

IRANIAN HOSTAGE TREATY AGREEMENT

PART I: BRIEF CHRONOLOGY OF HOSTAGE CRISIS

- On November 4, 1979, the U.S. Embassy in Teheran was taken over by student militants along with sixty-two hostages. Three other staff members took refuge in Iranian Ministry.
- Students demanded that U.S. hand over the Shah to Iran.
- Shah had been admitted into U.S. for cancer treatment two weeks previously.
- President Carter's initial reaction to takeover was to reject extradition of the Shah and to reject the immediate use of military force.
- President's reasons for rejecting military force:
 - ° Persian Gulf area is extremely politically sensitive.
 - ° U.S. did not have an adequate military force in the area at the time.
 - ° Primary reason was perceived danger to hostages.
- Instead of resorting to force, President attempted to enlist the aid of then Prime Minister Bazargan. But Bazargan resigned two days after embassy seizure. It became evident that Khomeini had the power and was not going to stop students.
- Carter tried to send former Attorney General Ramsey Clark to negotiate with Khomeini but Khomeini announced

that he would not see Clark before he even reached Iran.

- Within one week of the takeover (November 10, 1979) the President, persuaded that the militants were acting with approval of the Iranian government took steps to retaliate:
 - ° Stopped delivery of all military parts to Iran.
 - ° Suspended importation of Iranian oil.
 - ° Sent U.S. carrier Midway into Arabian Sea.
 - ° Ordered the deportation of Iranian students who were violating the terms of their visas.
 - ° Froze \$8 billion of Iranian assets held in U.S. and by U.S. banks.
- Two weeks after the embassy was seized Khomeini ordered the release of eight black and five women hostages but threatened spy trials for the rest.
- On November 29, 1979 Mexico declared the Shah was no longer welcome there - the Shah took refuge in Texas for two weeks and then went to Panama at the invitation of Torrijos.
- In December, the President expelled most of Iran's diplomats from the country and asked the U.N. Security Council to impose economic sanctions on Iran.
- Efforts to effect the release of the hostages continued - on January 1st U.N. Secretary-General Kurt Waldheim arrived in Teheran to try to negotiate the release of

the hostages, Waldheim was besieged by demonstrators; his efforts at negotiations failed.

- On January 28, moderate Bani Sadr was elected President of Iran sparking hopes of renewed negotiations. That same day, six Americans who had been hiding in the Canadian Embassy escaped Iran with the help of the Canadian Ambassador.
- On February 11, Bani Sadr announced that the hostages would be released after a report on the Shah's crimes by a special U.N. Fact-Finding Team and U.S. agreement to three conditions:
 - ° U.S. admission of "past crimes".
 - ° U.S. recognition of Iran's right to seize the Shah and his assets.
 - ° U.S. pledge of non-interference in Iran's internal affairs.
- On February 25 and 26, the U.N. Commission met in Iran but the militants refused to turn the hostages over to the Iranian government and the Commission's mission ended in failure.
- On March 23, the Shah took refuge in Egypt.
- On April 7, Khomeini announced that the hostages would not be released until after the Iranian Parliament was elected in May, 1980. President Carter reacted angrily

to the new delay. He severed diplomatic relations with Iran - ordering remaining Iranian diplomats out of the country. He imposed an economic embargo on Iran and announced that the claims of U.S. corporations against Iran would be paid out of Iran's frozen assets in the U.S. Carter also asked our allies to impose economic sanctions on Iran. Nine members of the European Economic Community and Japan agreed to join the U.S. in imposing economic sanctions against Iran effective in May of 1980.

- April 24, U.S. launches its abortive rescue mission, eight servicemen die; Vance resigns.
- May 28, Iranian Parliament convenes but bogs down over the hostage issue.
- Summer 1980, Little progress on release of the hostages. Iranians release Richard Queen.
- July 27, 1980. Shah dies.
- First week in September, West German government informed U.S. that Iran wanted to open negotiations through a secret emissary - Tabatabai - former Deputy Prime Minister under Bazargan.
- September 12, 1980, Khomeini announces new conditions for hostages' release. Iranian demand for a U.S. apology

is dropped. Four conditions for hostages' release are:

- ° Return of the Shah's fortune.
- ° Unfreezing of Iranian assets.
- ° Cancellation of U.S. claims against Iran.
- ° U.S. pledge of non-interference in Iranian affairs.

Hardliners in Parliament are still insisting on an apology.

