Maryland Journal of International Law

Volume 6 | Issue 2 Article 9

The Iran Hostage Crisis: the United States as Fifty-Third Hostage?

Kenneth L. Warsh

THE IRAN HOSTAGE CRISIS: THE UNITED STATES AS FIFTY-THIRD HOSTAGE?

Introduction

Medieval custom and, later, political theory held that a sovereign's legal authority was absolute and that it was immune from suit within its borders. Foreign sovereign immunity evolved as a doctrine of the courts in the nineteenth century. The courts of one state would exempt from their jurisdiction a foreign sovereign and its agents in order to prevent conflicts between rulers over small matters. This exemption was absolute for the majority of nations well into the twentieth century. The Soviet Union still claims sovereign immunity for all activities of the state.[1]

As the diversity of forms of government and the extent of government involvement in various forms of commercial activity increased, there arose the problem of how to limit the doctrine of foreign sovereign immunity to provide relief to claimants due to commercial activities of the foreign sovereign. The restrictive theory of foreign sovereign immunity distinguishes between political acts of the foreign sovereign (*jure imperii*) and commercial activities (*jure gestionis*). Immunity under the restrictive theory is limited to political activities. Commercial activities are not covered.[2]

In the United States, the courts have historically deferred to the Executive Department as having the constitutional power to conduct foreign affairs.[3] If the State Department suggested to the court that the defendant was an agent of a foreign sovereign acting in an official capacity, the court would invariably decline to exercise jurisdiction.[4] Invariably, there was pressure on the State Department by a defendant to have himself declared to be under foreign sovereign immunity, and by the plaintiff for the opposite result.

The practice of having the State Department determine whether immunity was appropriate was inherently political and was much criticized.[5] Supporters of the practice emphasized the need for the State Department to maintain flexibility in the conduct of foreign relations.[6] The State Depart-

---

1. Note, *Sovereign Immunity of States Engaged in Commercial Activities*, 65 COLUM. L. REV. 1086 (1965).

2. *Id.*

3. United States v. Belmont, 301 U.S. 324 (1947).

4. Republic of Mexico v. Hoffman, 324 U.S. 30 (1945).

5. *Immunities of Foreign States: Hearing Before the Subcommittee on Claims and Governmental Relations of the House Committee on the Judiciary on R.R. 3493*, 93rd Congress, 1st Session (1973), at 14.

6. *Id.* at 34 and 61; Cardozo, *Judicial Deference to State Department Suggestions: Recognition of Prerogatives of Abdication to Usurper?*, 48 CORNELL L. Q. 461 (1963).

ment cooperated in the drafting of the Foreign Sovereign Immunities Act of 1976 (FSIA)[7] since foreign states would be inclined to regard a decision by the State Department refusing to suggest immunity as a political decision unfavorable to them, rather than as a legal decision.[8] The FSIA codified the restrictive theory and gave the courts guidelines for determination of the issues of foreign sovereign immunity and of related issues of attachment of property wholely within the courts' jurisdiction.[9] Other nations have passed similar laws and adopted similar conventions.[10]

During the Iran Hostage Crisis, the courts found themselves interpreting this new statute under extraordinary conditions. The large losses of United States commercial interests engaged in business with the Shah's government or with companies nationalized by the successor regime led to the filing of approximately 400 suits against the Iranian government in United States district courts.[11] The United States Government has identified an additional 3,000 companies or individuals who have additional claims pending, though not in court.[12] Several opinions arising from those 400 cases will be discussed in order to illustrate some of the problems of interpreting the FSIA in light of the Iranian Crisis. This note will focus upon the predominant issue of pre-judgment attachment of Iranian assets and will address the court opinions in chronological order.

The Behring Case[13]

Behring International, Inc. was under contract to Iran as an international freight forwarding agency. Goods from various sellers in the United States

---

7. Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1330, 1332(a)(2)–1332(a)(4), 1391(f), 1441(d), 1602–1611 (Oct. 21, 1976).

8. *See supra* note 5, at 34.

9. For commentary on the Act generally, *see* Kahale and Vega, *Immunity and Jurisdiction: Toward a Uniform Body of Law in Actions Against Foreign States,* 18 COLUM. J. TRANSNAT' 1. L. 211 (1979); Brower, Bistline & Loomis, *The Foreign Sovereign Immunities Act of 1976 in Practice,* 73 A.J.I.L. 200 (1979); Carl, *Suing Foreign Governments in American Courts: The United States Foreign Sovereign Immunities Act in Practice,* 33 SOUTHW. L. J. 1007 (1979).

