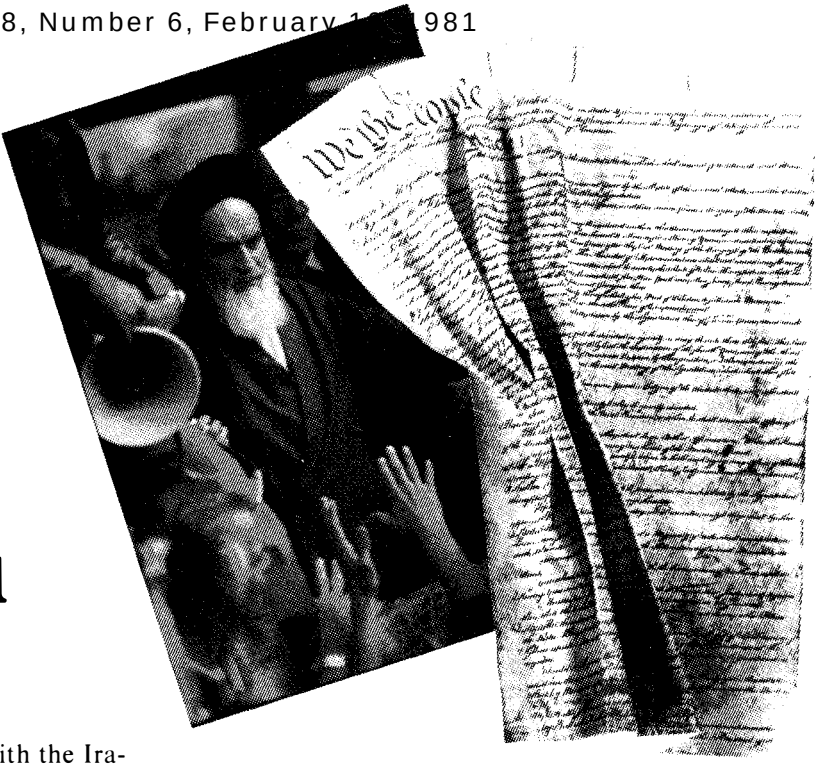

Carter's deal with Khomeini is illegal and unconstitutional

by Edward Spannaus

Since Jimmy Carter signed the agreement with the Iranian government exchanging at least $11 billion in frozen assets for the 52 hostages, a public outcry has arisen calling for President Reagan to repudiate the settlement. Most of the arguments for repudiation are based on the well-established legal axiom that agreements made under duress or threats of violence are not legally binding.

Among the most sophisticated of the "duress" class of arguments are those presented by former Undersecretary of State George Ball in a *Washington Post* Op-Ed entitled "Crime Should Not Pay." Ball argues that under Article 52 of the Vienna Convention on the Law of Treaties of 1969, the Carter-Iran agreements are void because of being "procured by the threat or use of force." To allow Iran "to benefit from such a brutal, lawless act" as the taking of the hostages "would establish an odious and dangerous precedent," concludes Ball.

There is no question that the agreement is overall to the benefit of Iran and to the detriment of the United States. Iran received already over $7 billion in cash and gold, and stands ready to get $4 billion more. About $3.5 billion was used to repay loans granted by European and American banks, thus wiping the slate clean and enabling the outlaw regime in Iran to receive new infusions of credit which are already in the works.

The arguments for repudiating the agreement on the grounds that it rewards criminal behavior is persuasive, for there is no question but that the bottom line of the accords was that Jimmy Carter agreed to pay ransom to a bunch of terrorists.

Agreement violates Constitution

Analysis of the actual agreement which Carter signed, however, shows that something far more insidious is at work here. The most important reason for repudiating the agreement is that the hostage/asset agreement is in total violation of the United States Constitution, and it constitutes a clear and present danger to our national sovereignty.

The most egregious feature of the Carter-Khomeini agreement is that it takes legal claims of U.S. citizens and corporations out of the United States courts and relegates them either to Iranian courts or to an international Claims Tribunal. And, as we shall see below, it does so quite deliberately in accordance with a long-range conspiracy to undermine the U.S. court system.

Nowhere in the U.S. Constitution does the President have the right to define or alter the jurisdiction of the federal courts, much less tell certain classes of citizens—such as the hostages and their families—that they have no right to bring claims for damages at all. Yet this is precisely what Jimmy Carter and his negotiating team have done.

