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** DECISION - Date of Decision _____
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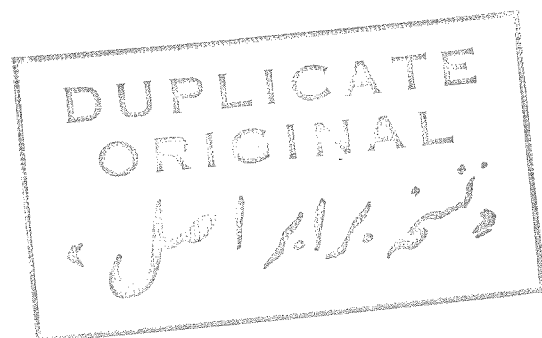
** CONCURRING OPINION of _____
- Date _____
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** SEPARATE OPINION of _____
- Date _____
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** DISSENTING OPINION of _____
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- Date _____
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CASE NO. 949

CHAMBER THREE

AWARD NO. 163-949-3

MOHAMMAD MOUSSAVI,

Claimant,

and

THE UNITED STATES OF AMERICA,

Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعوی ایران - ایالات متحده	
ثبت شد - FILED		
Date	31 JAN 1985	تاریخ
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No.	949	شماره

AWARD

I. The Procedural History

On 19 January 1982 the Claimant, allegedly the last official of the Iranian Navy to depart the United States after being expelled by order of the President of the United States in April 1980, filed a Statement of Claim against the United States with the Tribunal.

The Claimant asserts that after arriving in Houston, Texas on 16 October 1979 as a member of an Iranian Navy delegation assigned to consider termination claims under a particular contract, the Claimant signed a lease agreement for an apartment for a term extending from 29 October 1979 to 30 April 1980 at a monthly rental of \$660 in respect of which he made a \$300 security deposit. In addition, he executed an agreement for the rental of furniture for a ~~period commencing 26 October 1979 and continuing for six~~ months at a monthly rental of \$161.29, and in connection therewith made a security deposit in an amount equal to one month's rent. Other utility deposits allegedly were made, apparently including one to Southwestern Bell Telephone Company in the amount of \$81, and "household goods and other miscellaneous items necessary for setting up house" for the Claimant and his family were purchased.

Construed most favorably to the Claimant, the Statement of Claim alleges wrongful actions on the part of "the U.S. Government, the Immigration & Naturalization Service and the State Department, Iran Desk"

First, the Claimant contends that following the President's issuance of Executive Order No. 12170 "freezing" Iranian assets on 14 November 1979, "[u]ndue prejudice, hardship and misery was inflicted upon Iranian citizens in the U.S...." He further alleges that he was summoned to the offices of the Immigration and Naturalization Service in Houston on 20 February 1980 where he asserts that he was "insulted, Humiliated, Photographed, finger printed and given one month for 'Voluntary Departure' [from the United States]...."

The Claimant then states that in mid-March 1980, "[i]n compliance with order from the Iranian Embassy in Washington D.C. and the provisions of the U.S. 'voluntary departure' and instructions from the United States State Department, Iran Desk," he moved with his family from Texas to Washington, D.C., resulting in early termination by six weeks of the various lease and rental agreements and consequent loss of security deposits.

Second, on 7 April 1980 the United States broke diplomatic relations with the Islamic Republic of Iran and the President ordered the expulsion of certain Iranian nationals including the Claimant to take place within 72 hours. The Claimant states that, "[p]ursuant to Assurances from the State department Iran Desk given to the Iranian Embassy to have the INS, Texas district order for voluntary departure annulled" he had earlier made a further series of rent and

utility deposits after arriving in the Washington, D.C. area. The Claimant thus forfeited the same for a second time, in addition "abandoning almost his entire household goods, personal property, & his car," apparently purchased during his stay in Texas at a cost of \$2,937.

The Claimant asserts that as a result of these actions by the United States Government he and his family "suffered damages including loss of property, relocation expenses, personal inconvenience, loss of household goods, unnecessary trouble and expenses, moral and mental duress & forfeiture of his money" by various holders of security deposits.

As compensation the Claimant seeks \$30,000 plus interest and, in addition, "compensation of moral, creditory & reputational damages ... and further relief as is equitable & just." ~~Furthermore, the Claimant demands~~ indemnification against any claims which have arisen or might arise against him in consequence of his hasty departure from the United States.

On 12 October 1982 the United States filed with the Tribunal a "Petition Of The United States For An Order Dismissing Claim For Lack Of Standing And Lack Of Jurisdiction." The petition asserts that the claim, being viewed as one for \$30,000, cannot be asserted by the Claimant but rather only by the Government of the Islamic Republic of Iran on his behalf as provided in Article III, paragraph 3,

of the Claims Settlement Declaration. The United States further contends that the claim does not arise "out of debts, contracts ..., expropriations, or other measures affecting property rights" as required by Article II, paragraph 1, of the Claims Settlement Declaration, and that in any event the claim is excluded by the same Article because the claim arises "out of the actions of the United States in response to the conduct described in" paragraph 11 of the General Declaration, i.e. "the seizure of the 52 United States nationals on November 4, 1979 [and] their subsequent detention."¹

On 4 January 1983 the Government of the Islamic Republic of Iran submitted a Reply to the petition of the United States of America. The Reply effectively sought to adopt the claim herein as a claim advanced by the Islamic Republic of Iran but did not address the other contentions of the petition.

II. Reasons for Award

It appears that insofar as the liability of the United States of America is invoked here, all of the losses and damages asserted by the Claimant arise, directly or

¹ The Petition also notes that "to the extent Claim No. 949 arises out of alleged losses sustained in Claimant's dealing with private United States nationals" jurisdiction is lacking, as was confirmed in the Decision of the Full Tribunal in Case A/2 (21 December 1981), 1 Iran-U.S. C.T.R. 101.

indirectly, as a result of actions clearly and expressly undertaken by the President of the United States as measures in response to the detention from 4 November 1979 until 20 January 1981 of 52 American nationals in Iran. Executive Order 12170 of 14 November 1979 referred to by the Claimant states that it was issued because "the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States...." In announcing the breaking of diplomatic relations with Iran on 7 April, 1980 the President of the United States personally stated that this was one of several steps undertaken in response to the above-mentioned event. 16 Weekly Compilation of Presidential Documents 611 (April 7, 1980). As such, the claims are excluded from the jurisdiction of this Tribunal, as prescribed by Article II, paragraph 1, of the Claims Settlement Declaration (referring to paragraph 11 of the General Declaration), because they arise out of the actions of the United States in response to that episode.

The pendency before the Tribunal at the present time of Case A15, an interpretative dispute initiated by the Islamic Republic of Iran, has no bearing on this case. To the extent Case A15 relates to any Presidential order in question here, it is because of its continuing effect following the conclusion of the Declarations on January 19, 1981. In this case the damages alleged by the Claimant, however, were suffered in an instant in March and April of 1980 and are not of a continuing nature.

Therefore the Tribunal has no jurisdiction to entertain this claim.

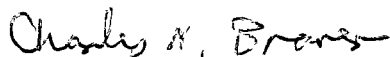
II. Award

For the foregoing reasons,

The Tribunal dismisses this claim for lack of jurisdiction.

Dated, The Hague
31 January 1985


Nils Mangård
Chairman
Chamber Three


Charles N. Brower

In the name of God,


Parviz Ansari Moin
Dissenting