

# Trying to Scuttle Iran Nuke Talks, Again

Official Washington's hardliners are back at it, pushing unrealistic demands about Iran's nuclear program to ensure that a comprehensive agreement is scuttled and the military option is put back on the table, as Gareth Porter explains at Inter Press Service.

By Gareth Porter

As diplomats began drafting a comprehensive agreement on the Iranian nuclear program and Western sanctions in Vienna on Tuesday, U.S. officials were poised to demand a drastic cut in Iran's enrichment capabilities that is widely expected to deadlock the negotiations.

Iran is almost certain to reject the basic concept that it should reduce the number of its centrifuges to a fraction of its present total, and the resulting collapse of the talks could lead to a much higher level of tensions between the United States and Iran.

The Obama administration's highly risky diplomatic gambit rests on the concept of "breakout time," defined as the number of months it would take Iran to accumulate enough weapons grade uranium for a single nuclear weapon.

Both Secretary of State John Kerry and former U.S. proliferation official Robert Einhorn have explained the demand that Iran give up the vast majority of its centrifuges as necessary to increase Iran's "breakout time" to at least six months, and perhaps even much longer.

Einhorn, who was the State Department's special adviser for nonproliferation and arms control until June 2013, wrote in a report for the Brookings Institution that the number and type of centrifuges "will be limited to ensure that breakout times are a minimum of 6 to 12 months at all times."

In a separate article in *The National Interest*, Einhorn wrote that such a "breakout time" would entail a reduction from Iran's present total of 19,000 centrifuges to "a few thousand first-generation centrifuges."

Kerry suggested in testimony before the Senate Foreign Relations Committee on April 8 that the administration would try to get a breakout time of more than one year but might settle for six to 12 months. He compared that with the two months he said was the current estimate of Iran's breakout capabilities.

"Breakout" has been touted by hardline think tanks as a non-political technical measure of the threat to obtain the high-enriched uranium necessary for a bomb, but it is actually arbitrary and highly political.

Even proliferation specialists who support the demand to limit Iranian enrichment capabilities severely, however, including both Einhorn and Gary Samore, President Barack Obama's former special assistant on weapons of mass destruction, believe that "breakout" is more about the politics surrounding the issue than the reality of the Iranian nuclear program.

In an interview with IPS, Samore said the breakout concept can only measure the capability to obtain the necessary amount of high-enriched uranium from acknowledged facilities those that are under inspection by the International Atomic Energy Agency (IAEA).

It does not deal with a scenario involving secret facilities, he said, because it is only possible to estimate rates of enrichment in facilities with known quantities and types of centrifuges.

The use of the breakout concept is based on the premise that Iran would make a political decision to begin enriching uranium to weapons grade levels in its Natanz and Fordow plants as rapidly as possible. That would mean that Iran would have to expel the IAEA inspectors and announce to the world, in effect, its intention to obtain a nuclear weapon.

Samore, who left the Obama administration in January 2013 and is now the executive director for research at Harvard's Belfer Center for Science and International Security, told IPS, "It's extremely unlikely that Iran would actually take the risk for single bomb," calling it "an implausible scenario."

Samore is no dove on Iran's nuclear issue. He is also president of United Against Nuclear Iran, an organization that puts out hardline propaganda aimed at convincing the world that Iran is a threat trying to get nuclear weapons.

Another problem with the specter of "breakout" is that, even if it took the risk of enriching the necessary weapons-grade uranium, Iran would still have to go through a series of steps to actually have a bomb that it could threaten to use.

A report released last week by the International Crisis Group (ICG) noted that calculations of breakout capability "are rough and purely theoretical estimates" and that they "omit inevitable technical hitches" and "an unpredictable and time-consuming weaponization process."

According to the testimony by director of the Defense Intelligence Agency. Lt. Gen. Ronald Burgess before the Senate Armed Services Committee in April 2010, that process, including integrating the weapon into a ballistic missile, would take three or four years.

The ICG report quoted a senior Iranian official as saying, "Serious people know

that, even if Iran sought nuclear weapons, it will take years to manufacture one. What's more, no state has ever invited opprobrium or a military strike just to produce a few kilograms of highly enriched uranium."

