



Statement before the Committee on Financial Services
Subcommittee on Oversight and Investigations
On “Fueling Terror: The Dangers of Ransom Payments to Iran”

Why Payments to Iran Always Backfire

Michael Rubin
Resident Scholar

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Chairman Duffy, Ranking Member Green, and Honorable Members, thank you for the opportunity to testify today about the Obama administration's decision to settle for a \$1.7 billion Iranian claim before the US-Iran Claims Tribunal regarding a frozen \$400 million account in the United States established by the shah of Iran in 1979 to fund the purchase of military equipment. The administration delivered the \$400 million principle in cash on the same day that Iranian authorities released four American hostages. The episode raises many questions of policy and judgment: Was it necessary to make the payment in January 2016? Was the method of payment legal given existing sanctions? Was it wise to provide Iran with such an amount in cash?

The controversy regarding the payment rests in both its irregularity and the suspicion that it was tied directly to Iran's release of US hostages and was therefore a ransom. Partisan debate may obfuscate any consensus within American political circles about whether to recognize the \$400 million as a ransom, but the Iranian officials most involved in the seizure of American and other Western hostages perceive the payment to be a ransom. Not only has delivery of millions of dollars provided incentive to seize more hostages, but because the money was delivered in cash, the payment bolstered the strength of the Islamic Revolutionary Guard Corps and augmented its ability to finance and conduct terrorism.

Was delivery of the \$400 million proper?

The first question Congress should consider is whether the payment was necessary and proper. The White House and State Department's explanation that the United States needed to settle the dispute now out of fear that the claim's tribunal in The Hague might issue an adverse judgment is not credible. It is true that the shah of Iran had created a \$400 million fund in the United States and that the Carter administration subsequently froze that account after the 1979 Islamic Revolution overthrew the shah and established a regime openly hostile to the United States. It is also true that, for 35 years, successive US administrations—both Democratic and Republican—had successfully stymied any judgment at The Hague. Simply put, had the White House and State Department wanted to do so, they might have first delayed any judgment for years and then slow-rolled payment until a time when Iranian officials no longer invested in the export of revolution or terrorism. They might also have used any award as counterterror leverage, given that terrorism sanctions prevent direct payment to the Islamic Republic in US dollars.

The White House has further said that there was nothing untoward in paying the \$400 million in a mix of foreign currencies stacked on wooden pallets in a cargo plane. "There's actually not anything particularly unusual about the mechanism for this transaction," White House Press Secretary Josh Earnest remarked.¹ Earnest, however, is wrong. The State Department's own Office of the Historian could provide no similar examples of a cash payment. According to diplomatic historians, the closest corollary was the 1848 Treaty of Guadalupe Hidalgo, which ended the Mexican-American War. In exchange for California and much of the American southwest, the United States agreed to pay Mexico \$15 million, including a first installment of \$3 million in gold or silver coins.² That payment occurred as part of a final peace agreement after years of hostilities

¹ White House, "Press Briefing by the Press Secretary Josh Earnest," August 22, 2016.

² Bradley Klapper, "Little Precedent for \$400 Million Cash Payment to Iran," Associated Press, August 27, 2016.

had ended and with the United States the clear victor. Years later, President Ulysses S. Grant declared the payment “conscious money.”³

Was it a ransom?

The \$400 million has mostly become so controversial because of the accusation that the money was a ransom payment to the Islamic Republic to free American hostages. There is ample circumstantial evidence to support that accusation. All but one of the American hostages were freed on the same day that the United States delivered the payment.⁴ The administration, however, initially dismissed such accusations as neither new nor newsworthy. After the *Wall Street Journal* refocused attention on the issue with new revelations, President Barack Obama expressed surprise that the issue was again in the news cycle. “We announced these payments in January—many months ago. There wasn’t a secret,” he said.⁵ What was unknown at the time, however, was that the United States and Iran had secretly negotiated a swap or release of Iranians and Americans detained in each country and that, in December 2015, the Iranian team augmented their demands with an insistence on a cash payment, which the Obama administration approved so the Iranian team could say they achieved “something tangible.”⁶

Obama flatly denied that the \$400 million was a ransom. “We do not pay ransom. We didn’t here. And we don’t—we won’t in the future—precisely because if we did, then we would start encouraging Americans to be targeted,” he told the press.⁷ State Department spokesman John Kirby implied that the timing of the payment was coincidental and could not be a quid pro quo. “Negotiations over the settlement of an outstanding claim . . . were completely separate from the discussions about returning our American citizens home,” he said. “Not only were [the] two negotiations separate, they were conducted by different teams on each side, including, in the case of The Hague claims, by technical experts involved in these negotiations for many years.”⁸

Freed hostage Saeed Abedini, however, later revealed that the American hostages were unable to leave until a separate plane landed, presumably with the money Iranian officials had demanded.⁹ In subsequent days, the Obama administration admitted that there was a quid pro quo:¹⁰ Swiss officials would not allow the Iranian cargo plane to depart Geneva until American hostages were in the air.¹¹ While this implied linkage, the White House and State Department seemed to suggest that the payment was “leverage” and not a ransom because the money technically arrived after the hostages had departed Iran.