10. *Recent Developments in the Anglo-American Doctrine of Foreign Sovereign Immunity,* 5 INT. TRADE L. J. 298 (1980).

11. Norton and Collins, *Reflections on the Iranian Hostage Settlement,* 67 AM. BAR ASSOC. J. 428 (1981).

12. Proch Nau, *The Hostages are Free,* The Wash. Post, January 21, 1981, § A, at 6.

13. Behring International, Inc. v. Imperial Iranian Air Force, 475 F. Supp. 383, 396 (D. N.J., July 24, 1979). In another case Judge Hart followed the same analysis in less detail. American International Group, Inc. v. Islamic Republic of Iran, 493 F. Supp. 522 (D. D.C., July 10, 1980).

were shipped to Behring, who often paid freight charges. At the Behring warehouse these goods were loaded on pallets suitable for air shipment. These pallets were moved to airports and met by planes sent by the Iranian Air Force to pick up the goods. Behring sued the Iranian Air Force and other Iranian government agencies in the U.S. District Court for the District of New Jersey alleging that the defendants owed it almost $400,000 for services rendered, and asking pre-judgment attachment of the property of the defendants in the Behring warehouse.[14]

The defendant answered: (1) that it had immunity from personal jurisdiction under the FSIA as a military activity of a foreign sovereign; and, (2) that it was immune from pre-judgment attachment.[15] The defendant failed to produce any proof of the military character of the property.[16]

Under the FSIA, a foreign state shall not be innume to personal jurisdiction in any case in which the action is based on a commercial activity carried on in the United States.[17] The commercial character of an activity shall be determined by the nature of the course of conduct rather than by reference to its purpose.[18] Judge Fisher found that the Iranian Air Force was conducting a commercial activity as a transporter of goods and not as a uniquely military activity. Thus, the defendants lost any immunity to personal jurisdiction.[19]

The Treaty of Amity, etc., of 1955,[20] between the United States and Iran predates the FSIA and thus survives the FSIA.[21] The court found that the

---

14. 475 F. Supp. at 386.

15. 475 F. Supp. at 388 n. 9. The FSIA provides that the property of a foreign state shall be immune from attachment if the property is, or is intended to be, used in connection with a military activity and (A) is of a military character or (B) is under the control of a military authority. *See supra* note 7, at § 1611(b)(2)(A,B). The defendant also cited to § 1610(d), which provides that the property of a foreign state shall not be immune to pre-judgment attachment if (1) the foreign state has explicitly waived its immunity and (2) the purpose of the attachment is to secure satisfaction of a judgment that might ultimately be entered against the foreign state and not to obtain jurisdiction. The defendant is thus denying any waiver. In § 1609 there is a prohibition against attaching the property of a foreign state except as provided in §§ 1610 and 1611 or by treaty in force at the enactment of the FSIA.

16. 475 F. Supp. at 388 n. 9.

17. *See supra* note 7, at § 1605(a)(2).

18. *Id.* at 1603(d).

19. 475 F. Supp. at 390.

20. Treaty of Amity, Economic Relations and Consular Rights Between the United States of America and Iran, 1955 [1957], 8 U.S.T. 899 (Aug. 15, 1955), T.I.A.S. No. 3853.

21. The FSIA provides at 28 U.S.C. § 1604 that treaties in force before the FSIA, which provide other than in the FSIA, shall survive the FSIA.

government of Iran explicitly waived immunity to personal jurisdiction because of its signature on the Treaty.[22]

The court next considered whether the plaintiff was entitled to the pre-judgment attachment of the Iranian property he sought.[23] Judge Fisher found that although the FSIA provided for attachment in aid of execution, or from execution, upon a judgment, the Act did not provide for pre-judgment attachment unless the foreign state gave an explicit waiver.[24] The court ruled that the Treaty does not constitute the explicit waiver of immunity from pre-judgment attachment Congress clearly intended.[25]

However, the court reasoned that, since the Treaty survived the enactment of the FSIA,[26] and since the FSIA is not a statute governing construction of prior treaties, ordinary principles of construction could be applied to construe the Treaty without reference to the FSIA.[27] In the Treaty, the party engaged in commercial activity in the other country waives for itself and its property immunity from "suit, execution of judgment, or other liability."[28] The court found that the language "or other liability" shows that the preceding language was used by way of illustration rather than by way of limitation, and from other words of the Treaty that the parties intended to be treated as ordinary private parties in each other's courts.[29]