Two directions of inquiry should be pursued by any competent investigation into the constitutionality of the Carter accords. The first is the propriety of the President entering into such an agreement without the advice and consent of the Senate. The second is the issue of giving up U.S. sovereign rights in favor of an international Claims Tribunal.

We shall deal first with the second of these two issues.

To understand the reasoning behind the idea of the international tribunal, it is instructive to take note of a conference held on March 28-30, 1980, in the midst of the Iranian hostage crisis. The conference seminar was

entitled "Extraterritorial Application of National Laws Regulating Business Activities," and was sponsored by the Ditchley Foundation, a notorious Anglo-American think tank composed of the elite of British oligarchists and American tories. At this conference the basic conception underlying the Claims Tribunal was fully laid out.

"The long arm of the U.S. courts has been irritating the trading partners of that great country for a long time," begins the report of the conference in the August 1980 Ditchley *Journal.* The topic of the conference was a means of settling disputes between the U.S. and its trading partners. The use of the World Court at The Hague was regarded as "too cumbersome," and instead "it was thought that any disputes could be better settled by an arbitral tribunal functioning much closer to the parties concerned."

It has been publicly acknowledged that both British and key Socialist International figures played a central role in arranging the hostage settlement, including the West German ambassador to Teheran, socialist leader Ritzel.

Keeping the authorship of the agreement in mind, let us now examine some of its specific provisions.

Provisions of agreement

(1) The former hostages and their families give up all claims for damages or compensation against Iran. They are prevented from pressing any legal claims in U.S. courts against Iran. (Damages, once established, could be collected through prejudgment attachment and seizure of Iranian assets in the United States, had all such assets not been returned to Iran by the settlement agreement.) Carter gave up these claims even though the International Court of Justice at The Hague had already held that Iran was acting illegally and was therefore liable for damages.

(2) United States corporations and citizens are barred from bringing any actions in U.S. courts seeking compensation for property confiscated by the Iranian government, or for losses suffered due to the Iranian "revolution." Any actions previously brought in U.S. courts, and any pre-judgment attachments of Iranian assets, were thrown out of court by Carter's Jan. 20 executive orders following the signing of the agreement.

In fact, most contracts under which U.S. corporations were operating in Iran contained clauses that claims could only be pursued in Iranian courts. These clauses must be adhered to; therefore 90 percent of U.S. commercial claims will be subject exclusively to the "revolutionary justice" of the mullahs. All other such claims are removed from U.S. courts and put in front of the Claims Tribunal to be composed of three U.S. representatives, three Iranian representatives, and three others to be mutually selected, of which Socialist International leader Olof Palme of Sweden is expected to be one.

(3) On the other hand, the United States government is pledged to vigorously enforce in U.S. courts any decrees seeking the assets of the Shah of Iran and his family, without any form of due process. In short, the Iranian government can avail itself of the good offices of the United States court system, while U.S. citizens—including even the hostages—cannot!

Under Article III of the United States Constitution, the judicial powers of the United States rest in the national court system, not with the Executive. And certainly nowhere in the Constitution is the Executive Branch permitted to define the jurisdiction of the courts or to take certain matters out of the jurisdiction of the U.S. courts and hand them over to a supranational tribunal.

There was no notion more fundamental to the framers of the Constitution than that the United States was a fully sovereign nation, meaning that there could exist no positive law nor legal authority above the constitutional law of the U.S. At that time, there was nothing known as "international law" (the term was invented by the pederast Jeremy Bentham). There existed a humanist tradition known as the "law of nations" which was incorporated into the U.S. Constitution as morally but not legally binding. The legal rights of U.S. citizens are embodied in the Constitution and cannot be surrendered to any authority outside or above the U.S. courts. Indeed, the whole idea of a "world court," much less a claims tribunal, is an abomination to the U.S. Constitution and to the conception of absolute and complete sovereignty embodied in it.

The treaty power

Under the U.S. Constitution, the President is empowered to make treaties "by and with the advice and consent of the Senate." Under the law of nations as embodied in the Constitution, treaties could provide a general amnesty for public and private injuries arising from a war.