³ Marvin Meyers, *Sources of the American Republic*, Volume 1 (New York: Addison-Wesley, 1996), 363.

⁴ Jay Solomon and Carol E. Lee, “U.S. Sent Cash to Iran as Americans Were Freed,” *Wall Street Journal*, August 3, 2016.

⁵ White House, “Press Conference by the President After Meeting with National Security Officials,” August 4, 2016.

⁶ Solomon and Lee, “U.S. Sent Cash to Iran.”

⁷ White House, “Press Conference by the President.”

⁸ Elise Labott, Nicole Gaouette and Kevin Liptak, “US Sent Plane with \$400 Million in Cash to Iran,” CNN.com, August 4, 2016.

⁹ Fox Business News, “American Hostage: Forced to Wait for 2nd Plane Before Iran Release,” August 5, 2016.

¹⁰ John Kirby, Daily Press Briefing, State Department, August 18, 2016.

¹¹ Jay Solomon and Carol E. Lee, “U.S. Held Cash Until Iran Freed Prisoners,” *Wall Street Journal*, August 17, 2016.

Was it wise?

White House and State Department explanations might split legal hairs, but outside of Washington, such semantics are irrelevant. Iranian officials' perception is that the United States paid a ransom. Iran believed it to be ransom. "Taking this much money back was in return for the release of the American spies," the Islamic Revolutionary Guard Corps' Brigadier General Mohammad Reza Naghdi, commander of the paramilitary Basij, said, a claim subsequently repeated in the Iranian press over subsequent weeks.¹²

While it appears the Obama administration knowingly paid a ransom, President Obama's statement that payment of ransoms incentivizes terror and encourages targeting of Americans is true, especially with regard to Iran. For example, every time the Carter administration offered new incentives to Iranian negotiators holding American hostages at the US Embassy in Tehran, the Islamic Republic increased rather than compromised its demands.

Perhaps the best corollary, however, is the Reagan-era "Arms for Hostages" scheme. Beginning in the mid-1980s, Iranian proxies in Lebanon kidnapped two dozen Americans. While senior Reagan administration officials had criticized President Carter for negotiating under fire,¹³ once in power, Reagan's team convinced itself that maintaining a black-and-white approach to terrorism was not pragmatic. On January 17, 1986, President Reagan signed an order authorizing the sale of guided missiles to Iran. Under terms negotiated by senior national security aides, once Iran received the missiles, it would order Hezbollah and other proxy groups to release American hostages.

At first glance, Reagan's approach to Iran seemed to work. For 15 months beginning in June 1985, no Americans were kidnapped in Lebanon. After Iranian proxies released Father Lawrence Jenco, who had been in captivity for 564 days, the United States delivered additional spare parts to Iran. No sooner had American officials offloaded the last shipment of military equipment, however, then kidnapers seized three more Americans.¹⁴ Simply put, the ability to restock its military gave Iran an incentive to seize hostages.

While Iran may not officially receive weaponry as part of the Joint Comprehensive Plan of Action (JCPOA) and the subsequent agreements to release American hostages and repatriate Iranian cash frozen in the United States, in reality it does. Shortly after inking their agreements, Iranian authorities embarked on a massive military shopping spree in both Russia and China.¹⁵ US diplomats might say that the JCPOA and the corollary UN Security Council Resolution (UNSCR)

¹² "Bazpeshgiri 107 Miliyard Dollar az Emval-e Iran dar Qobal-e Azadi Jasus-e Amrikaye Bud," Fars News Agency (Tehran), January 20, 2016; and "Afshagari Jadid Sardar Naghdi az Jasus-e Amrikahayi," Tnews.ir (Tehran), February 6, 2016.

¹³ See, for example, Alexander Haig in *Department of State Bulletin* 81, no. 2048 (March 1981), 17, as quoted in Roberts B. Owen, "The Final Negotiation and Release in Algiers," in Warren Christopher, ed. *American Hostages in Iran* (New Haven: Yale University Press, 1985), 298.

¹⁴ John Tower et al., *The Tower Commission Report* (New York: Times Books, 1987), 47–48.