Judge Fisher concluded that the Treaty of Amity authorizes pre-judgment attachment on the defendants' property[30] and subsequently ordered such attachment.[31]

---

22. 475 F. Supp. at 390 The relevant passage of the Treaty is:
No enterprise of either High Contracting Party, including corporations, associations, and government agencies and instrumentalities, which is publicly own or controlled shall, if it engages in commercial, industrial, shipping and other business activities within the territories of the other High Contracting Party, claim or enjoy, either for itself or its property, immunity therein from taxation, suit, execution of judgement or other liability to which privately owned and controlled enterprises are subject therein. 8 U.S.T. at 909.
23. 475 F. Supp. at 391.
24. *Id.* at 393.
25. *Id.* at 394.
26. 28 U.S.C. at § 1604.
27. 475 F. Supp. at 394.
28. *See supra* note 22.
29. 475 F. Supp. at 395.
30. *Id.* at 395.
31. *Id.* at 396.

The Reading & Bates Case[32]

Reading & Bates Corporation sued the National Iranian Oil Company in the U.S. District Court for the Southern District of New York, alleging the conversion of an oil drilling rig in Iran and seeking pre-judgment attachment of funds in New York banks to the extent of $26 million. The attachment was sought on the funds at twenty-nine banks. One bank indicated it had no funds of the defendant. Four banks indicated they had funds of the defendant in excess of $26 million. By stipulation the parties and the banks agreed to set aside a special fund of $26 million at one bank in lieu of the levy on the twenty-nine banks. Under New York Civil Practice Law[33] the plaintiff was required to obtain a confirmation of the attachment within five days.[34]

Judge Duffy found that although the defendant might be proven to be in violation of some terms of the charter of the oil rig, the plaintiff had failed to offer proof that the defendant did not have a right to possess the rig under the charter.[35] Furthermore, the court found that the plaintiff had not established sufficient insecurity of enforcement of a potential judgment against the defendant as required by New York Civil Practice Law.[36] Since the defendant had $700 million on deposit in New York, Judge Duffy found it "simply too remote" to believe the defendant would remove all these funds.[37] The pre-judgment attachment was removed.[38]

Although Judge Duffy conceded that he need not consider the defendant's claim of immunity from pre-judgment attachment to reach his decision, he nevertheless proceeded to dispute with Judge Fisher the proper interpretation of the Treaty of Amity consistent with the FSIA.[39]

First, Judge Duffy argued that, in light of the distinctions between pre-judgment and post-judgment attachments drawn by the Congress in the FSIA, a waiver of immunity to pre-judgment immunity should not be implied lightly.[40] Although he conceded that the interpretation of the FSIA would not be binding on the construction of the Treaty of Amity, Judge Duffy argued

---

32. Reading & Bates Corp. v. National Iranian Oil Co., 478 F. Supp. 724 (S.D. N.Y., Sept. 27, 1979).

33. N.Y. CIV. PRAC. LAW § 6211(b) (McKinney).

34. 478 F. Supp. at 726.

35. 478 F. Supp. at 727.

36. *Id.* at 727.

37. *Id.* at 727. In a footnote the court declined to take judicial notice of the political turmoil in Iran.

38. *Id.* at 729.

39. *Id.* at 727.

40. *Id.* at 728.

that consistent policy requires that waiver of immunity to pre-judgment attachment should be explicit whether by statute or treaty. Moreover, Judge Duffy, in considering the intent of the parties, found that a sovereign state would clearly not subject itself to pre-judgment attachment since the state would not evade a lawful judgment arising out of its commercial activities.[41]

The Hostage Crisis

Subsequent to the issuance of these opinions and before the issuance of the next opinion considered below, the hostages were seized. President Carter ordered the blocking of Iranian assets and the United States broke diplomatic relations with Iran.[42]

The E-Systems Case[43]

E-Systems, Inc. sued the government of Iran in the U.S. Court for the Northern District of Texas for failure to pay on a contract to modify two aircraft and for wrongfully demanding payment on letters of credit.[44] The plaintiff had previously sought and obtained pre-judgment attachment against the aircraft and sought further pre-judgment attachment against a blocked account for $4.4 million.[45]

