

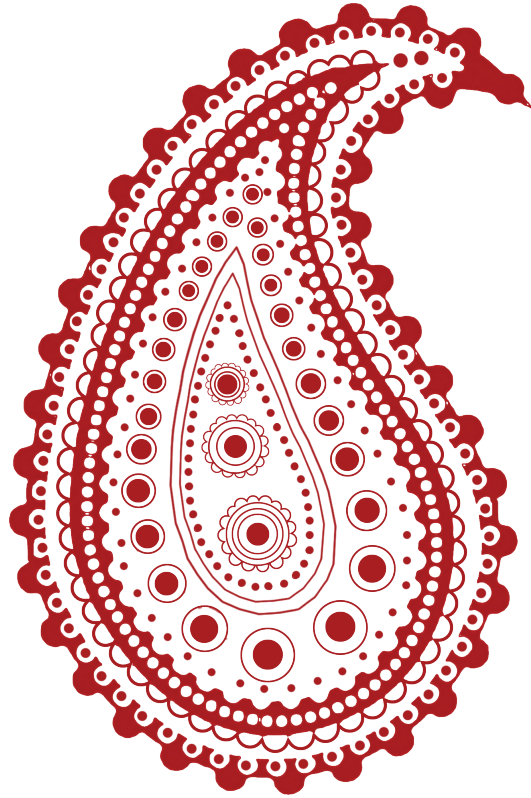
DĀNESH

THE OU UNDERGRADUATE
JOURNAL OF
IRANIAN STUDIES



The UNIVERSITY of OKLAHOMA®
College of International Studies
Department of International and Area Studies

Volume 1 (2016)



Iranian Studies Program

*The UNIVERSITY of OKLAHOMA®
College of International Studies*

DĀNESH: The OU Undergraduate Journal of Iranian Studies

Published under the auspices of the OU Iranian Studies Program, the Center for Middle Eastern Studies, the Department of International and Area Studies, and the College of International Studies at the University of Oklahoma.

Volume 1 (2016)

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From the Faculty Advisor

It is with great pleasure that I introduce this inaugural issue of *DĀNESH: The OU Undergraduate Journal of Iranian Studies*. The initiative for this journal grew from the hard work and dedication of undergraduate students in the University of Oklahoma's Iranian Studies Program. In particular, I would like to acknowledge **Andrew Akhlaghi** (MA 2016) and **Elena Gharipour** (BA 2016) for their tireless effort in leading this project from its inception, in the spring of 2015, to the publication of this inaugural issue.

Since the founding of the OU Iranian Studies Program in 2011, our goal has been to promote knowledge regarding all aspects of the history, culture, society, and politics of Iran and the Persianate world. As the program has grown over the past five years, the work of OU undergraduate students in the field of Iranian Studies has become truly outstanding. The publication of *DĀNESH*, a peer-reviewed journal published under the auspices of the OU Iranian Studies Program and the OU College of International Studies, is dedicated to highlighting the research of a growing undergraduate program in Iranian Studies at the University of Oklahoma. As we continue to mature, we are confident that the vitality of the program will be reflected in the pages of this journal.

The name of the journal, *DĀNESH*, comes from the Persian word meaning *knowledge*, *learning*, and *wisdom*. We believe this is a fitting name for a journal that seeks to foster deep and compassionate understanding of one of the world's most culturally rich and historically complex civilizations. It is with this goal in mind that we inaugurate the publication of *DĀNESH*.

Afshin Marashi
Farzaneh Family Chair in Iranian Studies
Director, OU Iranian Studies Program

From the Editors-in-Chief

We are extremely proud to have been a part of this project. We are proud of both the quality of research in the journal and to have been part of such a wonderful process. Each of these papers addresses an important aspect of U.S.-Iranian relations. We hope that these papers will provide much needed context and perspective to the ongoing debates on U.S.-Iranian relations.

We are also privileged to have had such a positive experience editing the journal. Our associate editors worked extremely hard on each of these papers and they were a joy to work with throughout the process. Ultimately, any journal is only as strong as the writers and in this regard we were very fortunate. All of the writers came into this process with the utmost professionalism. We are also indebted to the University of Oklahoma Libraries for helping us archive and host the journal through the SHAREOK system.

The quality and overall process of making the journal are a reflection of the kind of academic environment in the Iranian Studies program and the University of Oklahoma. Finally, we would like to acknowledge the crucial role of Dr. Afshin Marashi. Without his guidance and dedication to the Iranian Studies program, none of this would have been possible.

