

Press Commentary

What does the prisoner exchange agreement between the U.S. and Iran bring about?

—Each player seeks a 'cold peace' without a fundamental resolution—

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On 10th of August, Iran and the United States reached an agreement to swap prisoners held in each country and unfreeze approximately \$6 billion in Iranian assets that were frozen in South Korea due to US sanctions. The five American citizens detained in Iran, who were the subject of this agreement, are dual nationals of the US and Iran, and three of them had been convicted of espionage. It is said that progress can be expected in the stalled JCPOA reconstruction negotiations if this interim agreement is implemented.¹⁾ However, let us reflect on this interim agreement and its surrounding circumstances from a broad temporal and spatial perspective.

1. Considering the US–Iran interim agreement from future of Robert Malley

On the 29th of June, news emerged that Robert Malley*, the US Special Representative for Iran, had taken a lengthy vacation.²⁾ Later, on the 17th of August, Reuters reported that “Malley had resigned from the State Department to accept a teaching position at Princeton University.”³⁾

Going back approximately two months, on the 12th of June, Reuters reported that “On the 11th of June, Iranian state media quoted Supreme Leader Khamenei as saying, ‘There is no problem with reaching an agreement with the West, but the infrastructure of Iran’s nuclear industry should not be touched.’⁴⁾ On the following day, Iran’s foreign ministry spokesperson said, ‘Negotiations on the issue of prisoner exchanges with the United States are ongoing through intermediaries. If the other side shows the same seriousness and goodwill, this could happen in the near future.’⁵⁾ Around the same time, reports emerged that Iran’s frozen gas and electricity export revenues in Iraq were to be unfrozen. As of the 10th of June, the amount was said to be \$2.7 billion,⁶⁾ but by July, it had risen to

\$10 billion.⁷⁾ The money was paid into an account of Iranian National Gas Company (NIGC) at the Trade Bank of Iraq, but the US did not allow Iran to withdraw funds from this account, and eventually the funds were moved to a bank in Oman and could only be used by Iran to purchase humanitarian goods under US supervision.⁸⁾

Given the course of this stream, it is conceivable that a broad accord existed between the United States and Iran until the declaration of Supreme Leader Khamenei in June. This agreement entailed the release of frozen assets and tacit approval of oil export to China, in exchange for a limitation on uranium enrichment to 60% or below (possibly with some dilution) and a restraint on attacks against US forces in the Gulf, including Syria and Iraq. It is intriguing to note that on the 28th of May, Sultan Haitham of Oman visited Iran and met with Supreme Leader Khamenei.⁹⁾ Was Sultan Haitham present to reinforce the broad agreement? Prisoner exchanges may have served as a guarantee for the agreement. During the interim period leading up to the actual exchange of five prisoners in early August, both sides were likely negotiating the specifics of how much they were willing to compromise.

Lately, Qatar and Oman, who are believed to be mediators between the United States and Iran, have frequently engaged with Iran.¹⁰⁾ On the 20th of June, Foreign Minister Hossein Amir-Abdollahian visited Qatar and met with Prime Minister and Foreign Minister Sheikh Mohammed bin Abdulrahman Al Thani.¹¹⁾ On the 17th of July, Foreign Minister Sayyid Badr Albusaidi of Oman made a covert trip to Iran and met with Abdollahian.¹²⁾ On the 23rd of July, Qatari State Minister for Foreign Affairs Mohammed bin Abdulaziz Al-Khulaifi visited Iran and held discussions with Ali Akbar Ahmadian, SNSC** Secretary.¹³⁾ Malley was not required for these interim agreement negotiations¹⁴⁾, and was left out as a "long vacation," and it was confirmed that JCPOA revival would not proceed (at least during the first Biden administration), so Malley resigned. It is presumed that Jacob Sullivan, national security advisor, oversaw these negotiations.