In an interview, Jim Walsh of MIT's Security Studies Program was scathing about the "breakout" scenario the administration is using to justify its diplomatic stance. "The idea of Iran kicking out inspectors to rush to get one bomb is silly," he told IPS.

Samore believed that Iran would be far more likely to try what he calls a "sneakout" the use of secret facilities to enrich uranium to weapons grade, than a "breakout."

But as is generally acknowledged by proliferation specialists, such a covert route to a nuclear weapons capability would take much longer than trying to do so openly. Furthermore, it is almost certain to be detected, as Director of National Intelligence James Clapper testified in April 2013.

Despite his conviction that the breakout concept makes no sense as the basis for negotiations with Iran, Samore believes it will be "the test for any deal," because it is the only way to measure it. "It's a political fact of life," Samore said. "It all gets boiled down to breakout time."

The dominance that the breakout advocates have achieved in the lopsided political discourse about Iran has given opponents of an agreement a new form of pressure on the Obama administration to make unrealistic demands in the negotiations.

Einhorn admitted at a panel at the U.S. Institute of Peace in Washington D.C. on Tuesday that the decision on the length of breakout time and the level of centrifuges to be demanded "will come down to a political judgment."

He clearly suggested, however, that the decision is primarily a response to political pressures from various unnamed parties and not a matter of finding a political compromise with Iran.

"Some say six months or less," he said. "Others say you need a year. Some say a year and a half or two years."

The former senior State Department official on proliferation issues insisted, moreover, that there was no possibility of accepting Iran's explicit demand to be permitted to increase its enrichment capacity to as many as 30,000 centrifuges in order to support a nuclear power program.

"That amount would bring breakout time down to weeks or days," he said. "That's

breakout.”

He did not discuss the possibility of agreement on gradually phasing in additional centrifuges as the practical need for them is demonstrated by progress on a new nuclear reactor.

The tough talk by Einhorn, who has clearly been given the green light to describe administration thinking publicly, makes it much less likely that the administration will back away from a breakout demand in the face of firm Iranian resistance.

**Gareth Porter, an investigative historian and journalist specialising in U.S. national security policy, received the UK-based Gellhorn Prize for journalism for 2011 for articles on the U.S. war in Afghanistan. His new book *Manufactured Crisis: the Untold Story of the Iran Nuclear Scare*, was published Feb. 14. [This article originally appeared at Inter Press Service.]**

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## Death to the Death Penalty

Oklahoma’s ghoulish killing of convicted murderer Clayton Lockett on April 29 has brought new attention to America’s continued use of the death penalty, a politically popular issue in some states but a practice that has many reasons justifying its abolition, writes Marjorie Cohn.

By Marjorie Cohn

The recent torturous execution of Clayton Lockett in Oklahoma has propelled the death penalty into the national discourse. The secret three-drug cocktail prison authorities administered to Lockett the first to render him unconscious, the second to paralyze him, and the third to stop his heart and kill him – didn’t work as planned. After writhing in pain for 43 minutes, he finally died of a heart attack.

Madeline Cohen, a lawyer who witnessed the botched execution, said Lockett had been “tortured to death.” Seasoned reporters, also witnesses, called it “horrific.” President Barack Obama found it “deeply disturbing” and promised a review of how the death penalty is administered.

But the issue is not simply the most “painless,” fair, and efficient method the 32 death penalty states should use to put someone to death. It is not just a

problem of executing innocent people, or the dubious constitutionality of the death penalty, or racism in its application and imposition, or that the death penalty does not deter homicide, or the higher cost of keeping someone on Death Row, or that nearly all industrialized countries have abolished capital punishment. The premeditated killing of a human being by the state is just plain wrong and the United States should abolish it. A week after Lockett's execution, the Constitution Project released its report after one of the most comprehensive examinations of capital punishment in the United States. Calling the administration of the death penalty "deeply flawed," the report focused on procedural deficiencies.

It recommended that death penalty states should use one drug instead of three to kill their citizens. It called for fewer constraints on post-conviction review of exonerating evidence, and videotaping of interrogations to identify false confessions, concluding that over 80 percent of 125 documented false confessions occurred in homicide cases; 20 percent of the defendants in those cases were sentenced to death. It recommended the abolition of the death penalty for "felony murder," in which a person participates in, but does not commit, the homicidal act.