Andrew Akhlaghi
Elena T. Gharipour
Editors-In-Chief

Unlikely Compromise: A History of the Iran-United States Claims Tribunal, 1981-2015

Patrick Weigant

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The Iran-United States Claims Tribunal was one of the twentieth century's most important tribunals of international arbitration.¹ Furthermore, it stood apart from the likes of the arbitral tribunals following the peace settlements of WWII, in that the parties involved were two hostile states without diplomatic ties.² To illustrate the Iran-United States Claims Tribunal's influential place in international law and politics this paper will be broken up into three major sections. First, will be a recount and explanation of how and why the Claims Tribunal came into existence. Second, the internal structuring and the jurisdiction of the Claims Tribunal will be described and explained. Finally, this paper will provide a summary of the Claims Tribunal's history of operations, with case studies to display how the Tribunal operates and comes to different decisions. By doing so, this paper will show how even two countries that seemingly hate each other can still come to compromising agreements in dire circumstances.

Origins of the Crisis

By January of 1979, there only remained around 2,000 U.S. citizens in Iran, drastically down from the 45,000 military advisors, engineers, advisory personnel, businessmen, and family members who had once lived in the country.³ For a quarter of century, the U.S. had intensely cultivated economic and military relations with the Iranian Imperial Government, and as a result the U.S. and its citizens had become the target of much of the Islamic revolutionaries' rage. Therefore, many U.S. citizens, upon leaving the increasingly inhospitable country, were pressured by Revolutionary Guards to leave behind substantial property and assets in Iran.⁴

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¹ Wayne Mapp, *The Iran-United States Claims Tribunal: The First Ten Years 1981-1991* (New York: Manchester University Press, 1993), xii.

² Kenneth Katzman, "Iran: US Policy and Options," in *Iran: Outlaw, Outcast or Normal Country?*, ed. Albert Benliot (New York: Nova Science Publishers, 2001), 64-66.

³ Mapp, *Iran-US Claims Tribunal*, 3.

⁴ Katzman, "Iran: US Policy," 59-65.

More importantly, following the success of the Islamic Revolution in February, 1979, the new government quickly canceled a significant amount of large defense contracts with the U.S. and curtailed other purchases as well. However, the major reorganizing of Iran's economy via nationalization would not begin until June, becoming official with the national referendum for a new Constitution in December of the same year.⁵ Article 44 of the new Constitution stated:

The economic structure of the Islamic Republic of Iran is composed of three sectors — governmental, co-operative and private — which shall be stabilized by systematic and sound planning. The governmental sector shall consist of all major industries; foreign trade; large mines; banking; insurance; production of power; dams and large irrigation systems; radio and television; postal, telephone and telegram systems; transportation by air, land and sea; railroads; and the like which shall be publicly owned and administered by the Government.⁶

This drastic restricting of the Iranian economy affected both Iranian and foreign-owned enterprises, and as a result firms owned both wholly and partially by U.S. citizens came under the control of the Iranian government. Furthermore, all contracts with U.S. companies were canceled or prevented from being acted upon in the future by their new governmental management.⁷ Millions of dollars that belonged or were owed to U.S. citizens were simply seized by the new government, with no compensation offered. The severity and intensity of this already complicated situation heightened when on November 4th, 1979 militants stormed the U.S. Embassy in Tehran, and took prisoner sixty-one U.S. diplomatic personnel.⁸ On the following day, Ayatollah Khomeini endorsed this act. It was an unprecedented defiance of international law by the Iranian government, and signaled the crisis would not be quickly resolved.⁹ No one, especially those who lost assets, could now assume that the revolutionary fervor would give way to moderate reasoning.

U.S. Appeal to the International Court of Justice

In response to the hostage crisis, the U.S. government attempted to settle the matter through the International Court of Justice. The U.S. applied to the Court for a ruling that the seizure of the embassy and the hostages was in direct violation to the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations, the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, the 1955 Treaty of Amity, Economic and Consular Rights between the U.S. and Iran, the United Nations Charter, and customary international law. Despite Iran's letter to the Court stating that the actions were within their national sovereignty, the Court handed down a unanimous judgment in December of

⁵ Mapp, *Iran-US Claims Tribunal*, 3-4.

