

Ransom, the Law, and the Obama Administration

by Michael Curtis

Fairy tales can come true, it could happen to those who are lucky and politically naïve at heart. Unfortunately, the Obama administration in its relations with Iran has gone to extremes with impossible schemes and tales that fly in the face of objective reality, and even disregard the law. With the eagerness of short-sighted detectives, President Barack Obama and his team have doggedly proclaimed they have found the benefits to the United States and to the world of the Joint Comprehensive Plan of Action (JCPOA) signed on July 13, 2015 with Iran, a nuclear deal that had been opposed by 58 U.S. senators.

A year later, on July 14, 2016 Secretary of State John Kerry spoke of JCPOA that had succeeded in restraining Iran's nuclear program in a way that guaranteed that it would not be pursuing a nuclear weapons program. He said that the agreement, the result of a multilateral, complicated negotiation, had made the world safer and less volatile. He explained it opened the door to give the US an opportunity to discuss with Iran continuing issues including Syria, Yemen, and terrorism.

Like the corrupt police chief in the film *Casablanca*, Kerry and his spokesperson John Kirby must have been "shocked" to learn of the continuation by Iran of its nuclear weapons program, as well as its enhancement of other issues. Both Kerry and Kirby had explained that the deal was about a nuclear track and nuclear weapons and that Iran "was meeting their commitments, and we are meeting ours." Certainly the US, believing as Obama said, that Iran was in compliance with its nuclear obligations, was meeting its own obligations. Among

other matters, sanctions on Iran were removed on January 16, 2016.

One can legitimately differ on the existing extent of development of centrifuges and uranium stockpiles presently in Iran and on its capacity to develop enriched uranium, if on a reduced scale.

However, this fairy tale of Iranian commitment to the deal has been dispelled by two informed sources: German officials, and the Supreme Leader of Iran, Ayatollah Khamenei.

Intelligence reports from half of the 16 state governments in Federal Germany report that Iranian agents are attempting to obtain nuclear related material. The Iranians seek to obtain technology for atomic, biological, or chemical weapons. The German Federal domestic intelligence agency reported that Iran's "illegal proliferation-sensitive procurement activities" in Germany had reached a quantitatively high level.

Unfortunately for the fairy tale of conciliation, Khamenei had only a few days before the speech of Secretary Kerry attacked the U.S. asserting that its policy was the work of intelligence services, particularly the "dangerous hands of American, Zionist, and English," that created terrorism in the world of Islam.

Perhaps President Obama was sincere if misguided in his belief that the nuclear deal would lead to better relations. Yet, the evidence to the contrary is overwhelming. First, Iran is continuing its support for terrorist groups, especially for Hezbollah.

The Hezbollah Secretary-General, Hassan Nasrallah, has proudly announced that his entire budget came directly from Iran and not through Lebanese banks. This includes salaries, funds, food, drink, and weapons. As long as Iran has money, he said, Hezbollah has money.

Iran has interfered in Iraq, funding Shia terrorist groups such as Kata'ib Hexbollah, a group that killed 5 U.S. soldiers in Baghdad in 2011, the Houti rebels in Yemen, Taliban, Afghanistan, and al-Qaeda in South Asia. It has supported the Syrian Assad regime, providing arms, finance, and training. It has formed a "Liberation Army" to be deployed in Arab countries, especially in Syria headed by Qassem Soleimani, head of the Revolutionary Guard Corps.

Secondly, Iran can and is developing, and also buying heavy long-distance missile delivery systems that, among other things, can carry nuclear weapons. German Chancellor Angela Merkel herself, on July 7, 2016, declared that Iran's missile program continued "unabated," and that Iran was developing its rocket program.

Thirdly, the nuclear deal has made Iran more politically powerful and self-assured, if not yet the dominating power of the Middle East. It has restored its oil production and exports. It has bank accounts with foreign banks, and foreign direct investment in Iran has increased. It has defied the US. In January 2016, when it detained US soldiers in international waters. It kidnapped US citizens and dual citizens.

Two events revealed in August 2016 cause concern. One was the acknowledgment of the US ransom deal with Iran: the other was the Russian use of Iranian space.

The ransom issue goes back to 1979 when the Shah of Iran paid for planes and military equipment, but he was deposed from power before the plane were delivered. Connected with the nuclear deal in July 2015, a financial agreement was reached in The Hague by which U.S. agreed to refund \$1.7 billion, consisting of \$400 million for the promised planes in 1979 plus \$1.3 billion in interest. On January 16, 2016, Obama announced the intended delivery of the \$1.7 billion. The same day Iran released the US hostages it held and the US released seven Iranians detained in the U.S. on financial charges.

However, Obama did not mention that \$400 million was being shipped to Iran,

The members of the administration all denied this was a ransom payment. On August 4, 2016 Obama asserted, "We do not pay ransom. We didn't here, and we won't in the future." But finally on August 18, 2016 Obama admitted that the deal was ransom. Obama delivered cash, giving an implausible reason that "we are so strict in maintaining sanctions, and we do not have a banking relation with Iran."

The excuse was that the money was paid in foreign currency, not US dollars, because the law on sanctions dating back to 1995 prevents the government from dealing with Iran in dollars. Yet Obama's action was defiance of law. The Code of Federal Regulations, Section 560.204 is explicit. It is worth quoting: "notwithstanding any contract entered into ..prior to May 7, 1995, the exportation, ...sale or supply from the U.S. ...of any goods, technology or services to Iran or the government of Iran is prohibited. The U.S. law forbids the supply of goods, services, or technology to terrorist countries: Iran was declared such in 1995.

In a surprising action on August 16, 2016 Russian planes flew 4 long range Tu 22 M3 bombers accompanied by Su-34 tactical bombers from a base near Hamedan in Iran. They struck ISIS targets in north and east Syria, and returned to Russia. This event was not only surprising in itself, but also because the Iranian constitution bans any foreign bases on its soil, though it can allow foreign countries to use one of its air fields. For the Obama administration dreams must be put away for another day. Both the growing strength of Iran has been shown and also the signs of greater Russian involvement in the Syrian war and in the Middle East. The next President must deal with this.