- After Khomeini's conditions announced, a small working group was set up under Warren Christopher. Two bargaining strategies were discussed: a short, simple response by U.S. stating that U.S. was in agreement with principle of demands or detailed negotiations on all financial and trade issues.
- U.S. decided to try "clean and simple response". On September 18 and 19, Christopher met Tabatabai in Bonn, West Germany and outlined U.S. response. Looked like a breakthrough might be near.
- Hope faded when Iran/Iraq War broke out on September 22. Focus shifted to detailed negotiations.
- Carter tried to speed things up by hinting that the U.S. might make spare military parts available to Iran if hostages released.
- November 2, 1980, Hope of a quick release flared again as Iranian Parliament adopted Khomeini's four conditions

for release. But problem developed when the Majlis announced a plan for piecemeal release of the hostages. Muskie ruled out partial release as unacceptable.

- After the election came a period of quiet negotiation. Iran asked Algeria to serve as an intermediary. Christopher flew to Algeria in November and then in December with U.S. proposals on financial aspects of the agreement.
- On December 21, 1980, Iranians announced their response to the U.S. proposals on handling Iran's frozen assets but demanded \$24 billion - a sum far higher than U.S. estimates of Iranian assets frozen in the U.S. and U.S. banks.
- By early January, however, Iran seemed to back off from the \$24 billion figure and began showing some interest in the proposals the Americans were putting forward.

PART II: THE LAST WEEK

[WFM to fill in what was happening at White House]

Setting the Scene:

Early in the week of the 16th, it was still uncertain as to whether the Iranians were willing to accept U.S. proposals for unfreezing Iranian assets in this country. Another problem remained - Iran's claim against the Shah's assets in the U.S. Both these problems were very complicated. The U.S. valued Iranian assets at \$9.5 billion - Iran claimed it had \$14 billion on deposit. Also complicated by the fact that Iran had borrowed large sums from American banks. The banks had declared the loans in default and had attached frozen assets. So the problem became how to unfreeze the assets yet provide some security for the banks. Iran finally solved this problem by offering to repay loans due out of its funds once frozen and to set up an escrow account to provide for disputed loans and future payments. Finally, there remained the problem of a number of claims which corporate creditors and other individuals had filed in U.S. Courts for contract and expropriated property. U.S. offered to go to Court to get the claims dismissed and have them settled instead by an international arbitration panel.

All these proposals were relayed to Teheran by Algeria in early January.

- Monday of the last week, things looked promising. In Teheran a government spokesman described the U.S. proposals as points raised by the Algerians and predicted their acceptance.
- Tuesday things looked a little more shakey. Two bills were introduced in the Iranian Parliament; the first authorized the arbitration of disputes involving Iranian assets - this dovetailed with U.S. proposal and was a good sign. But the second proposed nationalization of all of the Shah's assets and suggested that Iranians might press for some sort of U.S. settlement on the Shah's property. Parliament could not convene on Tuesday because lacked a quorum. There were fears of a boycott by hardliners.
- Wednesday Iranian Parliament met. The arbitration bill passed, the bill nationalizing the Shah's assets was postponed. A positive sign.
- Thursday Iran responded to the U.S. proposal positively. In their response the Iranians offered to deduct past and future loan payments from the unfrozen assets, and also agreed to the arbitration of private claims against it by an international tribunal. Finally, Iranians agreed to taking \$7.9 billion on the day hostages were released and to deferring payment of other payments, a large concession in view of Iran's original demand of \$24 billion. Iran's response was followed by an ultimatum

issued by Nabavi, Iran's chief negotiator, who announced that the U.S. had only until c.o.b. on Friday to accept Iran's proposal.

- The Friday deadline was impossible to meet. Despite what appeared to be agreement on broad principles, numerous details remained unsettled. American bankers were faced with disagreements with Iran on how much Iran owed them in loans, what amount of interest should be paid, what to do about claims of smaller banks and so on. The loan problem was solved when Nabavi announced on Friday that the U.S. only had to transfer the agreed on frozen assets to Iran minus loan instalments. He also indicated to Christopher that Iran was willing to escrow an amount to cover disputes with banks.
- Friday was spent in a series of meetings in Washington, London & Algiers ironing out financial aspects of the agreement and arranging for transfers of the large sums involved.
- Saturday and Sunday too was spent in planning for the transfers of funds and communicating the plans to the Iranians.
- By Sunday night, Christopher finished reviewing Iranian response to the transfer plans and it appeared that the U.S. and Iran had virtually eliminated all areas of disagreement.