Iran's unfreezing of overseas assets is focused on \$6 billion in South Korea (to be managed by Qatar),¹⁵⁾ ¹⁶⁾ but Abdollahian's visit to Japan on the 7th of August¹⁷⁾ ¹⁸⁾ was likely a preliminary discussion about the unfreezing of \$3 billion assets in Japan. While it has been reported that discussions regarding unfreezing assets did not take place during Abdollahian's meetings with Foreign Minister Yoshimasa Hayashi and Prime Minister Fumio Kishida, Iran's foreign ministry spokesperson has stated that "the follow-up of the unfreezing assets issue is on the agenda of the foreign minister's visit to Japan."¹⁹⁾ ²⁰⁾

* Robert Malley : Robert Malley assumed the role of special representative overseeing Iran policy under the Biden administration in January 2021. Currently, he is leading negotiations to restore the JCPOA with Iran. Malley, who served as the Middle East advisor to the President during the Obama administration, collaborated with Wendy Sherman, then the Under Secretary of State (Deputy Secretary of State until July of this year under the Biden administration), to conclude the JCPOA negotiations with Iran in 2015. His statements demonstrate a unique comprehension of Iran's position, a rare perspective for the United States. Malley's father, Simon Malley, a Syrian-Egyptian journalist, was a staunch advocate of Third World independence movements. In the 1970s, the Malley family resided in Paris, where Malley and Secretary of State Blinken, who also lived in Paris at the time, were classmates at a high school in Paris.

** Supreme National Security Council (SNSC) : The SNSC (Supreme National Security Council) of the Islamic Republic of Iran is established by the Constitution of the Islamic Republic of Iran to safeguard national interests, the Islamic Revolution, and the preservation and support of the country's territorial integrity and national sovereignty. The President of Iran presides over the SNSC, and its secretary is appointed by the Supreme Leader as his representative. The decisions of the SNSC become effective after confirmation by the Supreme Leader, meaning that the Supreme Leader and the SNSC are at the top of Iran's foreign policy decision-making process. The members of the SNSC include the Secretary, the President, the Speaker of the Parliament, the Chief Justice, the Chief of Staff of the Armed Forces, the Commander of the National Army, the Commander of the Revolutionary Guard Corps, the Chairman of the Guardian Council, the Minister of Interior, the Minister of Foreign Affairs, the Minister of Intelligence, and other government ministers, the Head of Plan and Budget Organization, and the Head of the Atomic Energy Organization. Ali Shamkhani (Two-star General, former commander of the Iran navy and the IRGC navy), who served as the Secretary of the SNSC until May of this year, held the position for ten years since 2013 and was also a military advisor to Supreme Leader Khamenei, having earned his trust. Ali Akbar Ahmadian is Shamkhani's successor and is also a military officer (Brigadier General), having served as Commander of the Revolutionary Guard Navy and Chief of Staff of the Revolutionary Guard. It remains to be seen whether Ahmadian enjoys the same level of trust from Supreme Leader Khamenei as Shamkhani did.

2. The things that the United States and Iran gained from the interim agreement

The background behind this interim agreement (which may not be considered an agreement since there was no signed document by both countries) is probably "de-escalation". As described in an article by Hiroki Sugita on August 18 in Foresight magazine (he attended a press conference by Abdollahian held at the Iranian embassy in Japan),²¹⁾ the United States has its hands full with the

Ukrainian war and cannot afford to deal with any trouble in the Middle East. President Biden does not want to be attacked for diplomatic failures or for not being tough enough until after the presidential election next year. As for negotiation of JCPOA reconstruction, the current Republican majority in the House of Representatives will attack and score points against any "official" agreement with Iran. Therefore, it would seem that releasing American prisoners through an exchange that does not take the form of an agreement would give a small diplomatic boost. If the unfreezing of Iran's assets is limited to "humanitarian purposes only", it might be just enough to ease criticism. In addition, if this interim agreement leads to the suppression of nuclear development, it might be just enough to buy some time and ease criticism.^{22) 23)}

Regarding Iran, they are not entirely aligned with China and Russia, as Abdullahian stressed the significance of their relationship with the West during a press conference at the Iranian Embassy in Japan on the 7th. Though the Supreme Leader Khamenei's mistrust of the West may be profound, it does not necessarily imply that Iran is fully allied with China and Russia. In reality, the investment promised to Iran by China and Russia is only verbal and has yet to be realised. Given this scenario, it is perhaps necessary to maintain tenuous ties with the United States, although Iran does not place its trust in the West. This "tenuous ties situation" could be the reason why Iran is adopting a stance of continuing negotiations to reconstruct the JCPOA, even if it has already abandoned the idea of reconstruction in actuality. From this perspective, the attempted seizure of a commercial ship by Iran near the Strait of Hormuz in July²⁴⁾ and the subsequent deployment and reinforcement of F35 fighters by the United States in the Gulf region^{25) 26)} seem like a somewhat "game under a scenario". Both sides are holding back. To whom they want to show this game and what kind of response it warrants remains to be seen.