¹⁵ "Didar va Goftegu-ye Farmandehan-e Niru-ye Hava-ye Artesh-e Iran va Chin dar Peken," Fars News Agency, November 2, 2015; and Associated Press, "Iran to Purchase Sukhoi-30 Fighter Jets from Russia," February 10, 2016.

2231 prevent Iran from importing “offensive” arms and systems, but because the UNSCR 2231 relies on the definitions of the UN Register of Conventional Arms,¹⁶ definitions that some Iranian officials dispute or dismiss, and because Moscow offers Tehran diplomatic cover at the United Nations, such a prohibition has little meaning.

Regardless of any aspect of military relief as a direct or second-order effect of recent US deals with Iran, the Iranian perception that the Obama administration was willing to incentivize hostage taking has led to additional Iranian hostage taking. In the days and weeks after the delivery of the \$400 million, Iranian security forces seized at least a half dozen more American, Canadian, and European hostages in Iran, leading the US State Department to issue a new travel warning for Iran highlighting the heightened risk of detention. “Foreigners, in particular dual nationals of Iran and Western countries including the United States, continue to be detained or prevented from leaving Iran. . . . Iranian authorities continue to unjustly detain and imprison U.S. citizens, particularly Iranian-Americans, including students, journalists, business travelers, and academics, on charges including espionage and posing a threat to national security,” it declared.¹⁷ Iranian American Siamak Namazi, his father Baquer Namazi, American businessmen Robin Shahini, Canadian academic Homa Hoodfar, British charity worker Nazanin Zaghari-Ratcliffe, British businessman Kamal Foroughi, Frenchman Nazak Afshar, and Lebanese businessman Nizar Zakka, a permanent US resident, all have ended up in Iranian prison on spurious charges in the wake of the prisoner release that Obama and Secretary of State John Kerry claimed was the result of a newfound working relationship rather than the \$400 million ransom.

Do cash payments hamper counterterrorism?

The US government paid its initial \$400 million transfer to Tehran in cash and likely paid the remaining \$1.3 billion in cash as well, although White House and State Department officials refuse to detail the method of the latter transfer. The purpose of cash payment in foreign currency was to sidestep current prohibition on doing business with Iran and Iranian banks in US dollars. Unfortunately, the cost to US security and the difficulties to US counterterrorism efforts may be extraordinarily high.

The State Department continues to designate Iran as a leading state sponsor of terrorism.¹⁸ Iran not only continues to sponsor terrorist groups in the Gaza Strip and West Bank, Lebanon, Syria, and Iraq, but has also provided shelter and protection to senior al Qaeda operatives. For both the George W. Bush and Obama administrations, the Treasury Department has been at the frontline of the fight against terrorism. The US government managed to break up Iran’s 2011 plot to murder the Saudi ambassador to the United States because it was monitoring bank accounts utilized by the Islamic Revolutionary Guard Corps.¹⁹ The problem with cash payments—especially in multiple

¹⁶ UNSCR 2231, Annex B, Paragraph 5.

¹⁷ US Department of State, “Iran Travel Warning,” August 22, 2016.

¹⁸ US State Department, “Chapter 3: State Sponsors of Terrorism Overview,” Country Reports on Terrorism 2015, June 2, 2016.

¹⁹ US Department of Justice, Federal Bureau of Investigation, “Two Men Charged in Alleged Plot to Assassinate Saudi Arabian Ambassador to the United States,” October 11, 2011; and Charlie Savage and Scott Shane, “Iranians Accused of a Plot to Kill Saudis’ U.S. Envoy,” *New York Times*, October 11, 2011.

currencies—is that they allow the Islamic Revolutionary Guard Corps and other terror-sponsoring organizations to avoid detection.

That terrorist attacks are relatively cheap to execute once cash is in hand simply augments the danger. Take Hamas, for example, one of Iran's chief clients. A 2001 shooting attack on the Afula bus station in Israel that killed two and wounded 48 cost the group only \$31,000.²⁰ Likewise, an attack the following year in a Hebrew University cafeteria that killed five Americans cost only \$50,000.²¹ A suicide bomb belt can cost as little as \$1,500.²²

In the Islamic Republic, possession is ten-tenths of the law. The Islamic Revolutionary Guard Corps controlled the aircraft to which the \$400 million was delivered. Because the Islamic Revolutionary Guard Corps controls its own banks, it is unlikely that it transferred the \$400 million to central coffers. Even if the ransom did end up in Iran's central bank, this does not guarantee transparency. On August 14, 2016, the Iranian press reported that Iranian Justice Minister Mostafa Pour-Mohammadi commented that “approximately 50 million bank accounts” in Iranian banks either have no name listed or have been manipulated and that “such statistics put the country's banking system under question.”²³ If 50 million bank accounts in a country of 80 million people are irregular or opaque, there is ample reason to question their use.