⁶ Changiz Vafai, trans., "Iran," in *Constitutions of the World* (New York: Oceana, 1980).

⁷ Mapp, *Iran-US Claims Tribunal*, 4.

⁸ Shireen Hunter, *Iran and the World* (Indianapolis: Indiana University Press, 1990), 56.

⁹ Mapp, *Iran-US Claims Tribunal*, 5.

1979 that agreed with the charges brought against Iran by the U.S., and called on Iran to release to the U.S. the hostages and its property.¹⁰

Iran did not comply. In May of 1980, the Court reiterated its previous judgment and found Iran guilty of all charges. The Court did not find acceptable Iran's argument that alleged U.S. involvement in the 1953 coup d'état, which restored the Shah to power, justified their actions. This was because diplomatic law already provided the prescribed actions of declaring individuals *persona non grata*, cutting off diplomatic relations, and ordering the immediate closure of the offending mission by the sending state.¹¹

As a result, the Court determined unanimously that Iran must release the hostages. By majority decisions, the Court ruled that Iran was obligated to make reparations to the U.S.¹² This ruling had no immediate impact, but they would provide legal precedent for later negotiations. Instead it would require other actions, both on part of the U.S. and of Iran, before any real progress could be made.

U.S. Economic Pressure

Even by November 12th, 1979, it had become clear to the U.S. that diplomatic pressure alone would not produce a quick end to the hostage crisis. For this reason, President Jimmy Carter ordered all oil purchases from Iran to cease. In response, the acting Foreign Minister of Iran, Abol Hassan Bani-Sadr, indicated Iran would remove all of its assets from U.S. banks.¹³ However, President Carter beat them to the punch by ordering that all Iranian bank accounts in U.S. banks be frozen, regardless of which country the funds were actually located in, affecting some \$12 billion.¹⁴ Furthermore, in April 1980, as the condition deepened, two more Executive Orders blocked all commerce and travel between the countries with exceptions for food, medical supplies and journalists.^{15,16}

Further intensifying the economic pressure on Iran, litigation for damages by private claimants against Iran had been filed in U.S. courts almost immediately after nationalization.¹⁷ On November 26th, 1979, the Treasury was given the authority to allow these claims to move forward and affect compensation to claimants with Iranian assets. Thus, the U.S. found its source of real leverage against Iran, by not only withholding their money, but also threatening to disperse it among U.S. citizens¹⁸

Additional Developments in Iran

By April of 1980, the U.S. had become convinced that diplomatic means would not free the hostages in a timely manner, and a military contingency plan was put into action. However, one day after its commencement, the mission was aborted as the result of

¹⁰ Ibid., 7-9.

¹¹ Mapp, *Iran-US Claims Tribunal*, 11.

¹² Ibid., 10.

¹³ Ibid., 6.

¹⁴ Exec. Order No. 12,170,44 FR 65729,3 C.F.R. (14 November 1979).

¹⁵ Exec. Order No. 12,205,45 FR 24099,3 C.F.R. (7 April 1980).

¹⁶ Exec. Order No. 12,211,45 FR 26685,3 C.F.R. (17 April 1980).

¹⁷ Mapp, *Iran-US Claims Tribunal*, 4.

¹⁸ Ibid, 6-7 and 21-22.

equipment failures.¹⁹ This utter failure was most likely, in the end, fortunate for the U.S. This is because, despite its characterization as a rescue mission and not a military operation, the plan would have likely resulted in casualties and damage to Iranian property disproportionate to the threat faced by the U.S. hostages. Thus, the U.S. would have been in violation of the rules of jus ad bellum as laid down by Articles 2(4), 33, and 51 of the U.N. Charter and customary international law.²⁰ The U.S. could have lost not only the lives of many, if not all, of the hostages during the rescue attempt (as the inherent ineptitude of the mission leads one to assume would have happened), but also an overwhelming legal high ground from which a peaceful end might be possible.

This failed operation certainly helped stall developments toward negotiations. However, Iran's post-revolution political situation had also not settled enough until August of 1980, when the Majles was able to nominate a speaker and approve the appointment of a Prime Minister and Cabinet. This was especially important, as Ayatollah Khomeini had already given the Majles authority to negotiate with the U.S. over the hostages.²¹ However, perhaps nothing pushed Iran to the negotiation table as much as Iraq's invasion the following month. Iran now saw that it was isolated from the international community, was without large swaths of its assets and economic capabilities needed to wage war, and the U.S. was looking to soon elect a more hawkish president.²² An amicable and hasty end to the hostage crisis was now of grave importance to both sides.

