

ORIGINAL DOCUMENTS IN SAFE

Case No. 763

Date of filing: 31 Jan 85

** AWARD - Type of Award Final
 - Date of Award 31 Jan 85
6 pages in English 4 pages in Farsi

** DECISION - Date of Decision _____
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** CONCURRING OPINION of Mr Charles N. Brower
 - Date 31 Jan 85
1 pages in English _____ pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
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** DISSENTING OPINION of _____
 - Date _____
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IRAN UNITED STATES CLAIMS TRIBUNAL		دادگاه داری و داری ایران - ایالات متحده	
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CASE NO. 763

CHAMBER THREE

AWARD NO.162-763-3

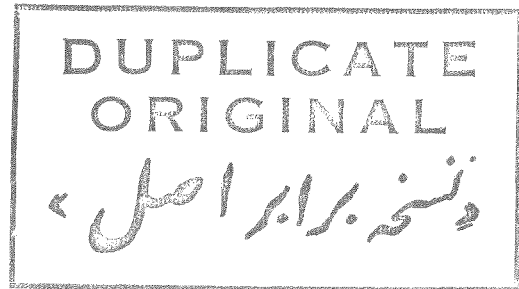
MANUCHEHR HADDADI,

Claimant,

and

THE UNITED STATES OF AMERICA,

Respondent.



AWARD

I. The Procedural History

The Claimant, as father and guardian of his son, Mr. Sassan Haddadi, filed a Statement of Claim against the United States with the Tribunal on 18 January 1982.

The Claimant asserts that his son entered the United States of America on 15 November 1978 for the purpose of acquiring further education, but that thereafter he was arrested and subjected to described tortures. The Claimant states that these events resulted eventually in his son being repatriated to Iran in a mental condition variously described in the Statement of Claim and attachments thereto as "[h]aving lost his sense of orientations", "being out of his mind", "being out of his senses", "behavioral disorder", "a severe psychosis and [loss of] normal self" and "mental disorders".

The English version of the Statement of Claim states that the alleged arrest and torture took place "within a matter of one week" after a date in May 1981, but later states that the son arrived in Tehran following this alleged ordeal 15 July 1980. Attachments to the Statement of Claim show that the son's passport was stamped in Hamburg, Germany 1 August 1980 and that an Iranian appeals court affirmed that the son was suffering from mental disorders as of September 1980.

The Claimant seeks relief as follows:

1. Refund of schooling expenses in the United States and round trip travel expenses.
2. Medical care charges.
3. "Losses resulting from the Claimant's son's delayed schooling and the nullification of his primary and secondary studies."
4. "Material and moral losses resulting from the Claimant's son's alienation, in other words, the loss of a son on the part of a father, at a total amount of Rls. 100,000,000 (one hundred million rials)."

On 7 July 1982 the United States filed a "Petition Of The United States For An Order Dismissing Claim For Lack Of Jurisdiction" suggesting three grounds on which dismissal of the claim should be considered as a preliminary matter:

1. "... [T]he Claim fails on its face to meet the requirement of Article II paragraph 1 of the Claims Settlement Agreement that it arise out of a debt, contract, expropriation or other measures affecting property rights and, therefore, does not come within this Tribunal's jurisdiction...."

2. Any claims "are claims of [the son], and Claimant has no locus standi to bring them."
3. Referring to the confusion in the Statement of Claim as to whether the claims arose in 1980 or in 1981, "If the claim was not outstanding on the date of the agreement [Claims Settlement Declaration], it would fail to meet the jurisdictional requirements of Article II paragraph 1 for that reason as well."

On 26 November 1982 the Claimant filed a Reply to the petition of the United States. The Reply confirmed that the date of detention of the claimant's son was "in May 1980" and that the reference to 1981 had resulted from an erroneous calendar conversion. The Reply did not address the other two jurisdictional objections raised by the United States.

II. Reasons for the Award

The Tribunal has jurisdiction over claims of a national of the Islamic Republic of Iran against the United States of America "if such claims ... are outstanding on the date of this Agreement [19 January 1981] ... and arise out of debts, contracts..., expropriations or other measures affecting property rights" Claims Settlement Declaration, Article II, paragraph 1.

For purposes of considering the petition for dismissal filed by the United States the Tribunal, having studied the Farsi version of the Statement of Claim, understands the Statement of Claim as relying on events alleged to have occurred in 1980 rather than 1981. Therefore such claims as may exist were for present purposes outstanding on the date the Claims Settlement Declaration was concluded.

It does not appear, however, that any claim asserted here can be considered to "arise out of debts, contracts ..., expropriations or other measures affecting property rights" as required by the Tribunal's jurisdictional grant. Insofar as the Claimant, as guardian, is acting as the legal representative of a son lacking capacity to sue, the claims are for personal injuries to the son, and for losses and expenses resulting from such injuries, and such claims are not embraced by any of the cited jurisdictional rubrics. To the extent the Claimant asserts, on the other hand, his own damages resulting from the loss of a son, no basis has been pleaded in this case for supposing that the Claimant father enjoyed a property interest in his son's welfare which was diminished by the latter's incapacitation, or that the "material and moral losses" referred to in the Statement of Claim were the consequences of any other event than the alleged personal injuries to the son. Hence any loss suffered by the father also falls outside the jurisdictional perimeter delineated by the Claims Settlement Declaration.

The Tribunal therefore has no jurisdiction over this claim.

III. Award

For the foregoing reasons,

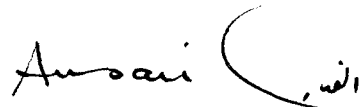
The Tribunal dismisses this claim for lack of jurisdiction.

Dated, The Hague
31 January 1985

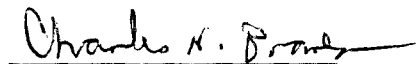


Nils Mangård
Chairman
Chamber Three

In the name of God,



Parviz Ansari Moin
Dissenting



Charles N. Brower
Concurring Opinion