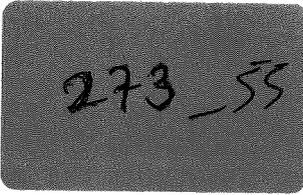


ORIGINAL DOCUMENTS IN SAFE

Case No. 273



Date of filing: 9 Oct '90

** 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

Correction to
** SEPARATE OPINION of Hallgren
- Date 9 Oct '90
3 pages in English _____ pages in Farsi

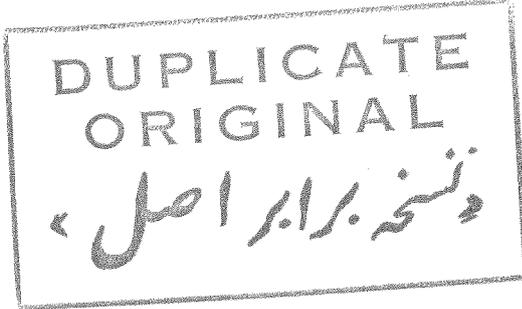
** DISSENTING OPINION of _____
- Date _____
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- Date _____
_____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داورى دعاوى ایران - ایالات متحدہ



CASE NO. 273

CHAMBER ONE

AWARD NO. 490-273-1

REZA and SHAHNAZ MOHAJER-SHOJAEI,
Claimants,

and

THE GOVERNMENT OF THE ISLAMIC REPUBLIC
OF IRAN,

Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داورى دعاوى ایران - ایالات متحدہ
FILED	ثبت شد
DATE	9 OCT 1990
	تاریخ ۱۳۶۹ / ۷ / ۱۷

CORRECTION TO THE ENGLISH VERSION OF THE
SEPARATE OPINION OF HOWARD M. HOLTZMANN
DISSENTING IN PART, CONCURRING IN PART

The following corrections are hereby made to the English version of my Separate Opinion, Dissenting in Part, Concurring in Part, in this Case filed on 5 October 1990.

- Page 8, line 7 of footnote 15 should read:
See, e.g., Reza Nemazee and Luz Belen Nemazee and Islamic
- Page 11, line 10 should read:
have on the whole been unrebutted
- A copy of the corrected pages are attached.

Dated, The Hague
9 October 1990

Howard M. Holtzmann

judge said nobody had to tell the new Americans the meaning of America -- they choose the country and then choose to work to take [part in] the ceremony of belonging.... [I]n the United States you become a member of the national society the moment you take the oath, and forever are so considered and name yourself: American.... [S]trangers from different parts of the world kissed;¹⁴ suddenly they had something dear in common.

Mr. Rosenthal's vivid description puts into human perspective the meaning of the legal phrase "dominant and effective nationality" -- and it is in this human context that the presumption created by the act of naturalization must be viewed.

14. The presumption that an individual who is naturalized as a United States citizen is predominantly attached to the United States is strongly supported by long residence in the United States.¹⁵ A review of the Tribunal's decisions makes it clear that proof of naturalization, when coupled with proof of prolonged residence in the United States, invariably leads to a conclusion in favor of dominant U.S. nationality, absent other compelling circumstances. In no less than eight cases, the Tribunal has found dominant and effective nationality when an Iranian-born person was voluntarily naturalized as a U.S. citizen, and was domiciled

¹⁴Rosenthal, "To Those Who Lament Its Passing...", International Herald Tribune, 16 July 1990.

¹⁵This is not to say that a naturalized citizen could not be dominantly and effectively American even if living abroad. As the Tribunal has recognized, some U.S. nationals living in Tehran did not assimilate into Iranian culture in that they spoke English at home, sent their children to American schools in Tehran, joined American clubs, etc. See, e.g., Reza Nemazee and Luz Belen Nemazee and Islamic Republic of Iran, Award No. 487-4-3, paras. 11, 13, 31 (10 July 1990).

evidence, even when unsupported by documentary evidence.¹⁹ In particular, affidavit evidence has been credited when Iran has presented no rebuttal evidence that shakes the credibility of the affiant.

17. Prior Tribunal Interlocutory Awards emphasize the significance of the lack of rebuttal evidence by Iran. Thus, in the Protiva Case, the Tribunal

note[d] that the activities described above by the Claimants in support of their U.S. nationality have on the whole been un rebutted Nor is there any evidence that contradicts facts relating to the Claimants' conduct such as economic interests, social, political and family life including domicile, which support their dominant and effective U.S. nationality, particularly during the relevant period from the time their claim arose until 19 January 1981. For these reasons, the Tribunal concludes that the Claimants' Claim satisfies the jurisdictional requirements of Article VII, paragraph 1, of the Claims Settlement Declaration.²⁰

Similarly, in the Malek Case the Tribunal

note[d] that the Claimant's allegations about the main facts of his life and the evidence appended to his statement have not been seriously disputed by the Respondent. In the absence of contradictions within these allegations, and considering that there are nor other reasons in this case to doubt their veracity, the Tribunal deems that it can safely rely on them.²¹

¹⁹ See supra note 9, and infra paras. 22 - 24.

²⁰ Protiva, supra note 5, at para. 17.

²¹ Reza Malek and Government of the Islamic Republic of Iran, supra note 16, para. 23, 19 Iran-U.S. C.T.R. 54. See also Faith Khosrowshahi, et al. and Government of Islamic Republic of Iran, Interlocutory Award No. ITL 76-178-2 (22 Jan. 1990).