E-Systems, Inc. had given its guarantee of performance by letters of credit on the Bank of America. The Iranian government demanded payment of $4.4 million on the letters of credit. E-Systems, Inc. would have been obliged to reimburse the Bank of America. Under the Iranian Assets Control Regulations, the Bank notified the corporation, which then applied for and received a license from the U.S. Treasury Department to establish on its books a blocked account. Judge Higgenbotham held that the blocked account constituted only a debt and was not sufficient property upon which to grant the pre-judgment attachment.[46]

The court additionally considered whether any of the property of the defendant could be subjected to pre-judgment attachment. Judge Higgenbotham agreed with Judge Duffy that a waiver of immunity to pre-judgment

---

41. *Id.* at 729.

42. *See supra* note 11.

43. E-Systems, Inc. v. Islamic Republic of Iran, 491 F. Supp. 1294 (N.D. Tex., June 19, 1980).

44. A letter of credit is an engagement made by a bank that the issuer will honor demands for payment upon the conditions specified in the letter.

45. 491 F. Supp. at 1296. A blocked account is a bank account frozen under the Iranian Assets Control Regulations, 31 C.F.R. 535 (1979).

46. 491 F. Supp. at 1299.

attachment should not be implied lightly from the Treaty of Amity.[47] Whereas, Judge Fisher tried to find the intent of the parties within the four corners of the Treaty, Judge Higgenbotham looked at practice at the time the Treaty was signed.[48] In 1955, attachment of a foreign sovereign's assets would not have been allowed.[49] Not until 1959 did the State Department permit pre-judgment attachment for the sake of gaining jurisdiction in quasi-in-rem actions.[50] The court would not unreasonably infer from imprecise language that the signtories to the Treaty of Amity intended to burden each other with a pre-judgment attachment liability so far from custom and practice.[51] Judge Higgenbotham concluded that there can be no pre-judgment attachment under either the FSIA or the Treaty of Amity.[52]

Under the Iranian Assets Control Regulations, the Treasury Department authorized the courts to make pre-judgment attachments.[53] Judge Higgenbotham interpreted the regulations as being based on the mistaken belief that pre-judgment attachments were available before adoption of the regulations.[54] Since the authority of the Treasury Department to abrogate the existing law of pre-judgment attachment of assets of foreign countries was not without question,[55] the court dissolved the writ of attachment against the aircraft.[56] In a footnote,[57] Judge Higgenbotham assumed without deciding that the regulations could displace the act as a result of the President having delegated his sweeping powers under the Emergency Economic Powers Act.[58]

Motion for Consolidation

On March 5, 1980, the Islamic Republic of Iran asked the Judicial Panel of Multidistrict Litigation for an order transferring related Iranian actions for consolidated or coordinated pretrial proceedings.[59] On May 7, 1980, the

---

47. *Id.* at 1300.
48. *Id.*
49. *Id.*
50. Del Bianco, *Execution and Attachment under the Foreign Sovereign Immunities Act of 1976*, 5 YALE STUD. WORLD PUB. ORD. 109, 112, 113, n. 107 (1978).
51. 491 F. Supp. at 1300.
52. *Id.* at 1302.
53. *See supra* note 45.
54. 491 F. Supp. at 1303.
55. *Id.* at 1303.
56. *Id.* at 1304.
57. *Id.* at 1302, n. 14.
58. International Emergency Economic Powers Act, 50 U.S.C. § 1701 *et seq.* (Dec. 28, 1977) [hereinafter IEPPA].
59. In accordance with Judicaiary and Judicial Procedure: Multidistrict Legislation, 28 U.S.C. § 1407 (1968).

Panel denied the transfer but stated that its order was without prejudice to the right of any party to move for transfer of any subgroup of those denied. Iran made a further motion for transfer of cases later that month. Ultimately, ninety-six cases were consolidated under Judge Duffy in the case discussed below.[60]

The Ninety-six Cases[61]

Ninety-six of the approximately four hundred cases against Iran were brought before Judge Duffy for a ruling on the validity of pre-judgment attachment of property of a foreign sovereign. Judge Duffy had previously written dictum[62] which revealed his view that the Treaty and the FSIA did not permit pre-judgment attachment against the assets of Iran.