First Steps Toward Negotiation

In September 1980, Ayatollah Khomeini stated that the hostages could be released if certain conditions were met. As a result of this, the Majles established a commission to set out the conditions for the hostages' release. In a display of their urgency in the matter, even though the country was preoccupied with the Iraq war, the commission reported their recommendations during the last week of October. By November 2nd, the Majles had already adopted the recommended demands to the U.S., known as the Majles Resolution.²³

The Majles Resolution had four conditions for the U.S. to fulfill to secure the release of the hostages:

1. A pledge not to interfere in the affairs of Iran.
2. That the Freeze on Iranian assets should be lifted.
3. The cancellation of all economic sanctions against Iran, and the cancellation of all claims against Iran, and the assumption of financial responsibility for claims against Iran.
4. The return to Iran of the assets of the Shah and his close relatives.²⁴

¹⁹ Katzman, "Iran: US Policy," 61.

²⁰ Mapp, *Iran-US Claims Tribunal*, 10-11.

²¹ *Ibid.*, 11.

²² Hunter, *Iran and the World*, 104-107.

²³ Mapp, *Iran-US Claims Tribunal*, 11-13.

²⁴ *Ibid.*, 12.

Once these conditions were met, the hostages would be released, if they were not they would be tried as spies. However, the hostages were finally transferred from the militants to the government. As well, the Iranian Prime Minister stipulated that Algeria would serve as intermediary between the two. The U.S. quickly let it be known that they viewed this as a positive step and basis for negotiations, and immediately sent Secretary of State Christopher to Algeria.²⁵

While the U.S. accepted the Majles Resolution in principle, the U.S. government still had certain concerns. The U.S. would not accept financial responsibility for claims against Iran, and instead required an international claims tribunal. Furthermore, all the U.S. would do in regards to the Shah's assets was facilitate litigation by the government of Iran in U.S. courts for the assets' recovery. After intense negotiations in Algeria during November and December of 1980, the Iranian government began to accept the modifications to the Resolution. Soon, the matter was being formulated as a declaration of the Algerian government to which each side would adhere.²⁶ The Majles agreed to what would be known as the Algiers Declarations on January 14th, 1981, and President Carter implemented it in the U.S. on January 19th with the help of Executive orders. After 444 days, and 30 minutes after Ronald Reagan assumed office, the hostage crisis was over.²⁷²⁸

General Declaration

The Algiers Declarations were made of two declarations with three additional supplementary agreements to help implement the two declarations. The first agreement was an "undertaking" by Iran and the U.S. to the Declarations made by Algeria, and the other two settle the role of escrow agents for the two parties.²⁹

Of the two actual declarations, the first was the General Declaration, which provided the primary basis for the entirety of the declarations, broken down into four major points. In its preamble, it was established that Iran and the U.S. were not able to deal directly with one another, and while the Majles Resolution was its basis, it also reflected the concerns of the U.S. Government. The first point took the form of a pledge by the U.S. Government not to interfere directly or indirectly, militarily or politically in the internal affairs of Iran.³⁰

Points two and three cover the return of Iranian assets and the settlement of U.S. claims. First, it was established that there would be an independent central bank during the arbitration, with the Bank of England being decided on later.³¹ Paragraph three was perhaps the most important of the entire declaration, as it explicitly tied the transfer of Iranian assets to the safe release of the hostages.³² In theory, this was what would require

²⁵ Mapp, *Iran-US Claims Tribunal*, 12.

²⁶ *Ibid.*, 12-13.

²⁷ Katzman, "Iran: US Policy," 64.

²⁸ Mapp, *Iran-US Claims Tribunal*, 13.

²⁹ Government of the Democratic and Popular Republic of Algeria, *The General Declaration* (Algiers: 1981), 3, <http://www.iusct.net/General%20Documents/1-General%20Declaration%E2%80%8E.pdf> (accessed: November 28, 2015).

³⁰ *Ibid.*

³¹ Mapp, *Iran-US Claims Tribunal*, 14.

³² Algeria, *The General Declaration*, 4.

both sides to carry out their side of the promise. After this, the agreement specified the ways Iranian assets would be returned and where they would be held after (Iran itself, the Banque Centrale d'Algerie the Bank of England etc.).³³ By keeping some of the money out of Iranian hands, Iran would have a reason to stay committed to the arbitration process.

