

A Critique of Senator Menendez's Speech Opposing the Iran Nuclear Deal.

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The speech quotes are taken from:

<http://www.jewishpress.com/news/breaking-news/full-text-of-speech-on-nuclear-iran-deal-given-by-sen-menendez/2015/08/18/0/>

Shaded text represents issues raised and comments made by Senator Menendez in his speech.

Introduction:

The Iran Nuclear Agreement (Joint Comprehensive Plan of Action -JCPOA) provides strong assurances that Iran will not be able to build a nuclear weapon for 15 years. After 15 years although many sanctions and restrictions will have been lifted, our capability to monitor every aspect of the Iranian nuclear supply chain **will continue** and will enable us to know almost instantaneously if Iran has opted to build a nuclear weapon.

If the agreement is killed by Congress, we will face today an Iran that is 3 months from a bomb, but we will not have the vast resources of monitoring, verification and intelligence that come with the agreement.

If the agreement is implemented, we may face a similar 3-month breakout time in 15 years, but we be far more empowered to detect and respond to such a threat than we are now.

If we are truly concerned about preventing Iran from developing a bomb -- **if that is our priority** -- then approving the deal is the only option that makes sense.

With regard to additional resources that Iran will have when sanctions are lifted, the concerns of increased assistance to Hezbollah, Hamas and Assad can be addressed separately from the nuclear issue. And it should be noted that all of our sanctions directed at terrorist activities by Iran remain unchanged by the deal.

But we should recall that the purpose of the Iran Nuclear Deal was always to resolve a problem greater than terrorism -- the Existential Threat to Israel from an Iran with nuclear weapons. As serious and horrific as the threat of terrorism is, it pales in comparison to the nuclear Existential Threat that Israeli would face if Iran had the bomb. And that concern must have the **highest priority of all** in evaluating Senator Menendez's proposal for a "Better Deal."

(1) WHY DOES IRAN NEED NUCLEAR ENERGY?

SENATOR MENENDEZ: Why does Iran — which has the world's fourth largest proven oil reserves, with 157 billion barrels of crude oil and the world's second largest proven natural gas reserves with 1,193 trillion cubic feet of natural gas — need nuclear power for domestic energy?

RESPONSE:

Iran's nuclear program has been an integral part of Iranian society for more nearly 60 years. The Eisenhower administration gave Iran its first nuclear reactor in 1957 under the Shah. For nearly 60 years Iran has invested heavily in nuclear energy and the program is a source of great national pride among all segments of Iranian society, including both "Green Revolution" dissidents as well as hardliners.

<http://iranprimer.usip.org/resource/irans-nuclear-program>

"The shah established the Atomic Energy Organization of Iran (AEOI) in 1974 and announced plans to build 20 nuclear power reactors for energy production. The United States, France and West Germany subsequently sought lucrative power reactor deals. In 1974, Iran signed a contract with the German firm Kraftwerk Union (a subsidiary of Siemens) to build two reactors at Bushehr. It also purchased nearly 600 tons of uranium yellowcake from South Africa.

The shah wanted to keep open the option of developing nuclear weapons by seeking access to the full nuclear fuel cycle." -- David Albright and Andrea Stricker

For more details: http://fas.org/wp-content/uploads/2013/04/iran_nuclear_odyssey.pdf

Iran's Nuclear Odyssey: Costs and Risks: Carnegie Endowment for International Peace / The Federation of American Scientists

(2) WE DID NOT PURSUE OUR GOAL TO DISMANTLE IRAN'S ILLICIT NUCLEAR INFRASTRUCTURE

SENATOR MENENDEZ: [. . .] let's remind ourselves of the stated purpose of our negotiations with Iran: Simply put, it was to dismantle all — or significant parts — of Iran's illicit nuclear infrastructure to ensure that it would not have nuclear weapons capability at any time. Not shrink its infrastructure. Not limit it. But fully dismantle Iran's nuclear weapons capability.

RESPONSE:

The word "dismantle" does not mean "destroy." Under the agreement, **66% of Iran's centrifuges** will be disconnected, disassembled and placed into sealed storage areas under 24/7 video monitors. It is accurate to say that the centrifuges will be "dismantled."

Under the agreement, the **Arak heavy water reactor** core is filled with concrete. It is accurate to say that Iran's ability to produce **plutonium** will be "dismantled."

Under the agreement, the **Fordow enrichment plant** will be **converted** into a peaceful nuclear research facility. It is accurate to say that the enrichment plant at Fordow will be "dismantled."

