

A18-116

AIMS TRIBUNAL

یوان داوری دعاری ایران - ایالات متحدہ

نمبر ۱۱۶-۱۸

ORIGINAL DOCUMENTS IN SAFE

Case No. A18

Date of filing: 21. MAY 85

** 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 Correction of concurring opinions by
Mr Mosk
- Date 8 MAY 85
7 pages in English _____ pages in Farsi

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

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

** OTHER; Nature of document: _____

- Date _____
_____ pages in English _____ pages in Farsi

NOTIFICATION OF CORRECTION
TO
CONCURRING OPINION OF RICHARD M. MOSK
TO DECISION IN CASE NO. A18

Page 4:

line 13, "Among" instead of "One of",
"were" instead of "was";

line 14, add after the words "United States
nationals" the following: "(as that term is defined
in the Claims Settlement Declaration)";

line 16, delete the comma;

line 17, add the word "such" after "by".

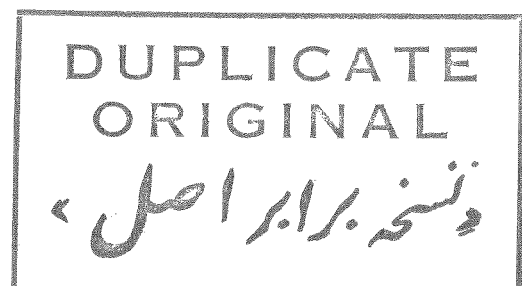
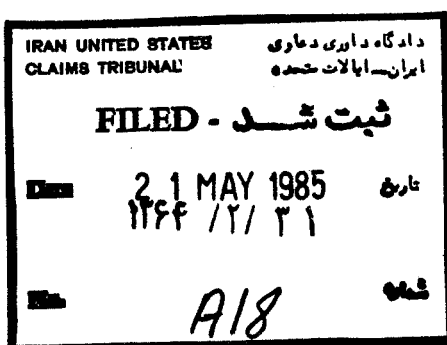
Page 7:

line 13 of footnote 7, the word "father"
instead of "parent".

Said corrections are reflected on the attached
pages.

Dated: 8 May, 1985


Richard M. Mosk



America and Iran, entered into force June 16, 1957, 284 U.N.T.S. 93, 8 U.S.T. 899 (Article XVII excludes "dual nationals" from the benefits of certain exemptions).

The issue of dual nationality has long been a major subject of public international law (see, e.g., M. Katz & K. Brewster, The Law of International Transactions and Relations 40 et seq. (1960)) and is, according to both Iran and the United States, expressly covered in various treaties to which they are Parties. If, as Iran contends, this issue were such a sensitive one, Iran might have been expected to have ensured that "dual nationals" were expressly excluded from the Tribunal's jurisdiction.

Among the purposes of the Algiers Declarations were to shift litigation by United States nationals (as that term is defined in the Claims Settlement Declaration) against Iran in United States courts to the Tribunal and to terminate attachments of Iranian assets in the United States obtained by such United States nationals. See General Principle B of the General Declaration and Article VII, paragraph 2, of the Claims Settlement Declaration.⁴ It appears from the

⁴ General Principle B states: "It is the purpose of both parties, within the framework of and pursuant to the provisions of the two Declarations of the Government of the Democratic and Popular Republic of Algeria, to terminate all litigation as between the government of each party and the nationals of the other, and to bring about the settlement and termination of all such claims through binding arbitration."

Article VII, paragraph 2 provides: "Claims referred to the Arbitral Tribunal shall, as of the date of filing of such claims with the Tribunal, be considered excluded from the jurisdiction of the courts of Iran, or of the United States, or of any other court."

Arising out of the War and the Occupation of 26 May 1952, as amended on 23 October 1954, Chapt. 4, reprinted in (German) Bundesgesetzblatt, 1955 II, 431-32; C. Norgaard, The Position of the Individual in International Law 238-39 (1962).

It may be, as implied by the Tribunal, that the use by a United States citizen of his or her Iranian nationality in a fraudulent or other inappropriate manner might adversely affect the claim by that person. Cf. Flegenheimer Case, XIV U.N. Rpts. Int'l Arb. Awds. 327, 398 (U.S.-Ital. Conc. Comm. 1958). But it should be noted that Iranian law imposes Iranian nationality on a broad spectrum of people, makes it very difficult to renounce that nationality and drastically penalizes persons who succeed in doing so.⁷

Thus, some United States citizens have not been able to renounce their Iranian nationality or have not been willing to do so because of their reluctance to give up their

⁷ Iranian citizens cannot abandon their nationality until, inter alia, they reach the "full age" of 25, they have the approval of the Council of Ministers and they make arrangements to transfer to Iranian nationals all rights in real property in Iran (including that which they "may acquire by inheritance"). Those who renounce their Iranian nationality must leave Iran or be expelled, and such persons can only thereafter visit Iran once, and then, only with "special permission" from the Council of Ministers. Article 988 of the Iranian Civil Code. The following are examples of those who are deemed Iranian nationals: a woman who marries an Iranian national; children of an Iranian father; and those who have a father of foreign nationality, and who are born in Iran and who continue to reside in Iran for one year immediately after reaching the full age of 18. Article 976 of the Iranian Civil Code.