It was then required of the U.S. to revoke its trade sanctions against Iran, agree to withdraw its claims before the International Court of Justice, and bar itself and its citizens from raising claims related to the hostage crisis or any popular movements during the Islamic Revolution that were not the act of the Government of Iran.³⁴ While this does not prevent the U.S. from imposing later sanctions or raising later claims, it did provide the fledgling Islamic Republic a very significant shield from economic pressure and international scrutiny at vulnerable time in its history.

The final point referred to the requirement in the Majles Resolution for the return of the Shah's Assets to Iran. As previously stated, the U.S. would not do this outright, and would instead settle it in U.S. courts. However, paragraph fourteen removed the principle of sovereign immunity for the Shah and his heirs in the matter, fifteen guaranteed the U.S. would enforce its courts' rulings, and sixteen established that any disputes over said rulings would be resolved by the Claims Tribunal.³⁵ In addition, at the end of the declaration it also stated that any and all dispute over the obligations of the General Declaration would be solved in the Claims Tribunal, essentially establishing that it will be a self-contained system.³⁶

The Claims Settlement Declaration

As its title suggested, the second part of the Algiers Declarations called for the creation the actual Iran-United States Claims Tribunal. In its first Article, the Declaration established the precedent that Iran and the U.S. would help promote the settlement of any claims under the jurisdiction of the Tribunal.³⁷ This jurisdiction was established in Article II and fell into three major categories.

The first category of jurisdiction encompassed claims from citizens of Iran against the U.S. Government, as well as U.S. citizens against the Government of Iran. This, however, was limited to debts, contracts, including transactions subject to letters of credit or bank guarantees, expropriations and other measures affecting property rights, all of which had to be outstanding at the time of the agreement.³⁸ This essentially made sure that the Claims Tribunal did not come into conflict with domestic legal systems, by allowing citizens to bring claims against their own governments. The second category of jurisdiction covered claims of one state against the other over contractual agreements for

³³ Ibid., 4-6.

³⁴ Ibid., 6-7.

³⁵ Ibid., 7-8.

³⁶ Ibid., 8.

³⁷ Government of the Democratic and Popular Republic of Algeria, *The Claims Settlement Declaration* (Algiers: 1981), 9, <http://www.iusct.net/General%20Documents/2Claims%20Settlement%20Declaration.pdf> (accessed: November 28, 2015).

³⁸ Algeria, *The Claims Settlement Declaration*, 9.

the purchase and sale of goods and services.³⁹ Thus, the final category of jurisdiction, of course, covers the interpretation and performance of the General Declaration.⁴⁰

Structure of the Iran-United States Claims Tribunal

On the actual structure of the Tribunal, Article III established that it will have nine members, with the possibility of higher multiples of three, though this would not be the case.⁴¹ Each state would appoint three judges. These six would then appoint three more from neutral states. Cases could be heard by three members, with the same division as above, or the whole tribunal. While all three judges are assumed to make unbiased opinion, the politically charged nature of the situation certainly made the third judges the most important in the majority of cases. Furthermore, Article III stipulated these appointments and the general conduct of the Claims Tribunal would follow the arbitration rules of the UN Commission on International Trade Law, a factor that in time would help set an extremely important precedent for the Claims Tribunal.⁴² Also, a one-year statute of limitations was put in place stating all claims would have to be filed within a year of the agreement entering force, the requirements for this being laid out in Article VIII, on January 19th, 1982.⁴³ This helped set some scope for the Tribunal, and prevented it from merely becoming a venue for Iran and the U.S. leveling any and all complaints against each other.

Logistical considerations were covered in Article VI: that the Tribunal shall be at The Hague, that each government shall appoint an agent to represent it, and that costs for its operations would be equally covered by both governments.⁴⁴ This of course helps illustrate that the Claims Tribunal operated at the highest levels of international law. Article IV established that all rulings were final and there was no appeal process.⁴⁵ Article V, however, in contrast to such definitiveness, gave wide discretion to which laws were applicable in the Tribunal stating:

The Tribunal shall decide all cases on the basis of respect for law, applying such choice of law rules and principles of commercial and international law as the Tribunal determines to be applicable, taking into account relevant usages of the trade, contract provisions and changed circumstances.⁴⁶

Analysis of the Iran-United States Claims Tribunal

While most international arbitral tribunals were founded on an ad hoc basis and dealt with one subject or deal out a lump sum, the Iran-United States Claims Tribunal has had

³⁹ Ibid.