PolitiFact investigated a similar claim by Senator Tom Cotton, that the Obama administration began negotiations with Iran with the goal of "dismantling" its nuclear program. It concluded:

<http://www.politifact.com/truth-o-meter/statements/2015/jul/22/tom-cotton/was-obamas-goal-beginning-negotiations-dismantle-i/>

"Cotton said that Obama 'said at the beginning of the negotiations that the basic approach was to dismantle Iran's nuclear program in exchange for dismantling the sanctions.'

"In 2007 or even as late as 2012, that might have been true, though believing so requires some careful parsing of the words and intentions of Obama and his advisers. Still, by late 2013 -- the negotiation period Cotton specifically referred to -- the administration had settled on a strategy of blocking a pathway to a nuclear weapon, rather than eliminating any trace of nuclear activities in Iran, including energy. On Dec. 7, 2013, Obama himself explicitly repudiated the idea that it would be possible to fully dismantle 'every single nut and bolt of their nuclear program.' **We rate Cotton's statement False.**"

(3) WE ARE GIVING IRAN PERMANENT SANCTIONS RELIEF FOR TEMPORARY LIMITS ON ITS NUCLEAR PROGRAM

SENATOR MENENDEZ: "Clearly, the question is: What do we get from this agreement in terms of what we originally sought? We lift sanctions, and — at year eight — Iran can actually start manufacturing and testing advanced IR-6 and IR-8 centrifuges that enrich up to 15 times the speed of its current models. At year 15, Iran can start enriching uranium beyond 3.67 percent — the level at which we become concerned about fissile material for a bomb. At year 15, Iran will have NO limits on its uranium stockpile.

"This deal grants Iran permanent sanctions relief in exchange for only temporary — temporary — limitations on its nuclear program — not a rolling-back, not dismantlement, but temporary limitations. At year ten, the UN Security Council Resolution will disappear along with the dispute resolution mechanism needed to snapback UN sanctions and the 24-day mandatory access provision for suspicious sites in Iran.

RESPONSE:

After 15 years, Iran's options will continue to be restricted by the Nuclear Proliferation Treaty, which forbids activities leading toward the building of a nuclear weapon. While the "snapback" provisions for the UN sanctions and the 24-day mandatory access expire after 15 (not 10) years, the dispute resolution mechanism as well as the inspections/surveillance mechanisms last for **25 years**. That means if a majority of the P5+1+1 determine that Iran is moving toward a nuclear weapon and in violation of the NPT, **sanctions or any other countermeasures** can be imposed. **Restrictions on Iran are permanent and the possibility of sanctions are permanent.**

(4) IAEA INSPECTORS WILL NOT HAVE DIRECT ACCESS TO THE PARCHIN MILITARY SITE AND "MAYBE" IRANIANS WILL COLLECT SOIL SAMPLES AND CONDUCT THE TESTS INSTEAD OF THE IAEA.

SENATOR MENENDEZ: With so much at stake, the IAEA — after waiting over ten years to inspect Parchin, speak to Iranian nuclear scientists, and review additional materials and

documents — are **now told they will not have direct access to Parchin.** [. . .] How the inspections and soil and other samples are to be collected are outlined in two secret agreements that the U.S. Congress is not privy to [. . .]

Why would our negotiators decide to negotiate access to other IAEA documents, but not these documents? **Maybe the reason, as some members of Congress and public reports have raised, is because it will be the Iranians and not the IAEA performing the tests and providing the samples to be analyzed,** which would be the equivalent of having an athlete accused of using performance enhancing drugs submit an unsupervised urine sample to the appropriate authority.

RESPONSE:

THE IAEA WILL CONDUCT ITS INVESTIGATION OF PARCHIN BY MONITORING AND SUPERVISING IRANIAN SPECIALISTS WHO WILL COLLECT SAMPLES USING IAEA SWABS AND CONTAINMENT BAGS. THE IAEA HAS FULL CONFIDENCE THAT IT WILL BE ABLE TO MAINTAIN THE INTEGRITY OF THE EVIDENCE.

From the Arms Control Association:

<http://www.armscontrol.org/reports/Solving-the-Iranian-Nuclear-Puzzle-The-Joint-Comprehensive-Plan-of-Action/2015/08>

Would the IAEA Depend on Iran for Nuclear Residue Testing?

No. Under managed access procedures that may be employed by the IAEA, the inspected party may take environmental swipe samples at a particular site in the presence of the IAEA inspectors using swabs and containment bags provided by the IAEA to prevent cross contamination. According to former IAEA officials, this is an established procedure.