- Christopher phoned Washington Sunday night and told Walter F. Mondale: "We don't have a final agreement but we may be very close."
- Four hours later Iranian negotiator Nabavi said in Teheran that an agreement had substantially been reached.
- On Monday, further progress. Christopher and Algerians signed the first set of declarations setting up the complicated process for return of Iran's frozen funds. Then Monday afternoon a problem developed - Iran's Central Bank objected to an appendix to the financial agreements relating to future Iranian claims for interest on its deposits. It looked like the deal might fall through. A compromise was drafted and U.S. bankers were persuaded to accept it.
- Finally, early Tuesday morning, word received that Iranians had accepted the deal.

PART III: THE HOSTAGE DEAL: WHAT DOES IT PROVIDE

The basic agreement was a simple quid pro quo: Iran returned the hostages in exchange for U.S. restoration of its financial status pre-November, 1979.

- The agreement provided that the release of the hostages and the unfreezing of Iranian assets would occur simultaneously.

Financial Aspects

- Provides generally for return of approximately \$12 billion in Iranian assets frozen on November 14, 1979, \$7.9 billion of Iranian assets were transferred into escrow account of the Algerian Central Bank at the Bank of England.
- When the amount in that account reached \$7.9 billion the Iranians began procedures to release the hostages.
- At the moment the hostages cleared Iranian airspace, the money was transferred from the Algerian account into a series of other accounts.
 - ° \$3.7 billion was transferred to private American banks to pay off Iranian loans.
 - ° \$1.4 billion was transferred to an escrow account to be used to pay future Iranian bank debts.
 - ° \$2.9 billion was transferred directly to Iran.
- The agreement also provided for the transfer of about \$4 billion in frozen assets to the Bank of England in

six to nine months. Of that amount, \$.50 of every dollar transferred will go to Iran, the rest to a special security escrow account which will be used to pay arbitration awards on claims by U.S. companies and individuals. This account is supposed to grow to \$1 billion as frozen assets are released and to be replenished by Iran so that its funds do not drop below \$500 million.

Claims Settlement Agreement

Agreement provides for claims against frozen assets to be withdrawn and to be submitted for arbitration. The agreement sets up a security account as part of a Claims Settlement Agreement. That agreement provides for the establishment of an Iran - United States Claims Tribunal. The Tribunal consists of three Iranian members, three U.S. members and three to be picked from other countries. The Claims Tribunal will serve as an arbiter of three types of claims:

- 1) Claims of U.S. nationals (individuals and corporations) against Iran and of Iranian nationals against the U.S.
- 2) Official claims between the U.S. government and Iran involving contracts of sale of goods and services.
- 3) Disputes over the meaning of the agreement itself.

What is not included are:

- ° Claims arising out of the seizure of the Embassy.
- ° Claims involving binding contracts which provided for dispute resolution in Iranian courts.

Non-Economic Provisions

- ° The U.S. pledged not to intervene in Iranian internal affairs either politically or militarily.
- ° The U.S. agrees to revoke all trade sanctions directed against Iran since November 4, 1979.
- ° The U.S. agreed to withdraw claims pending against Iran before the International Court of Justice.
- ° The U.S. agreed to non-prosecution of its claims and to bar claims by U.S. nationals, including those arising out of the embassy seizure.
- ° U.S. agrees to take certain actions to help effectuate the return of the Shah's assets to Iran.

PART IV: CONSTITUTIONAL POWERS

While the Constitution confers certain authority to act in the field of foreign affairs on Congress as well as the President (eg. the power to declare war, to provide and regulate the armed services, to appropriate funds for defense, to ratify treaties), it has long been recognized by both the Congress and the Courts that the President is the primary actor in the conduct of this country's foreign affairs.

To some extent, the President's leading role in the field of international affairs is molded by necessity - the area of international relations requires continued up-to-date information on what is happening abroad, it also requires consistency, and on occasion, the ability to act quickly and if necessary, secretly to carry on the foreign policy of this nation. Furthermore, the President's role as chief foreign policy spokesperson is inextricably tied to his role as Commander-In-Chief of this nation's armed forces.

While the President's powers in the international relations area are to some extent based on practical necessity, the Constitution provides ample support for his powers in this area. First of all, Article II confers several specific powers necessary to the

conduct of foreign affairs on the Presidency - the power to receive representatives of foreign governments, the power to nominate U.S. representatives to foreign governments, and the power to conclude treaties with foreign governments with the approval of the Senate.

