidence of compliance with the JCPOA. All hinged on the alleged "robust, intrusive IAEA inspection capabilities" whose side deals with Iran have never been provided by the Obama Administration to Congress. This despite closed door Congressional briefings by the lead negotiators and IAEA director general, Yukio Amano, that some think revealed the lack of diligence by the Administration.

Deputy National Security Adviser Ben Rhodes in remarks to the press has hailed this foreign policy achievement as a victory. Others, like Caroline Glick deputy managing editor of the Jerusalem Post in her [column](#) this week, contended that Rhodes suggested that implementation of the JCPOA via procedural shenanigans in the US Senate was a rebuke of Israeli PM Netanyahu's opposition to the Iran nuclear pact. Opposition exemplified by his address to a Joint Meeting of Congress on March 3, 2015. Further she notes in her [column](#) that the purpose of Netanyahu's meeting with Russian President Putin in Moscow is to assure that Israel's geo-political national security interests and rights as a sovereign nation will be front and center. Netanyahu is scheduled to meet with President Obama in early November.

In furtherance of understanding the legal option that Speaker Boehner referred to in the [AP Report](#) as well as points raised by Glick in her JP Column about PM Netanyahu's Moscow visit, the Lisa Benson Show will have as special guests Sunday, September 20, 2015. They are [David B. Rivkin](#), Partner in the Washington, DC office of Baker Hosteller, LP and Senior Fellow of the Foundation for Defense of Democracies, a leading Constitutional law litigator, and [Shoshana Bryen](#), senior

director of the Jewish Policy Center. Bryen is an astute analyst of US and Israel national security interests. She has authored articles on these issues and recently on the likely cooperative development of nuclear weapons and ICBMs by Iran and North Korea. She will address the objectives of the upcoming Netanyahu Putin discussions in Moscow.

Rivkin recently won a landmark decision in the DC Federal District Court in the matter of *House v. Burwell* over the supremacy of Congressional appropriations authorities with regard to implementation of the Affordable Care Act that affirmed Congressional standing to bring such an action. He co-authored a September 6, 2015 *Washington Post* [opinion article](#) with Rep. Mike Pompeo (R-KS) suggesting a possible suit by the Senate against the President for non-compliance with the language of the Iran Nuclear Agreement Review Act requiring delivery of all requisite documents including the privileged IAEA side agreements. A September 10, 2015 [WSJ op ed](#) by Rivkin and Elizabeth Price Foley discussed how the successful *House v. Burwell* suit gave standing to Congress to bring possible litigation against the President. We have published similar proposals by [Sklaroff and Bender](#) for Senate litigation over Congressional affirmation of the JCPOA unanimously endorsed by the UN Security Council on July 22, 2015.

[Watch](#) this mid-April 2015 *Wall Street Journal* interview with David B. Rivkin, Esq. presciently predicting the outcome of the flawed Corker-Cardin Iran Nuclear Agreement Review Act:

The Lisa Benson Show will air Sunday, September 20, 2015 at 4PM EDT, 3PM CDT, 2PM MDT, 1PM PDT and 11PM in Israel. [Listen live](#) to the Lisa Benson Radio Show for National Security on KKNT 960The Patriot or use [SMARTPHONE iHEART App: 960 the Patriot](#).