On November 14, 1979, President Carter issued an order blocking Iranian government property[63] under the authority of the Emergency Economic Powers Act.[64] Judge Duffy held that whatever immunity to pre-judgment attachment existed before the blocking order was unequivocably suspended by the President.[65] The pre-judgment attachments in the ninety-six cases were allowed to stand.

In a later opinion, Judge Duffy stated that, since the government had granted, by Executive Order,[66] a license to the plaintiffs to bring suit and to the courts to order pre-judgment attachment on Iranian assets, any demand for a stay of the proceedings by the government was inappropriate.[67] The levies of the court against the assets of Iran had vested in the plaintiffs property rights which could only be cancelled by the government after due

---

60. Another important opinion on an Iranian case after the E-Systems opinion, *supra,* was American International Group v. Islamic Republic of Iran, 493 F. Supp. 522 (D. D.C., July 10, 1980) in which Judge Hart granted partial summary judgment against Iran. For commentary, *see* Gordon, *The Blocking of Iranian Assets,* 14 INT'L. LAWYER, 659 (1980).

61. New England Merchants National Bank v. Iran Power Generation and Transmission Company, 502 F. Supp. 120 (S.D. N.Y., Sept. 26, 1980). For an illustration of the difficulties of serving process on the Iranian agencies during the crisis see the earlier ruling in this case, *see* New England Merchants National Bank v. Iran Power Generation and Transmission Company, 495 F. Supp. 73 (S.D. N.Y., 1980).

62. *See supra* note 32.

63. Exec. Order No. 12170, 3 C.F.R. 457, *reprinted in* 50 U.S.C. § 1701 (Nov. 14, 1979).

64. *See supra* note 58.

65. 502 F. Supp. at 132.

66. *See supra* note 63.

67. New England Merchants National Bank v. Iran Power Generation and Transmission Company, 508 F. Supp. 47 (S.D. N.Y., 1980).

process was given.[68] The same executive department which granted the license could suspend the license for a reasonable period without depriving plaintiffs of their property rights.[69]

The National Airmotive Case[70]

In this case, Judge Greene followed the reasoning of Judge Duffy in the Ninety-six cases, *supra,* regarding pre-judgment attachment, the court also considered a United States government motion for an indefinite stay.[71] The government appeals to the court to exercise its equitable powers because of "the foreign policy implications of further proceedings."[72]

The government argued that the crisis would prevent the presentation of its views on the sovereign immunity defense asserted by Iran.[73] The court found there was no pressing need for these views after the enactment of the FSIA.[74] "A primary purpose of that Act was to depoliticize sovereign immunity decisions by transferring them from the executive to the judicial branch of government, thereby assuring litigants that such decisions would be made on legal rather than political grounds."[75]

The heart of the government's argument was that the Iranian assets were a bargaining chip in negotiating with Iran to end the crisis.[76] The court found these arguments too open-ended both as to substance and duration.[77] Judge Greene expressed the view that the immobilization of the courts through an indefinite stay would add the American system of law and justice to the hostage rolls.[78] Since the Treasury Regulations prevented actual transfer of funds, there could be no loss of the bargaining chip; moreover, the United States retained the option of spending tax funds in pursuit of its foreign policy objectives.[79] The court weighed these considerations against the interests of the plaintiff in vindicating its claim against property located on

---

68. *Id.*
69. *Id.*
70. National Airmotive v. Government and State of Iran, 499 F. Supp. 401 (D. D.C., 1980).
71. *Id.* at 403.
72. *Id.* at 403. The court noted that the government has made similar plans in other private actions against Iran.
73. *Id.* at 406.
74. *Id.*
75. *Id.*
76. *Id.*
77. *Id.*
78. *Id.* at 406, n. 11.
79. *Id.* at 406, n. 10.

American soil, a right stemming from Article III of the Constitution and the Fifth Amendment,[80] and found an indefinite stay could not be justified. The court granted a seventy day stay.[81]

Dames & Moore v. Regan[82]

As the spring of 1981 passed, litigation on the prejudgment attachments continued through appeals in several circuits.[83] Dames & Moore had won a summary judgment against Iran but the court stayed execution of judgment pending appeal.[84] It also vacated the pre-judgment attachments against Iranian assets. Dames & Moore then filed suit in District Court against the Secretary of the Treasury seeking to block enforcement of the Executive Orders and Regulations.[85] The District Court dismissed the complaint for failure to state a claim upon which relief could be granted. Dames & Moore filed an appeal in the U.S. Court of Appeals for the Ninth Circuit. The Supreme Court recognized that time was running out for the petitioners and the government, and on June 11, 1981 granted *certiorari* before judgment,[86] the first such emergency action since the Nixon case.[87]

A unanimous Supreme Court held that the President had the authority under IEPPA to issue the order freezing the assets, to license the plaintiffs to seek attachments, to void the licenses, to void the attachments and to order the assets transferred out of the country. Although the Court tried to rest its decision affirming the District Court on the narrowest possible ground, the implications upon the other suits against Iran are unavoidable.