⁴⁰ Ibid., 10.

⁴¹ Mapp, *Iran-US Claims Tribunal*, 18.

⁴² Algeria, *The Claims Settlement Declaration*, 10.

⁴³ Ibid., 10 and 12.

⁴⁴ Ibid., 11.

⁴⁵ Ibid., 10.

⁴⁶ Ibid., 11.

to deal with over 4,000 individual claims.⁴⁷ As such, the Tribunal was set up as its own court system, with functions such as a Secretariat and an extensive and sophisticated registry. As a further measure to expedite the hearings, almost all arguments are presented in writing, with only a few days of oral arguments for multi-million dollar claims, and claims under \$250,000 are presented by the citizens' government.⁴⁸

Yet, nearly 35 years later, according to the Tribunal's official website, several large and complex cases between the governments of Iran and the U.S. are still on its docket. This is because they mostly cover non-performances by the U.S. on such things as not delivering military hardware Iran paid for before the Revolution.⁴⁹ Complicated and charged subject matters such as this could, especially in the beginning, stall the process and cause politically maneuvering to take precedence over legal proceedings. This was most common in relation to the appointment and actions of third party arbitrators.

The most famous examples of this surround Judge Nils Mangard of Sweden. Within six months of the appointment of the first neutral arbitrators, Iran argued that Judge Mangard was unqualified to serve fairly on the Claims Tribunal because of comments he had allegedly made condemning executions carried out by the Government of Iran.⁵⁰ However, the Tribunal ruled against this, on the grounds that Iran did not have enough hard evidence, nor did Iran follow the UNCITRAL protocol for requesting disbarment. This in turn set a positive precedent that the proceedings (and thus integrity) of the Claims Tribunal could not be undermined by undue weight being given to extrajudicial political actions.⁵¹

However, this did not mean that such actions would not take place, or even that Judge Mangard would not be involved again. Perhaps in response to two years of Mangard's perceived favor of U.S. interests, Judges Mahmoud Kashani and Shafei Shafeiei assaulted Judge Mangard as he entered the Claims Tribunal on 3 September 1984.⁵² Instead of sending the Tribunal into chaos, the Iranian government quickly appointed two new judges, and the matter did not go any further. It could be argued that this event is what spurred the Tribunal into the co-operation and expediency not seen in the first period of its existence. Instead of trying to unreasonably defend its judges' actions, Iran demonstrated that now it was not only just willing to, but also wanted to play by the rules and make the Claims Tribunal a viable route.⁵³

This is incredibly important because, although both countries were officially bound to partake in the Claims Tribunal, international law is a horizontal. This means that all laws and treaties essentially require a country's continual consent to stay in effect. For example, if Iran became angered by a series of adverse outcomes it could halt participation, and refuse to replenish the escrow account to avoid further losses. As well, if the U.S. came to view the Claims Tribunal as a poor substitute for domestic courts, it

⁴⁷ Katzman, "Iran: US Policy," 65.

⁴⁸ Mapp, *Iran-US Claims Tribunal*, 19 and 25-32.

⁴⁹ Katzman, "Iran: US Policy," 65.

⁵⁰ Rahmatullah Khan, *The Iran-United States Claims Tribunal: Controversies, Cases and Contribution* (Dordrecht: Martinus Nijhoff Publishers, 1990), 65-71.

⁵¹ Mapp, *Iran-US Claims Tribunal*, 47.

⁵² Khan, *Controversies, Cases and Contribution*, 72.

⁵³ Mapp, *Iran-US Claims Tribunal*, 52.

could find ways to do the same.⁵⁴ However, while there was cooperation, this in no way means that there was a lack of contention between these two antagonistic countries. To demonstrate this, three cases will be examined of varying size and complexity

Case Study: Iran vs. U.S.

