Congress Deserves a Vote on Iran

Large bipartisan majorities in the legislature created the sanctions. Ending them warrants legislative review.

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As the Obama administration moves closer to a diplomatic agreement with Iran regarding its nuclear program, a bipartisan group of senators—including Foreign Relations Committee Chairman Bob Corker and ranking Democrat Bob Menendez—has put forward legislation that would provide Congress with a mechanism to review such a deal. The White House has threatened a veto, arguing that a deal with Iran would be a “nonbinding” executive agreement and therefore congressional review would represent an inappropriate intrusion.

Not so. The Constitution and history, not to mention common sense, argue that it is entirely proper for America’s elected representatives in Congress to review a far-
reaching agreement with a foreign government of such national-security significance. The president as commander in chief deserves deference in devising national-security strategy, but Congress has clear constitutional standing and an institutional prerogative not to be cut out of the process.

Each of the Constitution’s grants of foreign-policy authority to the president is checked and balanced by a grant of foreign-policy authority to Congress. For example, the two most explicit foreign-policy powers the Constitution gives to the president—selecting ambassadors and making international treaties—both require Senate consent.

The legislation now before the Senate, which may be taken up as early as next week, would allow Congress to assume its rightful role in a responsible, measured way. Rather than treating an Iran agreement as a treaty—which would require formal ratification by two-thirds of the Senate—the bill would adopt a less stringent standard.

Each chamber of Congress would have the opportunity to hold a vote of approval or disapproval of a deal under expedited rules of procedure; in the absence of a joint resolution of disapproval by both the House and Senate, the deal would automatically take effect. This would ensure there is a structured process for deliberation and debate.

The Obama administration instead intends to treat an Iran deal like a status of forces agreement, known as a SOFA, which spells out rules for U.S. soldiers deployed in a foreign country. These are typically nonbinding executive agreements that do not involve a congressional vote.

But the analogy is flawed. Unlike SOFAs, which tend to be administrative and technical in nature, a nuclear deal with Iran would represent a historic and highly controversial strategic commitment—precisely the kind of national decision in which congressional involvement is most warranted.

Congress should also review an Iran agreement because of the unusually extensive and direct role it has already played in formulating exactly those policies that a nuclear deal would alter and undo. Congress in 2010 designed and passed the Comprehensive Iran Sanctions, Accountability and Divestment Act, which sought to punish companies and individuals that did business with Iran’s petroleum sector. Legislation in 2012 added further restrictions.

The essence of any deal would relieve the Iranians from such sanctions in exchange for certain restrictions on their nuclear activities. The sanctions under negotiation, however, are overwhelmingly the creation of Congress—put in law through bills passed
by large bipartisan majorities. Given that Congress built the sanctions against Iran, it is unreasonable to bar it from any review or oversight in how that architecture is disassembled.

Finally, what about the argument that Tehran would object to congressional review, thus making an agreement more difficult to reach? This doesn’t stand up to scrutiny.

If presidents of both parties during the Cold War could submit sensitive nuclear-arms-control agreements negotiated with the Soviet Union to Congress for two-thirds ratification—when atomic doomsday loomed—surely the same can be done today. While congressional review might be unpalatable to the Iranians, as it surely was to the Soviets, we should not ignore our Constitution or suspend our best democratic practices to win agreements with our adversaries.

The great political scientist Edward Corwin observed more than half a century ago that the Constitution is “an invitation to struggle for the privilege of directing American foreign policy.” It is exactly this struggle between Congress and the president—which is almost as old as our republic—playing out now over a possible agreement with Iran, reflecting the divided and often overlapping lines of responsibility for foreign policy that our Founders assigned to Congress and the president.

Presidents are rarely enthusiastic when Congress asserts itself in foreign policy. But our most successful leaders have recognized the need to win the support, or at least acquiescence, of Capitol Hill for their most ambitious national-security initiatives, because that is one of the best ways to ensure the support of the American people and to make it more likely those initiatives will endure.

Congress has every right to review any agreement with Iran that the Obama administration reaches. The administration would benefit greatly if any deal it negotiates passes muster on Capitol Hill as well as in Tehran.

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