It expressed concern about inconsistent application of the ultimate penalty since the Supreme Court ruled in 2002 that intellectually disabled individuals should not be executed. It criticized states such as Texas, Alabama and Pennsylvania for compensating capital defense lawyers so poorly that it is "nearly impossible" to receive a proper defense. And it urged death penalty states to determine whether there are racial disparities in the application of the death penalty. The bipartisan panel did not, however, recommend abolition of capital punishment.

A new study just released by the Proceedings of the National Academy of Sciences determined that 1 in every 25, or 4.1 percent, of people on death row, are innocent. But the innocence rate is 4.1 percent, more than twice the rate of exoneration. That means an unknown number of innocent people have been put to death.

"Every time we have an execution, there is a risk of executing an innocent. The risk may be small, but it's unacceptable," said Richard Dieter, executive director of the Death Penalty Information Center.

### **Cruel and Unusual**

The Eighth Amendment to the Constitution outlaws "cruel and unusual punishments." Although the Supreme Court has upheld the death penalty, some justices have concluded it violates the Eighth Amendment.

In 1972, in *Furman v. Georgia*, the high court imposed a moratorium on the death penalty because it was arbitrarily imposed. Justice Potter Stewart wrote for the majority that executions were “so wantonly and so freakishly imposed” that they are “cruel and unusual in the same way that being struck by lightning is cruel and unusual.” But Stewart was only opposed to capital punishment as a matter of policy.

States revised their death penalty statutes to eliminate arbitrariness, and four years later, the Court upheld Georgia’s new and improved death penalty law in *Gregg v. Georgia*. Unlike Justices William Brennan and Thurgood Marshall, Stewart did not believe the death penalty was unconstitutional.

Marshall noted in his concurrence in *Furman*, “Perhaps the most important principle in analyzing ‘cruel and unusual’ punishment questions is [that] . . . the cruel and unusual language ‘must draw its meaning from the evolving standards of decency that mark the progress of a maturing society’ . . . Assuming knowledge of all the facts presently available regarding capital punishment, the average citizen would, in my opinion, find it shocking to his conscience and sense of justice. For this reason alone, capital punishment cannot stand.”

Brennan also concurred in *Furman*. He wrote, “When examined by the principles applicable under the Cruel and Unusual Punishment Clause, death stands condemned as fatally offensive to human dignity. The punishment of death is therefore ‘cruel and unusual,’ and the States may no longer inflict it as a punishment for crimes. Rather than kill an arbitrary handful of criminals each year, the States will confine them in prison.”

Eighteen years after *Furman*, Justice Harry Blackmun came to the conclusion that the death penalty was unconstitutional. In 1994, his last year on the Court, Blackmun famously wrote, “From this day forward, I no longer shall tinker with the machinery of death.”

Most recently, in 2008, Justice John Paul Stevens decided the death penalty amounts to cruel and unusual punishment. Stevens concluded, “[T]he imposition of the death penalty represents ‘the pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes. A penalty with such negligible returns to the State [is] patently excessive and cruel and unusual punishment violative of the Eighth Amendment.’” [quoting Justice Byron White’s *Furman* concurrence].

In his new book, *Six Amendments*, Stevens proposes the Eighth Amendment be changed to read, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments such as the death penalty inflicted.”

## **Racism in Imposition**

According to Death Penalty Focus, the race of the victim and the race of the defendant in capital cases are major determinants in who is sentenced to death in the United States. A 1990 report by the General Accounting Office found “in 82 percent of the studies [reviewed], race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e. those who murdered whites were more likely to be sentenced to death than those who murdered blacks.”

The Innocence Project reports that of the 316 post-conviction DNA exonerations, 198 involved African Americans.

Think Progress reports that African-American defendants convicted of killing whites are much more likely to receive a sentence of death than white defendants convicted of killing African-Americans. Since 1976, only 20 white people have been executed in the United States for killing a black person. But 269 black defendants were executed for killing a white person. Death sentences in Louisiana are 97 percent more likely in murder cases when the victim is white. Florida has never executed a white person for killing a black person.