Does money moderate Iran?

Whether the United States delivers \$1.7 billion to Iran as cash or by any other mechanism, there is a broader problem: reducing sanctions and bolstering trade disproportionately helps those elements within the Islamic Republic most hostile to the United States and most willing to sponsor terrorism.

Put aside the false assumption embraced by many in the White House that President Hassan Rouhani is a moderate. While he certainly projects a more moderate image to the outside world, across the Islamic Republic's political system, Iranians have always understood Rouhani to be a loyalist to the ideals espoused by revolutionary leader Ayatollah Ruhollah Khomeini. Before his 2013 election, for example, Rouhani's campaign commercials bragged about how Rouhani was the first person in the Islamic Republic to refer to Khomeini as an “Imam,” in effect likening him to the Shi'ism's Messianic figure. And, as chairman of Iran's Supreme National Security Council, Rouhani outlined a strategy of surprise in which he would lull the United States into complicity with dialogue while advancing strategies to defeat it.²⁴

²⁰ Matthew Levitt, *Hamas: Politics, Charity, and Terrorism in the Service of Jihad* (New Haven: Yale University Press, 2007), 55.

²¹ *Ibid.*

²² *Ibid.*

²³ “Pour-Mohammadi: 50 Milyon Hisab-e Banki Mokhdush va Majhul Al-Hawiya Darim,” Islamic Students' News Agency (Tehran), August 14, 2016.

²⁴ Hassan Rouhani, “Iran's Measures Rob the Americans for Foresight,” (speech, Ferdowsi University Hall, February 9, 2015), *Rahbord* (Journal of the Expediency Council's Center for Strategic Studies, Tehran), Spring 2005.

Alas, for Rouhani, this did not appear merely to be bravado or rhetoric. Beginning in the early 1990s and accelerating after the election of Mohammad Khatami to Iran's presidency, European officials led by German Foreign Minister Klaus Kinkel argued that greater trade might lead the Islamic Republic to abandon its rogue behavior.²⁵ Strengthening Iran's economy would not only bolster the position of moderates in the Islamic Republic's domestic political context but also augment Western diplomats' ability to engage productively with Iran on issues of concern ranging from terrorism to human rights.

The 1997 election of President Mohammad Khatami and his calls for a "dialogue of civilizations" were exactly what Western leaders wanted to hear. Between 1998 and 2005, the European Union almost tripled its trade with Iran on the philosophy that the "China model" might work and greater ties between Iran and the West might lead to political liberalization. At the same time, the price of oil—and therefore Iran's income—nearly quintupled. Iran took its hard currency windfall and invested it in its ballistic missile program and its then-covert nuclear enrichment facilities. Khatami's spokesman later bragged that the purpose of dialogue was not to compromise but rather to build confidence and avoid sanctions. "We had an overt policy, which was one of negotiation and confidence building, and a covert policy, which was continuation of the activities," he explained.²⁶ Meanwhile, the official directing the money into the military was none other than Hassan Rouhani, who, in his capacity as chairman of the Supreme National Security Council, was fulfilling his strategy of surprise.

It's not just a matter of political will, but rather the structure of Iran's economy. Here again, the problem is the Islamic Revolutionary Guard Corps. The Revolutionary Guards' stature grew against the backdrop of the 1980–88 Iran-Iraq War. When revolutionary leader Ayatollah Ruhollah Khomeini finally accepted a ceasefire in 1988, putting a damper on the Revolutionary Guards' declared goal of liberating not just Baghdad but marching straight through to Jerusalem, the IRGC was loath to return to their barracks and forfeit the privileges they had acquired. Instead, they decided to seek independence from the politicians and bean counters in Tehran by creating their own independent financial base, which they called "Construction Base of the Seal of the Prophets" (*Gharargah Sazandegi-ye Khatam al-Anbiya*).

To understand what *Khatam al-Anbiya* is like inside the Iranian economy, and without moral equivalence, picture the US Army Corps of Engineers combined with Bechtel, Halliburton, KBR, Shell, Exxon, Boeing, and Northrop-Grumman, all rolled up into one entity. Today, *Khatam al-Anbiya* controls all heavy industry, construction, manufacturing, electronics, oil production and refining, shipping, and even large chain stores. To do business with Iran means working with Islamic Revolutionary Guard Corps front companies; there simply is no way to avoid it.