But where you ask, those of you who have recently looked at Article II, does the President derive the constitutional authority to execute agreements with foreign countries that are not treaties, i.e., executive agreements? The answer is that the Constitution does not specifically grant that power to the President but his power to make such agreements has nevertheless been recognized as an implied power of the Presidency in the few cases which have considered this issue directly. Judicial recognition of the President's power to negotiate executive agreements with foreign nations is exemplified by the Belmont and Pink cases which I asked you to read in preparation for today's lecture. While the Supreme Court in those opinions, does not directly state the constitutional authority from which the President's power to make such agreements derives, the Court clearly recognizes that the power exists, that it includes the power to settle claims and that negotiation of such agreements is solely within the competence of the Presidency.

Returning to the question of the constitutional source of the President's power to negotiate executive agreements, there are several sources from which it may derive. First, there is the President's power as Commander-In-Chief of the armed forces. In that role, the President has the power to make agreements affecting peace as well as to deal with questions of war, thus he may negotiate armistices and other types of peace-keeping agreements.

Second, there is the President's power as Chief Executive of the nation and the powers that can be implied from that role. It is this power which is often cited as the source of the President's constitutional authority to be this nation's sole negotiator in foreign affairs. Similarly this power has been invoked to authorize the President to settle claims held by private citizens against other nations.

In sum, Presidents have been negotiating executive agreements including agreements which settle the claims of U.S. nationals against foreign governments for years. Courts have recognized that the President has the power to make such agreements under the Constitution. And no executive agreement has ever been struck down as unconstitutional. For these reasons, I believe that there can be no doubt that the President has the power to negotiate the U.S.-Iran Hostage Agreement.

PART V: STATUTORY AUTHORITY

In addition to his constitutional powers in the area of foreign affairs, the President also has statutory authority to take certain types of action in the area of international economic affairs. Specifically authorized are actions with respect to property in which a foreign government has an interest and which is subject to the jurisdiction of the United States.

A 1977 statute, the International Emergency Economic Powers Act (I.E.E.P.A.) (50 U.S.C. 1701 et. seq.) empowers the President in the face of an unusual and extraordinary threat to the national security, foreign policy, or economy of this nation to regulate transactions and transfers of property of a foreign country subject to the jurisdiction of the United States. Specifically, this act allows the President to investigate, regulate, direct and compel, nullify and void, and prevent or prohibit transaction involving property of a foreign country, once he has declared a national emergency. As such, the statute represents a very broad delegation of power to the President in the area of regulation of international economics.

President Carter's initial Executive Order in response to the hostage crisis, issued on November 14, 1979 which

"blocked" or "froze" all Iranian assets in this country and held by U.S. banks was issued in part under the authority of I.E.E.P.A. as were the later Executive Orders which he issued as part of the U.S.-Iran hostage agreement. Those Executive Orders, you will know from your reading, unfroze the Iranian assets and provided for their transfer to escrow accounts and to the Iranians, as well as nullified any outstanding attachments against the assets. A later Executive Order issued by President Reagan in February of this year also based in part on his authority under I.E.E.P.A. directs that all claims against Iranian assets (with the exception of those excluded under terms of the agreement) be presented to the Iran-United States Claims Tribunal and suspends all actions for judicial or equitable relief in U.S. Courts until such claims are presented to the Tribunal.

These Executive Orders, first freezing and then unfreezing Iranian assets in this country illustrate both the importance and the flexibility of the President's statutory powers under I.E.E.P.A. This does not mean, however, that the President's actions with respect to the hostage agreements will not be challenged. To the contrary, one such challenge is even now being litigated in the Second Circuit. However, I am convinced that challenges to the President's actions under I.E.E.P.A. in this instance will not be successful for the following reasons.

While the Act itself is relatively new and has not been the subject of a major test, it is not a new concept, but rather a recodification of a section of a long-lived statute called the trading with the Enemy Act (T.W.E.A.). The powers granted to the President in Section 1702 of I.E.E.P.A. are the same powers which former Presidents have enjoyed under Section 5(b) of the T.W.E.A. and, while there have been many judicial challenges to the T.W.E.A., it nonetheless survived every attack on its constitutionality and was interpreted by the Courts as being a very broad delegation of power to the President.

