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January 2, 2015: What Obama Can Do On Iran

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Title: What Obama Can Do On Iran

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1/2/2015—I was listening to NPR interviewing US Senator Marco Rubio yesterday morning. I had heard in an advertisement for the interview that Senator Rubio was trumpeting the likelihood of a veto proof majority in Congress for additional sanctions against Iran.

This news has left me angry, even astounded. President Obama clearly believes that a deal with Iran is close and has therefore been conciliatory. There have also been indications from the leadership in Iran of a similar desire for a deal. News reports had indicated that the reigning Iranian people were encouraged by President Obama's language and were very desirous of peace. Under the circumstances, it seemed to me that Senator Rubio was trying to wreck the deal intentionally for political reasons – – he is considering a run for the Republican nomination for President in 2016. Such a cynical calculation struck me as almost treasonous.

However, after listening to the interview, I believe I have done Senator Rubio a disservice. He pretty obviously does not believe that any deal with Iran will be forthcoming. Senator Rubio does not believe that the leadership of Iran wants a deal. Therefore, from his point of view, he is wrecking nothing at all.

In addition, all Senator Rubio said in the interview was that Congress preliminarily would require President Obama to report any deal to Congress before it goes into effect.

So, Senator Rubio is sincere. But he is still terribly misguided. Senator Rubio's conclusion that no deal with Iran is possible amounts to nothing more than a self-fulfilling prophecy. Plus, he is not being candid. If no deal is possible, and if a nuclear Iran is unacceptable, then military action against Iran should be undertaken. It is not a matter of sanctions.

I am going to try to reach someone who advises President Obama, perhaps with some other law professors, about the legality involved in all this. First, if President Obama has authority to enter into an executive agreement with Iran, then Congress has no authority over such negotiations nor over any such agreement. The President cannot be ordered to report anything. Whether the president has the authority is another matter.

Second, Congress clearly does have authority to enact mandatory sanctions against Iran. The president would be obligated to carry them out. But such sanctions would be ineffective unless they are part of the coordinated action by America and her allies. Such unanimity is present now, but would not be present if unilateral sanctions enacted by Congress scuttle a deal.

Therefore, I would urge President Obama to throw down the gauntlet if Congress attempts to interfere with negotiations with Iran. The President should enter into an agreement, should agree to the beginning of the process of normalization of relations and should denounce sanctions enacted by Congress. In fact, President Obama should publicly and expressly urge our allies to ignore any such increased sanctions. That would render the sanctions ineffective and would help gain the trust of the leadership in Tehran.