Such swipe samples collected at suspect sites under managed access would likely be divided into six packages: three are taken by the IAEA for analysis at its Seibersdorf Analytical Lab and two to be sent to the IAEA's Network of Analytical Labs (NWAL), which comprises some 16 labs in different countries, and another package to be kept under joint IAEA and Iran seal at the IAEA office in Iran as a backup and control sample if re-analysis might be required at a later stage. The process ensures the integrity of the inspection operation and the samples for all parties.

From Reuters:

<http://www.reuters.com/article/2015/08/20/us-iran-nuclear-iaea-parchin-idUSKCN0QP0ID20150820>

Reuters Aug 20, 2015

IAEA says access to Iran's Parchin military site meets demands

VIENNA | BY SHADIA NASRALLA

"The U.N. nuclear watchdog said it is satisfied with access [Iran](#) will grant it to the Parchin military site, suspected by some states of having in the past hosted Iranian experiments related to atomic bombs.

"Without International Atomic Energy Agency (IAEA) confirmation that Iran is keeping promises enshrined in its landmark July 14 nuclear accord with six world powers, Tehran will not be granted much-needed relief from sanctions.

"According to data given to the IAEA by some member countries, Parchin might have housed hydrodynamic tests to assess how specific materials react under high pressure, such as in a nuclear explosion.

"According to an unconfirmed Associated Press report citing a draft document, the IAEA would not send its own inspectors into Parchin but would instead get data from Iran on the site.

"Asked if Iran would be allowed to conduct inspections itself to address concerns about Parchin, the IAEA said it was legally bound to keep its arrangements with Tehran confidential.

"The separate arrangements of the roadmap are consistent with the IAEA verification practice and they meet the IAEA requirements," agency spokesman Serge Gas said in a statement.

"Under a roadmap accord Iran reached with the IAEA alongside the July 14 political deal, the Islamic Republic is required to give the IAEA enough information about its past nuclear program to allow the Vienna-based watchdog to write a report on the issue by year-end.

"Iran has long stonewalled an IAEA investigation into the possible military aspects of its past nuclear activities, relating mostly to the period before 2003, saying the agency's data for its investigation was fabricated."

(5) WE DROPPED OUR DEMAND FOR "ANY TIME ANY WHERE" INSPECTIONS

SENATOR MENENDEZ: Our willingness to accept this process on Parchin is only exacerbated by the inability to obtain anytime, anywhere inspections, which the Administration always held out as one of those essential elements we would insist on and could rely on in any deal.

RESPONSE:

THE OBAMA ADMINISTRATION NEVER PROMISED IT WOULD NEGOTIATE "ANY TIME ANY WHERE" INSPECTIONS.

[It should be pointed out that the agreement provides 24/7 access to the entire Iranian nuclear supply chain from mines to enrichment. The "Any time Any where" issue relates only to suspected sites]

Politifact investigated a similar statement by Senator Marco Rubio and determined that in one or two instances an administration official used the phrase "any time any where" but followed up to explain that inspections of undeclared sites had to go through an approval process.

There have been no formal declarations by the administration of "Any time Any where" but based on these two comments, the allegation that the administration promised a deal that would be "Any time Any where" was rated as **"half true."**

<http://www.politifact.com/truth-o-meter/statements/2015/jul/19/marco-rubio/rubio-iran-deal-breaks-anytime-anywhere-inspection/>

(6) "SNAPBACK" MEANS NOTHING UNLESS THE IRAN SANCTIONS ACT IS RENEWED.

SENATOR MENENDEZ: [. . .] the JCPOA in paragraph 26 of the Sanctions heading of the agreement, says:

'The U.S. Administration, acting consistently with the respective roles of the President and the Congress, will refrain from re-introducing or reimposing sanctions specified in Annex II, that it has ceased applying under this JCPOA.'

"I repeat, we will have to refrain from reintroducing or reimposing the Iran Sanctions Act I authored – which expires next year — that brought Iran to the table in the first place. In two hearings, I asked Treasury Secretary Lew and Undersecretary of State Wendy Sherman whether we in Congress have the right to reauthorize sanctions to have something to snapback to, and neither would answer the question, saying only that it was 'too early' to discuss reauthorization.

RESPONSE:

ACCORDING TO POLITICO, THE ADMINISTRATION SUPPORTS RENEWAL OF THE SANCTIONS BILL, BUT DOES NOT THINK THIS IS AN APPROPRIATE TIME

<http://www.politico.com/story/2015/08/us-iran-deal-obama-tehran-sanctions-121295.html>

The second dispute with Congress that could derail Obama's Iran deal

The White House is resisting lawmakers' plans to renew the Iran Sanctions Act.