---

80. *Id.* at 406.

81. *Id.* at 407.

82. Dames & Moore v. Regan, 49 U.S.L.W. 4969 (July 2, 1981).

83. Prior to this ruling only the United States Courts of Appeals for the First and District of Columbia Circuits had ruled on appeals. In both circuits the courts ruled that the Presient had the authority to issue the challenged Executive Orders and regulation. Chas. T. Main Int'l., Inc. v. Khuzhestan Water and Power Authority No. 80–1027; No. 80–1176; Nos. 81–1251, 81–1252 (1st Cir., May 22, 1981) American Int'l. Group, Inc. v. Islamic Republic of Iran. Nos. 80-1779 and 80-1891; Nos. 80-2541, 80-2542 and 80-2543 (D.C. Cir., May 22, 1981).
of Columbia. *See* Cardillo v. Liberty Mutual Co., 330 U.S. 469, 471 (1947).

84. Dames & Moore v. Atomic Energy Organization of Iran, No. 79–04918 (C.D. (C.D. Cal).

85. Executive Orders No. 12276–12285; 46 Fed. Reg. 7916–7932; EO. No. 12294, 46 Fed. Reg. 14111 (1981). Of the numerous regulations the most crucial to this case were the regulations of June 4, 1981, 31 CFR 535, 46 Fed. Reg. 30340, which ordered banks holding Iranian funds to transfer these to the Federal Reserve Bank of New York on or before noon E.D.T. June 19, 1981.

86. 49 U.S.L.W. 3928 (June 11, 1981). Subsequent orders accepted unnumerous parties as *amicus curiae* and granted two hours for arguments. 49 U.S.L.W. 3953. Oral arguments were heard June 24, 1981 and the opinion was issued nine days later.

87. United States v. Nixon, 418 U.S. 603 (1974).

Justice Rehnquist, writing for the Court, found that the plaintiffs interest in the attachment was conditional and revocable and, as such, the President's actions did not effect a taking of property in violation of the Fifth Amendment. The Court pointed out that the petitioner was receiving something in return for the suspension of his claims in United States Courts, namely the opportunity to try the case before the Claims Tribunal. Although further consideration of the claim of taking of property was held not to be ripe, the Court went on to point out that the petitioner could sue the United States in the Court of Claims.

The opinion emphasized the traditional power of the executive branch to handle foreign affairs and to settle claims of United States citizens against foreign countries, and emphasized the very broad grant of powers by Congress to the President in IEPPA as an indication of Congressional intent, and pointed out previous claims settlements which did not need the ratification of Congress.

Because of jurisdictional and procedural impediments in United States courts, some claimants may do better before the Claims Tribunal. The claimants may well get even in the long run.[88]

Conclusions:

The Iranian assets litigation before the hostage crisis presented certain issued of law which would have been worked out in the normal course of judicial events in the absence of that crisis. The hostage crisis caused a chain of events including the issuance of the Executive Order freezing the Iranian assets, the Iranian Assets Control Regulations, the agreements with Iran and the Executive Order implementing those agreements. These events proceeded at a pace slow enough to entangle the courts, but too quickly for definitive appellate opinions on the legal issues.

The pre-judgment attachments probably would not have been granted if it were not for the regulations which seemed to grant such authority to the courts. To have the Treasury Department issue regulations granting authority to the courts on one hand and to have the State Department pleading, for the sake of the hostages, for the court not to use such authority was debilitating on the court system. It is no wonder Judge Greene felt the court system was being held hostage.

---

88. Nickel, *The Iran Deal Doesn't Look Bad, Fortune,* p. 57, February 23, 1981.

The Iranian Hostage Crisis was an event unique in history; perhaps the State Department and the United States courts will never have to face another such crisis again. If there is ever a comparable crisis the Departments of State and Treasury will be better able to foresee the impact of foreign assets control regulations on the courts.

Kenneth L. Warsh