



## If You Give a Mouse a Cookie

By David Albright and Andrea Stricker

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President Hassan Rouhani has on several recent occasions tried to raise the notion of swapping U.S. prisoners held in Iran, such as *Washington Post* correspondent Jason Rezaian and at least three others, with some 10-20 Iranian prisoners held on charges of violating U.S. trade controls on sales of military and other equipment to Iran's military, nuclear, ballistic missile, and terrorism-related programs. Most recently he [suggested](#) the possibility on 60 Minutes, [again](#) on CNN, and then [to a group of reporters](#) on the sidelines of the United Nations General Assembly. But there is no equivalence between the two groups arrested by Iran and the United States and equating them would be misguided policy that would only encourage further prisoner taking by Iran.

The Iranian prisoners held in the United States are held as a result of criminal charges or convictions, involving well-established U.S. trade control laws and courts that allowed for an active defense. Iran arrested U.S. citizens on fabricated or flimsy charges and denied them basic due justice. In making his case, Rouhani has tried to argue that all the Iranians held in the United States are innocent, as if these U.S. laws are illegitimate. His claim is tantamount to legitimizing the violation of U.S. and other countries' (and UN Security Council) laws against illicit procurements. In addition, Rouhani's statements imply that Iran may fully intend to continue violating U.S. trade control laws as it seeks goods for military, missile, terrorism-related, and perhaps even nuclear programs, raising the specter that Iran will detain more innocent Americans to leverage the release of their traffickers.

Iran should release its U.S. prisoners. They are innocent and the victims of a deeply flawed judicial system that employs false due process and is freely exploited by the executive's policy agenda, whether aimed at gaining U.S. concessions or retaining leverage for future concessions. Rouhani's offer to swap the U.S. prisoners for duly convicted individuals in the United States is at best a cynical ploy that on the surface, may appear diplomatically convenient, but the reality is that pursuing these types of exchanges will only encourage Iran to detain more innocent Americans.

### President Rouhani's Swap Proposal

Iran has often tried to keep its smugglers and illicit traffickers out of the control of U.S. authorities. President Rouhani has used his trip to the United Nations to further this case. He [told](#) 60 Minutes on September 20, 2015: "I don't particularly like the word 'exchange,' but from a humanitarian perspective, if we can take a step, we must do it. The American side must take its own steps."

On CNN on September 27, 2015, he [outlined](#) to Christiane Amanpour the terms of a swap:

"If the Americans take the appropriate steps and set them free, certainly the right environment will be open and the right circumstances will be created for us to do everything within our power and our purview to bring about the swiftest freedom for the Americans held in Iran as well."

Rouhani has often said that he views U.S. trade control laws and United Nations Security Council sanctions as illegitimate. In August 2014, he [said](#) at a news conference, "Of course we bypass sanctions because the sanctions are illegal." In addition, on September 27, 2015, he [said](#) to a group of reporters at the UN General Assembly, referring to those held by the United States, "In our opinion, they are unequivocally innocent."

### **Earlier Prisoner Swap?**

Rouhani may be making this appeal today because it may have worked earlier. *Wall Street Journal* reporter Jay Solomon [revealed](#) on June 28, 2014 that Iranian prisoners – some involving convicted and charged traffickers involved in Iran's illicit nuclear, missile, or military trade – were released or were granted an expedited release as part of a U.S. faith building effort ahead of negotiations with Iran over its nuclear program. Solomon reported that Iran acted first in 2010 and 2011 releasing three U.S. hikers accused of espionage.

The *Wall Street Journal* article reported that Iran provided the White House with a list of prisoners it wanted released in late 2009 as "part of a wish list to test President Barack Obama's commitment to improving ties and a move that set off years of clandestine dispatches that helped open the door to nuclear negotiations." The two countries communicated via the Sultan of Oman and his diplomatic officials. We attempted but were unable to confirm the findings of the report with U.S. officials.

Among Iran's wish list of prisoners convicted or accused of illicit trafficking in nuclear, missile, or military goods and whose release was reportedly authorized or expedited by the United States was Shahrzad Mir Gholikan, who was convicted in 2009 and sentenced to five years in prison for [U.S. military equipment exports](#) made via Europe. Gholikan's daughters were presented on Iranian state television alongside one of the three detained U.S. hikers, Sarah Shourd, asking for the release of Gholikan. She was released in 2012 apparently after serving her sentence. Amir Hossein Sairafi served less than three years of 41-month sentence (arrest in January 2010 and release in January 2013) for [nuclear export felonies](#) and was promptly put on a plane and allowed to leave the United States. Sairafi, an Iranian procurement agent with trading companies in Iran and Dubai, was [arrested](#) in Germany and extradited to the United States. Another Iranian procurement agent released was Nosratollah Tajik, a former Iranian ambassador to Jordan who was arrested in Britain in 2006 on [U.S. military equipment export violations](#). The United States attempted to extradite him for many years before dropping the case in 2012. A British judge [granted](#) his release. In 2013, the United States also released an Iranian scientist named Mojtaba Atarodi who was detained since 2011 upon traveling to Los Angeles. He worked at Sharif University allegedly for Iran's nuclear program and was included on a Treasury Department blacklist for [illicitly buying U.S. goods](#). Atarodi was convicted by a U.S. court, according to the *Wall Street Journal*, just days before his release was authorized. His case was sealed and never made public. According to the *Wall Street Journal*, most of the cases of the accused were partially or completely sealed.

### **Poorly Considered Policy**

After this reported, earlier prisoner swap, Iran continued to arrest U.S. persons, most prominently *Washington Post* reporter Jason Rezaian, who was arrested in July 2014. One has to ask if Iran seized

him, or at least has refused to release him, in order to maintain leverage for its demands to release prisoners from U.S. custody.

Expedited U.S. prisoner releases are, at best, poorly considered policy. The convicted and accused individuals held by the United States were held as a result of criminal charges or convictions, involving well-established U.S. trade control laws and courts that allowed for an active defense, while Iran arrested U.S. citizens on fabricated or flimsy charges and denied basic due justice. While it may have seemed to be a useful trust building effort on the part of the United States to lay groundwork for nuclear negotiations, there is no equivalence between the two groups arrested by Iran and the United States.

This policy, to the extent that it was utilized, should not be repeated, and Iran should be clearly told so. Moreover, prosecutions of current U.S. cases against Iranian smugglers, as well as investigations and sting operations, should move forward. The United States and its allies should make clear to both Iran and domestic prosecutors and investigators that as a matter of policy cases involving Iranian export violations will be fully developed and the violators charged and fully prosecuted.

ISIS has been told that already U.S. companies are reporting attempts by Iranian companies to convince them that sales to Iran of controlled goods are now legal. Countries in and outside of the P5+1 must act strongly against these attempts and future attempts that violate the provisions of national trade control laws, the Joint Comprehensive Plan of Action (JCPOA), and UN Security Council resolutions. They must ensure as the JCPOA is implemented that they will prosecute Iranian attempts to circumvent the missile and arms embargos, anti-terrorism sanctions, and nuclear related controls. Countries must also end damaging policies equating those prisoners seized by Iran to those prosecuted for violating trade control laws. To do otherwise is to invite Iran to detain more innocent people.