The broad construction which the Courts have given to I.E.E.P.A.'s predecessor, Section 5(b) of the T.W.E.A. is illustrated by the Custom Appeals Court opinion that the Court finds that the language of the statute - language which is virtually identical to the language of Section 1702 of I.E.E.P.A. - constitutes a very broad delegation of powers to the President. In fact, the Court carefully explains that Congress could not have intended otherwise because the President has to have the flexibility to deal effectively with national emergencies. Yoshida thus illustrates that one thing which Courts will focus on when reviewing a President's actions under a statute like I.E.E.P.A. is that the statute is specifically designed to cope with emergency situations - situations in which extraordinary measures may be necessary.

You will also have noted that the Court in Yoshida focuses on the distinction between delegations of power dealing with domestic affairs versus powers for dealing with foreign affairs. On this point, the Court quotes the U.S. Supreme Court's opinion in Curtiss-Wright recognizing that legislation in the international field must often give more freedom and discretion to the President than would be appropriate in the domestic area in order to avoid embarrassment in our international relations.

Finally, the Yoshida opinion is of interest to our consideration of President Carter's exercise of power under I.E.E.P.A. because of its detailed discussion of the standard of review applicable to tests of a President's powers under emergency legislation.

On this subject, the Court notes that the traditional test is whether the President's actions were reasonably related to the powers delegated by the Act and to the emergency giving rise to his actions. Or, as the Court explains, it is the nature of the powers which determine what the President can do while the nature of the emergency restricts the means of execution, i.e., how he does it.

In my opinion, application to this two-fold test to President Carter's actions in connection with the U.S. -

Iran Hostage Agreement yields the inescapable conclusion that the President was acting well within his statutory authority under I.E.E.P.A. Clearly, the powers delegated to the President under Section 1702 specifically allow both the "blocking" and later the "unblocking" of transfers of Iranian property - since the Act specifically empowers the President to "prohibit" transfers of such property and to "nullify or void" interests in such property. Furthermore, the President's actions fall within the purpose of the statute which is to allow the President to make certain types of economic responses to an "unusual and extraordinary" threat to the U.S. National Security.

The President's act in connection with the hostage crisis were also reasonably related to the nature of the emergency. The means used by the President, i.e., economic pressure through freezing Iranian assets and later an economic trade off for release of the hostages - related directly to the realities of the situation in Iran. I believe that economic pressure was one of the most effective and only means of bringing about the safe release of the hostages.

Based on what I've just said, I believe that President Carter's actions in connection with the hostage agreements, based on his statutory authority under I.E.E.P.A. will withstand judicial challenge.

The Hostage Act

I think it is also important to point out that the President had a second statutory basis for his actions in connection with the hostage agreement, the 1868 Hostage Act. Simply put, this statute empowers the President in a situation where American citizens are unjustly deprived of their liberty by a foreign government to use such means (short of war) as are "necessary and proper" to bring about the release of the hostages. The "necessary and proper" language in the statute derives from the "necessary and proper" language in Article I of the Constitution and thus constitutes a very broad delegation of discretionary power to the President dealing with a hostage situation.

Conclusion

For the reasons I have just stated, while I am not an expert in either the field of international or constitutional law, I am convinced that the President had both the constitutional and the statutory power both to negotiate the U.S. - Iran Hostage Agreement he did, and to take those actions which were taken by Executive Order to effectuate the United State's share of that Agreement.

PART VI: QUESTIONS & ANSWERS ON THE LEGALITY OF THE
 HOSTAGE AGREEMENT

Q: Did the President have the power to sign away the claims of the hostages and their families against the government of Iran?

A: First of all, President Carter provided for compensation of the hostages and their families by creating the Commission on Hostage Compensation so the hostages are not left without relief. In fact, they are probably better provided for than if they had to seek relief privately from the Government of Iran.

Second, President Carter did have the power both under the Constitution and under I.E.E.P.A. and the Hostage Act to settle both the claims of the United States and its nationals, including the hostages against Iran as part of his agreement with the Iranians.

Q: Did President Carter have the power to nullify attachments and other claims of American banks and corporations against the Iranian assets and to force certain creditors to go to the Iran-U.S. Claims Tribunal for relief?

A: In all fairness, I must point out that those creditors who did seek pre-judgment attachments against the frozen assets did not have a vested interest in those assets at the time of the agreement. All they had done was to take the first step in the process of protecting their interests. In fact, most of the attachments or set-offs by U.S. banks were acquired under license by the United States. As you may recall, the initial blocking order by President Carter prohibited all attachments against Iranian property within U.S. jurisdiction. Subsequent to that Executive Order the Secretary of the Treasury did license certain attachments and set-offs by U.S. banks. However, the licensing rested on the President's powers and actions under I.E.E.P.A. and thus was subject to revocation or nullification by subsequent Presidential action. Once the President revoked the license for the attachments they became unauthorized and therefore ineffectual.