## **Not a Deterrent**

Capital punishment does not deter people from committing homicide. Dartmouth University statistician John Lamperti notes “an overwhelming majority among America’s leading criminologists [have concluded that] capital punishment does not contribute to lower rates of homicide.” In fact, murder rates in non-death penalty states are lower than murder rates in states with the death penalty, according to the Death Penalty Information Center.

## **Life Without Parole Saves Money**

The alternative to the death penalty is life in prison without the possibility of parole. Judge Arthur Alarcon and Prof. Paula Mitchell concluded that the cost of the death penalty in California has totaled over \$4 billion since 1978. They calculated that a gubernatorial commutation of those sentences would result in an immediate savings of \$170 million per year, a savings of \$5 billion over the next 20 years.

The California Commission on the Fair Administration of Justice found in 2008: “The additional cost of confining an inmate to death row, as compared to the maximum security prisons where those sentenced to life without possibility of parole ordinarily serve their sentences, is \$90,000 per year per inmate.”

## **International Consensus**

International treaties and customary norms forbid capital punishment. They include the International Covenant on Civil and Political Rights (ICCPR) and its Second Optional Protocol, and Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Death Penalty.

Last year, only 22 countries not involved in military conflict carried out executions. The United Nations Human Rights Committee found the United States to be in noncompliance with its obligations under the ICCPR due to the excessive number of offenses subject to the death penalty and the number of death sentences imposed.

The Death Penalty Information Center reports that the countries that carried out the most executions in 2013 were China, Iran, Iraq, Saudi Arabia, Somalia and the United States. Does the United States really want this to be its peer group?

### **End Institutionalized Murder**

Five U.S. states have abolished capital punishment in the last seven years. Support for the death penalty in the United States is waning. In October 2013, 60 percent of Americans favored capital punishment, down 20 percent from 1994.

The American Medical Association, the American Public Health Association, the American Board of Anesthesiology, and the American Nurses Association prohibit members from assisting in executions; they consider it a violation of their medical code of ethics.

Years after witnessing the excesses of the French Revolution, the Marquis de Lafayette told the French Chamber of Deputies in 1830, "I shall ask for the abolition of the punishment of death until I have the infallibility of human judgment demonstrated to me."

Indeed, as Eugene Robinson wrote in the Washington Post, "We fool ourselves if we think there is a 'humane' way to kill someone . . . The death penalty has no place in a civilized society . . . [T]here is no way to impose capital punishment without betraying the moral standards that our justice system is theoretically designed to uphold. Put simply, when we murder we become murderers."

Supreme Court Justice Arthur J. Goldberg wrote in 1976, "The deliberate institutionalized taking of human life by the state is the greatest conceivable degradation to the dignity of the human personality."

It is high time for all of the states in this country and the federal government itself to outlaw capital punishment. There is no good reason to retain it, and

compelling reasons to abolish it.

Marjorie Cohn is a professor at Thomas Jefferson School of Law, a former president of the National Lawyers Guild, and deputy secretary general of the International Association of Democratic Lawyers. Her next book, *Drones and Targeted Killing: Legal, Moral and Geopolitical Issues*, will be published this fall. Copyright, Truthout. Reprinted with permission.

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## How NATO Jabs Russia on Ukraine

**Exclusive:** The U.S. mainstream media portrays the Ukraine crisis as a case of Russian “imperialism,” but the reality is that Moscow has been reacting to aggressive moves by Washington to expand NATO to Russia’s border in violation of a post-Cold War pledge, writes ex-CIA analyst Ray McGovern.

By Ray McGovern

Russian Foreign Minister Sergei Lavrov used Wednesday’s interview with Bloomberg News to address the overriding issue regarding the future of Ukraine, at least from Moscow’s perspective. Speaking in fluent English, he said Russia would be “categorically against” Ukraine joining NATO.