3. How Middle Eastern Countries Deal with Iran as a Nuclear Threshold State

When considering Iran's nuclear development, Professor Emeritus of the Open University of Japan, Kazuo Takahashi, has recently discussed Iran's position as a nuclear 'threshold state'.²⁷⁾ It appears to be the strategic goal of Supreme Leader Khamenei and his leadership to remain one step short of possessing nuclear weapons. In this regard, their goal of 'holding enriched uranium at 60% enrichment for the production of nuclear bombs and maintaining enrichment equipment and technology' has been achieved. The 83.7% enriched fragment reportedly discovered in March²⁸⁾ seems to have been a lure presented by Iran, indicating their ability to achieve higher levels of enrichment. As long as Supreme Leader Khamenei is alive, there is a fatwa^{***} he issued stating that nuclear weapons are halal under Islamic law. However, ballistic missile development is viewed differently. As long as the Khamenei regime believes that being a nuclear 'threshold state' serves as a deterrent against the United States and helps maintain the regime, Iran will not move from its position as a 'threshold state'. In fact, neither the United States nor Israel indicate that Iran is taking steps to develop nuclear weapons^{****}. However, since Iran possesses enriched uranium that exceeds the enrichment allowed by the

JCPOA****, economic sanctions imposed by the United States will not be lifted, leaving Iran with no choice but to endure these economic sanctions. Therefore, Iran will have to rely on China and Russia for its economy for the time being. Nevertheless, Iran is attempting to prevent complete dependence on China and Russia and maintain its tenuous links with the West.

The UAE normalized relations with Iran in 2019 and with Saudi Arabia in March this year. This is probably because they decided that they had no choice but to coexist with Iran, which has become a nuclear 'threshold state,' as the United States withdraws from the Middle East.²⁹⁾ Israel, which strongly opposed Iran's nuclear development and was waging a 'shadow war,' probably thinks that it has no choice but to coexist with Iran, the threshold nation, even though it is reluctant.³⁰⁾³¹⁾ Otherwise, Israel would have bombed Iran's nuclear facilities long ago. However, this situation is only during the lifetime of the elderly Supreme Leader Khamenei, and it is not known when the next Supreme Leader after his death will come. In the current situation where the Revolutionary Guard dominates the real economy, it is highly unlikely that the next supreme leader will change from Supreme Leader Khamenei's position to a mild one (which the Revolutionary Guard will not allow), and there is a risk of taking a harder line. It is also conceivable that Iran will step beyond the threshold and proceed to manufacture nuclear weapons. Although there are still technical challenges that must be overcome to produce nuclear weapons, it is possible to introduce technology from overseas, such as North Korea and Russia, and the IRGC may be tempted to possess nuclear weapons.

***Fatwa (فتوى, plural form = fatawa) : Recommendations, decrees, opinions and decisions issued on the basis of Islamic jurisprudence.

Fatawa are issued orally by high-ranking Islamic jurists known as Muftis (Ayatollahs in Shia), who are recognized as having the authority to issue fatwas in response to questions and requests from Muslims on public and private legal matters. Fatawa may also be issued as a written reply. Although not legally binding in themselves, fatawa written by renowned Muftis are compiled into fatwa collections and are highly regarded as representing the views of each Islamic juristic school. Only the Mufti who issued a fatwa can revoke it once it has been issued.

During the Iran-Iraq War, Ayatollah Khomeini, the first supreme leader of the Islamic Republic of Iran, is said to have issued a fatwa banning weapons of mass destruction as "contradictory to Islam." Even Supreme Leader Khamenei referred to a fatwa banning weapons of mass destruction in the 1990s. In 2003, the year after Iran's clandestine nuclear development was exposed by an Iranian opposition group, he officially stated his view that the development and possession of nuclear weapons should be prohibited. While he advocates for the right to peaceful uses of nuclear energy, he does not support the development or possession of nuclear weapons.