By **NAHAL TOOSI**

8/12/15 1:49 PM EDT

[. . .] Under the nuclear deal, Obama would suspend the sanctions imposed by Congress, but the statutes can stay on the books as a safeguard in case Iran reneges and the president needs to "snap" the sanctions back. But the law in question, the Iran Sanctions Act, is set to expire in late 2016.

[. . .] **"We absolutely support renewal of the ISA," a senior official told POLITICO. "It's an important piece of legislation, and we want to discuss renewal with Congress in a thoughtful way at the right time. Now is not that time, as the ISA does not expire until next year, and because we are focused on implementation of the (nuclear agreement).**

We will have plenty of opportunity in the coming months to take part in the deliberate and focused communications with Congress on this important topic."

(7) MENENDEZ'S "BETTER DEAL"

SENATOR MENENDEZ: "For all those who have said they have not heard — from anyone who opposes the Agreement — a better solution, they're wrong. I believe there is a pathway to a better deal."

The elements of Senator Menendez's "Better Deal" are:

- Dismantle a "critical level" of Iran's nuclear infrastructure
- Disapprove the current agreement without rejecting the entire agreement
- Direct the Administration to renegotiate by authorizing continuation of negotiations and the Interim Agreement (Joint Plan of Action) — including Iran's \$700 million-a-month lifeline
- Demand immediate ratification by Iran of the Additional Protocol to ensure that we have a permanent international arrangement with Iran for access to suspect sites.
- Ban centrifuge R&D for the duration of the agreement to ensure that Iran won't have the capacity to quickly breakout, just as the U.N. Security Council Resolution and sanctions snapback is off the table.
- Close the Fordow enrichment facility.
- Fully resolve the 'possible military dimensions' of Iran's program.
- Extend the duration of the agreement. One of the single most concerning elements of the deal is its 10-15 year sunset of restrictions on Iran's program, with off ramps starting after year eight. We were promised an agreement of significant duration and we got less than half of what we are looking for. Iran should have to comply for as long as they deceived the world's position, so at least 20 years.
- Decide on what penalties will be collectively imposed by the P5+1 for Iranian violations, both small and midsized, as well as a clear statement as to the so-called grandfather clause in paragraph 37 of the JCPOA, to ensure that the U.S. position about not shielding contracts entered into legally upon re-imposition of sanctions is shared by our allies.
- Extend the authorization of the Iran Sanctions Act which expires in 2016 to ensure that we have an effective snapback option
- The President should unequivocally affirm and Congress should formally endorse a Declaration of U.S. Policy that we will use all means necessary to prevent Iran from producing enough enriched uranium for a nuclear bomb, as well as building or buying one, both during and after any agreement.
- Authorize now the means for Israel to address the Iranian threat on their own in the event that Iran accelerates its program and to counter Iranian perceptions that our own threat to use force is not credible.

-- Send a message to Iran that neither their regional behavior nor nuclear ambitions are permissible. If we push back regionally, they will be less likely to test the limits of our tolerance towards any violation of a nuclear agreement.

-- The agreement that has been reached failed to achieve the one thing it set out to achieve – it failed to stop Iran from becoming a nuclear weapons state at a time of its choosing. In fact, it authorizes and supports the very road map Iran will need to arrive at its target.

-- Our P5+1 partners will follow us.

RESPONSE:

Senator Menendez says the JCPOA relies on hope. But actually, it is Senator Menendez's proposed "better deal" that relies on hope, denial and wishful thinking.

The Senator **hopes** that our P5+1 partners will agree that what they now believe is a good deal, is not good enough, and that they will be willing to start anew.

The Senator **denies** the evidence that our partners will not only say "No" to such a proposition, but that they are likely to desert the coalition if the deal is killed by the Congress.

And finally, to suggest that Iran will agree to a much greater "dismantlement" of its nuclear infrastructure than provided in the JCPOA and renegotiate a new and tougher sanctions regime, is not grounded in history or recent experience, and can only be regarded as **wishful thinking**.

The bottom line is that the JCPOA provides strong assurances that Iran will not be able to build a nuclear weapon for 15 years, and that after 15 years although sanctions and many restrictions will have been lifted, our capability to monitor every aspect of the Iranian nuclear supply chain and its research capabilities, the amounts and degree of enrichment of its uranium, will enable us to know almost instantaneously if Iran has chosen to build a nuclear weapon.

If the agreement is rejected by Congress, Iran will be 3 months from a bomb, but the vast resources of monitoring, verification and intelligence that come with the agreement will be nonexistent.

If the agreement is implemented, we may face a 3-month breakout time in 15 years, but we are far more empowered to detect and respond to such a threat than we are now.

If we are truly concerned about preventing Iran from developing a bomb -- if that is our priority -- then approving the deal is the only option that makes sense.