Lavrov said he welcomed the interviewer’s question regarding whether Ukraine can be part of NATO, recognizing it as a chance to shoehorn background information into the interview. It was an opportunity to explain Moscow’s position to a wide English-speaking international audience first and foremost Americans. His comments seemed partly aimed at those so malnourished on “mainstream media” that they might be learning the history of NATO enlargement for the first time. Lavrov said:

“In my view, it all started ... back in the 1990s, when in spite of all the pronouncements about how the Cold War was over and that there should be no winners yet, NATO looked upon itself as a winner.”

Lavrov said U.S. and NATO reneged on a series of commitments: not to enlarge the Alliance; then (after NATO was expanded contrary to that commitment), not to deploy substantial forces on the territories of new NATO members; and then not to move NATO infrastructure to the Russian border.

“All these commitments have been, to one degree or another, violated,” said Lavrov, adding that “attempts to draw Ukraine into NATO would have a negative impact on the entire system of European security.” Lavrov said Russia’s national

security interests and 25 years of recent history make this a key problem, not only for Ukraine and NATO, but also “an issue of Russia.”

Is Lavrov distorting the history? The answer is important the more so inasmuch as the information needed to form cogent judgments is rarely found in the U.S. “mainstream media.” What happened in the months immediately before and after the fall of the Berlin Wall on Nov. 9/10, 1989, is key to understanding Russia’s attitude now.

### **No Dancing**

To his credit, President George H. W. Bush sent a reassuring message to the Soviets, saying, “I will not dance on the Berlin wall.” And just three weeks after it fell, Bush flew to Malta for a two-day summit with Gorbachev.

At a joint press conference on Dec. 3, 1989, Gorbachev said, “We are at the beginning of a long road to a lasting, peaceful era. The threat of force, mistrust, psychological and ideological struggle should all be things of the past.”

In the same vein, Bush spoke of a new future just begun “right here in Malta” one of lasting peace and enduring East-West cooperation. This came just six months after Bush had publicly called in a major speech in Mainz, West Germany, for “a Europe whole and free.” At the time it did not seem one had to be Pollyanna to hope that flesh could be pinned to the bones of that rhetoric.

According to Jack Matlock, then-U.S. ambassador to the U.S.S.R. who took part in the Malta summit, the most basic agreement involved (1) Gorbachev’s pledge not to use force in Eastern Europe where the Russians had 24 divisions (some 350,000 troops) in East Germany alone, and (2) Bush’s promise not to “take advantage” of a Soviet withdrawal from Eastern Europe.

In early February 1990, Bush sent Secretary of State James Baker to work out the all-important details directly with Gorbachev and Foreign Minister Eduard Shevardnadze. Ambassador Matlock again was there and took careful notes on the negotiations, which focused on German reunification.

From memory, Matlock told me that Baker tried to convince Gorbachev that it was in Moscow’s interest to let a united Germany remain in NATO. Matlock recalled that Baker began his argument saying something like, “**Assuming there is no expansion of NATO jurisdiction to the East, not one inch**, what would you prefer, a Germany embedded in NATO, or one that can go independently in any direction it chooses.” [emphasis added]

The implication was that Germany might just opt to acquire nuclear weapons, were

it not anchored in NATO. Gorbachev answered that he took Baker's argument seriously, and wasted little time in agreeing to the deal.

Ambassador Matlock, one of the most widely respected experts on Russia, told me "the language used was absolute, and the entire negotiation was in the framework of a general agreement that there would be no use of force by the Soviets and no 'taking advantage' by the U.S."

He added, "I don't see how anybody could view the subsequent expansion of NATO as anything but 'taking advantage,' particularly since, by then, the U.S.S.R. was no more and Russia was hardly a credible threat."

In his book *Superpower Illusions*, Matlock wrote that NATO enlargement was a function of U.S. domestic politics not of foreign policy strategic thinking. It seems he got that right, too.

### **Tough Guy Clinton**

From the campaign trail on Oct. 22, 1996, two weeks before he defeated Bob Dole for a second term as president, Bill Clinton used NATO enlargement to advertise his assertiveness in foreign policy and America's status as the "world's indispensable nation." Clinton bragged about proposing NATO enlargement at his first NATO summit in 1994, saying it "should enlarge steadily, deliberately, openly." He never explained why.