The existence of a fatwa that prohibits the development and possession of nuclear weapons was repeatedly asserted by the Iranian side during subsequent JCPOA negotiations, and this view is upheld on the official website of Supreme Leader Ali Khamenei. However, the United States, Israel, and others have argued that while there may be a fatwa, it is subject to change depending on the situation.

**** Iran is a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). However, in 2002, an Iranian opposition group revealed that Iran was conducting nuclear development in violation of the NPT's obligations, and the elucidation of the actual situation became a major issue. In the Director-General of the International Atomic Energy Agency's (IAEA) 2011 report, based on the analysis and examination of the information obtained up to that point, the probability of military developments (PMD) attached to the report indicated that Iran had systematically carried out activities related to nuclear explosive devices, and that some activities continued thereafter. Iran strongly opposes this, claiming that it is only for peaceful uses.

In preparation for the implementation of the Joint Comprehensive Plan of Action (JCPOA) in 2015, the IAEA concluded that Iran's past activities consisted only of feasibility studies, scientific research, and technology acquisition, and that there was no indication of diversion of nuclear material related to PMD. The IAEA completed its deliberations.

In 2018, Israeli Prime Minister Benjamin Netanyahu released documents he said had been secretly stolen from Iran, claiming that Iran had secret past nuclear weapons programs. This coincided with President Trump's withdrawal of the United States from the JCPOA. This suspicion of non-reporting and the move by the IAEA to resolve the suspicion became a point of contention between the IAEA and Iran in the subsequent JCPOA reconstruction negotiations.

***** The JCPOA allows Iran to:

- Uranium enrichment: 3.67%
- Stockpile of enriched uranium: Up to 300 kg of 3.67% enriched uranium only.
- Centrifuge: IR-1 type 5,030 units
- Enrichment facility: Natanz enrichment facility only

In response, the IAEA reported on Iran's uranium enrichment-related matters in May of this year as follows.

- Uranium enrichment: up to 60%
- Stockpile of enriched uranium: 60% 114.1kg, 20% 470.9kg, 5% 1,340.2kg, 2% 2,459.6kg.
- Centrifuge: IR-1 type, IR-2m type, IR-4 type, IR-6 type, etc.
- Enrichment Facility: Continued 60% enrichment at Fordow underground nuclear facility.

4. Another move of the Biden administration in the Middle East, Saudi Arabia and Israel

Alongside the prisoner exchange with Iran, the United States is endeavouring to normalise relations between Israel and Saudi Arabia. This is a response to China's expanding influence in the Middle East under the Biden administration and a move for next year's presidential election.^{32) 33) 34)} The normalisation of diplomatic relations between Israel and Saudi Arabia would be a significant legacy for President Biden, and it would be a significant win for him if it occurred before the presidential

election. At the very least, they wouldn't want to jeopardize the deal before the election. However, Saudi Arabia continues to have a poor reputation in the U.S. Congress. Democrats in the U.S. Congress oppose the latest arms supply that Saudi Arabia is reportedly seeking from the U.S., and nuclear development cooperation could create a second threshold in the Gulf. Above all, Israel is opposed. A hasty solution to the Palestinian problem might be acceptable to Crown-Prince Mohammed but not to King Salman. It will be exceedingly difficult for Israel to accept concessions on the Palestinian issue, and at the very least, the coalition of the Netanyahu administration will need to be replaced. Furthermore, right-leaning Jewish Israelis will not accept the two-state solution. Advisor Sullivan, who is acting as an intermediary, must be aware of these difficult issues, but it is an arduous task.

The United States, the Gulf states, Iran's leadership, and Israel each wish to avoid a 'hot war' at this time and will compromise on a 'cold peace' that will not exacerbate the tensions that have existed over the past five years. However, since the fundamental conflict will not be resolved, it will be the ordinary Iranian people who endure economic hardship, the Iraqi citizens living in Iraq its country cannot stand on its own, and the Palestinians and refugees from conflict areas in the Middle East who will pay the price for this 'cold peace'.

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