Over a long period of time, the treaty-making power as defined by the Constitution has been eroded, so that in recent years the courts have upheld the authority of the President to enter into anything but a full-scale world war without a congressional declaration of war, and to enter into treaty agreements *without* seeking the advice and consent and two-thirds concurrence of the Senate.

The legal authority cited by Jimmy Carter to justify both the freezing of Iranian assets, and then the transfer of those assets out of the United States, was the International Emergency Economic Powers Act (IEEPA) of

1977. This law grew out of the old Trading with the Enemy Act of 1917; during the 1970s this law was "divided" into a wartime National Emergencies Act, and the non-wartime IEEPA. This is part of a series of "national security" and "national emergency" types of legislation which have increasingly put dictatorial powers into the hands of the Executive Branch. (The creation of FEMA, the Federal Emergency Management Agency, should immediately come to mind.) The entire "emergency powers" push comes from the Trilateral Commission's "end of democracy" crowd, the Council on Foreign Relations, and similar institutions, which overlap heavily with the Ditchley Foundation referred to above.

Limited sovereignty

Coincident with the trend toward concentrating emergency powers in the hands of the Executive Branch in domestic affairs, is the drive for limited sovereignty in foreign affairs. The common thread of both is the notion of the "postindustrial society," in which a shrinking economic pie and austerity make democracy a luxury which can no longer be afforded. The exemplary case of this in international affairs is the Brandt Commission on North-South Relations, which foresees a future of no-growth and "appropriate technologies" for the underdeveloped sector. This IMF-type austerity requires supranational legal institutions, that have no respect for national sovereignty or national laws, the same way that executive orders and executive agreements under "emergency powers" legislation in the United States are permitted to proceed without congressional sanction.

Our nation was created as a constitutional republic, requiring unlimited national sovereignty in the conduct of foreign affairs. A nation subject to any higher temporal authority is not and cannot be a republic, for its citizens, acting through republican institutions, can no longer determine the nation's course.

Likewise, the Constitution created a defined separation of powers between the Executive, the Legislative, and the Judicial branches, to ensure that the will of the nation could be exerted against any tendency toward either popular or executive tyranny.

The Iran hostage agreement as signed by Jimmy Carter is therefore shown to be in violation of some of the most fundamental tenets of our republic—the absolute sovereignty of the United States and the division of powers among the governing branches. The agreement is a repudiation of the U.S. Constitution: it is therefore obligatory upon the President, the Congress, and the Supreme Court to repudiate that agreement in the interests of preserving the United States as a sovereign constitutional republic.

Colombian terror targets Reagan

by Valerie Rush

In the first act of terrorism directed against the new Reagan administration, the Colombian terrorist group M-19 has kidnapped an American citizen and demanded that President Reagan meet its demands if the victim's life is to be spared. The victim, Chester Allen Bitterman, is an employee of the Summer Institute of Linguistics (SIL), a body of Protestant missionaries, whose worldwide proselytizing and translations of the Bible into native languages has for years been denounced as a cover for CIA infiltration and social-profiling activities. The M-19 is demanding that President Reagan order the withdrawal of the linguistics institute, a private institution, from Colombia and the publication of an M-19 communiqué in the *New York Times* and *Washington Post*.

The M-19's demands, coming on the heels of the Iranian hostage affair, are no coincidence. Rather it represents part of a deliberate conspiracy of escalating blackmail against the United States designed to subject the U.S. to "Italian-style" assaults on its national sovereignty.

According to a State Department spokesman from the Office of Consular Affairs, the U.S. government will not yield to the M-19 demands, nor will it negotiate with the terrorists. The U.S. press has carried almost nothing on the incident; neither has the Colombian press, suggesting an agreement between the two governments to keep the publicity, and therefore the damage, to a minimum. Whether the Bitterman affair blows over or not remains to be seen. As a "forecast" of what is to come, however, the incident bears closer scrutiny.

M-19 and the Socialist International

The M-19 was catapulted into the international limelight in February 1980 when a commando squad, disguised as soccer players, stormed the embassy of the Dominican Republic in Bogotá and took more than 50 diplomats, embassy employees and guests hostage. During the next two months, as negotiations for the release of the hostages were conducted, the M-19 used its vantage point of holding nearly 15 countries captive to create a precedent in which an international "crisis-