President Clinton, thus, reneged on the pledges made by Baker to Gorbachev and Shevardnadze. Clinton lamely called upon Russia to view NATO's enlargement as an arrangement that will "advance the security of everyone."

Clinton's tough-guy-ism toward Russia was, in part, a response to even more aggressive NATO plans from Clinton's Republican opponent Bob Dole, who had been calling for incorporating Poland, the Czech Republic and Hungary as full members of NATO and had accused Clinton of "dragging his feet" on this. Clinton was not about to be out-toughed.

Those three countries joined NATO in 1999, starting a trend. By April 2009, nine more countries became members, bringing the post-Cold War additions to 12 equal to the number of the original 12 NATO states.

Clinton made what quintessential Russian specialist Ambassador George Kennan called a "fateful error." Writing in the *New York Times* on Feb. 5, 1997, Kennan asserted: "Expanding NATO would be the most fateful error of American policy in the entire post-cold-war era."

“Such a decision may be expected to inflame the nationalistic, anti-Western and militaristic tendencies in Russian opinion; to have an adverse effect on the development of Russian democracy; to restore the atmosphere of the cold war to East-West relations, and to impel Russian foreign policy in directions decidedly not to our liking.”

If you are the “sole indispensable” country in the world, though, you are sorely tempted not to heed the worrywarts.

### **Seeds of a Crisis**

On Wednesday, Lavrov said the seeds of the current Ukraine crisis were sown in April 2008 during the NATO summit in Bucharest when NATO leaders stated in a declaration that “Georgia and Ukraine will be in NATO.”

Were Lavrov not the consummate diplomat, he might have also told his interviewer that, two months before the Bucharest summit, he had warned U.S. Ambassador to Russia William J. Burns to anticipate a strong Russian reaction to including Ukraine and Georgia in NATO. But diplomats don’t generally permit themselves an “I told you so.”

Thanks to Pvt. Chelsea (formerly Bradley) Manning and WikiLeaks, we have the text of a State Department cable dated Feb. 1, 2008, from the U.S. Embassy in Moscow bearing the unusual title: “NYET MEANS NYET: RUSSIA’S NATO ENLARGEMENT REDLINES.”

The IMMEDIATE precedence that the cable bears shows that Ambassador Burns (now Deputy Secretary of State) was addressing a priority issue under active consideration in Washington. Though it was six years ago, Burns interlocutor was the same Russian Foreign Minister Sergei Lavrov. Here is Burns’s introductory summary of his discussions with Lavrov:

“Summary. Following a muted first reaction to Ukraine’s intent to seek a NATO membership action plan at the [upcoming] Bucharest summit, Foreign Minister Lavrov and other senior officials have reiterated strong opposition, stressing that Russia would view further eastward expansion as a potential military threat. NATO enlargement, particularly to Ukraine, remains ‘an emotional and neuralgic’ issue for Russia, but strategic policy considerations also underlie strong opposition to NATO membership for Ukraine and Georgia.

“In Ukraine, these include fears that the issue could potentially split the country in two, leading to violence or even, some claim, civil war, which would force Russia to decide whether to intervene.”

Ambassador Burns continued: “Russia has made it clear that it would have to

'seriously review' its entire relationship with Ukraine and Georgia in the event of NATO inviting them to join. This could include major impacts on energy, economic, and political-military engagement, with possible repercussions throughout the region and into Central and Western Europe."

Burns's closing comment: "Russia's opposition to NATO membership for Ukraine and Georgia is both emotional and based on perceived strategic concerns about the impact on Russia's interest in the region. ... While Russian opposition to the first round of NATO enlargement in the mid-1990s was strong, Russia now feels itself able to respond more forcefully to what it perceives as actions contrary to its national interests."

We don't know whether Secretary of State Condoleezza Rice read Burns's prescient remarks, but Lavrov's warning clearly fell on deaf ears. On April 3, 2008, the NATO summit in Bucharest issued a formal declaration that "NATO welcomes Ukraine's and Georgia's Euro-Atlantic aspirations for membership in NATO. We agreed today that these countries will become members of NATO."

Now, with events quickly spinning out of control in Ukraine, some policymakers need to tell President Obama that there can be even bigger trouble ahead, if Russia's national security interests are not taken into account.

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