In line with keeping both sides involved, the most recent ruling and award to be given by the Claims tribunal was as recent as July 2nd, 2014. In it, Iran was the claimant with the U.S. as respondent. Essentially, Iran successfully argued that in 1981 a variety of cases including that of a New York law firm were awarded money from the escrow fund by U.S. courts. The U.S. attempted to argue that the case did not fall under the jurisdiction of the Tribunal. This, however, was not found to be the case, and for failing to uphold Executive Order 12294 per the requirements of the Algiers Declarations, the U.S. had to pay damages with interest to Iran.⁵⁵ The incredibly drawn out nature of this case helps to display the especially complicated and charged nature of many of the claims between the two Governments. However, while all claims by individuals have now been settled, many of those cases too were marked by intense contention and longevity.

Case Study: Ebrahimi vs. Iran

In 1994 the joint claim of siblings Ms. Shahin, Ms. Cecilia, and Ms. Christina Ebrahimi was finally settled. Their father, Ali Ebrahimi, was an Iranian citizen, but because their mother Cecilia Louise DeFreis was a U.S. citizen, as were the three sisters. As U.S. citizens they were seeking compensation for the 19% stock in the nationalized construction company, Gostareh Maskan Company, which their father had bought in their names. In this case, Iran's primary defense was that as minors during the time in question, the money belonged to their father, an Iranian citizen, taking the case out of Tribunal jurisdiction. This was not found and the sisters were awarded over \$5 million plus interest, and Iran was required to pay an additional \$50,000 for their arbitration fees. Though drawn out over decades, the Ebrahimi sisters finally received justice, especially considering the original investment was estimated at \$20,000.⁵⁶ This is an example of Tribunal working (eventually) exactly the way it should for people who lost assets in the revolution. However, in other cases the strict guidelines for jurisdiction could work against an individual.

Case Study: Etezadi vs. Iran

In this case, also settled in 1994, the primary claimant was Mrs. Catherine Etezadi, a U.S. citizen who married Hooshang Etezadi, an Iranian citizen, in Maryland in May, 1955. Over the course of their marriage, the couple and their children split their time between California and Tehran. During their time in Iran, they invested in a plastic company, land, and had equity in a condominium. Furthermore, Mr. Etezadi served in the Iranian Ministry of Foreign Affairs from 1951 to 1974, qualifying for a pension. For the sake of convenience, all of their dealings in Iran were placed under Mr. Etezadi's name,

⁵⁴ Khan, *Controversies, Cases and Contribution*, 73.

⁵⁵ *Iran vs. the US*, Iran-U.S. Claims Tribunal, NO. 602-A15 (IV)/A24-FT (2014).

⁵⁶ "Ebrahimi vs. Iran," in *30 Iran-U.S. C.T.R.*, ed. Edward Helgeson (UK: Cambridge University Press, 2001), 171-236.

with a verbal understanding that the spouses shared their capital 50/50. However, as the Tribunal has no jurisdiction for a claim against one's own country of citizenship, Mr. Etezadi's involvement in the hearing was barred. As a result, when Mrs. Etezadi attempted to claim her half of the \$629,393.42 of lost assets, the claim was dismissed on lack of evidence.⁵⁷ This case clearly illustrates that while the Tribunal does a lot of good, it cannot right every wrong, especially for Iranian citizens and their families now in the U.S.. However, sticking to its principles of doing things judicially, and not from emotion, the Tribunal has continually kept both sides involved so at least most if not all can receive the justice they deserve.

Conclusion

The Iran-United States Claims Tribunal was born out of necessity after an unprecedented violation of international law. Yet, as its development and these individual cases show, somehow, this egregious violation of international laws and human rights allowed for countless other wrongs to be settled, in the most fair and impartial manner possible. Instead of differing opinions derailing the Claims Tribunal (as can often be the case in similar systems), the Tribunal's handling of itself and of controversies galvanized both Iran's and the U.S.'s faith in it.

As a result, the two countries were able to not only solve the immediate problem of the hostage crisis in a peaceful and compromising manner, but to continue to work together, if through intermediaries, to settle thousands of other disputes. Furthermore, the fact that this all happened over nearly four decades in which each government has used nearly every other possible avenue to voice their distaste or even outright hatred for the other, makes the Iran-U.S. Claims Tribunal that much more surprising and inspiring. It shows two countries do not have to agree with each other on everything to compromise and work towards something they can both agree on, given the right willingness and circumstance. A lesson that has once again become especially important to Iran and the U.S., as they seek to achieve some sort of positive outcome from their nuclear negotiations.

⁵⁷ "Etezadi vs. Iran" in *30 Iran-U.S. C.T.R.*, ed. Edward Helgeson (UK: Cambridge University Press, 2001), 23-44.