In any event, U.S. banks did very well under the agreement -- their loans were repaid and other creditors are for the most part protected by the binding arbitration provision. In many cases, this arbitration will work to their advantage since they will not have to struggle with Iranian claims of sovereign immunity in U.S. courts but will instead have an international forum pledged to hear their claims and provided with the funds to pay them.

Q: Is the Hostage Agreement illegal under principles of International Law?

A: I am familiar with the argument that the U.S.-Iran Hostage Agreement is void because it violates certain principles of international law. Specifically, I believe, the argument is that the agreement is illegal because of Article 52 of the Vienna Convention on the Law of Treaties which states that "a treaty is void if its conclusion has been procured by the threat or use of force in violation of principles of international law embodied in the charter of the United Nations."

It is my understanding that the history of Article 52 indicates that its purpose was to prevent an aggressor nation from consolidating the fruits of its illegal use of force. That being so, the U.S.-Iran Hostage agreement does not fall within the intended scope of Article 52 for the simple reason that it doesn't provide Iran with any benefits from its illegal use of threats and force. Instead the agreement simply restores Iran to the position it was in before the hostages were seized.

What Iran obtained from the agreement is a promise by the U.S. not to interfere in its internal affairs, a return of its assets (but subject to the claims of U.S. nationals) and a pledge of U.S. assistance in helping Iran to claim assets of the Shah which are now subject to U.S. jurisdiction.

And the bargain with the U.S. is not one-sided. As well as the release of the hostages, Iran had to agree to pay certain loans held by U.S. banks, to put money into escrow for other loan payments, and to agree to international arbitration of claims by U.S. nationals including corporations against Iran thus foregoing its sovereign immunity defense in U.S. courts.

I therefore think that a strong argument can be made that the U.S.-Iran Hostage agreement is not the type of treaty contemplated by Article 52 and is therefore not void under principles of International Law.

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WALTER F. MONDALE LECTURE: APRIL 10, 1981
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UNIVERSITY OF MINNESOTA LAW SCHOOL

Suggested Reading

U.S. vs. Pink, 315 U.S. 203 (1942)

U.S. vs. Belmont, 301 U.S. 324 (1937)

U.S. vs. Yoshida International, Inc., 526 F2d 560 (1975)

International Emergency Economic Powers Act, 50 U.S.C. 1701, et. seq.

Hostage Act, 22 U.S.C. §1732

Executive Orders 12276 - 12285 relating to the release
of the American Hostages in Iran, Federal Register,
January 23, 1981, Vol. 46, No. 15, pp. 7913-7932.

Executive Order , February 24, 1981, Suspension of
Litigation Against Iran.

Time, (January 26, 1981), Hostage Breakthrough, pp. 13-24.

Time, (February 2, 1981), How the Bankers Did It, pp. 56-58.

Q: Did the President's waiver and/or settlement of claims as part of the agreement constitute a "taking" under the Fifth Amendment? Are claimants entitled to compensation by U.S. government?

A: This question is really premature. As of now, no one with a claim against Iran has lost any money. The banks, of course, have for the most part had their loans paid. In addition, funds specifically for payment of future bank loans and/or disputed amounts involving bank loans.

As for non-bank claimants, most of the creditors are entitled to take their claims to arbitration before the Claims Settlement Tribunal. It is too early to tell, of course, how that will work out but there's every reason to believe those creditors will do as well or even better than they would proceeding against Iran in U.S. Courts.

Finally, the hostages themselves, of course, will have some sort of settlement by the hostage commission.

What's important to remember is that no one really had a finally adjudicated claim against the Iranian assets - creditors had pre-judgment attachments, banks set-off funds for repayment of loans, but the interests of the claimants were contingent interests which still had to be adjudicated on the merits - so its hard to argue that such claims were already "property" under the Fifth Amendment - when right to compensation amount isn't even determined and, there is the underlying legal question, i.e., when the U.S. government

settles a claim as part of an international agreement, is the claimant entitled to compensation because otherwise he or she would be deprived of property without "just compensation". I am not going to get into that today. Suffice it to say, that there seems to be some disagreement about it among legal scholars - those of you who are interested may want to research the issues on your own.



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