

ORIGINAL DOCUMENTS IN SAFE

Case No. ~~377~~ 377

Date of filing: 9 Aug '90

377-37

** AWARD - Type of Award _____
 - Date of Award _____
 _____ pages in English _____ pages in Farsi

** DECISION - Date of Decision _____
 _____ pages in English _____ pages in Farsi

** CONCURRING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** DISSENTING OPINION of Judge Anwar
 - Date 1 Dec '89
3 pages in English (1 Dec '89) pages in Farsi

** OTHER; Nature of document: _____

 - Date _____
 _____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داورى دعاوى ایران - ایالات متحدہ

Persian version filed on

1 December 1989

In the Name of God



CASE NO. 377

CHAMBER THREE

AWARD NO. ITL 74-377-3

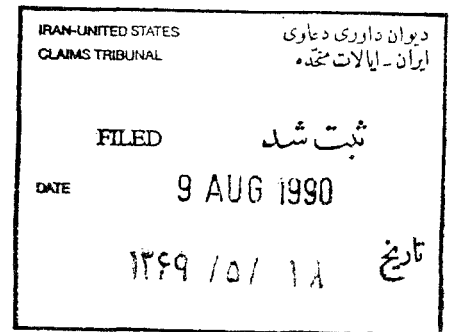
KATRIN ZOHRABEGIAN ABRAHAMIAN,

Claimant,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,

Respondent.



DISSENTING OPINION OF JUDGE PARVIZ ANSARI

1. I have repeatedly expressed my reasons for dissenting to the Tribunal's injudicious and deplorable decision to admit the claims of Iranian nationals against the Government of Iran, and thus see no need to reiterate them here. See: the Dissenting Opinion of the Iranian Arbitrators in Case No. A18, Decision No. DEC 32-A18-FT (10 September 1984), reprinted in 5 Iran-U.S. C.T.R. 275-337; also the Dissenting Opinion of Judge Parviz Ansari in Reza Said Malek and The Islamic Republic of Iran, Interlocutory Award No. ITL 68-193-3 (23 Jun. 1988).

2. Contrary to what is stated in the present Interlocutory Award, a number of reasons, taken altogether, will demonstrate that the Claimant's prevailing and effective nationality is that of Iran. These reasons, in so far as they are reflected in the evidence, are as follows:

The Claimant in the present Case was born in 1923 in Iran, of Iranian parents. She married in Iran to an Iranian man, and both of her children were born in Iran. According to the Claimant's own statement, she spent her childhood, youth, and middle years up to the age of 46, solely in Iran. The Claimant alleges that she left for the United States in 1969 in order to take up residence there, and that she acquired United States nationality on 17 January 1975, i.e., at the age of 52. In view of the protracted and determinative period of time during which the Claimant lived in Iran, and as is clearly and logically to be expected, her social, cultural and sentimental ties and links to Iran are very deep-rooted and cannot easily be altered. In the absence of sufficient and compelling evidence, it is inconceivable that after spending such a long part of her life in Iran, a period which embraces all of the major phases and events of her life, the Claimant would have been able to assimilate into the United States society and culture in such a manner that her prevailing and effective nationality could be deemed to be that of the United States. The mere fact (assuming it is true) that she bought a house in the United States, or that she worked there for some years, which was naturally in order to gain a livelihood and constitutes an ordinary fact of human life, does not have sufficient weight, in comparison with the other events in her life, to cause the Claimant's acquired nationality to prevail over and outweigh her Iranian nationality. Although the Claimant states that she went to the United States in 1969, she has allegedly retained the immovable property in Iran which constitutes the subject matter of the present Case. The

Claimant has never severed her ties to Iran, the country of her original nationality; nor has she relinquished her Iranian nationality.

3. It is to be concluded that:

Firstly, it is an established principle of international law, from which there can be no derogation, that, as an Iranian national, the Claimant cannot herself bring a claim against the Iranian Government before an international forum; nor can any government espouse her claim before such a forum on her behalf.

Secondly, the Claimant's Iranian nationality predominates and prevails over her United States nationality; and from this viewpoint as well, the Tribunal lacks jurisdiction over the claim brought before it.

The Hague,
1 December 1989



Parviz Ansari