Under President Mahmoud Ahmadinejad, *Khatam al-Anbiya* received upward of \$50 billion in no-bid contracts in the South Pars Oil Field alone. In addition, the Islamic Revolutionary Guard Corps

²⁵ European Council, "Conclusions of the Presidency," Part D, External Relations, p. 100, Edinburgh, December 12, 1992; and Klaus Kinkel (speech, Bundestag debate on policy toward Iran, Bonn, April 17, 1997).

²⁶ "Ramezanzadeh: Siyasat-e Post Perdeh Dawlat-e Khatami Adameh-e Fa'liyatha-ye Hasteha-ye Bud," Fars News Agency (Tehran), June 14, 2008.

reaps an estimated \$13 billion annually in oil smuggling.²⁷ This means that even if President Hassan Rouhani were to take the Revolutionary Guards' official budget to zero, they would face less of a cutback proportionately than the US military has through sequestration. The IRGC may be the ideological guardians of Khomeini's views, but they can be quite pragmatic when it comes to making money.

The Tehran Stock Exchange only adds to the problem. Founded in 1967 but suspended as a result of the 1979 Islamic Revolution, the Tehran Stock Exchange has gained renewed prominence in the years after Khomeini's 1989 death. In 2010, the exchange ranked as the best performing in Europe, Africa, or the Middle East.²⁸ Between 2008 and 2011, the value of its listed shares almost tripled, to \$108.4 billion.²⁹ By 2013, its market capitalization exceeded \$170 billion.³⁰

The problem from an American security and counterterror perspective is that the Tehran Stock Exchange has become a primary tool by which the Iranian government and especially the Islamic Revolutionary Guard Corps can launder cash. When the Iranian government talks about privatizing state-run industries in the name of economic reform, the Tehran Stock Exchange hosts the initial public offering. In most cases, the firms that purchase a controlling or complete interest in the "privatized" companies are Revolutionary Guards-owned operations or banks. This has led over the past couple decades to three-card monte countersanctions, in which the US Treasury Department or United Nations designates companies engaged in proliferation or other illicit activities, only to have the Revolutionary Guards shift their operations to new shell companies faster than redesignation can occur. To provide Iran with cash under the current regime and with the current *Khatam al-Anbiya* domination of the economy simply allows the Revolutionary Guard, which took possession of the cash, to inject it into its shell game and perhaps finance or catalyze operations of the companies about whose activities the US Treasury Department and intelligence community are most concerned.

Conclusion

In the Middle East, perception means more than reality, and the perception among those who hold the reins of power inside Iran is that the \$400 million payment—one opposed by the US Justice Department—was very much a ransom. Unfortunately, rather than resolve a crisis and ameliorate relations, the Obama administration and State Department's willingness to make such a payment may actually undercut any chance of rapprochement. Even diplomats who still believe they are engaging sincere regime reformists rather than being ensnared in an elaborate game of good

²⁷ Ali Alfoneh, "How Intertwined Are the Revolutionary Guards in Iran's Economy?" AEI Middle East Outlook, October 22, 2007; "Vagozari-ye 850 Melyoun Dolar Prozehpye Jadid-e Nafti Be Khatam al-Anbiya," *Abrar* (Tehran), March 16, 2010; "Gharargah-e Khatam al-Anbia Jaygozin-e Torkiyeh Dar 3 Faz-e Pars-e Jonoubi Mishavad," *Abrar* (Tehran), April 19, 2010; and "Jaygozinan-e Dakheli-ye Shell va Repsol Dar Pars-e Jonoubi," *Pol* (Tehran), June 5, 2010, "Vagazari bidun nashrifat 2 pirouzeh-i nafti beh qirargah Khatam al-Anbia," *Mehr* (Tehran), February 26, 2011.

²⁸ F. Milad, "Tehran Stock Exchange Main Index Hits New Record," Trend News Agency (Baku), December 2, 2012.

²⁹ "Iran Stock Official Says Market's Value 'Very Far' From International Standards," Tehran Vision of the Islamic Republic of Iran Network 5, Tehran Provincial TV in Persian, January 11, 2012, 1138 GMT.

³⁰ Tehran Stock Exchange, "CEO Message," <http://new.tse.ir/cms/page564.html>.

cop/bad cop should be worried, for the taking of new hostages is as good a barometer of where power lays in Iran as any.

It is bad enough that not only Iranian officials but also other rogue regimes and terrorists groups can conclude that the United States is susceptible to blackmail and that its condemnation of ransom payments is only rhetorical. That the Obama administration blessed a cash payment and allowed the Islamic Revolutionary Guard Corps to take possession of it augments the possibility that it will be used to catalyze terrorism across the globe and blinds the intelligence community and Treasury analysts who have dedicated their careers to keeping America safe.